

New York

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March 16, 2012

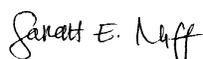
To the Reader:

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

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

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

Thank you,



Sarah E. Neff, MPH
Director of Research and Evaluation

&



Ronald H. Goldschmidt, MD
Director

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

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Definitions and Helpful Resources

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Definitions Commonly Used Nationally

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

Helpful Resources

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

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

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

For questions or comments about the compendium, contact NCCC: neffs@nccc.ucsf.edu

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

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

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

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

New York

A Quick Reference Guide for Clinicians to New York HIV Testing Laws

March 16, 2012

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

For a more complete synopsis of New York HIV testing laws, please refer to the section of the Compendium that follows this Quick Reference Guide.

Informed Consent

- Informed consent required; must be in writing, except in cases of rapid testing.
- Written informed consent may be incorporated into the general medical consent.
 - The general consent form shall have a clearly marked place adjacent to the signature where the subject shall be given an opportunity to specifically decline HIV testing in writing.

Counseling

- Pre- and (with negative results) post-test information is required; however, requirement may be fulfilled through written materials and an opportunity to ask questions. Compatible with CDC recommendations.
- In cases of HIV positive results, provider must give post-test counseling or a referral for counseling.

Provisos of Testing

- **Anonymous**
 - Physicians must inform patients of availability of anonymous testing.
 - All testing must be available anonymously.
- **Rapid**
 - Informed consent for a rapid test may be obtained orally and must be documented in the medical record.
 - A confirmatory test is required before notifying the patient of HIV test results, except in perinatal testing.
- **Routine**
 - Practitioners are required to offer HIV testing to every individual ages 13-64 receiving health services

Disclosure

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

Minor/Adolescent Testing

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

New York

Perinatal Quick Reference Guide:

A Guide to New York Perinatal HIV Testing Laws for Clinicians

March 16, 2012

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

For a more complete synopsis of New York HIV testing laws, please refer to the corresponding section of the *State HIV Testing Laws Compendium* (www.nccc.ucsf.edu), “Testing of pregnant women and/or newborns.”

Prenatal

- Testing of pregnant women in prenatal care is through the opt-in process.
- Counseling must be offered to pregnant women in prenatal care at a birth center.

Labor & Delivery

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

Neonatal

- If no HIV test result is available during the current pregnancy for the mother who is not known to be HIV infected, an expedited screening test of the mother (with consent) or of her newborn must be arranged. Results should be available as soon as practicable, but not longer than 12 hours after the mother provides consent or, if she does not consent, 12 hours after the infant’s birth. (Testing subject to religious objections.)
- All newborns must also be tested routinely for HIV unless provider is given notification of religious objection; must inform parent of the purpose and need for screening and give educational materials.
- Counseling consistent with mother’s history of HIV testing and treatment should be given; history must be documented in the medical record and submitted to the department along with other required data/information.
- Post-test counseling, health care, case management, referral to an HIV specialized care center, and other social services must be arranged for the mother of an infant who tests positive for HIV.

Other

- Clinical laboratory may report preliminary positive HIV test result to physician prior to confirmation when requested in writing.

New York State Policies Relating to HIV Testing, 2011

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[Title 18: Social Services](#).....Pages 179-191

	Policy Category	Type	Section Code(s)
RESTRICTIONS/ MANDATES	Restrictions on use of HIV test	Requirements for HIV testing by clinical labs and blood and tissue banks	<u>10 NYCRR 58-8.2</u> <u>10 NYCRR 58-2.23</u>
		Test may not be used as a condition of admission or services for alcoholism treatment facilities	<u>14 NYCCR 309.3</u>
		Applicants for employment or residency at a shelter for families may not be required to take an HIV test	<u>18 NYCRR 900.19</u>
	Mandatory testing within the criminal justice system	Persons convicted of a sex offense upon request of victim	<u>CPL §390.15</u>
		Defendants indicted for certain sex offenses upon request of the victim	<u>CPL §210.16</u>
		Juveniles convicted of a sex offense upon request of victim	<u>FCT §347.1</u> <u>CPL §390.15</u>
		Occupational exposure – public	<u>CVS §178</u>

		protection officials provided testing by employer; counseling and additional testing must be offered	
		Testing of persons arrested for prostitution, allowing prostitution on their premises, or frequenting houses of prostitution and treatment/isolation	PBH §2302 PBH §2303 PBH §2304 PBH §2305
	Mandatory testing outside of the criminal justice system	Mandated testing by court order in cases of suspected infection	PBH §2300 PBH §2301
		Source patients of occupational exposure under certain conditions	PBH §2781(6)(e)
		Mandatory newborn infant screening for HIV	PBH §2500-f
		Blood donations	10 NYCRR 58-2.3
		Sperm, ova donations	10 NYCRR 52-8.6
		Tissue donations	10 NYCRR 52-4.7 10 NYCRR 52-5.7 10 NYCRR 52-6.7 10 NYCRR 52-7.7 10 NYCRR 52-8.6
		Testing of children in foster care if determined to be at high risk	18 NYCRR 507.2
	PRE-TESTING	Mandatory offering of HIV/AIDS information and/or testing	Practitioners must offer HIV testing to all (ages 13-64 or at risk) receiving health services
Before obtaining consent, before testing, and at the time of communicating negative results, particular explanations regarding HIV testing must be given			PBH §2781 (3) , (4), (5)(b)
State must sponsor free STD testing			PBH §2304
Pregnancy-related services must offer STD testing			PBH §2308-a
Occupational exposure - public protection officials must be offered counseling and additional testing			CVS §178

	Occupational exposure – volunteer ambulance workers and firefighters may receive HIV testing	VAW §11-c VOL §11-c
	Education and protection of clients of probation services	9 NYCRR 367.10
	Needle exchange programs must provide prevention education	10 NYCRR 80.135
	Testing and education within youth residential chemical dependency programs	14 NYCRR 820.6
	Testing within facilities for alcoholism	14 NYCRR 309.1-309.10
Informed consent	Informed consent (w/ test explanation) required – written, declination may be incorporated into general consent; exceptions	PBH §2781 10 NYCRR 63.3
	Written informed consent form developed or approved by the Department of Health	10 NYCRR 63.3
	Commissioner’s standardized model forms or forms with consistent information may be used to obtain consent	PBH §2786
	Consent for rapid testing may be obtained orally w/ documentation (outside of corrections facilities)	PBH §2781
	Written informed consent required for insurance testing	ISC §2611
	Consent requirements within corrections	7 NYCRR 7.4 9 NYCRR 7064.6
	Approved forms for informed consent in local corrections	9 NYCRR 7064.12
	Consent requirements for testing youths in residential facilities (e.g., foster and group homes)	9 NYCRR 164.6
	Consent requirements for testing of juveniles in detention centers	9 NYCRR 180.5 (c)(vi)
	Consent requirements and testing form county jails/penitentiaries	9 NYCRR 7064.6 9 NYCRR 7064.12
	Consent for alcoholism facilities	14 NYCRR 309.4
	Consent requirements for office of mental health testing	14 NYCRR 505.6

POST-TESTING		Consent requirements within substance abuse services	14 NYCRR 1072.3
	Counseling requirements	Pre- and post-test explanation and information	PBH §2781 (3) and (5)(b) 10 NYCRR 63.3
		Post-test counseling in cases of HIV+ test results	PBH §2781 (5) 10 NYCRR 63.3 (d)
		Counseling must be offered to victims upon application of compelled testing of defendants in certain sex offenses	CPL § 210.16 (5)
		Counseling of youths in residential facilities	9 NYCRR 164.6
		Post-test counseling for juveniles in detention facilities	9 NYCRR 180.5 (c)(vi)(c)
		Counseling for tissue donors	10 NYCRR 52-3.6
		Counseling must be provided to contacts of HIV+ persons upon notification	10 NYCRR 63.8
		Needle exchange sites must develop plan including HIV counseling	10 NYCRR 80.135
		Counseling and testing visits for patients of freestanding ambulatory care facilities and hospital clinic outpatient services	10 NYCRR 86-4.35
		Mandatory offering of HIV counseling to pregnant women in prenatal care at a birth center	10 NYCRR 754.1 10 NYCRR 754.7
		Post-test counseling for testing by office of mental health providers	14 NYCRR 505.6
	Anonymous testing	Physicians must inform patients of availability of anonymous testing	PBH §2781
		All testing must be available anonymously, either on-site or by referral	PBH §2781 PBH §2138 14 NYCCR 309.4 (b), (c)
		Obtaining consent in anonymous testing sites	10 NYCRR 63.3 (c)
Disclosure/confidentiality	HIV test results confidential	PBH §2782	
	Exceptions to confidentiality	PBH §2135 PBH §2782	
	Disclosure for insurance	PBH §2784	

	Court orders may allow access to confidential test results	PBH §2785 PBH §2785-a
	Commissioner's standardized model forms or forms with consistent information may be used for release of confidential HIV information	PBH §2786
	Disclosure limitations and liability	PBH §2134 PBH §2136
	Confidentiality of STD testing	PBH §2306
	Penalties for unlawful disclosure	PBH §2783
	Partner, contact notification with screening for domestic violence and other exceptions – must note notifications or exceptions in medical record	PBH §2133 PBH §2134 PBH §2782(4) 10 NYCRR 63.8
	Records for insurance testing and required written permission to release, transmit, communicate, or disclose results	ISC §321 ISC §2611
	Disclosure of HIV status of sex offender to victim and limitations	CPL §390.15 (6) CPL § 210.16 (7)
	Confidentiality for public protection officials (police officers, firefighters, EMTs, etc)	CVS § 178
	Confidentiality of victims of sex offenses	CVR § 50-b
	Confidentiality by civil servants	4 NYCRR 83.1-83.5
	Confidentiality, disclosure, and contact notification in corrections	7 NYCRR 7.1-7.10 9 NYCRR 7064.1-.12
	Disclosure, release, and monitoring of Youth testing	9 NYCRR 164.8 9 NYCRR 164.10
	Confidentiality, disclosure, release, and monitoring for testing of juveniles in detention facilities	9 NYCRR 180.5 (c) (vii), (viii), and (x)
	Confidentiality, disclosure, and redisclosure for clients of probation services	9 NYCRR 367.1-367.10
	Confidentiality, disclosure, and contract notification within county jails/penitentiaries	9 NYCRR 7064.1-7064.12
	Confidentiality, disclosure,	9 NYCRR 7201.3-.5

	access, and intra-agency confidentiality of state commission of correction	
	Confidentiality and contact notification of parolees	9 NYCRR 8011.1-8011.9
	Testing and notification (only if confirmed positive) of tissue blood/plasma donor test results	10 NYCRR 52-3.6 10 NYCRR 58-2.23
	Confidentiality, disclosure, redisclosure, notification for clinical labs, blood and tissue banks, organ procurement organizations	10 NYCRR 58-8.3 10 NYCRR 58-8.4
	Confidentiality, disclosure, and contact notification by Department of Health	10 NYCRR 63.4 (c) 10 NYCRR 63.5-.9
	Disclosure, contact notification, and intra-division confidentiality in alcoholism facilities	14 NYCRR 309.5 14 NYCRR 309.6 14 NYCRR 309.7 14 NYCCR 309.10
	Confidentiality, disclosure, contact notification, and monitoring for office of mental health providers	14 NYCRR 505.7 14 NYCRR 505.9 14 NYCRR 505.10
	Confidentiality, disclosure, and release forms within substance abuse centers	14 NYCRR 1072.1-1072.8
	Confidentiality and disclosure by Department of Social Services (including for adoption and shelters for families)	18 NYCRR 357.1-.3 18 NYCRR 360.1 18 NYCRR 420.2 18 NYCRR 900.19
Reporting	Name-based reporting	PBH §2130 10 NYCRR 63.4
	Reporting of contacts	PBH §2130 PBH §2131
	Reporting after death	PBH §2132
	Reporting of exposure by employees of corrections	7 NYCRR 7.10 (c)
	Reporting requirements by clinical labs	10 NYCRR 58-8.4
	Reporting to the Commissioner of all cases	10 NYCRR 63.4
	No clinical laboratory shall notify a physician or other person legally authorized to receive the result that an HIV	10 NYCRR 58-8.4

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		test is positive solely on the basis of HIV antibody screening, but may report a preliminary finding of HIV infection with a written request.	
OTHER	Testing of pregnant women and/or newborns	Physicians and facilities offering pregnancy-related services must offer STD testing	PBH §2308-a
		Special programs and services for women in need of prenatal and postpartum services	PBH §2500-f-1
		Mandatory newborn infant HIV screening (within the first 28 days of life in hospitals). Must inform parent of the purpose and need for screening and give educational materials. A history of HIV testing and treatment from the mother must be documented in the medical record and submitted to the department along with other required data/information. (Testing subject to religious objections.)	PBH §2500-f 10 NYCRR 69-1.2 10 NYCRR 69-1.3 10 NYCRR 69-1.4 10 NYCRR 69-1.9
		Anyone pregnant may consent for prenatal services regardless of age	PBH §2504 (3)
		Counseling based on mother's previous history of testing and treatment; history must be documented in medical record	10 NYCRR 69-1.3 (l)(1)
		If no HIV test result for current pregnancy for the mother not known to be HIV+, an immediate screening test of the mother (with consent) or of her newborn must be arranged. (subject to religious objections.)	10 NYCRR 69-1.3 10 NYCRR 69-1.9
		Responsibilities and duties for testing by birth attendant, responsible physicians, public health officer, specialized care centers	10 NYCRR 69-1.4 10 NYCRR 69-1.5 10 NYCRR 69-1.6 10 NYCRR 69-1.7
		Post-test counseling, health care, case management, referral to an	10 NYCRR 69-1.5

	HIV specialized care center, and other social services must be arranged for the mother of an newborn that tests HIV+	
	Inter-hospital transfers require written notification of infant specimen taken	10 NYCRR 69-1.3 (e)(3)
	Physicians must offer HIV counseling and testing to pregnant women in prenatal care at a birth center	10 NYCRR 754.1 10 NYCRR 754.7
Testing of minors/adolescents	Capacity to consent determined without regard to age	PBH §2504 (3) PBH §2780 (5)
	Minors may consent to HIV testing	PBH §2780 PBH §2781
	Physician may inform parents or guardians in certain cases	PBH §2782
	Special program for HIV services for women and children/adolescents	PBH § 2500-f-1
	Division of Youth testing, confidentiality, disclosure and release, monitoring, etc	9 NYCRR 164.1 9 NYCRR 164.3 9 NYCRR 164.4 9 NYCRR 164.5 9 NYCRR 164.6 9 NYCRR 164.8 9 NYCRR 164.10
Rapid HIV testing	Informed consent for rapid testing may be obtained orally, except in corrections facilities	PBH §2781
	Rapid testing means approved tests for detecting HIV Abs that produce results in 60 mins or less and incl. a confirmatory test	PBH §2780 (4-a)
	Confirmatory testing required before notifying patient of results	10 NYCRR 58-8.2 10 NYCRR 58-8.4
	Department of Health must adopt rules for implementation of rapid testing	10 NYCRR 58-8.2
Training and education of health care providers	Training required for physicians and health care workers	EDN §6505-b PBH §239 10 NYCRR 400.20
	Corrections employees re: significant risk and exposure	7 NYCRR 7.10
	Division of Youth, of all direct	9 NYCRR 164.6 9NYCRR

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	care personnel in facilities, foster care, group homes, and detention facilities	180.5(c)(1)(v)
	Probation employees	9 NYCRR 367.9
	Department of Health employees re: disclosure	10 NYCRR 63.9 (a), (c)
	New employees of alcoholism facilities	14 NYCCR 309.9

Recommended Resources

New York State Assembly

<http://assembly.state.ny.us/leg/>

New York State Department of Health – HIV/AIDS

<http://www.health.state.ny.us/diseases/aids/index.htm>

New York State Department of Health – Laws and Regulations

<http://www.health.state.ny.us/regulations/>

New York Codes, Rules and Regulations

<http://www.dos.ny.gov/info/nycrr.html>

Civil Rights Law

NY CVR Code §	Code Language
§ 50-b	<p>Right of privacy; victims of sex offenses or offenses involving the transmission of the human immunodeficiency virus</p> <p>1. The identity of any victim of a sex offense, as defined in article one hundred thirty or section 255.25, 255.26 or 255.27 of the penal law, or of an offense involving the alleged transmission of the human immunodeficiency virus, shall be confidential. No report, paper, picture, photograph, court file or other documents, in the custody or possession of any public officer or employee, which identifies such a victim shall be made available for public inspection. No such public officer or employee shall disclose any portion of any police report, court file, or other document, which tends to identify such a victim except as provided in subdivision two of this section.</p> <p>2. The provisions of subdivision one of this section shall not be construed to prohibit disclosure of information to:</p> <p style="padding-left: 20px;">a. Any person charged with the commission of an offense, as defined in subdivision one of this section, against the same victim; the counsel or guardian of such person; the public officers and employees charged with the duty of investigating, prosecuting, keeping records relating to the offense, or any other act when done pursuant to the lawful discharge of their duties; and any necessary witnesses for either party; or</p> <p style="padding-left: 20px;">b. Any person who, upon application to a court having jurisdiction over the alleged offense, demonstrates to the satisfaction of the court that good cause exists for disclosure to that person. Such application shall be made upon notice to the victim or other person legally responsible for the care of the victim, and the public officer or employee charged with the duty of prosecuting the offense; or</p> <p style="padding-left: 20px;">c. Any person or agency, upon written consent of the victim or other person legally responsible for the care of the victim, except as may be otherwise required or provided by the order of a court.</p> <p>3. The court having jurisdiction over the alleged offense may order any restrictions upon disclosure authorized in subdivision two of this section, as it deems necessary and proper to preserve the confidentiality of the identity of the victim.</p> <p>4. Nothing contained in this section shall be construed to require the court to exclude the public from any stage of the criminal proceeding.</p> <p>5. No disclosure of confidential HIV related information, as defined in section twenty-seven hundred eighty of the public health law, including the identity of the victim of an offense involving transmission of the human immunodeficiency virus, shall be permitted under this section contrary to article twenty-seven-F of the public health law.</p>

Civil Service Law	
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NY CVS Code §	Code Language
§ 178	<p>Medical examination of public protection officials to detect and identify the human immunodeficiency virus (HIV).</p> <p>1. Definitions. For the purposes of this section:</p> <p>(a) "Assailant" means a person arrested and charged with a crime, as defined in section 10.00 of the penal law, or a person committed to, certified to, or placed in the custody of the department of corrections and community supervision or any other correctional facility or county jail.</p> <p>(b) "Medical examination" includes a physical examination or test performed by a physician or other appropriate health care worker to determine if a public protection official has been exposed to or infected by the human immunodeficiency virus (HIV). Tests may include, but need not be limited to, the most accurate, sensitive, and timely tests available used for the early identification of the human immunodeficiency virus (HIV).</p> <p>(c) "Public protection official" means any state, county or municipal police officer, peace officer, firefighter, emergency medical technician, corrections officer, or sheriff who is acting under the scope of authority of his or her official position.</p> <p>(d) "Significant risk of transmission" means the alleged conduct of or actions taken by an assailant or any other action, situation or event that occurs while a public protection official is performing his or her official duties that has created a recognized and significant risk of infection of a public protection official with the human immunodeficiency virus (HIV), as determined by the commissioner of health, consistent with guidelines, protocols, and findings of the United States centers for disease control and prevention.</p> <p>2. Examination of public protection officials.</p> <p>(a) Whenever a public protection official has been exposed to a significant risk of transmission of the human immunodeficiency virus (HIV) while performing his or her official duties, the employer of such official shall provide to such public protection official an appropriate medical examination to determine if such official has been exposed to or infected with the human immunodeficiency virus (HIV). Such medical examination of a public protection official should be provided within eight hours of notification to the employer or designated agent of the employer of an incident that has created an exposure risk to the official.</p> <p>(b) Should it be determined by the examining physician or other attending health care worker that a significant risk of transmission has occurred, or should any medical examination conclude that a public protection official has been exposed to or infected with the human immunodeficiency virus (HIV), then such official shall be offered counseling and additional testing, as appropriate and consistent with treatment guidelines issued by the commissioner of health. Such counseling may include a discussion of the risk of the transmission of the human immunodeficiency virus (HIV) from the exposure he or she may have experienced and the spectrum of tests commercially available for</p>

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NY CVS Code §	Code Language
	<p>the prompt and reliable diagnosis of such infection. Information from any such medical examination of a public protection official shall be confidential information pursuant to article twenty-seven-F of the public health law and shall not be made available to the employer without the written authorization of the affected public protection official.</p> <p>3. Payment for medical examinations. Payment for medical examinations, additional testing, treatment services, counseling services, and any other additional services provided pursuant to subdivision two of this section shall be covered by subdivision three of section ten of the workers' compensation law; provided that any employer which is not required to and does not provide coverage pursuant to subdivision three of section ten of the workers' compensation law may finance such payments for all of the foregoing services provided for by this section from municipal funding sources, including, but not limited to, employee accident and disability benefit programs, workers' compensation funds, health insurance benefits, accident and disability retirement plans, or any other source of funds that the municipal employer deems appropriate.</p> <p>4. Guidelines. The commissioner of health shall issue guidelines to facilitate the identification of circumstances potentially exposing a public protection official to a significant risk of transmission of the human immunodeficiency virus (HIV). Such guidelines shall be consistent with criteria accepted by the federal centers for disease control and prevention. Such guidelines shall also provide information regarding related counseling and testing procedures available to such individuals.</p> <p>5. Confidentiality. Any information gathered pursuant to the provisions of this article which is deemed confidential under any other provision of law shall be treated in a confidential manner and shall not be distributed, be made available or be disclosed by the employer.</p>

Family Court Act

NY FCT Code §	Code Language
§ 347.1	<p>Required testing of the respondent in certain proceedings</p> <p>1. (a) In any proceeding where the respondent is found pursuant to section 345.1 or 346.1 of this article, to have committed a felony offense enumerated in any section of article one hundred thirty of the penal law, or any subdivision of section 130.20 of such law, for which an act of "sexual intercourse", "oral sexual conduct" or "anal sexual conduct", as those terms are defined in section 130.00 of the penal law, is required as an essential element for the commission thereof, the court must, upon a request of the victim, order that the respondent submit to human immunodeficiency (HIV) related testing. The testing is to be conducted by a state, county, or local public health officer designated by the order. Test results, which shall not be disclosed to the court, shall be communicated to the respondent and the victim named in the order in accordance with the provisions of section twenty-seven hundred eighty-five-a of the public health law.</p> <p>(b) For the purposes of this section, the term "victim" means the person with whom the respondent engaged in an act of "sexual intercourse", "oral sexual conduct" or "anal sexual conduct", as those terms are defined in section 130.00 of the penal law, where such conduct with such victim was the basis for the court's finding that the respondent committed acts constituting one or more of the offenses specified in paragraph (a) of this subdivision.</p> <p>2. Any request made by the victim pursuant to this section must be in writing, filed with the court and provided by the court to the defendant and his or her counsel. The request must be filed with the court prior to or within ten days after the filing of an order in accordance with section 345.1 or 346.1 of this article, provided that, for good cause shown, the court may permit such request to be filed at any time prior to the entry of an order of disposition.</p> <p>3. Any requests, related papers and orders made or filed pursuant to this section, together with any papers or proceedings related thereto, shall be sealed by the court and not made available for any purpose, except as may be necessary for the conduct of judicial proceedings directly related to the provisions of this section. All proceedings on such requests shall be held in camera.</p> <p>4. The application for an order to compel a respondent to undergo an HIV related test may be made by the victim but, if the victim is an infant or incompetent person, the application may also be made by a representative as defined in section twelve hundred one of the civil practice law and rules. The application must state that (a) the applicant was the victim of the offense, enumerated in paragraph (a) of subdivision one of this section, which the court found the defendant to have committed; and (b) the applicant has been offered counseling by a public</p>

NY FCT Code §	Code Language
	<p>health officer and been advised of (i) the limitations on the information to be obtained through an HIV test on the proposed subject; (ii) current scientific assessments of the risk of transmission of HIV from the exposure he or she may have experienced; and (iii) the need for the applicant to undergo HIV related testing to definitively determine his or her HIV status.</p> <p>5. The court shall conduct a hearing only if necessary to determine if the applicant is the victim of the offense the respondent was found to have committed. The court ordered test must be performed within fifteen days of the date on which the court ordered the test, provided however that whenever the respondent is not tested within the period prescribed by the court, the court must again order that the respondent undergo an HIV related test.</p> <p>6. (a) Test results shall be disclosed subject to the following limitations, which shall be specified in any order issued pursuant to this section: (i) disclosure of confidential HIV related information shall be limited to that information which is necessary to fulfill the purpose for which the order is granted; (ii) disclosure of confidential HIV related information shall be limited to the person making the application; redisclosure shall be permitted only to the victim, the victim's immediate family, guardian, physicians, attorneys, medical or mental health providers and to his or her past and future contacts to whom there was or is a reasonable risk of HIV transmission and shall not be permitted to any other person or the court. (b) Unless inconsistent with this section, the court's order shall direct compliance with and conform to the provisions of article twenty-seven-F of the public health law. Such order shall include measures to protect against disclosure to others of the identity and HIV status of the applicant and of the person tested and may include such other measures as the court deems necessary to protect confidential information.</p> <p>7. Any failure to comply with the provisions of this section or section twenty-seven hundred eighty-five-a of the public health law shall not impair the validity of any order of disposition entered by the court.</p> <p>8. No information obtained as a result of a consent, hearing or court order for testing issued pursuant to this section nor any information derived therefrom may be used as evidence in any criminal or civil proceeding against the respondent which relates to events that were the basis for the respondent's conviction, provided however that nothing herein shall prevent prosecution of a witness testifying in any court hearing held pursuant to this section for perjury pursuant to article two hundred ten of the penal law.</p>

Criminal Procedure Law

NY CPL Code §	Code Language
§ 210.16	<p>Requirement of HIV related testing in certain cases.</p> <p>1. (a) In a case where an indictment or a superior court information has been filed with a superior court which charges the defendant with a felony offense enumerated in any section of article one hundred thirty of the penal law where an act of "sexual intercourse", "oral sexual conduct" or "anal sexual conduct," as those terms are defined in section 130.00 of the penal law, is required as an essential element for the commission thereof, the court shall, upon a request of the victim within six months of the date of the crimes charged, order that the defendant submit to human immunodeficiency virus (HIV) related testing. Testing of a defendant shall be ordered when the result would provide medical benefit to the victim or a psychological benefit to the victim. Medical benefit shall be found when the following elements are satisfied:</p> <p style="padding-left: 40px;">(i) a decision is pending about beginning, continuing, or discontinuing a medical intervention for the victim; and (ii) the result of an HIV test of the accused could affect that decision, and could provide relevant information beyond that which would be provided by an HIV test of the victim. If testing the defendant would provide medical benefit to the victim or a psychological benefit to the victim, then the testing is to be conducted by a state, county, or local public health officer designated by the order. Test results, which shall not be disclosed to the court, shall be communicated to the defendant and the victim named in the order in accordance with the provisions of section twenty-seven hundred eighty-five-a of the public health law.</p> <p style="padding-left: 40px;">(b) For the purposes of this section, the terms "victim" and "applicant" mean the person with whom the defendant is charged to have engaged in an act of "sexual intercourse", "oral sexual conduct" or "anal sexual conduct", as those terms are defined in section 130.00 of the penal law, where such conduct with such victim was the basis for charging the defendant with an offense specified in paragraph (a) of this subdivision.</p> <p>2. Any request made by the victim pursuant to this section must be in writing, filed with the court within six months of the date of the crimes charged, and provided by the court to the defendant or his or her counsel. The request must be filed with the court prior to or within forty-eight hours after the indictment or superior court information has been filed with the superior court; provided however that, for good cause shown, the court may permit such request to be filed at a later stage of the action within six months of the date of the crimes charged.</p> <p>3. At any stage in the action within six months of the date of the crimes charged, prior to the final disposition of the indictment or superior court information and while the defendant is charged with an offense specified in paragraph (a) of subdivision one of this section, the victim may request that the defendant submit to a follow-up HIV related test. Such request must be in writing, filed with the court and provided by the court to the defendant or his or her counsel. Upon a finding that the follow-up HIV</p>

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	<p>related test is medically appropriate the court must order that the defendant submit to such test. The court shall not make such finding of medical appropriateness unless the follow-up HIV related test is to be administered a sufficient time after the charged offense to be consistent with guidelines that may be issued by the commissioner of health. There shall be no more than one follow-up HIV related test absent a showing of extraordinary circumstances.</p> <p>4. Any requests, related papers and orders made or filed pursuant to this section, together with any papers or proceedings related thereto, shall be sealed by the court and not made available for any purpose, except as may be necessary for the conduct of judicial proceedings directly related to the provisions of this section. All proceedings on such requests shall be held in camera.</p> <p>5. The application for an order to compel a defendant to undergo an HIV related test may be made by the victim but, if the victim is an infant or incompetent person, the application may also be made by a representative as defined in section twelve hundred one of the civil practice law and rules. The application must state that: (a) the applicant as the victim of the offense enumerated in paragraph (a) of subdivision one of this section of which the defendant is charged; and (b) the applicant has been offered pre-HIV test counseling and post-HIV test counseling by a public health officer in accordance with article twenty-seven-F of the public health law and has been advised, in accordance with any guidelines that may be issued by the commissioner of health, of (i) the limitations on the information to be obtained through an HIV test on the proposed subject; (ii) current scientific assessments of the risk of transmission of HIV from the exposure he or she may have experienced; and (iii) the need for the applicant to undergo HIV related testing to definitively determine his or her HIV status.</p> <p>6. The court shall conduct a hearing only if necessary to determine if the applicant is the victim of the offense of which the defendant is charged or to determine whether a follow-up test is medically appropriate. The court ordered test must be performed within forty-eight hours of the date on which the court ordered the test, provided, however, that whenever the defendant is not tested within the period prescribed by the court, the court must again order that the defendant undergo an HIV related test. The defendant shall be advised of information as to HIV testing and medical treatment in accordance with any guidelines that may be issued by the commissioner of health.</p> <p>7. (a) Test results shall be disclosed subject to the following limitations, which shall be specified in any order issued pursuant to this section:</p> <ul style="list-style-type: none"> (i) disclosure of confidential HIV related information shall be limited to that information which is necessary to fulfill the purpose for which the order is granted; and (ii) disclosure of confidential HIV related information shall be made to the defendant upon his or her request, and disclosure to a person other

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	<p>than the defendant shall be limited to the person making the application; redisclosure shall be permitted only to the victim, the victim's immediate family, guardian, physicians, attorneys, medical or mental health providers and to his or her past and future contacts to whom there was or is a reasonable risk of HIV transmission and shall not be permitted to any other person or the court.</p> <p>(b) Unless inconsistent with this section, the court's order shall direct compliance with and conform to the provisions of article twenty-seven-F of the public health law. Such order shall include measures to protect against disclosure to others of the identity and HIV status of the applicant and of the person tested and may include such other measures as the court deems necessary to protect confidential information.</p> <p>8. Any failure to comply with the provisions of this section or section twenty-seven hundred eighty-five-a of the public health law shall not impair or affect the validity of any proceeding upon the indictment or superior court information.</p> <p>9. No information obtained as a result of a consent, hearing or court order for testing issued pursuant to this section nor any information derived therefrom may be used as evidence in any criminal or civil proceeding against the defendant which relates to events that were the basis for charging the defendant with an offense enumerated in paragraph (a) of subdivision one of this section, provided however that nothing in this section shall prevent prosecution of a witness testifying in any court hearing held pursuant to this section for perjury pursuant to article two hundred ten of the penal law.</p>
§ 390.15	<p>Requirement of HIV related testing in certain cases</p> <p>1. (a) In any case where the defendant is convicted of a felony offense enumerated in any section of article one hundred thirty of the penal law, or any subdivision of section 130.20 of such law, where an act of "sexual intercourse", "oral sexual conduct" or "anal sexual conduct," as those terms are defined in section 130.00 of the penal law, is required as an essential element for the commission thereof, the court must, upon a request of the victim, order that the defendant submit to human immunodeficiency (HIV) related testing. The testing is to be conducted by a state, county, or local public health officer designated by the order. Test results, which shall not be disclosed to the court, shall be communicated to the defendant and the victim named in the order in accordance with the provisions of section twenty-seven hundred eighty-five-a of the public health law, but such results and disclosure need not be completed prior to the imposition of sentence.</p> <p>(b) For the purposes of this section, the terms "defendant", "conviction" and "sentence" mean and include, respectively, an "eligible youth," a "youthful offender finding" and a "youthful offender sentence" as those terms are defined in section 720.10 of this chapter. The term "victim" means the person with whom the defendant engaged in an act of "sexual</p>

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	<p>intercourse", "oral sexual conduct" or "anal sexual conduct", as those terms are defined in section 130.00 of the penal law, where such conduct with such victim was the basis for the defendant's conviction of an offense specified in paragraph (a) of this subdivision.</p> <p>2. Any request made by the victim pursuant to this section must be in writing, filed with the court and provided by the court to the defendant or his or her counsel. The request must be filed with the court prior to or within ten days after entry of the defendant's conviction; provided that, for good cause shown, the court may permit such request to be filed at any time before sentence is imposed.</p> <p>3. Any requests, related papers and orders made or filed pursuant to this section, together with any papers or proceedings related thereto, shall be sealed by the court and not made available for any purpose, except as may be necessary for the conduct of judicial proceedings directly related to the provisions of this section. All proceedings on such requests shall be held in camera.</p> <p>4. The application for an order to compel a convicted person to undergo an HIV related test may be made by the victim but, if the victim is an infant or incompetent person, the application may also be made by a representative as defined in section twelve hundred one of the civil practice law and rules. The application must state that (a) the applicant was the victim of the offense enumerated in paragraph (a) of subdivision one of this section of which the defendant stands convicted; and (b) the applicant has been offered counseling by a public health officer and been advised of (i) the limitations on the information to be obtained through an HIV test on the proposed subject; (ii) current scientific assessments of the risk of transmission of HIV from the exposure he or she may have experienced, and (iii) the need for the applicant to undergo HIV related testing to definitively determine his or her HIV status.</p> <p>5. The court shall conduct a hearing only if necessary to determine if the applicant is the victim of the offense of which the defendant was convicted. The court ordered test must be performed within fifteen days of the date on which the court ordered the test, provided, however, that whenever the defendant is not tested within the period prescribed by the court, the court must again order that the defendant undergo an HIV related test.</p> <p>6. (a) Test results shall be disclosed subject to the following limitations, which shall be specified in any order issued pursuant to this section:</p> <ul style="list-style-type: none"> (i) disclosure of confidential HIV related information shall be limited to that information which is necessary to fulfill the purpose for which the order is granted; (ii) disclosure of confidential HIV related information shall be limited to the person making the application; redisclosure shall be permitted only to the victim, the victim's immediate family, guardian, physicians, attorneys, medical or mental health providers and to his or her past and

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	<p>future contacts to whom there was or is a reasonable risk of HIV transmission and shall not be permitted to any other person or the court.</p> <p>(b) Unless inconsistent with this section, the court's order shall direct compliance with and conform to the provisions of article twenty-seven-F of the public health law. Such order shall include measures to protect against disclosure to others of the identity and HIV status of the applicant and of the person tested and may include such other measures as the court deems necessary to protect confidential information.</p> <p>7. Any failure to comply with the provisions of this section or section twenty-seven hundred eighty-five-a of the public health law shall not impair or affect the validity of any sentence imposed by the court.</p> <p>8. No information obtained as a result of a consent, hearing or court order for testing issued pursuant to this section nor any information derived therefrom may be used as evidence in any criminal or civil proceeding against the defendant which relates to events that were the basis for the defendant's conviction, provided however that nothing herein shall prevent prosecution of a witness testifying in any court hearing held pursuant to this section for perjury pursuant to article two hundred ten of the penal law.</p>

Public Health Law

NY PBH Code §	Code Language
§ 239	<p>Course work or training in infection control practices.</p> <p>(a) Every physician, physician assistant and specialist assistant practicing in the state shall, on or before July first, nineteen hundred ninety-four and every four years thereafter, complete course work or training, appropriate to the professional's practice, approved by the department regarding infection control and barrier precautions, including engineering and work practice controls, in accordance with regulatory standards promulgated by the department in consultation with the department of education, to prevent the transmission of HIV, HBV or HCV in the course of professional practice. Such coursework or training must also be completed by every medical student, medical resident and physician assistant student in the state as part of the orientation programs conducted by medical schools, medical residency programs and physician assistant programs.</p> <p>(b) Every physician, physician assistant, specialist assistant, medical student, medical resident and physician assistant student must provide to the department documentation demonstrating the completion of and competence in the coursework or training required under subdivision (a) of this section, provided however, that physicians subject to the provisions of paragraph (f) of subdivision one of section twenty-eight hundred five-k of this chapter shall not be required to provide such documentation to the department.</p> <p>(c) The department shall provide an exemption from the requirements imposed by subdivision (a) of this section to anyone who requests such an exemption and who (i) clearly demonstrates to the department's satisfaction that there would be no need for him or her to complete such course work or training because of the nature of his or her practice or (ii) that he or she has completed course work or training deemed by the department to be equivalent to the standards for course work or training approved by the department pursuant to this section. An individual granted an exemption must reapply to continue such exemption every four years.</p> <p>(d) The department shall consult with organizations representative of professions, institutions and those with expertise in infection control and HIV, HBV, and HCV with respect to the regulatory standards promulgated pursuant to this section. On or before September first, two thousand eight, and periodically thereafter as determined necessary by the commissioner, the department, including its patient safety center, in consultation with the council on graduate medical education, shall review and revise the content of the coursework or training in infection control practices as necessary to ensure that such content: (i) reflects the current infection control practices and standards accepted and promoted by the medical and scientific communities; (ii) focuses particular attention on instruction in standards of practice for which compliance is suboptimal based on the department's experience; and (iii) emphasizes the application of infection control standards and practices in outpatient and ambulatory settings.</p>
§ 2130	<p>AIDS and HIV infection; duty to report</p> <p>1. Every physician or other person authorized by law to order diagnostic</p>

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	<p>tests or make a medical diagnosis, or any laboratory performing such tests shall immediately (a) upon determination that a person is infected with human immunodeficiency virus (HIV), (b) upon diagnosis that a person is afflicted with the disease known as acquired immune deficiency syndrome (AIDS), (c) upon diagnosis that a person is afflicted with HIV related illness, and (d) upon periodic monitoring of HIV infection by any laboratory tests report such case or data to the commissioner.</p> <p>2. The commissioner shall promptly forward such report to the health commissioner of the municipality where such disease, illness or infection occurred. When cases of such disease, illness or infection occur in a municipality not having a health commissioner, such reports shall be forwarded directly to the district health officer.</p> <p>3. Such report shall contain such information concerning the case as shall be required by the commissioner. Such report shall include information identifying the protected individual as well as the names, if available, of any contacts of the protected individual, as defined in subdivision ten of section twenty-seven hundred eighty of this chapter, known to the physician or provided to the physician by the infected person.</p>
§ 2131	<p>Municipal health commissioner; duty to report</p> <p>If any contact resides in a county or district other than the one where the protected individual is found, the health officer receiving the report shall refer the contact report to the health officer in the county or district where the contact resides, who shall then make a good faith effort to notify such contact and otherwise comply with the provisions of section twenty-one hundred thirty-three of this title.</p>
§ 2132	<p>Reporting of HIV infection after death</p> <p>If a coroner, pathologist, medical examiner, or other person qualified to conduct an examination of a deceased person discovers that at the time of death the individual was afflicted with AIDS, HIV related illness or HIV infection, he or she shall report the case promptly to the commissioner according to the manner provided in this title as if the diagnosis had been established prior to death.</p>
§ 2133	<p>Contact tracing of cases of AIDS, HIV related illness or HIV infection</p> <p>1. Every municipal health commissioner or the department's district health officer, upon determination that such reported case or, any other known case of HIV infection merits contact tracing in order to protect the public health, shall personally or through their qualified representatives notify the known contacts of the protected individual. Such contact tracing shall be done consistent with protocols developed pursuant to section twenty-one hundred thirty-seven of this title.</p> <p>2. Such contact shall also be informed of (a) the nature of HIV, (b) the</p>

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	<p>known routes of transmission of the virus, (c) as circumstances may require, the risks of prenatal and perinatal transmission, (d) actions he or she can take to limit further transmission of the virus, (e) other facilities or community based organizations which are accessible to the person that provide counseling, medical care and treatment, further information or other appropriate services for persons infected with HIV.</p> <p>3. In notifying any contact identified in the course of any investigation conducted pursuant to this section, the physician or public health officer shall not disclose the identity of the protected individual or the identify of any other contact.</p> <p>4. A physician or public health officer making a notification to a contact pursuant to this section shall make such notification in person except where circumstances reasonably prevent doing so.</p>
§ 2134	<p>Disclosure of medical information.</p> <p>Disclosure of medical information obtained in accordance with this title, including a diagnosis of HIV infection, may be made only to (a) the protected individual, (b) the municipal health commissioner or district health officer if such commissioner or officer is not the examining physician, and (c) without specifically revealing the identity of the protected individual, contacts as defined pursuant to subdivision ten of section twenty-seven hundred eighty of this chapter.</p>
§ 2135	<p>Confidentiality</p> <p>All reports or information secured by the department, municipal health commissioner or district health officer under the provisions of this title shall be confidential except: (a) in so far as is necessary to carry out the provisions of this title; (b) when used in the aggregate, without patient specific identifying information, in programs approved by the commissioner for the improvement of the quality of medical care provided to person with HIV/AIDS; or (c) when used within the state or local health department by public health disease programs to assess co-morbidity or completeness of reporting and to direct program needs, in which case patient specific identifying information shall not be disclosed outside the state or local health department.</p>
§ 2136	<p>Liability</p> <p>1. Good faith reporting or disclosure pursuant to this title shall not constitute libel or slander or a violation of the right of privacy or privileged communication.</p> <p>2. Any person who in good faith complies with this title shall be immune from civil and criminal liability for any action taken in compliance with its provisions.</p> <p>3. No criminal or civil liability shall arise against any protected individual solely due to his or her failure to cooperate in contact tracing conducted pursuant to section twenty-one hundred thirty-three of this title.</p>

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§ 2137	<p>Domestic violence recognition</p> <p>The department shall, in consultation with the office for the prevention of domestic violence and statewide organizations and community based organizations, develop a protocol for the identification and screening of victims of domestic violence who may either be a protected individual or a contact as used in this title.</p>
§ 2138	<p>Anonymous testing</p> <p>Nothing in this article shall be interpreted to eliminate the anonymous testing option provided for in section twenty seven hundred eighty-one of this chapter.</p>
§ 2139	<p>Rules and regulations</p> <p>The commissioner shall promulgate such rules and regulations as shall be necessary and proper to effectuate the purposes of this title.</p>
§ 2300	<p>Venereal disease; examination or isolation</p> <p>1. Whenever a health officer to whom cases of venereal diseases are required to be reported shall have reasonable ground to believe that any person within his jurisdiction is infected with any venereal disease, such health officer may cause a medical examination to be made for the purpose of ascertaining whether such person is in fact infected with such disease in a stage which is or may become communicable.</p> <p>2. Every such person shall submit to such examination and permit such specimens of blood or bodily discharges, or both, to be taken for laboratory examination as may be necessary to establish the presence or absence of such disease, or, upon refusal to do so, such person shall be isolated by such health officer.</p> <p>3. The required examination may be made by the health officer or by a physician selected by him, or, at the option of the person to be examined, by a licensed physician who, in the opinion of such health officer, is qualified to make such medical examinations and is approved by him.</p> <p>4. Any person so examined may be isolated until the results of such examination are known.</p> <p>5. The physician making such examination shall report promptly thereon to such health officer, but shall not issue a certificate of freedom from venereal disease to or for the person examined</p> <p>6. The term "health officer" as used in this article shall mean a county health officer, a county commissioner of health, a city health officer, a town health officer, a village health officer, the health officer of a consolidated health district or a state district health officer.</p>
§ 2301	<p>Venereal disease; proceedings to compel examination or isolation;</p>

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	<p>confidential records</p> <p>1. Upon the refusal of any person suspected of being infected with any venereal disease to submit to the required examination or to permit specimens of blood or bodily discharges to be taken for laboratory examination, or to comply with the restrictions imposed by isolation, pursuant to section two thousand three hundred of this chapter, the health officer may apply to a justice of the supreme court or, if the suspected person resides or is sojourning (a) in a county outside of the city of New York, to the county judge of such county, or (b) in a city having a population of fifty thousand or more, outside of the city of New York, to the city judge or acting city judge of such city, or (c) in the city of New York, to a city magistrate of such city, for an order compelling compliance.</p> <p>2. The justice, judge or magistrate to whom application for such an order is made, may, upon good cause shown, require such suspected person to appear before him at chambers forthwith, or upon such notice as he shall direct, to show cause why the order should not be granted, and if after the hearing the justice, judge or magistrate shall determine that the suspected person may constitute a source of infection to others, the justice, judge or magistrate may direct by order, that the suspected person shall submit to such examination and permit such specimens of blood or bodily discharges to be taken for laboratory examination, or shall comply with the restrictions imposed by isolation.</p> <p>3. All papers pertaining to any proceeding for such an order compelling compliance shall, if placed on file as court records or otherwise, be sealed and withheld from inspection; and no person shall be allowed access thereto except upon an order of a justice of the supreme court or a judge or magistrate of the court wherein the proceeding was had. No order for access and inspection shall be granted except on due notice to the person named therein as the suspected person and on good cause shown.</p>
§ 2302	<p>Venereal disease; examination of person under arrest</p> <p>1. Every person arrested charged with a violation of section 230.00 or 230.40 of the penal law, or arrested for failure to comply with the order of a judge or justice issued pursuant to the provisions of section two thousand three hundred one of this chapter, or any person arrested for frequenting disorderly houses or houses of prostitution, shall be reported within twenty-four hours by the court or magistrate before whom such person is arraigned to the health officer of the health district in which the alleged offense occurred, and shall be examined in accordance with the provisions of section two thousand three hundred of this chapter.</p> <p>2. For the purpose of examination and diagnosis as provided in section two thousand three hundred of this chapter, an arrested person may be detained until the results of such examination are known.</p> <p>3. No such person if convicted shall be released from the jurisdiction of</p>

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	such court or magistrate until the person so convicted has been examined as provided in section two thousand three hundred of this chapter.
§ 2303	<p>Venereal disease; treatment or isolation required</p> <p>1. The health officer to whom cases of venereal diseases are required to be reported may require any person within his jurisdiction who is found to be infected with any venereal disease in a stage which is or may become communicable to submit to such treatment or isolation, or both, as may be necessary to terminate such communicable state.</p> <p>2. The health officer shall define the place and limits of the area within which such person shall be isolated, and the conditions under which such treatment or isolation, or both, as the case may be, shall be terminated.</p>
§ 2304	<p>Sexually transmissible diseases; treatment facilities; administration</p> <p>1. It shall be the responsibility of each board of health of a health district to provide adequate facilities for the free diagnosis and treatment of persons living within its jurisdiction who are suspected of being infected or are infected with a sexually transmissible disease.</p> <p>2. The health officer of said health district shall administer these facilities and shall promptly examine or arrange for the examination of persons suspected of being infected with a sexually transmissible disease, and shall promptly institute treatment or arrange for the treatment of those found or otherwise known to be infected with a sexually transmissible disease, provided that any person may, at his option, be treated at his own expense by a licensed physician of his choice.</p> <p>3. The facilities provided by the board of health and the administration of these facilities by the health officer shall comply with requirements of the commissioner.</p>
§ 2305	<p>Sexually transmissible diseases; treatment by licensed physician or staff physician of a hospital; prescriptions</p> <p>1. No person, other than a licensed physician, or, in a hospital, a staff physician, shall diagnose, treat or prescribe for a person who is infected with a sexually transmissible disease, or who has been exposed to infection with a sexually transmissible disease, or dispense or sell a drug, medicine or remedy for the treatment of such person except on prescription of a duly licensed physician.</p> <p>2. A licensed physician, or in a hospital, a staff physician, may diagnose, treat or prescribe for a person under the age of twenty-one years without the consent or knowledge of the parents or guardian of said person, where such person is infected with a sexually transmissible disease, or has been exposed to infection with a sexually transmissible disease.</p>

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	3. For the purposes of this section, the term "hospital" shall mean a hospital as defined in article twenty-eight of this chapter.
§ 2306	<p>Sexually transmissible diseases; reports and information, confidential</p> <p>All reports or information secured by a board of health or health officer under the provisions of this article shall be confidential except in so far as is necessary to carry out the purposes of this article. Such report or information may be disclosed by court order in a criminal proceeding in which it is otherwise admissible or in a proceeding pursuant to article ten of the family court act in which it is otherwise admissible, to the prosecution and to the defense, or in a proceeding pursuant to article ten of the family court act in which it is otherwise admissible, to the petitioner, respondent and law guardian, provided that the subject of the report or information has waived the confidentiality provided for by this section. A person waives the confidentiality provided for by this section if such person voluntarily discloses or consents to disclosure of such report or information or a portion thereof. If such person lacks the capacity to consent to such a waiver, his or her parent, guardian or law guardian may so consent. An order directing disclosure pursuant to this section shall specify that no report or information shall be disclosed pursuant to such order which identifies or relates to any person other than the subject of the report or information.</p>
§ 2307	<p>Venereal disease; person knowing himself to be infected</p> <p>Any person who, knowing himself or herself to be infected with an infectious venereal disease, has sexual intercourse with another shall be guilty of a misdemeanor.</p>
§ 2308-a	<p>Sexually transmissible diseases; tests for sexually transmissible diseases</p> <p>1. The administrative officer or other person in charge of a clinic or other facility providing gynecological, obstetrical, genito-urological, contraceptive, sterilization or termination of pregnancy services or treatment shall require the staff of such clinic or facility to offer to administer to every resident of the state of New York coming to such clinic or facility for such services or treatment, appropriate examinations or tests for the detection of sexually transmissible diseases.</p> <p>2. Each physician providing gynecological, obstetrical, genito-urological, contraceptive, sterilization, or termination of pregnancy services or treatment shall offer to administer to every resident of the state of New York coming to such physician for such services or treatment, appropriate examinations or tests for the detection of sexually transmissible diseases.</p>
§ 2311	Sexually transmissible disease list

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	<p>The commissioner shall promulgate a list of sexually transmissible diseases, such as gonorrhea and syphilis, for the purposes of this article. The commissioner, in determining the diseases to be included in such list, shall consider those conditions principally transmitted by sexual contact and the impact of particular diseases on individual morbidity and the health of newborns.</p>
§ 2500-f	<p>Human immunodeficiency virus; testing of newborns</p> <p>1. In order to improve the health outcomes of newborns, and to improve access to care and treatment for newborns infected with or exposed to human immunodeficiency virus (HIV) and their mothers, the commissioner shall establish a comprehensive program for the testing of newborns for the presence of human immunodeficiency virus and/or the presence of antibodies to such virus.</p> <p>2. The commissioner shall promulgate regulations governing the implementation of the program required pursuant to subdivision one of this section, including the administration of testing, counseling, tracking, disclosure of test results pursuant to section twenty-seven hundred eighty-two of this chapter, follow-up reviews, and educational activities relating to such testing.</p>
§ 2500-f-1	<p>Special program for HIV services for women and children, including adolescents.</p> <p>The commissioner, pursuant to a request for proposal, shall make grants to programs to provide HIV services for women and children, including adolescents which may include outreach and education concerning HIV infection, modes of transmission, the benefits of early diagnosis and medical intervention and the availability of services in the community for women and children, including adolescents, including those in need of prenatal and postpartum services. Such programs may make referrals for and may deliver medical and other appropriate services to assist such women and children, including adolescents. The commissioner is authorized to make grants within amounts available therefor to hospitals, community-based organizations and community service programs for programs authorized under this section.</p>
§ 2504	<p>Enabling certain persons to consent for certain medical, dental, health and hospital services</p> <p>1. Any person who is eighteen years of age or older, or is the parent of a child or has married, may give effective consent for medical, dental, health and hospital services for himself or herself, and the consent of no other person shall be necessary.</p> <p>2. Any person who has been married or who has borne a child may give effective consent for medical, dental, health and hospital services for his or her child. Any person who has been designated pursuant to title fifteen-A</p>

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	<p>of article five of the general obligations law as a person in parental relation to a child may consent to any medical, dental, health and hospital services for such child for which consent is otherwise required which are not: (a) major medical treatment as defined in subdivision (a) of section 80.03 of the mental hygiene law; (b) electroconvulsive therapy; or (c) the withdrawal or discontinuance of medical treatment which is sustaining life functions.</p> <p>3. Any person who is pregnant may give effective consent for medical, dental, health and hospital services relating to prenatal care.</p> <p>4. Medical, dental, health and hospital services may be rendered to persons of any age without the consent of a parent or legal guardian when, in the physician's judgment an emergency exists and the person is in immediate need of medical attention and an attempt to secure consent would result in delay of treatment which would increase the risk to the person's life or health.</p> <p>5. Where not otherwise already authorized by law to do so, any person in a parental relation to a child as defined in section twenty-one hundred sixty-four of this chapter and, (i) a grandparent, an adult brother or sister, an adult aunt or uncle, any of whom has assumed care of the child and, (ii) an adult who has care of the child and has written authorization to consent from a person in a parental relation to a child as defined in section twenty-one hundred sixty-four of this chapter, may give effective consent for the immunization of a child. However, a person other than one in a parental relation to the child shall not give consent under this subdivision if he or she has reason to believe that a person in parental relation to the child as defined in section twenty-one hundred sixty-four of this chapter objects to the immunization.</p> <p>6. Anyone who acts in good faith based on the representation by a person that he is eligible to consent pursuant to the terms of this section shall be deemed to have received effective consent.</p>
§ 2780	<p>Definitions</p> <p>As used in this article, the following terms shall have the following meanings:</p> <ol style="list-style-type: none"> 1. "AIDS" means acquired immune deficiency syndrome, as may be defined from time to time by the centers for disease control of the United States public health service. 2. "HIV infection" means infection with the human immunodeficiency virus or any other related virus identified as a probable causative agent of AIDS. 3. "HIV related illness" means any illness that may result from or may be associated with HIV infection.

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	<p>4. "HIV related test or HIV related testing" means any laboratory test, tests or series of tests approved for the diagnosis of HIV.</p> <p>4-a. "Rapid HIV test or testing" means any laboratory screening test or tests approved for detecting antibodies to HIV, that produce results in sixty minutes or less, and encompasses a confirmatory HIV related test if the screening test is reactive.</p> <p>5. "Capacity to consent" means an individual's ability, determined without regard to the individual's age, to understand and appreciate the nature and consequences of a proposed health care service, treatment, or procedure, or of a proposed disclosure of confidential HIV related information, as the case may be, and to make an informed decision concerning the service, treatment, procedure or disclosure.</p> <p>6. "Protected individual" means a person who is the subject of an HIV related test or who has been diagnosed as having HIV infection, AIDS or HIV related illness.</p> <p>7. "Confidential HIV related information" means any information, in the possession of a person who provides one or more health or social services or who obtains the information pursuant to a release of confidential HIV related information, concerning whether an individual has been the subject of an HIV related test, or has HIV infection, HIV related illness or AIDS, or information which identifies or reasonably could identify an individual as having one or more of such conditions, including information pertaining to such individual's contacts.</p> <p>8. "Health or social service" means any public or private care, treatment, clinical laboratory test, counseling or educational service for adults or children, and acute, chronic, custodial, residential, outpatient, home or other health care provided pursuant to this chapter or the social services law; public assistance or care as defined in article one of the social services law; employment-related services, housing services, foster care, shelter, protective services, day care, or preventive services provided pursuant to the social services law; services for the mentally disabled as defined in article one of the mental hygiene law; probation services, provided pursuant to articles twelve and twelve-A of the executive law; parole services, provided pursuant to article twelve-B of the executive law; correctional services, provided pursuant to the correction law; detention and rehabilitative services provided pursuant to article nineteen-G of the executive law; and the activities of the health care worker HIV/HBV advisory panel pursuant to article twenty-seven-DD of this chapter.</p> <p>9. "Release of confidential HIV related information" means a written authorization for disclosure of confidential HIV related information which is signed by the protected individual, or if the protected individual lacks capacity to consent, a person authorized pursuant to law to consent to health care for the individual. Such release shall be dated and shall specify to whom disclosure is authorized, the purpose for such disclosure and the</p>

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	<p>time period during which the release is to be effective. A general authorization for the release of medical or other information shall not be construed as a release of confidential HIV related information, unless such authorization specifically indicates its dual purpose as a general authorization and an authorization for the release of confidential HIV related information and complies with the requirements of this subdivision.</p> <p>10. "Contact" means an identified spouse or sex partner of the protected individual, a person identified as having shared hypodermic needles or syringes with the protected individual or a person who the protected individual may have exposed to HIV under circumstances that present a risk of transmission of HIV, as determined by the commissioner.</p> <p>11. "Person" includes any natural person, partnership, association, joint venture, trust, public or private corporation, or state or local government agency.</p> <p>12. "Health facility" means a hospital as defined in section two thousand eight hundred one of this chapter, blood bank, blood center, sperm bank, organ or tissue bank, clinical laboratory, or facility providing care or treatment to persons with a mental disability as defined in article one of the mental hygiene law.</p> <p>13. "Health care provider" means any physician, nurse, provider of services for the mentally disabled as defined in article one of the mental hygiene law, or other person involved in providing medical, nursing, counseling, or other health care or mental health service, including those associated with, or under contract to, a health maintenance organization or medical services plan.</p> <p>14. "Child" means any protected individual actually or apparently under eighteen years of age.</p> <p>15. "Authorized agency" means any agency defined by section three hundred seventy-one of the social services law and, for the purposes of this article, shall include such corporations incorporated or organized under the laws of the state as may be specifically authorized by their certificates of incorporation to receive children for the purposes of adoption or foster care.</p> <p>16. "Insurance institution" means any corporation, association, partnership, reciprocal exchange, interinsurer, fraternal benefits society, agent, broker or other entity including, but not limited to, any health maintenance organization, medical service plan, or hospital plan which: (a) is engaged in the business of insurance; (b) provides health services coverage plans; or (c) provides benefits under, administers, or provides services for, an employee welfare benefit plan as defined in 29 U.S.C. 1002(1).</p> <p>17. "Insurance support organization" means any person who regularly</p>

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	<p>engages, in whole or in part, in the practice of assembling or collecting information about natural persons for the primary purpose of providing the information to an insurance institution for insurance transactions, including: (a) the furnishing of consumer reports or investigative consumer reports to an insurance institution for use in connection with an insurance transaction; or (b) the collection of personal information from insurance institutions or other insurance support organizations for the purpose of detecting or preventing fraud, material misrepresentation, or material non-disclosure in connection with insurance underwriting or insurance claim activity. The following persons shall not be considered "insurance-support organizations" for the purposes of this article: government institutions, insurance institutions, health facilities and health care providers.</p>
§ 2781	<p>HIV related testing</p> <p>1. Except as provided in section three thousand one hundred twenty-one of the civil practice law and rules, or unless otherwise specifically authorized or required by a state or federal law, no person shall order the performance of an HIV related test without first having received the written or, where authorized by this subdivision, oral, informed consent of the subject of the test who has capacity to consent or, when the subject lacks capacity to consent, of a person authorized pursuant to law to consent to health care for such individual. When the test being ordered is a rapid HIV test, such informed consent may be obtained orally and shall be documented in the subject of the test's medical record by the person ordering the performance of the test.</p> <p>2. Except where subdivision one of this section permits informed consent to be obtained orally, informed consent to HIV related testing shall consist of a statement consenting to HIV related testing signed by the subject of the test who has capacity to consent or, when the subject lacks capacity to consent, by a person authorized pursuant to law to consent to health care for the subject after the subject or such other person has received the information described in subdivision three of this section.</p> <p>2-a. Where a written consent to HIV related testing is included in a signed general consent to medical care for the subject of the test or in a signed consent to any health care service for the subject of the test, the consent form shall have a clearly marked place adjacent to the signature where the subject of the test, or, when the subject lacks capacity to consent, the person authorized pursuant to law to consent to health care for such individual, shall be given an opportunity to specifically decline in writing HIV related testing on such general consent.</p> <p>2-b. A written or oral informed consent for HIV related testing pursuant to this section shall be valid for such testing until such consent is revoked or expires by its terms. Each time that an HIV related test is ordered pursuant to informed consent in accordance with this section, the physician or other person authorized pursuant to law to order the performance of the HIV related test, or such person's representative, shall orally notify the</p>

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	<p>subject of the test or, when the subject lacks capacity to consent, a person authorized pursuant to law to consent to health care for such individual, that an HIV related test will be conducted at such time, and shall note the notification in the patient's record.</p> <p>2-c. The provisions of this section regarding oral informed consent for a rapid HIV test shall not apply to tests performed in a facility operated under the correction law.</p> <p>3. Prior to the execution of written, or obtaining and documenting oral, informed consent, a person ordering the performance of an HIV related test shall provide either directly or through a representative to the subject of an HIV related test or, if the subject lacks capacity to consent, to a person authorized pursuant to law to consent to health care for the subject, an explanation that:</p> <p>(a) HIV causes AIDS and can be transmitted through sexual activities and needle-sharing, by pregnant women to their fetuses, and through breastfeeding infants;</p> <p>(b) There is treatment for HIV that can help an individual stay healthy;</p> <p>(c) Individuals with HIV or AIDS can adopt safe practices to protect uninfected and infected people in their lives from becoming infected or multiply infected with HIV;</p> <p>(d) Testing is voluntary and can be done anonymously at a public testing center;</p> <p>(e) The law protects the confidentiality of HIV related test results;</p> <p>(f) The law prohibits discrimination based on an individual's HIV status and services are available to help with such consequences; and</p> <p>(g) The law allows an individual's informed consent for HIV related testing to be valid for such testing until such consent is revoked by the subject of the HIV test or expires by its terms.</p> <p>Protocols shall be in place to ensure compliance with this section.</p> <p>4. A person authorized pursuant to law to order the performance of an HIV related test shall provide directly or through a representative to the person seeking such test an opportunity to remain anonymous and to provide written, informed consent or authorize documentation of oral informed consent, through use of a coded system with no linking of individual identity to the test request or results. A health care provider who is not authorized by the commissioner to provide HIV related tests on an anonymous basis shall refer a person who requests an anonymous test to a test site which does provide anonymous testing. The provisions of this subdivision shall not apply to a health care provider ordering the</p>

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	<p>performance of an HIV related test on an individual proposed for insurance coverage.</p> <p>5. At the time of communicating the test result to the subject of the test, a person ordering the performance of an HIV related test shall, directly or through a representative:</p> <p>(a) In the case of a test indicating evidence of HIV infection, provide the subject of the test or, if the subject lacks capacity to consent, the person authorized pursuant to law to consent to health care for the subject with counseling or referrals for counseling: (I) for coping with the emotional consequences of learning the result; (II) regarding the discrimination problems that disclosure of the result could cause; (III) for behavior change to prevent transmission or contraction of HIV infection; (IV) to inform such person of available medical treatments; and (V) regarding the need to notify his or her contacts; and</p> <p>(b) In the case of a test not indicating evidence of HIV infection, provide (in a manner which may consist of oral or written reference to information previously provided) the subject of the test, or if the subject lacks capacity to consent, the person authorized pursuant to law to consent to health care for the subject, with information concerning the risks of participation in high risk sexual or needle-sharing behavior.</p> <p>5-a. With the consent of the subject of a test indicating evidence of HIV infection or, if the subject lacks capacity to consent, with the consent of the person authorized pursuant to law to consent to health care for the subject, the person who ordered the performance of the HIV related test, or such person's representative, shall provide or arrange with a health care provider for an appointment for follow-up medical care for HIV for such subject.</p> <p>6. The provisions of this section shall not apply to the performance of an HIV related test:</p> <p>(a) by a health care provider or health facility in relation to the procuring, processing, distributing or use of a human body or a human body part, including organs, tissues, eyes, bones, arteries, blood, semen, or other body fluids, for use in medical research or therapy, or for transplantation to individuals provided, however, that where the test results are communicated to the subject, post-test counseling, as described in subdivision five of this section, shall nonetheless be required; or</p> <p>(b) for the purpose of research if the testing is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher; or</p> <p>(c) on a deceased person, when such test is conducted to determine the cause of death or for epidemiological purposes; or</p>

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	<p>(d) conducted pursuant to section twenty-five hundred-f of this chapter; or</p> <p>(e) in situations involving occupational exposures which created a significant risk of contracting or transmitting HIV infection, as defined in regulations of the department and pursuant to protocols adopted by the department,</p> <p>(i) provided that:</p> <p>(A) The person who is the source of the occupational exposure is deceased, comatose or is determined by his or her attending health care professional to lack mental capacity to consent to an HIV related test and is not reasonably expected to recover in time for the exposed person to receive appropriate medical treatment, as determined by the exposed person's attending health care professional who could order or provide such treatment;</p> <p>(B) there is no person available or reasonably likely to become available who has the legal authority to consent to the HIV related test on behalf of the source person in time for the exposed person to received appropriate medical treatment; and</p> <p>(C) the exposed person will benefit medically by knowing the source person's HIV test results, as determined by the exposed person's health care professional and documented in the exposed person's medical record;</p> <p>(ii) in which case</p> <p>(A) a provider shall order an anonymous HIV test of the source person; and</p> <p>(B) the results of such anonymous test, but not the identity of the source person, shall be disclosed only to the attending health care professional of the exposed person solely for the purpose of assisting the exposed person in making appropriate decisions regarding post-exposure medical treatment; and</p> <p>(C) the results of the test shall not be disclosed to the source person or placed in the source person's medical record.</p> <p>7. In the event that an HIV related test is ordered by a physician or certified nurse practitioner pursuant to the provisions of the education law providing for non-patient specific regimens, then for the purposes of this section the individual administering the test shall be deemed to be the individual ordering the test.</p>
§ 2781-a	<p>Required offering of HIV related testing</p> <p>1. Every individual between the ages of thirteen and sixty-four years (or younger or older if there is evidence of indication of risk activity) who</p>

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	<p>receives health services as an inpatient or in the emergency department of a general hospital defined in subdivision ten of section twenty-eight hundred one of this chapter or who receives primary care services in an outpatient department of such hospital or in a diagnostic and treatment center licensed under article twenty-eight of this chapter or from a physician, physician assistant, nurse practitioner, or midwife providing primary care shall be offered an HIV related test unless the health care practitioner providing such services reasonably believes that (a) the individual is being treated for a life threatening emergency; or (b) the individual has previously been offered or has been the subject of an HIV related test (except that a test shall be offered if otherwise indicated); or (c) the individual lacks capacity to consent to an HIV related test.</p> <p>2. As used in this section, "primary care" means the medical fields of family medicine, general pediatrics, primary care, internal medicine, primary care obstetrics, or primary care gynecology, without regard to board certification.</p> <p>3. The offering of HIV related testing under this section shall be culturally and linguistically appropriate in accordance with rules and regulations promulgated by the commissioner.</p> <p>4. This section shall not affect the scope of practice of any health care practitioner or diminish any authority or legal or professional obligation of any health care practitioner to offer an HIV related test or to provide services or care for the subject of an HIV related test.</p>
§ 2782	<p>Confidentiality and disclosure</p> <p>1. No person who obtains confidential HIV related information in the course of providing any health or social service or pursuant to a release of confidential HIV related information may disclose or be compelled to disclose such information, except to the following:</p> <p>(a) the protected individual or, when the protected individual lacks capacity to consent, a person authorized pursuant to law to consent to health care for the individual;</p> <p>(b) any person to whom disclosure is authorized pursuant to a release of confidential HIV related information;</p> <p>(c) an agent or employee of a health facility or health care provider if (1) the agent or employee is permitted to access medical records, (2) the health facility or health care provider itself is authorized to obtain the HIV related information, and (3) the agent or employee provides health care to the protected individual, or maintains or processes medical records for billing or reimbursement;</p> <p>(d) a health care provider or health facility when knowledge of the HIV related information is necessary to provide appropriate care or treatment to the protected individual, a child of the individual, a contact of the protected individual or a person authorized to consent to health care for such a contact;</p> <p>(e) a health facility or health care provider, in relation to the procurement, processing, distributing or use of a human body or a human</p>

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	<p>body part, including organs, tissues, eyes, bones, arteries, blood, semen, or other body fluids, for use in medical education, research, therapy, or for transplantation to individuals;</p> <p>(f) health facility staff committees or accreditation or oversight review organizations authorized to access medical records; provided that such committees or organizations may only disclose confidential HIV related information: (1) back to the facility or provider of a health or social service; (2) to carry out the monitoring, evaluation, or service review for which it was obtained; or (3) to a federal, state or local government agency for the purposes of and subject to the conditions provided in subdivision six of this section;</p> <p>(g) a federal, state, county or local health officer when such disclosure is mandated by federal or state law;</p> <p>(h) an authorized agency in connection with foster care or adoption of a child. Such agency shall be authorized to redisclose such information only pursuant to this article or in accordance with the provisions of subdivision eight of section three hundred seventy-two and section three hundred seventy-three-a of the social services law;</p> <p>(i) third party reimbursers or their agents to the extent necessary to reimburse health care providers for health services; provided that, where necessary, an otherwise appropriate authorization for such disclosure has been secured by the provider;</p> <p>(j) an insurance institution, for other than the purpose set forth in paragraph (i) of this subdivision, provided the insurance institution secures a dated and written authorization that indicates that health care providers, health facilities, insurance institutions, and other persons are authorized to disclose information about the protected individual, the nature of the information to be disclosed, the purposes for which the information is to be disclosed and which is signed by: (1) the protected individual; (2) if the protected individual lacks the capacity to consent, such other person authorized pursuant to law to consent for such individual; or (3) if the protected individual is deceased, the beneficiary or claimant for benefits under an insurance policy, a health services plan, or an employee welfare benefit plan as defined in 29 U.S.C. 1002(1), covering such protected individual;</p> <p>(k) any person to whom disclosure is ordered by a court of competent jurisdiction pursuant to section twenty-seven hundred eighty-five of this article;</p> <p>(l) an employee or agent of the division of parole, in accordance with paragraph (a) of subdivision two of section twenty-seven hundred eighty-six of this article, to the extent the employee or agent is authorized to access records containing such information in order to carry out the division's functions, powers and duties with respect to the protected individual, pursuant to section two hundred fifty-nine-a of the executive law;</p> <p>(m) an employee or agent of the division of probation and correctional alternatives or any local probation department, in accordance with paragraph (a) of subdivision two of section twenty-seven hundred eighty-six of this article, to the extent the employee or agent is authorized to access records containing such information in order to carry out the</p>

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	<p>division's or department's functions, powers and duties with respect to the protected individual, pursuant to articles twelve and twelve-A of the executive law;</p> <p>(n) a medical director of a local correctional facility as defined in section forty of the correction law, in accordance with paragraph (a) of subdivision two of section twenty-seven hundred eighty-six of this article, to the extent the medical director is authorized to access records containing such information in order to carry out his or her functions, powers and duties with respect to the protected individual; or</p> <p>(o) an employee or agent of the commission of correction, in accordance with paragraph (a) of subdivision two of section twenty-seven hundred eighty-six of this article, to the extent the employee or agent is authorized to access records containing such information in order to carry out the commission's functions, powers and duties with respect to the protected individual, pursuant to article three of the correction law.</p> <p>(p) a law guardian, appointed to represent a minor pursuant to the social services law or the family court act, with respect to confidential HIV related information relating to the minor and for the purpose of representing the minor. If the minor has the capacity to consent, the law guardian may not redisclose confidential HIV related information without the minor's permission. If the minor lacks capacity to consent, the law guardian may redisclose confidential HIV related information for the sole purpose of representing the minor. This paragraph shall not limit a law guardian's ability to seek relief under section twenty-seven hundred eighty-five of this chapter.</p> <p>(q) An executor or an administrator of an estate shall have access to the confidential HIV information of a deceased person as needed to fulfill his or her responsibilities/duties as an executor or administrator.</p> <p>2. A state, county or local health officer may disclose confidential HIV related information when:</p> <p>(a) disclosure is specifically authorized or required by federal or state law; or</p> <p>(b) disclosure is made pursuant to a release of confidential HIV related information; or</p> <p>(c) disclosure is requested by a physician pursuant to subdivision four of this section; or</p> <p>(d) disclosure is authorized by court order pursuant to the provisions of section twenty-seven hundred eighty-five of this article.</p> <p>3. No person to whom confidential HIV related information has been disclosed pursuant to this article shall disclose the information to another person except as authorized by this article, provided, however, that the provisions of this subdivision shall not apply:</p> <p>(a) to the protected individual; or</p> <p>(b) to a natural person who is authorized pursuant to law to consent to health care for the protected individual; or</p> <p>(c) to a protected individual's foster parent as defined in section three hundred seventy-one of the social services law and subject to regulations promulgated pursuant to paragraph (a) of subdivision two of section</p>

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	<p>twenty-seven hundred eighty-six of this article, for the purpose of providing care, treatment or supervision of the protected individual; or</p> <p>(d) a prospective adoptive parent as specified in section three hundred seventy-three-a of the social services law and subject to regulations promulgated pursuant to paragraph (a) of subdivision two of section twenty-seven hundred eighty-six of this article with whom a child who is the protected individual has been placed for adoption; or</p> <p>(e) to a relative or other person legally responsible to whom a child who is the protected individual is to be placed or discharged pursuant to section ten hundred seventeen or ten hundred fifty-five of the family court act and subject to regulations promulgated pursuant to paragraph (a) of subdivision two of section twenty-seven hundred eighty-six of this article, for the purpose of providing care, treatment or supervision of the protected individual.</p> <p>4. (a) A physician may disclose confidential HIV related information under the following conditions:</p> <p>(1) disclosure is made to a contact, to a public health officer for the purpose of making the disclosure to said contact and pursuant to section twenty-one hundred thirty of this chapter; or</p> <p>(2) the physician believes disclosure is medically appropriate and there is a significant risk of infection to the contact; and</p> <p>(3) the physician has counseled the protected individual regarding the need to notify the contact; and</p> <p>(4) the physician has informed the protected individual of his or her intent to make such disclosure to a contact, the physician's responsibility to report the infected individual's case pursuant to section twenty-one hundred thirty of this chapter and has given the protected individual the opportunity to express a preference as to whether disclosure should be made by the physician directly or to a public health officer for the purpose of said disclosure. If the protected individual expresses a preference for disclosure by a public health officer, the physician shall honor such preference.</p> <p>(5) If a physician chooses to make a notification pursuant to this section, he or she shall report to the municipal health commissioner or district health officer on his or her efforts to notify the contacts of the protected individual. Such report shall be in a manner and on forms prescribed by the commissioner and shall include the identity of the protected individual and any contacts as well as information as to whether the contacts were successfully notified.</p> <p>(6) Within a reasonable time of receiving a report that a physician or his or her designated agent did not notify or verify notification of contacts provided by the protected individual, the health commissioner or district health officer of the municipality from which the report originates shall take reasonable measures to notify such contacts and otherwise comply with the provisions of this chapter.</p> <p>(b) When making such disclosures to the contact, the physician or public health officer shall provide or make referrals for the provision of the appropriate medical advice and counseling for coping with the emotional consequences of learning the information and for changing behavior to</p>

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	<p>prevent transmission or contraction of HIV infection. The physician or public health officer shall not disclose the identity of the protected individual or the identity of any other contact. A physician or public health officer making a notification pursuant to this subdivision shall make such disclosure in person, except where circumstances reasonably prevent doing so.</p> <p>(c) A physician or public health officer shall have no obligation to identify or locate any contact except as provided pursuant to title three of article twenty-one of this chapter.</p> <p>(d) A physician may, upon the consent of a parent or guardian, disclose confidential HIV related information to a state, county, or local health officer for the purpose of reviewing the medical history of a child to determine the fitness of the child to attend school.</p> <p>(e) A physician may disclose confidential HIV related information pertaining to a protected individual to a person (known to the physician) authorized pursuant to law to consent to health care for a protected individual when the physician reasonably believes that: (1) disclosure is medically necessary in order to provide timely care and treatment for the protected individual; and (2) after appropriate counseling as to the need for such disclosure, the protected individual will not inform a person authorized by law to consent to health care; provided, however, that the physician shall not make such disclosure if, in the judgment of the physician: (A) the disclosure would not be in the best interest of the protected individual; or (B) the protected individual is authorized pursuant to law to consent to such care and treatment. Any decision or action by a physician under this paragraph, and the basis therefor, shall be recorded in the protected individual's medical record.</p> <p>5. (a) Whenever disclosure of confidential HIV related information is made pursuant to this article, except for disclosures made pursuant to paragraphs (a), (d), and (i) of subdivision one of this section or paragraph (a) or (e) of subdivision four of this section, such disclosure shall be accompanied or followed by a statement in writing which includes the following or substantially similar language: "This information has been disclosed to you from confidential records which are protected by state law. State law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of state law may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is NOT sufficient authorization for further disclosure." An oral disclosure shall be accompanied or followed by such a notice within ten days.</p> <p>(b) Except for disclosures made pursuant to paragraph (c) of subdivision one of this section, or to persons reviewing information or records in the ordinary course of ensuring that a health facility is in compliance with applicable quality of care standards or any other authorized program evaluation, program monitoring or service review, or to governmental agents requiring information necessary for payments to be made on behalf of patients or clients pursuant to contract or in accordance to law, a</p>

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	<p>notation of all such disclosures shall be placed in the medical record of a protected individual, who shall be informed of such disclosures upon request; provided, however, that for disclosures made to insurance institutions such a notation need only be entered at the time the disclosure is first made.</p> <p>6. (a) The provisions of this subdivision shall apply where a provider of a health or social service possesses confidential HIV related information relating to individuals who are recipients of the service, and a federal, state or local government agency supervises or monitors the provider or administers the program under which the service is provided.</p> <p>(b) Confidential HIV related information relating to a recipient of such service may be disclosed in accordance with regulations promulgated pursuant to paragraph (a) of subdivision two of section twenty-seven hundred eighty-six of this article to an authorized employee or agent of such provider or government agency, when reasonably necessary for such supervision, monitoring, administration, or provision of such service. The term "authorized employee or agent", as used in this subdivision shall only include any employee or agent who would, in the ordinary course of business of the provider or government agency, have access to records relating to the care of, treatment of, or provision of a health or social service to the protected individual.</p> <p>7. Nothing in this section shall limit a person's or agency's responsibility or authority to report, investigate, or redisclose, child protective and adult protective services information in accordance with title six of article six and titles one and two of article nine-B of the social services law, or to provide or monitor the provision of child and adult protective or preventive services.</p> <p>8. Confidential HIV related information shall be recorded in the medical record of the protected individual. The provisions of this section shall not prohibit the listing of acquired immune deficiency syndrome, HIV related illness or HIV infection in a certificate of death, autopsy report or related documents prepared pursuant to article forty-one of this chapter or other applicable laws, ordinances, rules or regulations relating to the documentation of cause of death, nor shall this section be construed to modify any laws, ordinances, rules or regulations relative to access to death certificates, autopsy reports or such other related documents. Under no circumstances shall confidential HIV related information be disclosable pursuant to article six of the public officers law. Notwithstanding the foregoing, confidential HIV information obtained pursuant to section 390.15 of the criminal procedure law or section 347.1 of the family court act by either court order or consent of the protected individual shall not be recorded in the medical record of the protected individual unless he or she consents to the recording of such information in a written statement containing the relevant information specified in subdivision two of section two thousand seven hundred eighty-one of this article.</p> <p>9. Confidential HIV related information shall be disclosed upon the request</p>

NY PBH Code §	Code Language
	of the health care worker HIV/HBV advisory panel, established pursuant to article twenty-seven-DD of this chapter, to the panel or its designee only when reasonably necessary for the evaluation of a worker who has voluntarily sought the panel's review.
§ 2783	<p>Penalties; immunities</p> <p>1. Any person who shall:</p> <p style="padding-left: 2em;">(a) perform, or permit or procure the performance of, an HIV related test in violation of section twenty-seven hundred eighty-one of this article; or</p> <p style="padding-left: 2em;">(b) disclose, or compel another person to disclose, or procure the disclosure of, confidential HIV related information in violation of section twenty-seven hundred eighty-two of this article; shall be subject to a civil penalty not to exceed five thousand dollars for each occurrence. Such penalty may be recovered in the same manner as the penalty provided in section twelve of this chapter.</p> <p>2. Any person who willfully commits an act enumerated in subdivision one of this section shall be guilty of a misdemeanor and subject to the penalties provided in section twelve-b of this chapter.</p> <p>3. There shall be no criminal sanction or civil liability on the part of, and no cause of action for damages shall arise against any physician, his or her employer, or a physician's designated agent, or health facility or health care provider with which the physician is associated, or public health officer, on account of:</p> <p style="padding-left: 2em;">(a) the failure to disclose confidential HIV related information to a contact or person authorized pursuant to law to consent to health care for a protected individual; or</p> <p style="padding-left: 2em;">(b) the disclosure of confidential HIV related information to a contact or person authorized pursuant to law to consent to health care for a protected individual, when carried out in compliance with this article; or</p> <p style="padding-left: 2em;">(c) the disclosure of confidential HIV related information to any person, agency, or officer authorized to receive such information, when carried out in good faith and without malice, and in compliance with the provisions of this article; or</p> <p style="padding-left: 2em;">(d) the municipal health commissioner or district health officer's failure to notify contacts pursuant to this chapter.</p> <p>4. Any cause of action to recover damages based on a failure to provide information, explanations, or counseling prior to the execution of a written informed consent, or based on a lack of informed consent in the ordering or performance of an HIV related test in violation of this article shall be governed by the provisions of section two thousand eight hundred five-d of this chapter.</p>
§ 2784	Applicability to insurance institutions and insurance support organizations

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	<p>Except for disclosure to third party reimbursers and insurance institutions pursuant to paragraphs (i) and (j) of subdivision one of section twenty-seven hundred eighty-two of this article and except for disclosures pursuant to section twenty-seven hundred eighty-five of this article, the provisions of this article shall not apply to insurance institutions and insurance support organizations, except that health care providers associated with or under contract to a health maintenance organization or other medical services plan shall be subject to the provisions of this article.</p>
§ 2785	<p>Court authorization for disclosure of confidential HIV related information.</p> <p>1. Notwithstanding any other provision of law, no court shall issue an order for the disclosure of confidential HIV related information, except a court of record of competent jurisdiction in accordance with the provisions of this section.</p> <p>2. A court may grant an order for disclosure of confidential HIV related information upon an application showing: (a) a compelling need for disclosure of the information for the adjudication of a criminal or civil proceeding; (b) a clear and imminent danger to an individual whose life or health may unknowingly be at significant risk as a result of contact with the individual to whom the information pertains; (c) upon application of a state, county or local health officer, a clear and imminent danger to the public health; or (d) that the applicant is lawfully entitled to the disclosure and the disclosure is consistent with the provisions of this article.</p> <p>3. Upon receiving an application for an order authorizing disclosure pursuant to this section, the court shall enter an order directing that all pleadings, papers, affidavits, judgments, orders of the court, briefs and memoranda of law which are part of the application or the decision thereon, be sealed and not made available to any person, except to the extent necessary to conduct any proceedings in connection with the determination of whether to grant or deny the application, including any appeal. Such an order shall further direct that all subsequent proceedings in connection with the application shall be conducted in camera, and, where appropriate to prevent the unauthorized disclosure of confidential HIV related information, that any pleadings, papers, affidavits, judgments, orders of the court, briefs and memoranda of law which are part of the application or the decision thereon not state the name of the individual concerning whom confidential HIV related information is sought.</p> <p>4. (a) The individual concerning whom confidential HIV related information is sought and any person holding records concerning confidential HIV related information from whom disclosure is sought shall be given adequate notice of such application in a manner which will not disclose to any other person the identity of the individual, and shall be afforded an opportunity to file a written response to the application, or to appear in person for the limited purpose of providing evidence on the statutory criteria for the issuance of an order pursuant to this section.</p>

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	<p>(b) The court may grant an order without such notice and opportunity to be heard, where an ex parte application by a public health officer shows that a clear and imminent danger to an individual whose life or health may unknowingly be at risk requires an immediate order.</p> <p>(c) Service of a subpoena shall not be subject to this subdivision.</p> <p>5. In assessing compelling need and clear and imminent danger, the court shall provide written findings of fact, including scientific or medical findings, citing specific evidence in the record which supports each finding, and shall weigh the need for disclosure against the privacy interest of the protected individual and the public interest which may be disserved by disclosure which deters future testing or treatment or which may lead to discrimination.</p> <p>6. An order authorizing disclosure of confidential HIV related information shall:</p> <p>(a) limit disclosure to that information which is necessary to fulfill the purpose for which the order is granted; and</p> <p>(b) limit disclosure to those persons whose need for the information is the basis for the order, and specifically prohibit redisclosure by such persons to any other persons, whether or not they are parties to the action; and</p> <p>(c) to the extent possible consistent with this section, conform to the provisions of this article; and</p> <p>(d) include such other measures as the court deems necessary to limit any disclosures not authorized by its order.</p>
§ 2785-a	<p>Court order for HIV related testing in certain cases</p> <p>1. Notwithstanding any contrary provision of law or regulation, a state, county or local public health officer to whom an order or a consent for an HIV test is addressed or sent, in accordance with section 390.15 of the criminal procedure law or section 347.1 of the family court act, must cause HIV related testing to be administered to the subject named therein and, if the test is pursuant to court order, must immediately provide to the court that issued the order a written report specifying the date on which such test was completed. Such report to the court shall not, however, disclose the results of such test. Such officer must disclose the results of the testing to the victim indicated in the order or consent and must also disclose the results to the person tested, unless the person tested has been asked to but declines to authorize such disclosure to himself or herself.</p> <p>2. At the time of communicating the test results to the subject or the victim, such public health officer shall directly provide the victim and person tested with (a) counseling or referrals for counseling for the</p>

NY PBH Code §	Code Language
	<p>purposes specified in subdivision five of section two thousand seven hundred eighty-one of this article; (b) counseling with regard to HIV disease and HIV testing in accordance with law and consistent with subdivision five of section two thousand seven hundred eighty-one of this article; and (c) appropriate health care and support services, or referrals to such available services. If at the time of communicating the test results, the person tested is in the custody of the department of correctional services, division for youth, office of mental health or a local correctional institution, the counseling and services required by this subdivision may be provided by a public health officer associated with the county or facility within which the person tested is confined.</p> <p>3. Unless inconsistent with this section, the provisions of this article regarding the confidentiality and disclosure of HIV related information shall apply to proceedings conducted pursuant to section 390.15 of the criminal procedure law or section 347.1 of the family court act.</p>
§ 2786	<p>Rules and regulations; forms; report</p> <p>1. The commissioner shall promulgate rules and regulations concerning implementation of this article for health facilities, health care providers and other persons to whom this article is applicable. The commissioner shall also develop standardized model forms to be used for informed consent for HIV related testing and for the release of confidential HIV related information and materials for pre-test counseling as required by subdivision three of section twenty-seven hundred eighty-one of this article, and for post-test counseling as required by subdivision five of section twenty-seven hundred eighty-one of this article. Persons, health facilities and health care providers may use forms for informed consent for HIV related testing, and for the release of confidential HIV related information other than those forms developed pursuant to this section, provided they contain information consistent with the standardized model forms developed by the commissioner. All forms developed or used pursuant to this section shall be written in a clear and coherent manner using words with common, everyday meanings. The commissioner, in consultation with the AIDS institute advisory council, shall promulgate regulations to identify those circumstances which create a significant risk of contracting or transmitting HIV infection; provided, however, that such regulations shall not be determinative of any significant risk determined pursuant to paragraph (a) of subdivision four of section twenty-seven hundred eighty-two or section twenty-seven hundred eighty-five of this article.</p> <p>2. (a) Each state agency authorized pursuant to this article to obtain confidential HIV related information shall, in consultation with the department of health, promulgate regulations: (1) to provide safeguards to prevent discrimination, abuse or other adverse actions directed toward protected individuals; (2) to prohibit the disclosure of such information except in accordance with this article; (3) to seek to protect individuals in contact with the protected individual when such contact creates a</p>

NY PBH Code §	Code Language
	<p>significant risk of contracting or transmitting HIV infection through the exchange of body fluids, and (4) to establish criteria for determining when it is reasonably necessary for a provider of a health or social service or the state agency or a local government agency to have or to use confidential HIV related information for supervision, monitoring, investigation, or administration and for determining which employees and agents may, in the ordinary course of business of the agency or provider, be authorized to access confidential HIV related information pursuant to the provisions of paragraphs (l) and (m) of subdivision one and subdivision six of section twenty-seven hundred eighty-two of this article; and provided further that such regulations shall be promulgated by the chairperson of the commission of correction where disclosure is made pursuant to paragraphs (n) and (o) of subdivision one of section twenty-seven hundred eighty-two of this article.</p> <p>(b) The department of health, in consultation with agencies referred to in paragraph (a) of this subdivision, shall submit a report to the legislature by December first, nineteen hundred eighty-nine, outlining the status and content of such regulations, their effect on the regulated facilities and the protected individuals served by them, the extent to which they conform with current medical and scientific knowledge on the transmissibility of HIV infection, and any recommendations for changes in said regulations.</p>
§ 2787	<p>Separability</p> <p>If any section, clause or provision of this article shall be deemed by any court of competent jurisdiction to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.</p>

Insurance Law	
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NY ISC Code §	Code Language
§ 321	<p>Medical information exchange centers</p> <p>(a) Whenever any insurance company (which is a member of a medical information exchange center or which otherwise may transmit medical information in whatever manner to any other similar facility including but not limited to an electronic data facility used by two or more insurance companies to determine or aid in determining the insurability of applicants) requests medical information from any applicant for personal insurance, it shall not transmit, nor be considered to have obtained the applicant's informed consent to transmit, the information to any such facility unless such company furnishes such applicant with a clear and conspicuous notice disclosing:</p> <p>(1) a description of such facility and its operations, including its name, address and telephone number where it may be contacted to request disclosure of any medical information transmitted to it;</p> <p>(2) the circumstances under which such facility may release such medical information to other persons; and</p> <p>(3) such applicant's rights to request such facility to arrange disclosure of the nature and substance of any information in its files pertaining to him, and to seek correction of any inaccuracies or incompleteness of such information.</p> <p>(b) Such notice shall be given to all applicants when any application for personal insurance is completed.</p> <p>(c) No such facility shall release, transmit or otherwise communicate any medical information it may have to any other person unless such other person shall have in its possession a written instrument signed by the person who is the subject of medical information (or by a parent or guardian if such subject is a minor) specifically naming such facility and authorizing such other person to obtain such medical information from such facility.</p> <p>(d) No such facility shall maintain information about HIV related test results pertaining to any individual unless such test results are included within a general code, which code is not designated solely for HIV related test results, and concerning which code no member of such facility may request from such facility details sufficient to determine whether the code was used to maintain information about HIV related test results.</p> <p>For purposes of this subsection, an "HIV related test" means any laboratory test or series of tests for any virus, antibody, antigen or etiologic agent whatsoever thought to cause or to indicate the presence of AIDS.</p>
§ 2611	<p>HIV written informed consent</p> <p>(a) No insurer or its designee shall request or require an individual</p>

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	<p>proposed for insurance coverage to be the subject of an HIV related test without receiving the written informed consent of such individual prior to such testing and without providing general information about AIDS and the transmission of HIV infection.</p> <p>(b) Written informed consent to an HIV related test shall consist of a written authorization that is dated and includes at least the following:</p> <ol style="list-style-type: none"> (1) a general description of the test; (2) a statement of the purpose of the test; (3) a statement that a positive test result is an indication that the individual may develop AIDS and may wish to consider further independent testing; (4) a statement that the individual may identify on the authorization form the person to whom the specific test results may be disclosed in the event of an adverse underwriting decision, which person may be the individual or a physician or other designee at the discretion of the individual proposed for insurance; (5) the department of health's statewide toll-free telephone number that may be called for further information about AIDS, the meaning of HIV related test results, and the availability and location of HIV related counseling services; and (6) the signature of the applicant or individual proposed for insurance, or if such individual lacks capacity to consent, the signature of such other person authorized to consent for such individual. <p>(c) In the event that an insurer's adverse underwriting decision is based in whole or in part on the result of an HIV related test, the insurer shall notify the individual of the adverse underwriting decision and ask the individual to elect in writing, unless the individual has already done so, whether to have the specific HIV related test results disclosed directly to the individual or to such other person as the individual may designate. If the individual elects to receive the HIV related test results directly, the insurer shall advise the individual that he or she may call the department of health's statewide toll-free telephone number for further information about AIDS, the meaning of HIV related test results, and the availability and location of HIV related counseling services and shall also advise such individual to consult with a physician about the meaning of and need for counseling, where appropriate, as to the HIV related test results.</p> <p>(d) As used in this section, the following terms shall have the following meanings:</p> <ol style="list-style-type: none"> (1) "Adverse underwriting decision" means: <ol style="list-style-type: none"> (A) a declination of insurance coverage as applied for; or (B) an offer to issue insurance coverage at a higher than standard rate. (2) "AIDS" means acquired immune deficiency syndrome, as may be defined from time to time by the centers for disease control of the United States public health service. (3) "HIV infection" means infection with the human immunodeficiency virus or any other related virus identified as a probable causative agent

NY ISC Code §	Code Language
	<p>of AIDS.</p> <p>(4) "HIV related test" means any laboratory test or series of tests for any virus, antibody, antigen or etiologic agent whatsoever thought to cause or to indicate the presence of AIDS.</p> <p>(e) Any person who violates this section shall be subject to the provisions of article twenty-four of this chapter.</p> <p>(f) Nothing in this section shall be construed to create, impair, alter, limit, modify, enlarge, abrogate or restrict the specific authority of the department to allow or prohibit the use of HIV related tests or the consideration of HIV related test results for insurance coverage purposes.</p>

Education Law	
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NY EDN Code §	Code Language
§ 6505-b	<p>Course work or training in infection control practices.</p> <p>Every dentist, registered nurse, licensed practical nurse, podiatrist, optometrist and dental hygienist practicing in the state shall, on or before July first, nineteen hundred ninety-four and every four years thereafter, complete course work or training appropriate to the professional's practice approved by the department regarding infection control and barrier precautions, including engineering and work practice controls, in accordance with regulatory standards promulgated by the department, in consultation with the department of health, which shall be consistent, as far as appropriate, with such standards adopted by the department of health pursuant to section two hundred thirty-nine of the public health law to prevent the transmission of HIV, HBV or HCV in the course of professional practice. Each such professional shall document to the department at the time of registration commencing with the first registration after July first, nineteen hundred ninety-four that the professional has completed course work or training in accordance with this section, provided, however that a professional subject to the provisions of paragraph (f) of subdivision one of section twenty-eight hundred five-k of the public health law shall not be required to so document. The department shall provide an exemption from this requirement to anyone who requests such an exemption and who (i) clearly demonstrates to the department's satisfaction that there would be no need for him or her to complete such course work or training because of the nature of his or her practice or (ii) that he or she has completed course work or training deemed by the department to be equivalent to the course work or training approved by the department pursuant to this section. The department shall consult with organizations representative of professions, institutions and those with expertise in infection control and HIV, HBV and HCV with respect to the regulatory standards promulgated pursuant to this section.</p>

Volunteer Ambulance Workers' Benefit Law	
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NY VAW Code §	Code Language
§ 11-c	<p>Medical examination of volunteer ambulance workers to detect and identify the human immunodeficiency virus (HIV)</p> <p>1. Whenever a volunteer ambulance worker has been exposed to a significant risk of transmission of the human immunodeficiency virus (HIV) while performing services in the line of duty, the executive officer of the ambulance company of which the volunteer ambulance worker is a member shall authorize such volunteer ambulance worker to obtain an appropriate medical examination to determine if such volunteer ambulance worker has been exposed to or infected with the human immunodeficiency virus (HIV). Such medical examination of a volunteer ambulance worker shall be authorized within eight hours of notification to the executive officer of the ambulance company of which such volunteer ambulance worker is a member of an incident that has created an exposure risk to the volunteer ambulance worker.</p> <p>2. Should it be determined by the examining physician or other attending health care worker that a significant risk of transmission has occurred, or should any medical examination conclude that a volunteer ambulance worker has been exposed to or infected with human immunodeficiency virus (HIV), then such volunteer ambulance worker shall be offered counseling and additional testing, as appropriate and consistent with treatment guidelines issued by the commissioner of health. Such counseling may include a discussion of the risk of the transmission of the human immunodeficiency virus (HIV) from the exposure the volunteer ambulance worker may have experienced and the spectrum of tests commercially available for the prompt and reliable diagnosis of such infection. Information from any such medical examination of a volunteer ambulance worker shall be confidential information pursuant to article twenty-seven-F of the public health law and shall not be made available to the ambulance company without the written authorization of the affected volunteer ambulance worker.</p> <p>3. Payment for medical examinations, additional testing, treatment services, counseling services, and any other additional services provided pursuant to this section shall be a covered benefit under this chapter.</p> <p>4. For the purposes of this section, the term "significant risk of transmission" means the alleged conduct or actions taken by a victim or patient or any other action, situation or event that occurs while a volunteer ambulance worker is performing services in the line of duty that has created a recognized and significant risk of infection of a volunteer ambulance worker with the human immunodeficiency virus (HIV), as determined by the commissioner of health, consistent with guidelines, protocols, and findings of the United States centers for disease control and prevention.</p> <p>5. For purposes of this section, the term "medical examination" includes</p>

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	<p>a physical examination or test performed by a physician or other appropriate health care worker to determine if a volunteer ambulance worker has been exposed to or infected by the human immunodeficiency virus (HIV). Tests may include, but not be limited to, the most accurate, sensitive, and timely tests available used for the early identification of the human immunodeficiency virus (HIV).</p> <p>6. The commissioner of health shall issue guidelines to facilitate the identification of circumstances potentially exposing a volunteer ambulance worker to a significant risk of transmission of the human immunodeficiency virus (HIV). Such guidelines shall be consistent with criteria accepted by the federal centers for disease control and prevention. Such guidelines shall also provide information regarding related counseling and testing procedures available to such individuals.</p> <p>7. Any information gathered pursuant to the provisions of this section which is deemed confidential under any other provision of law shall be treated in a confidential manner.</p>

Volunteer Firefighters' Benefit Law	
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NY VOL Code §	Code Language
§ 11-c	<p>Medical examination of volunteer firefighters to detect and identify the human immunodeficiency virus (HIV).</p> <p>1. Whenever a volunteer firefighter has been exposed to a significant risk of transmission of the human immunodeficiency virus (HIV) while performing services in the line of duty, the executive officer of the fire company of which the volunteer firefighter is a member shall authorize such volunteer firefighter to obtain an appropriate medical examination to determine if such volunteer firefighter has been exposed to or infected with the human immunodeficiency virus (HIV). Such medical examination of a volunteer firefighter shall be authorized within eight hours of notification to the executive officer of the fire company of which such volunteer firefighter is a member of an incident that has created an exposure risk to the volunteer firefighter.</p> <p>2. Should it be determined by the examining physician or other attending health care worker that a significant risk of transmission has occurred, or should any medical examination conclude that a volunteer firefighter has been exposed to or infected with human immunodeficiency virus (HIV), then such volunteer firefighter shall be offered counseling and additional testing, as appropriate and consistent with treatment guidelines issued by the commissioner of health. Such counseling may include a discussion of the risk of the transmission of the human immunodeficiency virus (HIV) from the exposure the volunteer firefighter may have experienced and the spectrum of tests commercially available for the prompt and reliable diagnosis of such infection. Information from any such medical examination of a volunteer firefighter shall be confidential information pursuant to article twenty-seven-F of the public health law and shall not be made available to the fire company without the written authorization of the affected volunteer firefighter.</p> <p>3. Payment for medical examinations, additional testing, treatment services, counseling services, and any other additional services provided pursuant to this section shall be a covered benefit under this chapter.</p> <p>4. For the purposes of this section, the term "significant risk of transmission" means the alleged conduct or actions taken by a victim or patient or any other action, situation or event that occurs while a volunteer firefighter is performing services in the line of duty that has created a recognized and significant risk of infection of a volunteer firefighter with the human immunodeficiency virus (HIV), as determined by the commissioner of health, consistent with guidelines, protocols, and findings of the United States centers for disease control and prevention.</p> <p>5. For purposes of this section, the term "medical examination" includes a physical examination or test performed by a physician or other appropriate health care worker to determine if a volunteer firefighter has been exposed to or infected by the human immunodeficiency virus (HIV).</p>

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	<p>Tests may include, but not be limited to, the most accurate, sensitive, and timely tests available used for the early identification of the human immunodeficiency virus (HIV).</p> <p>6. The commissioner of health shall issue guidelines to facilitate the identification of circumstances potentially exposing a volunteer firefighter to a significant risk of transmission of the human immunodeficiency virus (HIV). Such guidelines shall be consistent with criteria accepted by the federal centers for disease control and prevention. Such guidelines shall also provide information regarding related counseling and testing procedures available to such individuals.</p> <p>7. Any information gathered pursuant to the provisions of this section which is deemed confidential under any other provision of law shall be treated in a confidential manner.</p>

New York Codes, Rules and Regulations – Title 4: Department of Civil Service

Title 4 NYCRR	Code Language
4 NYCRR 83.1	<p style="text-align: center;">TITLE 4. DEPARTMENT OF CIVIL SERVICE CHAPTER V. REGULATIONS OF THE DEPARTMENT OF CIVIL SERVICE (PRESIDENT'S REGULATIONS) PART 83. CONFIDENTIALITY OF HIV AND AIDS RELATED INFORMATION</p> <p>Purpose</p> <p>It is the responsibility and the intent of the State Department of Civil Service to adopt regulations pursuant to the HIV and AIDS Related Information Act (Public Health Law, article 27-F). All officers, employees and agents of the department shall at all times maintain the confidentiality of any HIV related information in their possession, in accordance with the requirements of the statute and these regulations.</p>
4 NYCRR 83.2	<p>Definitions</p> <p>For the purposes of this Part:</p> <p>(a) The term department or Department of Civil Service means the New York State Department of Civil Service.</p> <p>(b) The term AIDS means acquired immune deficiency syndrome, as may be defined from time to time by the centers for disease control of the United States Public Health Service.</p> <p>(c) The term HIV infection means infection with the human immunodeficiency virus or any other related virus identified as a probable causative agent of AIDS.</p> <p>(d) The term HIV related illness means any illness that may result from or may be associated with HIV infection.</p> <p>(e) The term HIV related test means any laboratory test or series of tests for any virus, antibody, antigen or etiologic agent whatsoever thought to cause or to indicate the presence of HIV/AIDS.</p> <p>(f) The term confidential HIV related information means any information concerning whether an individual has been the subject of an HIV related test, or has HIV infection, HIV related illness or AIDS, or information which identifies or reasonably could identify an individual as having one or more of such conditions, including information pertaining to such individual's contacts.</p> <p>(g) The term contact means an identified spouse or sex partner of the protected individual or a person identified as having shared hypodermic needles or syringes with the protected individual.</p> <p>(h) The term significant risk of transmitting or contracting HIV infection or significant risk includes the following circumstances:</p> <p>(1) sexual contact which exposes a mucous membrane or broken skin of a noninfected individual to blood, semen or vaginal secretions of an infected individual;</p> <p>(2) sharing of needles or other paraphernalia used for preparing and</p>

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	<p>injecting drugs between infected and noninfected individuals;</p> <p>(3) the gestation, birthing or breast feeding of an infant when the mother is infected with HIV;</p> <p>(4) transfusion or transplantation of blood, organs, or other tissues obtained from an infected individual to an uninfected individual, provided that such products have not tested negatively for antibody or antigen and have not been rendered noninfective by heat or chemical treatment;</p> <p>(5) other circumstances, not identified in paragraphs (1) through (4) of this subdivision, during which a significant risk body substance (other than breast milk) of an infected person contacts mucous membranes (e.g., eyes, nose, mouth) or nonintact skin (e.g., open wound, dermatitis, abraded areas) or the vascular system of a noninfected person;</p> <p>(6) circumstances that constitute significant risk shall not include:</p> <p>(i) exposure to urine, feces, sputum, nasal secretions, saliva, sweat, tears or vomitus that does not contain visible blood;</p> <p>(ii) human bites where there is no direct blood to blood, or blood to mucous membrane contact;</p> <p>(iii) exposure of intact skin to blood or any other body substance; and</p> <p>(iv) occupational settings where individuals use scientifically accepted barrier techniques and preventing practices in circumstances which would otherwise pose a significant risk.</p>
4 NYCRR 83.4	<p>Access to confidential HIV related information</p> <p>(a) Employees or agents of the department are not to have access to confidential HIV related information maintained by the department except as part of their official duties.</p> <p>(b) Agents of the department may be authorized to have access to confidential HIV related information maintained by the department only when reasonably necessary to perform the specific activities for which they have been designated as agents of the department.</p>
4 NYCRR 83.5	<p>Confidentiality</p> <p>(a) No person who obtains confidential HIV related information in the course of performing his or her duties as an employee or agent of the department may disclose such information except in accordance with the provisions of the HIV and AIDS Related Information Act (Public Health Law, article 27-F) and the provisions of this Part.</p> <p>(b) Any disclosure, except disclosures to employees or agents of the department where reasonably necessary to carry out their official duties and to any person to whom disclosure is mandated by a court of competent jurisdiction, must be accompanied by the following written statement prohibiting further disclosure: "This information has been disclosed to you from confidential records which are protected by State law. State law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of State law may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is not sufficient authorization to further disclosure."</p>

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	<p>(c) All disclosures, except disclosures to employees and agents as reasonably necessary to perform their official duties, are to be appropriately documented in the case folder of the protected individual, who shall be informed of such disclosures upon request.</p> <p>(d) No flags on case folders, lists on walls, or other similar displays shall be used to indicate clients with HIV infection. This shall not be construed to prevent the existence of specialized caseloads.</p> <p>(e) Confidential HIV related information shall not be disclosed in response to a request under the Freedom of Information Law (Public Officers Law, article 6) or in response to a subpoena. A court order issued pursuant to Public Health Law, section 2785 is required.</p> <p>(f) The department will take appropriate steps to make all employees and agents aware of the provisions of the HIV and AIDS Related Information Act (PHL, article 27-F) concerning confidentiality of HIV related information and the department's rules regarding confidentiality of records. All authorized employees and agents of the department shall at all times maintain the confidentiality of any confidential HIV related information in their possession.</p>

New York Codes, Rules and Regulations – Title 7: Department of Correctional Services

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7 NYCRR 7.1	<p style="text-align: center;">TITLE 7. DEPARTMENT OF CORRECTIONAL SERVICES CHAPTER I. GENERAL PROVISIONS PART 7. AIDS CONFIDENTIALITY</p> <p>Purpose</p> <p>It is the responsibility and the intent of the Department of Correctional Services (the department) to adopt regulations to fully comply with the provisions of Public Health Law, article 27-F. All department staff should be aware that there are statutory penalties for the violation of Public Health Law article 27-F, including criminal misdemeanor penalties and/or civil penalties up to \$5,000 for each violation. A violation of Public Health Law article 27-F or of this Part may result in departmental discipline.</p>
7 NYCRR 7.2	<p>Definitions</p> <p>When used in this Part, the following terms have the following meanings:</p> <p>(a) AIDS means acquired immune deficiency syndrome, as may be defined from time to time by the Centers for Disease Control of the United States Public Health Service.</p> <p>(b) HIV infection means infection with the human immunodeficiency virus or any other related virus identified as a probable causative agent of AIDS.</p> <p>(c) HIV-related illness means any illness that may result from or may be associated with HIV infection.</p> <p>(d) HIV-related test means any laboratory test or series of tests for any virus, antibody, antigen or etiologic agent whatsoever thought to cause or to indicate the presence of HIV infection.</p> <p>(e) Capacity to consent means an individual's ability, determined without regard to such individual's age, to understand and appreciate the nature and consequences of a proposed health care service, treatment or procedure, and to make an informed decision concerning such service, treatment or procedure.</p> <p>(f) Protected individual means a person who is the subject of an HIV-related test or who has been diagnosed as having HIV infection, AIDS or HIV-related illness.</p> <p>(g) Confidential HIV-related information means any information, in the possession of a person who provides one or more health or social services or who obtains the information pursuant to a release of confidential HIV-related information, concerning whether an individual has been the subject of an HIV-related test, or has HIV infection, HIV-related illness or AIDS, or information which identifies or reasonably could identify an individual as having one or more of such conditions, including information pertaining to such individual's contacts.</p> <p>(h) Health or social service means any public or private care, treatment, clinical laboratory test, counseling or educational service for adults or children, and acute, chronic, custodial, residential, outpatient, home or</p>

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	<p>other health care provided pursuant to the Public Health Law or the Social Services Law; public assistance or care as defined in article 1 of the Social Services Law; employment-related services, housing services, foster care, shelter, protective services, day care, or preventive services provided pursuant to the Social Services Law; services for the mentally disabled as defined in article 1 of the Mental Hygiene Law; probation services, provided pursuant to article 12 of the Executive Law; parole services, provided pursuant to article 12-B of the Executive Law; correctional services, provided pursuant to the Correction Law; and detention and rehabilitative services provided pursuant to article 19-G of the Executive Law.</p> <p>(i) Release of confidential HIV-related information means a written authorization for disclosure of confidential HIV-related information which is signed by the protected individual, or if the protected individual lacks capacity to consent, a person authorized pursuant to law to consent to health care for the individual. Such release shall be dated and shall specify to whom disclosure is authorized, the purpose for such disclosure and the time period during which the release is to be effective. A general authorization for the release of medical or other information shall not be construed as a release of confidential HIV-related information, unless such authorization specifically indicates its dual purpose as a general authorization and an authorization for the release of confidential HIV-related information and complies with this definition.</p> <p>(j) Contact means an identified spouse or sex partner of the protected individual or a person identified as having shared hypodermic needles or syringes with the protected individual.</p> <p>(k) Health care provider means any physician, nurse, provider of services for the mentally disabled as defined in article one of the Mental Hygiene Law, or other person involved in providing medical, nursing, counseling, or other health care or mental health service. As used in this Part, the term includes but is not limited to, the Deputy Commissioner/Director of Correctional Medical Standards, the medical director of a correctional facility, physicians, dentists and nurses providing patient care, the counselor of the protected individual, if deemed necessary by the treating physician for the provision of counseling services, and department personnel involved in direct patient care, as determined by the physician.</p>
7 NYCRR 7.4	<p>HIV-related testing</p> <p>(a) Except as noted in subdivision (b) of this section, no physician or other person authorized pursuant to law may order an HIV-related test without first obtaining written informed consent.</p> <p>(1) Informed consent shall include providing pre-test counseling to the person to be tested or, if such person lacks capacity to consent, to the person lawfully authorized to consent to health care for such person. Pre-test counseling shall include:</p> <p>(i) explanations regarding the nature of HIV infection and HIV-related illness, an explanation of the HIV-related test, including a description of the procedure to be followed, meaning of the test result, and the benefits of taking the test, including early diagnosis and medical intervention;</p>

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	<p>(ii) information regarding discrimination problems which might occur as a result of unauthorized disclosure of HIV-related information and legal protections prohibiting such disclosures;</p> <p>(iii) information on preventing exposure or transmission of HIV infection, including behavior which poses a risk of HIV transmission;</p> <p>(iv) an explanation that the test is voluntary, that consent may be withdrawn at any time and information on the availability of anonymous HIV testing, including the location and telephone numbers of anonymous test sites and that anonymous testing is not available in the facilities;</p> <p>(v) written informed consent must be executed on form HS-1.</p> <p>(b) Informed consent is not required in the following situations, but pre- and post-test counseling shall be offered in situations described in paragraphs (1) and (2) of this subdivision:</p> <p>(1) for court ordered testing pursuant to Civil Practice Law and Rules, section 3121;</p> <p>(2) if otherwise specifically authorized or required by State or Federal law;</p> <p>(3) for testing related to procuring, processing, distributing or use of a human body or human body part, including organs, tissues, eyes, bones, arteries, blood, semen or other body fluids for use in medical research or therapy, or for transplantation to persons, provided that if the test results are communicated to the tested person, post-test counseling is required;</p> <p>(4) for research if the testing is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher;</p> <p>(5) for testing of a deceased person to determine cause of death or for epidemiological purposes.</p> <p>(c) In addition to an explanation of the test result, post-test counseling or referrals with respect to a positive test result, shall be provided to the person who consented to the test. Such post-test counseling and referrals must address:</p> <p>(1) coping emotionally with the test results;</p> <p>(2) discrimination issues;</p> <p>(3) information on the ability to release or revoke the release of confidential HIV-related information;</p> <p>(4) information on preventing exposure to or transmission of HIV infection and information on available medical treatment;</p> <p>(5) the need to notify contacts to prevent transmission, including information on State or county assistance in voluntary contact notification, if appropriate.</p> <p>(d) When a negative HIV-related test result is communicated to the individual, counseling shall be offered discussing:</p> <p>(1) the meaning of and limitation of the test result; and</p> <p>(2) the means to remain free of infection and means to avoid transmitting the virus.</p> <p>(e) A physician or other person authorized pursuant to law to order an HIV-related test shall certify on a laboratory requisition form that informed consent has been obtained.</p>
7 NYCRR 7.5	Confidentiality and disclosure

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	<p>(a) It is the policy of the department that whenever disclosure of confidential HIV-related information is warranted as defined in subdivision (b) of this section, such disclosure, whenever possible, should be made pursuant to the consent of the protected individual, and all reasonable steps, including appropriate counseling, should be taken to obtain consent. Once consent has been obtained, Form HS-2, or any other form approved by the Department of Health, is to be used as a release form for disclosure of confidential HIV-related information. Only Form HS-2, or other Department of Health approved form, is to be used for this purpose. A general medical release is not sufficient for the purpose of disclosing confidential HIV-related information.</p> <p>(b) No person who obtains confidential HIV-related information in the course of his or her employment with the department or pursuant to a release of confidential HIV-related information may disclose or be compelled to disclose such information, except to the following:</p> <p>(1) the protected individual or, when the protected individual lacks capacity to consent, a person authorized by law to consent to health care for the individual;</p> <p>(2) any person to whom disclosure is authorized pursuant to a release of confidential HIV-related information in accordance with subdivision (a) of this section;</p> <p>(3) a health care provider of the protected individual as defined in section 7.2(j) of this Part;</p> <p>(4) Deputy Commissioner/Director of Correctional Medical Standards and employees within the Division of Health Services authorized by the Deputy Commissioner as necessary to perform their duties and to provide appropriate supervision, monitoring, administration or provision of treatment and services offered to the protected individual;</p> <p>(5) Assistant Commissioner for Health Services and employees within the Division of Health Services as necessary on a need to know basis for providing appropriate supervision, monitoring, administration or provision of treatment and services offered to the protected individual;</p> <p>(6) superintendent of the facility in which the protected individual is incarcerated as necessary on a need to know basis for providing appropriate supervision, monitoring, administration or provision of treatment and services offered to the protected individual, including services associated with possible parole release;</p> <p>(7) attorneys for the department or with the Office of the Attorney General when access is reasonably necessary in the course of providing legal services and when reasonably necessary for supervision, monitoring, administration or provision of services;</p> <p>(8) authorized employees of the facility Business Office, Deputy Superintendent for Administration, Central Office Budget and Finance, Bureau of Internal Controls, the Deputy Commissioner of Administration, and the Division of Audit and Control as necessary to ensure appropriate payment of medical services or to track expenses associated with HIV-related care;</p> <p>(9) Assistant Commissioner for Population Management as necessary on a need to know basis for providing appropriate supervision, monitoring,</p>

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	<p>administration or provision of treatment and services offered to the protected individual, including services associated with possible parole release;</p> <p>(10) institutional parole officer from the facility medical director by use of the Health Discharge Summary Sheet;</p> <p>(11) Parole Services Program Specialist by the Deputy Commissioner/Director of Correctional Medical Standards;</p> <p>(12) authorized employee of the State Commission of Correction, as defined by the rules and regulations promulgated by the State Commission of Correction;</p> <p>(13) a clinician of the Office of Mental Health upon the clinician's written request provided that the clinician is involved in the treatment of the individual, or if facility medical personnel believes the release of confidential HIV-related information to the clinician may be beneficial to the treatment of the individual;</p> <p>(14) a medical director of a local correctional facility or the medical director of a Federal correctional facility or the medical director of the Bureau of Immigration and Naturalization Services in which the protected individual is incarcerated or is to be transferred, to the extent that such medical director is authorized to access such information with respect to a protected individual;</p> <p>(15) a funeral director upon taking charge of the remains of a deceased person when such funeral director has access in the ordinary course of business to HIV-related information on the death certificate of the deceased individual, as authorized by Public Health Law, section 2785;</p> <p>(16) any person not listed above, to whom disclosure is authorized pursuant to Public Health Law, section 2782.1(a) through (o) or 2785.</p> <p>(c) Confidential HIV-related information of a protected person may be disclosed to authorized employees or agents of a governmental agency pursuant to the regulations of the governmental agency when the person providing health or social services is regulated, supervised or monitored by the governmental agency or when the governmental agency administers the health program or a social service program and when such employees or agents have access to records in the ordinary course of business and when access is reasonably necessary for regulation, supervision, monitoring, administration or provision of services. Such authorized employees or agents may include attorneys authorized by a governmental agency when access occurs in the ordinary course of providing legal services and is reasonably necessary for supervision, monitoring, administration or provision of services. Such authorized employees or agents may also include public health officers as required for conducting epidemiological or surveillance investigations pursuant to the State Sanitary Code. Such surveillance or investigational data shall also be disclosed by the Public Health Officer to the State Department of Health as required by the State Sanitary Code.</p> <p>(d) Confidential HIV-related information of a protected person may be disclosed to authorized employees or agents of a provider of health or social services when such provider is either regulated, supervised or monitored by a governmental agency or when a governmental agency administers the provider's health or social service program, and when</p>

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	<p>such employees or agents have access to records in the ordinary course of business and when access is reasonably necessary for regulation, supervision, monitoring, administration or provision of services. Such authorized employees or agents may include attorneys authorized by persons providing health services when access occurs in the ordinary course of providing legal services and is reasonably necessary for supervision, monitoring, administration or provision of services.</p> <p>(e) A physician may disclose confidential HIV-related information pertaining to a protected individual to a person, known to the physician, authorized pursuant to law to consent to the health care for a protected individual when the physician reasonably believes that:</p> <p>(1) disclosure is medically necessary in order to provide timely care and treatment for the protected individual; and</p> <p>(2) after appropriate counseling as to the need for such disclosure, the protected individual will not inform a person authorized by law to consent to health care; provided, however, that the physician shall not make such disclosure if, in the judgment of the physician:</p> <p>(i) the disclosure would not be in the best interest of the protected individual; or</p> <p>(ii) the protected individual is authorized pursuant to law to consent to such care and treatment.</p> <p>A physician's decision to disclose pursuant to this paragraph, and the basis for that decision shall be recorded in the medical record.</p> <p>(f) Written disclosure must be accompanied by a written statement prohibiting further disclosure. The statement shall include the following language or substantially similar language: "This information has been disclosed to you from confidential records which are protected by State law. State law prohibits you from making any further disclosures of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of State law may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is not sufficient authorization for further disclosure." Form HS-3 is to be used for this purpose.</p> <p>(g) If oral disclosures are necessary, they must be accompanied or followed as soon as possible, but no later than 10 days, by the statement required by subdivision (f) of this section.</p> <p>(h) The statement required by subdivisions (f) and (g) of this section is not required for release to the protected person or to a person authorized by law to consent to health care for the individual when the protected individual lacks capacity, or for releases made by a physician or public health officer to a contact. For disclosures of confidential HIV-related information from the patient's medical record to persons who are permitted to access this information pursuant to paragraphs (b)(4)-(15) of this section and physicians or nurses or their authorized staff who are permitted to access this information pursuant to paragraph (b)(3) of this section, it shall be sufficient for the statement required by subdivisions (f) and (g) of this section to appear in the medical record itself.</p> <p>(i) No person to whom confidential HIV-related information has been disclosed shall disclose the information to another person except as</p>

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	authorized by this Part, provided, however, that the provisions of this Part shall not apply to the protected individual or a natural person who is authorized pursuant to law to consent to health care for the protected individual.
7 NYCRR 7.6	<p>Documentation of HIV-related information and disclosures</p> <p>(a) Confidential HIV-related information shall be recorded in the inmate's medical record such that it is readily accessible to provide proper care and treatment.</p> <p>(1) If the protected individual specifically requests, on a prospective basis, the results of the HIV antibody testing shall not be placed in the individual's medical record.</p> <p>(b) No flags on case folders or charts, lists on walls or other similar displays shall be used to indicate individuals with HIV infection. This shall not be construed to prevent the existence of specialized case loads.</p> <p>(c) Confidential HIV-related information shall not be disclosed in response to a request under the Freedom of Information Law (Public Officers Law, article 6) or in response to a subpoena.</p> <p>(d) The department will ensure that all employees and agents authorized to receive confidential HIV-related information under these regulations are aware of the provisions of the HIV and AIDS Related Information Act (Public Health Law, article 27-F) concerning confidentiality of HIV-related information and the department's rules regarding confidentiality or records. All authorized employees and agents of the department shall at all times maintain the confidentiality of any confidential HIV-related information in their possession.</p> <p>(e) Confidential HIV-related information shall be noted in a certificate of death, autopsy report or related documents prepared pursuant to Public Health Law, article 41 or other laws relating to documentation of cause of death.</p> <p>(f) All disclosures of confidential HIV-related information must be noted in the inmate's medical record, except:</p> <p>(1) Notation is not required for disclosure to agents or employees of health facilities or health care providers authorized under section 7.5(b)(4) or (7) of this Part or for disclosure to physicians or nurses or their clerks authorized under section 7.5(b)(3) of this Part.</p> <p>(g) The protected person shall be informed of disclosures of HIV information upon request of the protected person.</p>
7 NYCRR 7.7	<p>Contact notification</p> <p>(a) A physician employed by the department or rendering professional services at the request of the department or facility of the department may disclose HIV-related information, without the protected person's consent, to a contact or to a public health officer when:</p> <p>(1) the physician reasonably believes disclosure is medically appropriate and a significant risk of infection exists; and</p> <p>(2) the protected person has been counseled to notify his/her contacts and the physician reasonably believes the protected person will not inform the contacts.</p> <p>(b) The physician must inform the protected person of the physician's</p>

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	<p>intent to disclose and the physician must comply with the protected person's choice of whether the physician or a public health officer will attempt to notify the contact. All notifications shall be in person except where circumstances reasonably prevent doing so.</p> <p>(c) The identity of the protected person shall not be disclosed to the contact.</p> <p>(d) When a public health officer is requested to notify contacts, the officer shall meet, when possible, with the protected party to counsel and verify information prior to any notification of such person's contacts.</p> <p>(e) The person notifying the contact shall provide or make referrals for the provision of appropriate medical advice and counseling for coping with the emotional consequences of learning the information and for changing behavior to prevent transmission or contraction of HIV infection.</p> <p>(f) If a protected person dies and the physician reasonably believes the protected person had not informed his/her contacts and reasonably believes disclosure is medically appropriate and that a significant risk of infection exists, the physician may notify the contact or request the public health officer to notify the contact. All such notifications shall be in person, except where circumstances reasonably prevent doing so and the identity of the deceased shall not be disclosed.</p> <p>(g) A physician shall have no obligation to identify, locate or notify any contact.</p>
7 NYCRR 7.8	<p>Records control</p> <p>(a) The Deputy Commissioner/Director of Correctional Medical Standards shall develop and implement policies and procedures for persons authorized to obtain confidential HIV-related information pursuant to section 7.5(b)(3) through (8) inclusive of this Part to ensure that records are maintained securely, including records which are electronically stored, and used for the purpose intended.</p> <p>(b) The Deputy Commissioner/Director of Correctional Medical Standards shall develop and implement procedures for handling requests by other parties for confidential HIV-related information.</p> <p>(c) No employee or agent of the department who has access to confidential HIV-related information shall disclose such information to any other person unless such person also has access to confidential HIV-related information as described in section 7.5(b) of this Part.</p> <p>(d) Each employee who is given authorized access to the health records of an identified person that includes confidential HIV-related information shall:</p> <p>(1) be advised in writing by the supervisor that the employee shall not:</p> <p>(i) examine documents or computer data containing such HIV-related information unless required to do so in the course of his/her official duties and responsibilities;</p> <p>(ii) remove or copy any such documents or computer data unless he or she is acting within the scope of his or her assigned duties;</p> <p>(iii) discuss the content of any such documents or computer data with any person unless that person is authorized to have access to such documents or data.</p>

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7 NYCRR 7.9	<p>Significant risk</p> <p>(a) The three factors necessary to create a significant risk of contracting or transmitting HIV infection are:</p> <ol style="list-style-type: none"> (1) the presence of a significant risk body substance; (2) a circumstance which constitutes significant risk for transmitting or contracting HIV infection; and (3) the presence of an infectious source and a noninfected person. <p>(b) Significant risk body substances are blood, semen, vaginal secretions, breast milk, tissue and the following body fluids: cerebrospinal, amniotic, peritoneal, synovial, pericardial, and pleural.</p> <p>(c) Circumstances which constitute significant risk for transmitting or contracting HIV infection are as follows:</p> <ol style="list-style-type: none"> (1) sexual intercourse (vaginal, anal, oral) which exposes a noninfected individual to blood, semen or vaginal secretions of an infected individual; (2) sharing of needles and other paraphernalia used for preparing and injecting drugs between infected and noninfected individuals; (3) the gestation, birthing or breast feeding of an infant when the mother is infected with HIV; (4) transfusion or transplantation of blood, organs, or other tissues obtained from an infected individual to an uninfected individual, providing such products have not tested negatively for antibody or antigen and have not been rendered noninfective by heat or chemical treatment; (5) other circumstances not identified in paragraphs (1) through (4) of this subdivision during which a significant risk body substance (other than breast milk) of an infected individual contacts mucous membranes (e.g., eyes, nose, mouth), nonintact skin (e.g., open wound, skin with a dermatitis condition, abraded areas), or the vascular system of a noninfected person. Such circumstances include, but are not limited to, needle stick or puncture wound injuries and direct saturation or permeation of these body surfaces by the infectious body substance. <p>(d) Circumstances that involve significant risk shall not include:</p> <ol style="list-style-type: none"> (1) exposure to urine, feces, sputum, nasal secretions, saliva, sweat, tears or vomitus that does not contain blood that is visible to the naked eye; (2) human bites where there is no direct blood to blood, or blood to mucous membrane contact; (3) exposure of intact skin to blood or any other body substance; (4) occupational settings where individuals use scientifically accepted barrier techniques and preventive practices in circumstances which would otherwise pose a significant risk.
7 NYCRR 7.10	<p>Training and protection of persons who may be in contact with the human immunodeficiency virus (HIV)</p> <p>(a) The department will seek to protect individuals in contact with protected individuals, when such contact creates a significant risk of contracting or transmitting HIV infection.</p> <p>(b) The following procedures will be adopted to protect employees:</p> <ol style="list-style-type: none"> (1) Employees will be instructed to use universal precautions and infection control equipment in accordance with the Centers for Disease

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	<p>Control in situations where there is actual or potential contact with significant risk body substances as defined in section 7.9(b) of this Part.</p> <p>(2) Employees shall use generally accepted preventive practices during job-related activities which involve the use of contaminated instruments or equipment which may cause puncture injuries.</p> <p>(3) Employees shall receive education at the time of employment and appropriate intervals thereafter on the use of protective equipment, preventive practices, and circumstances which represent a significant risk for all employees whose job-related tasks involve, or may involve, exposure to significant risk body substances.</p> <p>(c) Employees may voluntarily report exposures thought to represent a circumstance for significant risk to facility health services personnel or the Deputy Commissioner/Director of Correctional Medical Standards. The circumstances of the reported exposure shall be evaluated and appropriate follow-up of the exposed individual shall be offered, including the following:</p> <p>(1) medical and epidemiological assessment of the individual who is the source of the exposure, where that individual is known and available;</p> <p>(2) if epidemiologically indicated, HIV counseling and referral for voluntary testing of the exposed individual. If the HIV status is not known to the exposed individual, disclosure can be made with the express written consent of the protected individual, or pursuant to court order, or a person authorized by law to consent to health care for the protected individual if such person lacks capacity to consent;</p> <p>(3) appropriate medical follow-up of the exposed individual;</p> <p>(4) assurances for protection of confidentiality for those involved in reported exposures;</p> <p>(5) at any time that testing or other activity is considered pursuant to this section, both the source individual and the exposed individual shall, in addition to any other notices, receive and sign a notice that no one can be compelled to disclose information concerning an HIV test or HIV-related illness, nor can anyone be compelled to submit to an HIV-related test absent a court order or unless otherwise specifically authorized under State or Federal law;</p> <p>(6) no person may retaliate against any individual by reason or his or her refusal to submit to testing or to disclosing confidential HIV-related information.</p>

New York Codes, Rules and Regulations – Title 9: Executive Department
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9 NYCRR 164.1	<p style="text-align: center;">TITLE 9. EXECUTIVE DEPARTMENT SUBTITLE E. DIVISION FOR YOUTH PART 164. AIDS TESTING AND CONFIDENTIALITY OF HIV-RELATED INFORMATION: REQUIREMENTS REGARDING TESTING, CONFIDENTIALITY AND PRECAUTIONS CONCERNING THE HUMAN IMMUNODEFICIENCY VIRUS (HIV) AND ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS)</p> <p>Background and intent</p> <p>(a) The purpose of this Part is to establish standards for the proper disclosure of HIV-related information within facilities operated by the Division for Youth, including foster homes.</p> <p>(b) The purpose of this Part is to establish standards which limit the risk of discrimination and harm to a youth's privacy which unauthorized disclosure of HIV information can cause.</p> <p>(c) The purpose of this Part is to establish standards which seek to enhance the safety of employees, foster care parents and youth at facilities or programs operated by the Division for Youth.</p>
9 NYCRR 164.3	<p>Applicability</p> <p>This Part applies to any Division for Youth operated residential facility, including foster homes and group homes.</p>
9 NYCRR 164.4	<p>Definitions pertaining to this Part</p> <p>(a) HIV infection means infection with the human immunodeficiency virus or any other related virus identified as a probable causative agent of AIDS.</p> <p>(b) HIV-related illness means any illness that may result from or be associated with HIV infection.</p> <p>(c) HIV-related test means any laboratory test or series of tests for any virus, antibody, antigen or etiologic agent whatsoever thought to cause or to indicate the presence of HIV infection.</p> <p>(d) Capacity to consent means an individual's ability, determined without regard to such individual's age, to understand and appreciate the nature and consequences of a proposed health care service, treatment of procedure, and to make an informal decision concerning such service, treatment or procedure.</p> <p>(e) Protected individual means a person who is the subject of an HIV-related test or who has been diagnosed as having HIV infection, AIDS or HIV-related illness.</p> <p>(f) Confidential HIV-related information means any information, in the possession of a person who provides one or more health or social services or who obtains the information pursuant to a release of confidential HIV-related information, concerning whether an individual</p>

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	<p>has been the subject of an HIV-related test, or has HIV infection, HIV-related illness or AIDS, or information which identifies or reasonably could identify an individual as having one or more of such conditions, including information pertaining to such individual's contacts.</p> <p>(g) Health or social services means any public or private care, treatment, clinical laboratory test, counseling or educational service for youth, and acute, chronic, custodial, residential, outpatient, home or other health care; public assistance; employment-related services, housing services, foster care, shelter, protective services, day care, or preventive services; services for the mentally disabled; probation services; parole services; correctional services; and detention and rehabilitative services, all as defined in section 2780(8) of the Public Health Law.</p> <p>(h) Health facility means a hospital as defined in section 2801 of the Public Health Law, blood bank, blood center, sperm bank, organ or tissue bank, clinical laboratory, or facility providing care or treatment to persons with a mental disability.</p> <p>(i) Health care provider means any physician, nurse, provider of services for the mentally disabled or other person involved in providing medical, nursing, counseling, or other health care or mental health service including those associated with, or under contract to, a health maintenance organization or medical services plan.</p> <p>(j) Contact means an identified spouse or sex partner of the protected individual or a person identified as having shared hypodermic needles or syringes with the protected individual.</p> <p>(k) Person includes any natural person, partnership, association, joint venture, trust, public or private corporation or State or local government agency.</p> <p>(l) Division means the New York State Division for Youth.</p> <p>(m) Youth means any person between the ages of seven and 21 years (inclusive) who resides in any facility operated by the Division for Youth, including foster homes and group homes.</p> <p>(n) AIDS means acquired immunue deficiency syndrome, as may be defined from time to time by the Centers for Disease Control of the United States Public Health Service.</p>
9 NYCRR 164.5	<p>Prevention of discrimination and abuse</p> <p>(a) No youth will be subjected to discrimination because that youth is or is thought to be HIV infected. All youth shall be appropriately served by programs operated by the division according to the needs of the youth.</p> <p>(b) The division shall provide training and/or training opportunities to all direct care personnel in facilities, foster care and group homes, which shall include, at a minimum:</p> <p>(1) initial employee and annual in-service training regarding the symptoms, causes and transmission of HIV and universal infection control procedures; and</p> <p>(2) initial employee training and annual in-service training regarding legal prohibitions against unauthorized disclosure of confidential HIV-related information.</p> <p>(c) A list of all employees and Division for Youth foster parents who have had such training shall be maintained by the division together with a list</p>

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	<p>of those employees and Division for Youth foster parents authorized to access confidential HIV-related information. Such lists shall be updated annually.</p> <p>(d) The Division for Youth shall establish and promulgate policies ensuring:</p> <p>(1) maintenance of records containing confidential HIV-related information in a secure manner, limiting access to only those individuals permitted access pursuant to section 164.7 of this Part; and</p> <p>(2) procedures for handling requests by other parties for confidential HIV-related information.</p>
9 NYCRR 164.6	<p>HIV-related testing</p> <p>(a) Except as noted in paragraph (b)(2) of this section, no physician or other person authorized pursuant to law may order an HIV-related test without obtaining written informed consent.</p> <p>(1) Informed consent shall consist of providing to the youth to be tested or, if such youth lacks capacity to consent, as defined in section 164.4(d) of this Part to the person lawfully authorized to consent to health care for such person, pretesting counseling that includes:</p> <p>(i) explanations regarding the nature of HIV infection and HIV-related illness, benefits of the test and its results, an explanation of the HIV-related test and results, the accuracy of the HIV-related test, the significance and benefits of the test and its result; and the benefits of taking the test, including early diagnosis and medical intervention;</p> <p>(ii) information regarding discrimination problems which might occur as a result of unauthorized disclosure of HIV-related information and legal protections prohibiting such disclosures;</p> <p>(iii) information on preventing exposure or transmission of HIV infection, including behavior which poses a risk of HIV transmission; and</p> <p>(iv) an explanation that the test is voluntary and that consent may be withdrawn at any time; information on the availability of anonymous HIV testing, including the location and telephone numbers of anonymous test sites.</p> <p>(b)</p> <p>(1) Written informed consent must be executed on a form developed or approved by the Department of Health, pursuant to that department's regulations found at 10 NYCRR section 63.4(a).</p> <p>(2) Informed consent is not required in the following situations:</p> <p>(i) for court ordered testing pursuant to Civil Practice Law and Rules, section 3121;</p> <p>(ii) if otherwise authorized or required by State or Federal law;</p> <p>(iii) for testing related to procuring, processing, distributing or use of human body or human body part, including organs, tissue, eyes, bones, arteries, blood, semen or other body fluids for use in medical research or therapy, or for transplantation to persons, provided that if the test results are communicated to the tested person, post-test counseling is required;</p> <p>(iv) for research if the testing is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the</p>

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	<p>researcher; (v) for testing of a deceased to determine cause of death or for epidemiological purposes.</p> <p>(c) Post-testing counseling, and referrals with respect to a positive or negative test result, shall be provided to the person who consented to the test. Such post-test counseling and referrals must address: (1) coping emotionally with the test results; (2) discrimination issues; (3) information on the ability to release or revoke the release of confidential HIV-related information; (4) information on preventing exposure to or transmission of HIV infection and the availability of medical treatment; and (5) the need to notify contacts to prevent transmission, including information on State or county assistance in voluntary contact notification, if appropriate.</p> <p>(d) A physician or other person authorized pursuant to law to order an HIV-related test shall certify on a laboratory, requisition form that informed consent has been obtained.</p>
9 NYCRR 164.8	<p>Disclosure and release</p> <p>(a) No confidential HIV-related information shall be disclosed pursuant to a general release or subpoena without a Supreme Court order, pursuant to Public Health Law, section 2785. Disclosure is permitted for HIV-related information pursuant to a specific release form which has been developed or approved by the Department of Health. The release must be signed by the protected individual, or if the protected individual lacks capacity to consent pursuant to section 164.4(d) of this Part, by a person authorized pursuant to law to consent to health care for the individual.</p> <p>(b) All written disclosures of confidential HIV information must be accompanied by a statement prohibiting redisclosure. The statement shall include the following language or substantially similar language: "This information has been disclosed to you from confidential records which are protected by State law. State law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of State law may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is not sufficient authorization for further disclosure. Disclosure of confidential HIV information that occurs as the result of a general authorization for the release of medical or other information will be in violation of the State law and may result in a fine or jail sentence or both."</p> <p>(c) If oral disclosures are necessary, they must be accompanied or followed as soon as possible, but no later than 10 days, by the statement required in subdivision (b) of this section. All disclosures, oral or written, shall be recorded in the youth's official record.</p> <p>(d) The statement required by subdivisions (a) and (b) of this section is not required for release to the protected person or to his or her legal</p>

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	<p>representative, for releases made by a physician or public health officer to a contact, or for releases made by a physician to a person authorized pursuant to law to consent to the health care of the protected person when the person has been counseled and the disclosure is medically necessary pursuant to Public Health Law, section 2782(4)(e). For disclosure of confidential HIV-related information from the youth's medical files to persons who are permitted access pursuant to section 164.7(b)(3)-(4), (6)-(7), (9)-(10) and (16)-(17) of this Part, it shall be sufficient for the statement required by subdivisions (b) and (c) of this section to appear in the youth's medical record.</p>
<p>9 NYCRR 164.10</p>	<p>Monitoring</p> <p>Employees and agents of the division responsible for monitoring, inspecting, supervising, and investigating programs operated by the division shall have access to confidential HIV information to the extent necessary to discharge those responsibilities.</p>
<p>9 NYCRR 180.5</p>	<p style="text-align: center;">TITLE 9. EXECUTIVE DEPARTMENT SUBTITLE E. DIVISION FOR YOUTH PART 180. JUVENILE DETENTION FACILITIES REGULATIONS</p> <p>Administration and operation of detention</p> <p>...</p> <p>(c)</p> <p>(1) AIDS testing and confidentiality of HIV-related information. Requirements regarding testing, confidentiality and precautions concerning the human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS).</p> <p>(i) Background and intent.</p> <p>(a) The purpose of this section is to establish standards for the proper disclosure of HIV-related information within detention facilities certified or operated by the Division for Youth, including family boarding homes.</p> <p>(b) The purpose of this section is to establish standards which limit the risk of discrimination and harm to a child's privacy which unauthorized disclosure of HIV information can cause.</p> <p>(c) The purpose of this section is to establish standards which seek to enhance the safety of employees and children at detention facilities or detention programs certified or operated by the Division for Youth.</p> <p>(ii) Legal basis.</p> <p>(a) Sections 500 and 510-a of the Executive Law grant the director of the Division for Youth (director) the power and responsibility to adopt regulations that are necessary and proper to implement matters under his or her jurisdiction, and to set standards of quality and adequacy of facilities, equipment, personnel, services, records and programs for the rendition of services for youth.</p> <p>(b) Section 2786 of the Public Health Law requires the director to promulgate regulations which provide safeguards against discrimination, abuse and other adverse actions directed toward protected individuals;</p>

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	<p>provide for the proper disclosure of HIV-related information; protect individuals in contact with protected individuals when such contact creates a significant risk of contracting or transmitting HIV infection and establish criteria for determining when it is reasonably necessary for a provider of a health or social service or a State agency or a local government agency to have or use confidential HIV-related information for supervision, monitoring, investigation or administration.</p> <p>(iii) Applicability. This section applies to any Division for Youth operated or certified detention facility, including family boarding homes.</p> <p>(iv) Definitions pertaining to this section.</p> <p>(a) HIV infection means infection with the human immunodeficiency virus or any other related virus identified as a probable causative agent of AIDS.</p> <p>(b) HIV-related illness means any illness that may result from or be associated with HIV infection.</p> <p>(c) HIV-related test means any laboratory test or series of tests for any virus, antibody, antigen or etiologic agent whatsoever thought to cause or to indicate the presence of HIV infection.</p> <p>(d) Capacity to consent means an individual's ability, determined without regard to such individual's age, to understand and appreciate the nature and consequences of a proposed health care service, treatment or procedure, and to make an informed decision concerning such service, treatment or procedure.</p> <p>(e) Protected individual means a person who is the subject of an HIV-related test or who has been diagnosed as having HIV infection, AIDS or HIV-related illness.</p> <p>(f) Confidential HIV-related information means any information, in the possession of a person who provides one or more health or social services or who obtains the information pursuant to a release of confidential HIV-related information, concerning whether an individual has been the subject of an HIV-related test, or has HIV infection, HIV-related illness or AIDS, or information which identifies or reasonably could identify an individual as having one or more of such conditions, including information pertaining to such individual's contact; .</p> <p>(g) Health or social service means any public or private care; treatment, clinical laboratory test, counseling or educational service for children, and acute, chronic, custodial, residential, outpatient, home or other health care; public assistance; employment-related services, housing services, foster care, shelter, protective services, day care, or preventive services; services for the mentally disabled; probation services; parole services; correctional services; and detention and rehabilitative services, all as defined in section 2780(8) of the Public Health Law.</p> <p>(h) Health facility means a hospital as defined in section 2801 of the Public Health Law, blood bank, blood center, sperm bank, organ or tissue bank, clinical laboratory, or facility providing care or treatment to persons with a mental disability.</p> <p>(i) Health care provider means any physician, nurse, provider of services for the mentally disabled or other person involved in providing medical,</p>

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	<p>nursing, counseling, or other health care or mental health service including those associated with, or under contract to, a health maintenance organization or medical services plan.</p> <p>(j) Contact means an identified spouse or sex partner of the protected individual or a person identified as having shared hypodermic needles or syringes with the protected individual.</p> <p>(k) Person includes any natural person, partnership, association, joint venture, trust, public or private corporation or State or local government agency.</p> <p>(l) Division means the New York State Division for Youth.</p> <p>(m) Child means any person between the ages of 7 and 18 years (inclusive) who has been remanded to any detention facility certified by the Division for Youth, including family boarding homes.</p> <p>(n) AIDS means acquired immune deficiency syndrome, as may be defined from time to time by the centers for disease control of the United States Public Health Service.</p> <p>(v) Prevention of discrimination and abuse.</p> <p>(a) No child or staff will be subjected to discrimination because that child is or is thought to be HIV infected. All children shall be appropriately served by detention programs certified by the division according to the needs of the child.</p> <p>(b) All detention facilities shall provide for training to all direct care personnel which shall include, at a minimum:</p> <p>(1) initial employee and annual in-service training regarding the symptoms, causes and transmission of AIDS or AIDS-related complex, and universal infection control procedures; and</p> <p>(2) initial employee training and annual in-service training regarding legal prohibitions against unauthorized disclosure of confidential HIV-related information.</p> <p>(c) A list of all employees who have had such training shall be maintained by the detention facility together with a list of those employees authorized to access confidential HIV-related information. Such lists shall be updated annually.</p> <p>(d) Each facility certified by the division shall establish and promulgate policies ensuring:</p> <p>(1) maintenance of records containing confidential HIV-related information in a secure manner, limiting access to only those individuals permitted access pursuant to this subparagraph (iv) of this paragraph; and</p> <p>(2) procedures for handling requests by other parties for confidential HIV-related information.</p> <p>(vi) HIV-related testing.</p> <p>(a) Except as noted in subclause (b)(2) of this subparagraph, no physician or other person authorized pursuant to law may order an HIV-related test without obtaining written informed consent.</p> <p>(1) Informed consent shall consist of providing to the child to be tested or, if such child lacks capacity to consent, as defined in subparagraph (iv) of this paragraph to the person lawfully authorized to consent to health</p>

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	<p>care for such person, pre-testing counseling that includes:</p> <ul style="list-style-type: none"> (i) explanations regarding the nature of HIV infection and HIV-related illness, benefits of the test and its results, an explanation of the HIV-related test and results, the accuracy of the HIV-related test, the significance and benefits of the test and its result; and the benefits of taking the test, including early diagnosis and medical intervention; (ii) information regarding discrimination problems which might occur as a result of unauthorized disclosure of HIV-related information and legal protections prohibiting such disclosures; (iii) information on preventing exposure or transmission of HIV infection, including behavior which poses a risk of HIV transmission; and (iv) an explanation that the test is voluntary and that consent may be withdrawn at any time; information on the availability of anonymous HIV testing, including the location and telephone numbers of anonymous test sites. <p>(b)(1) Written informed consent must be executed on a form developed or approved by the Department of Health, pursuant to that department's regulations found at 10 NYCRR section 63.4(a).</p> <p>(2) Informed consent is not required in the following situations:</p> <ul style="list-style-type: none"> (i) for court ordered testing pursuant to Civil Practice Law and Rules section 3121; (ii) if otherwise authorized or required by State or Federal law; (iii) for testing related to procuring, processing, distributing or use of human body or human body part, including organs, tissue, eyes, bones, arteries, blood, semen or other body fluids for use in medical research or therapy, or for transplantation to persons, provided that if the test results are communicated to the tested person, post-test counseling is required; (iv) for research if the testing is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher; and (v) for testing of a deceased to determine cause of death or for epidemiological purposes. <p>(c) Post-testing counseling, and referrals with respect to a positive or negative test result, shall be provided to the person who consented to the test. Such post-test counseling and referrals must address:</p> <ul style="list-style-type: none"> (1) coping emotionally with the test results; (2) discrimination issues; (3) information on the ability to release or revoke the release of confidential HIV-related information; (4) information on preventing exposure to or transmission of HIV infection and the availability of medical treatment; and (5) the need to notify contacts; to prevent transmission, including information on State or county assistance in voluntary contact notification, if appropriate. <p>(d) A physician or other person authorized pursuant to law to order an HIV-related test shall certify on a laboratory requisition form that informed consent has been obtained.</p> <p>(vii) Confidentiality and disclosure.</p>

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	<p>(a) Access to a child's confidential HIV-related information shall be strictly limited. No flags or other markings on charts, lists on walls, or similar public displays shall be used to indicate child's HIV status. Nothing in these regulations shall be construed to limit or enlarge access to that portion of a child's file not containing confidential HIV-related information.</p> <p>(b) No person who obtains confidential HIV-related information in the course of providing any health or social service or pursuant to a release of confidential HIV-related information may disclose or be compelled to disclose such information, except to the following:</p> <p>(1) the protected individual or, when the protected individual lacks capacity to consent, a person authorized pursuant to law to consent to health care for the individual;</p> <p>(2) any person to whom disclosure is authorized pursuant to a release of confidential HIV-related information in accordance with the regulations of the Department of Health set forth at 10 NYCRR section 63.4(a);</p> <p>(3) an agent or employee of a health facility or health care provider if:</p> <p>(i) the agent or employee is authorized to access medical records;</p> <p>(ii) the health facility or health care provider itself is authorized to obtain the HIV-related information; and</p> <p>(iii) the agent or employee provides health care to the protected individual, or maintains or processes medical records for billing or reimbursement;</p> <p>(4) a health care provider or health facility when knowledge of the HIV-related information is necessary to provide appropriate care or treatment to the protected child or offspring of that child;</p> <p>(5) a health facility or health care provider, in relation to the procurement, processing, distributing or use of a human body or a human body part, including organs, tissues, eyes, bones, arteries, blood, semen, or other body fluids, for use in medical education, research, therapy, or for transplantation to individuals;</p> <p>(6) health facility staff committees, or accreditation or oversight review organizations authorized to access medical records, provided that such committees or organizations may only disclose confidential HIV-related information:</p> <p>(i) back to the facility or provider of a health or social services;</p> <p>(ii) to carry out the monitoring, evaluation, or service review for which it was obtained; or</p> <p>(iii) to a Federal, State or local government agency for the purposes of and subject to the conditions provided in subclause (19) of this clause;</p> <p>(7) a Federal, State, county or local health officer when such disclosure is mandated by Federal or State law;</p> <p>(8) authorized agencies certified as detention facilities by the Division for Youth. Such agency shall be authorized to redisclose such information only pursuant to the provisions of article 27-F of the Public Health Law or in accordance with the provisions of section 373-A of the Social Services Law;</p> <p>(9) third-party reimbursers or their agents to the extent necessary to reimburse health care providers, including health facilities, for health services, provided that, where necessary, an otherwise appropriate</p>

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	<p>authorization for such disclosure has been secured by the provider;</p> <p>(10) an insurance institution, for other than the purpose set forth in subclause (9) of this clause, provided the insurance institution secures a dated and written authorization that indicates that health care providers, health facilities, insurance institutions, and other persons are authorized to disclose information about the protected individual, the nature of the information to be disclosed, the purposes for which the information is to be disclosed and which is signed by:</p> <p>(i) the protected individual;</p> <p>(ii) if the protected individual lacks the capacity to consent, such other person authorized pursuant to law to consent for such individual; or</p> <p>(iii) if the protected individual is deceased, the beneficiary or claimant for benefits under an insurance policy, a health services plan, or an employee welfare benefit plan as authorized in article 27-F of the Public Health Law;</p> <p>(11) any person to whom disclosure is ordered by a court of competent jurisdiction pursuant to section 2785 of the Public Health Law;</p> <p>(12) an employee or agent of the Division of Parole, Division of Probation or Commission of Correction, in accordance with regulations promulgated by those agencies;</p> <p>(13) a medical director of a local correctional facility in accordance with regulations promulgated by the facility operator. Redisclosure by the medical director is prohibited except as permitted under Public Health Law, article 27-F and its implementing regulations;</p> <p>(14) a physician may disclose the confidential HIV-related information during contact notification pursuant to Public Health Law, article 27-F;</p> <p>(15) a physician may, upon the informed consent of a child or, if the child lacks the capacity to consent, other person qualified to give consent on behalf of the child, disclose confidential HIV-related information to a State, county, or local health officer for the purpose of reviewing the medical history of a child to determine the fitness of the child to attend school;</p> <p>(16) confidential HIV-related information may be disclosed to a governmental agency or to authorized employers or agents of a governmental agency when the person providing health services is regulated by the governmental agency or when the governmental agency administers a health or social services program and when such employees or agents have access to records in the ordinary course of business and when access is reasonably necessary for supervision, monitoring, administration or provision of services. Such authorized employees or agents may include attorneys authorized by a government agency when access occurs in the ordinary course of providing legal services and is reasonably necessary for supervision, monitoring, administration or provision of services;</p> <p>(17) confidential HIV-related information may be disclosed to authorized employees or agents of a person providing health services when such person is either regulated by a governmental agency or when a governmental agency administers a health or social services program, and when such employees or agents have access to records in the ordinary course of business and when access is reasonably necessary for</p>

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	<p>supervision, monitoring, administration or provision of services and when such employee or agent has been authorized by the detention facility or program pursuant to these regulations. Such authorized employees or agents may include attorneys authorized by persons providing health services when access occurs in the ordinary course of providing legal services and is reasonably necessary for supervision, monitoring, administration or provision of services;</p> <p>(18) no person to whom confidential HIV-related information has been disclosed shall disclose the information to another person except as authorized by this section; provided, however, that the provisions of this section shall not apply to the protected child or a natural person who is authorized pursuant to law to consent to health care for the protected individual;</p> <p>(19) nothing in this section shall limit a person's or agency's responsibility or authority to report, investigate, or redisclose, child protective and adult protective services information in accordance with title 6 of article 6 and titles 1 and 2 of article 9-B of the Social Services Law, or to provide or monitor the provision of child and adult protective or preventive services;</p> <p>(20) confidential HIV-related information shall not be disclosed to a health care provider or health care facility if the sole purpose of disclosure is infection control when such provider or facility is regulated under the Public Health Law and required to implement infection control procedures pursuant to Department of Health regulations;</p> <p>(21) confidential HIV information shall not be released pursuant to a subpoena. A court order pursuant to Public Health Law, section 2785 is required;</p> <p>(22) where confidential HIV-related information has been obtained from an alternate anonymous testing site, sexually transmitted disease clinic or the child's private physician, the child may choose not to disclose any information to detention staff. The test results will not be disclosed to any other person unless the child, or other person authorized to give consent, gives prior written consent, pursuant to this subdivision or unless disclosed pursuant to subclause (23) of this clause. Children must also be informed that once a positive test result is disclosed, it will be shared confidentially with a limited number of people directly involved with the child's care and planning for care, as set forth below. These people will be limited to the following:</p> <p>(i) the facility's medical staff caring for the child (i.e., physician's assistant, nurse and the supervising physician of the physician's assistant or primary care physician serving the child where the facility lacks other medical staff);</p> <p>(ii) the facility director or, as applicable, the family boarding home parents and the family boarding home supervisor responsible for the child's case;</p> <p>(iii) the chief administrative officers of the county administering agency;</p> <p>(iv) for division-operated detention facilities, the division's Office of Counsel and the New York State Attorney General's office, where such access is necessary in furtherance of that office's duties;</p> <p>(23) if, in the judgment of the facility health staff and facility director or,</p>

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	<p>as applicable, the family boarding home supervisor responsible for the child's case, the results must be disclosed to additional party(ies) including the child's parent(s) or guardian(s), the facility director or family boarding home supervisor shall consult with the chief administrative officer of the county administrative agency. The chief administrative officer of the county administrative agency must concur with the facility director or family boarding home supervisor, if the information is to be disclosed to others not approved by the child. In such cases the criterion used for overriding the child's objections shall be that further disclosure of the information is critically important for the child's physical or mental well-being, and that such benefit may not otherwise be obtained. At no time will confidential HIV-related information be disclosed in violation of Public Health Law, article 27-F. Any decision or action taken pursuant to this paragraph and the basis for such decision or action shall be recorded in the child's medical record; and</p> <p>(24) where a child who has acquired HIV-related information through a detention employed physician or physician's assistant or through a physician maintained to serve detention children, either on a contract or fee-for-service basis, the child must be advised that such information will be disclosed as set forth in subclauses (22) and (23) of this clause.</p> <p>(viii) Disclosure and release.</p> <p>(a) No confidential HIV-related information shall be disclosed pursuant to a general release or subpoena without a court order, pursuant to Public Health Law, section 2785, unless such release is to another health care provider. Disclosure is permitted for HIV-related information pursuant to a specific release form which has been developed or approved by the Department of Health. The release must be signed by the protected individual, or if the protected individual lacks capacity to consent pursuant to clause (vi)(d) of this paragraph, by a person authorized pursuant to law to consent to health care for the individual.</p> <p>(b) All written disclosures of confidential HIV information must be accompanied by a statement prohibiting redisclosure. The statement shall include the following language or substantially similar language: "This information has been disclosed to you from confidential records which are protected by state law. State law prohibits you from making any further disclosure of this information without the specific written content of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of State law may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is not sufficient authorization for further disclosure. Disclosure of confidential HIV information that occurs as the result of a general authorization for the release of medical or other information will be in violation of the State law and may result in a fine or jail sentence or both."</p> <p>(c) If oral disclosures are necessary, they must be accompanied or followed as soon as possible, but no later than 10 days, by the statement required in clause (b) of this subparagraph. All disclosures, oral or written, shall be recorded in the child's official record.</p>

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	<p>(d) The statement required by clauses (a) and (b) of this subparagraph is not required for release to the protected person or to his or her legal representative, for releases made by a physician or public health officer to a contact, or for releases made by a physician to a person authorized pursuant to law to consent to the health care of the protected person when the person has been counseled and the disclosure is medically necessary pursuant to Public Health Law, section 2782(4)(e). For disclosure of confidential HIV-related information from the youth's medical files to persons who are permitted access pursuant to subclauses (vii)(b)(3)-(4), (6)-(7), (9)-(10) and (16)-(17) of this paragraph, it shall be sufficient for the statement required by clauses (b) and (c) of this subparagraph to appear in the child's medical record.</p> <p>(ix) Protection of others at significant risk of infection.</p> <p>(a) Staff and child protection. Since medical history and examination cannot reliably identify all children infected with HIV or other blood-borne pathogens, blood and body-fluid precautions shall be consistently used for all children. This approach, referred to as "universal blood and body-fluid precautions" or "universal precautions," or "universal infection control procedures" shall be used during job-related activities which involve or may involve exposure to significant risk body substances as defined in Department of Health regulations at 10 NYCRR, section 63.9.</p> <p>(b) Facilities and programs shall abide by any additional regulations regarding protective barriers or procedures as may be promulgated by the division.</p> <p>(c) Staff will educate children regarding behaviors which pose a risk for HIV transmission.</p> <p>(d) Each detention facility shall:</p> <p>(1) implement and enforce a plan for the prevention of circumstances which could result in another employee or individual becoming exposed to blood or body fluids which could put them at risk for HIV infection, during the provision of services. Such a plan shall include:</p> <p>(i) use of generally accepted protective barriers during the job-related activities which involve, or may involve, exposure to blood or body fluids. Such preventive action shall be taken by the employee with each youth and shall constitute an essential element for the prevention of bi-directional spread of HIV;</p> <p>(ii) use of generally accepted preventive practices during job-related activities which involve the use of contaminated instruments or equipment which may cause puncture injuries;</p> <p>(iii) training at the time of employment and yearly staff development programs on the use of protective equipment, preventive practices, and circumstances which represent a risk for all employees whose job-related tasks involve, or may involve, exposure to blood or body fluids;</p> <p>(iv) provision of personal protective equipment for employees which is appropriate to the tasks being performed; and</p> <p>(v) a system for monitoring preventive programs to assure compliance and safety; and</p> <p>(2) implement and enforce a plan for the management of individuals who are exposed to blood or body fluids. The plan shall include:</p>

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	<p>(i) a system for voluntary reporting of all exposures thought to represent a circumstance for significant risk;</p> <p>(ii) availability of services for evaluating the circumstance of a reported exposure and providing appropriate follow-up of the exposed individual which includes:</p> <p>(A) medical and epidemiological assessment of the individual who is the source of the exposure, where that individual is known and available;</p> <p>(B) if epidemiologically indicated, HIV counseling and testing of the source individual as permitted under Public Health Law, article 27-F. Where the HIV status is not known to the exposed individual, disclosure can be made only with the express written consent of the protected individual or pursuant to a Supreme Court order; and</p> <p>(C) appropriate medical follow-up of the exposed individual; and</p> <p>(iii) assurances for protection of confidentiality for those involved in reported exposures.</p> <p>(x) Monitoring. Employees and agents of the division responsible for monitoring, inspecting, supervising, and investigating programs certified by the division shall have access to confidential HIV information to the extent necessary to discharge those responsibilities.</p>
9 NYCRR 367.1	<p style="text-align: center;">TITLE 9. EXECUTIVE DEPARTMENT</p> <p style="text-align: center;">SUBTITLE H. DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES</p> <p style="text-align: center;">CHAPTER IV. GENERAL</p> <p style="text-align: center;">PART 367. AIDS/CONFIDENTIALITY AND ACCESS TO HIV-RELATED INFORMATION</p> <p style="text-align: center;">CONFIDENTIALITY OF HIV-RELATED INFORMATION</p> <p>Definitions</p> <p>(a) AIDS means acquired immune deficiency syndrome, as may be defined from time to time by the centers for disease control of the United States public health service.</p> <p>(b) HIV infection means infection with the human immunodeficiency virus or any other related virus identified as a probable causative agent of AIDS.</p> <p>(c) HIV-related test means any laboratory test or series of tests for any virus, antibody, antigen or etiologic agent whatsoever, thought to cause or to indicate the presence of HIV infection.</p> <p>(d) Capacity to consent means an individual's ability, determined without regard to such individual's age, to understand and appreciate the nature and consequences of a proposed health care service, treatment or procedure, and to make an informed decision concerning such service, treatment or procedure.</p> <p>(e) Protected individual means a person who is the subject of an HIV-related test, or who has been diagnosed as having AIDS or HIV infection.</p> <p>(f) Confidential HIV-related information means any information, in the possession of a person who provides one or more health or social services, including probation services, or who obtains the information pursuant to a release of confidential HIV-related information, concerning</p>

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	<p>whether an individual has been the subject of an HIV-related test, or has HIV infection, HIV-related illness or AIDS, or information which identifies or reasonably could identify an individual as having one or more of such conditions, including information pertaining to such individual's contacts.</p> <p>(g) Release of confidential HIV-related information means a written authorization for disclosure of confidential HIV-related information that complies with the requirements of article 27-F, section 2780(9) of the Public Health Law. Only the specific release form authorized for this purpose by the Division of Probation and Correctional Alternatives may be used.</p> <p>(h) Client means a person who receives services, which have been ordered or authorized by the criminal or family court, from a probation department. Such persons include, but are not limited to, probationers.</p> <p>(i) Contact means an identified spouse or sex partner of the protected individual or a person identified as having shared hypodermic needles or syringes with the protected individual.</p>
9 NYCRR 367.2	<p>Application</p> <p>These regulations apply to persons who receive confidential HIV-related information in the course of providing probation services and who receive confidential HIV-related information pursuant to a release while providing such services. All disclosures of confidential HIV-related information made on or after filing of this rule are subject to these regulatory provisions.</p>
9 NYCRR 367.4	<p>Disclosure pursuant to a release</p> <p>(a) No confidential HIV-related information shall be disclosed pursuant to a general release. Disclosure is only permitted for HIV-related information pursuant to a specific release form that has been approved by the Department of Health. The release must be signed by the protected individual, or if the protected individual lacks capacity to consent, by a person authorized pursuant to law to consent to health care for the individual. Whenever appropriate, an attempt should be made to secure consent.</p> <p>(b) The provision in subdivision (a) of this section is also applicable to confidential HIV-related information contained in court ordered documents, including presentence, preplea, predispositional, or other investigation reports.</p>
9 NYCRR 367.5	<p>Confidentiality and disclosure</p> <p>(a) No person who obtains confidential HIV-related information in the course of providing probation services or pursuant to a release of confidential HIV-related information while providing such services may disclose or be compelled to disclose such information, except to the following:</p> <p>(1) the protected individual or, when the protected individual lacks capacity to consent, a person authorized pursuant to law to consent to health care for the individual;</p> <p>(2) any person to whom disclosure is authorized pursuant to a release of confidential HIV-related information in accordance with section 367.4(a)</p>

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	<p>of this Part;</p> <p>(3) authorized counseling or treatment programs providing contractual services to the probation department, when knowledge of the HIV-related information is necessary to provide appropriate treatment to the protected individual. Such agencies shall be authorized to redisclose such information only pursuant to the provisions of article 27-F of the Public Health Law;</p> <p>(4) authorized agencies as defined by Social Services Law (section 371) and corporations that are incorporated or organized to receive children for adoption or foster care, in connection with foster care or adoption of a child. Such agencies shall be authorized to redisclose such information only pursuant to the provisions of article 27-F of the Public Health Law or in accordance with the provisions of section 373-A of the Social Services Law;</p> <p>(5) any person to whom disclosure is ordered by a court of competent jurisdiction pursuant to article 27-F, section 2785 of the Public Health Law;</p> <p>(6) an employee or agent of the Division of Parole, or Commission of Correction, authorized by law to access records to carry out functions, powers and duties with respect to the protected individual, in accordance with regulations promulgated by these agencies;</p> <p>(7) a medical director of a local correctional facility in accordance with regulations promulgated by the Commission of Correction to the extent such individual is authorized to access records containing such information in order to carry out functions, powers, and duties with respect to the individual. Redisclosure by the medical director is prohibited except as permitted under Public Health Law, article 27-F and its implementing regulations; and</p> <p>(8) any other persons specifically authorized in article 27-F, section 2782 of the Public Health Law.</p> <p>(b) Confidential HIV-related information may be disclosed to probation department employees when such employees have access to records in the ordinary course of business and such information is reasonably necessary for supervision, monitoring, administration, or provision of other probation services. This subdivision permits disclosure to probation department employees in intrastate or interstate transfers of probation supervision for these specified purposes.</p> <p>(c) Confidential HIV-related information may be disclosed to employees of the Division of Probation and Correctional Alternatives when such employees have access to records as a result of performing activities enumerated in section 367.11(a) of this Part.</p> <p>(d) No person to whom confidential HIV-related information has been disclosed shall disclose the information to another person except as authorized by this Part, provided, however, that the provisions of this Part shall not apply to the protected individual or to a natural person who is authorized pursuant to law to consent to health care for the protected individual.</p> <p>(e) Confidential HIV-related information shall not be released pursuant to a subpoena. A court order pursuant to Public Health Law, article 27-F section 2785 is required.</p>

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	(f) Confidential HIV-related information shall not be disclosable pursuant to Public Officers Law, article 6, The Freedom of Information Law. Prior to disclosing confidential HIV-related information, supervisory consultation should be made to ensure access is authorized.
9 NYCRR 367.6	<p>Protections against redisclosure</p> <p>(a) All written disclosures of confidential HIV-related information must be accompanied by a statement restricting redisclosure. The statement shall include the following language or substantially similar language: "This information has been disclosed to you from confidential records that are protected by state law. State law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of state law may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is not sufficient authorization for further disclosure."</p> <p>(b) HIV-related information in a court-ordered document, including a presentence, preplea, predispositional, or other investigation report shall be contained in a separate section at the end of the document. The HIV-related information shall be prefaced by the statement in subdivision (a) of this section or substantially similar language restricting redisclosure.</p> <p>(c) If oral disclosures are necessary, they must be accompanied or followed as soon as possible, but no later than 10 days, by the written statement required by subdivision (a) of this section.</p> <p>(d) The statement required by subdivisions (a)-(c) of this section is not required for release to the protected individual or to his or her legal representative.</p>
9 NYCRR 367.7	<p>Probation department policy and procedures</p> <p>Every probation director shall develop and implement written policies and procedures to maintain the confidentiality of HIV-related information. Such policies and procedures shall assure that such confidential HIV-related information is disclosed to employees or contractors only when appropriate under this Part. Such policies and procedures shall include:</p> <p>(a) initial employee education and periodic inservice education of employees regarding the legal protections against unauthorized disclosure in Public Health Law, article 27-F;</p> <p>(b) protocols for ensuring that records are maintained securely, and used for the purpose intended; establishing a procedure whereby when confidential HIV-related information is contained in any probation record, it shall be maintained in a manner where it can be easily identified and removed if necessary;</p> <p>(c) procedures for handling requests by other parties for confidential HIV-related information.</p>
9 NYCRR 367.8	<p>Significant risk</p> <p>(a) The three factors necessary to create a significant risk of contracting or transmitting HIV infection are:</p> <p>(1) the presence of a significant risk body substance;</p>

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	<p>(2) a circumstance which constitutes significant risk for transmitting or contracting HIV infection; and</p> <p>(3) the presence of an infectious source and a noninfected person. Transmission occurs only from infected to uninfected persons.</p> <p>(b) Any body substances that have been epidemiologically implicated in the transmission of HIV are considered to be a significant risk body substance. These include blood, semen, vaginal secretions, and breast milk. Other body substances that have been considered infectious for HIV include tissue and the following body fluids: cerebrospinal, amniotic, peritoneal, synovial, pericardial, and pleural. These body substances shall also be considered significant risk body substances.</p> <p>(c) Circumstances that constitute significant risk for transmitting or contracting HIV infection are as follows:</p> <p>(1) sexual intercourse (vaginal, anal, oral) that exposes a noninfected individual to blood, semen, or vaginal secretions of an infected individual;</p> <p>(2) sharing of needles and other paraphernalia used for preparing and injecting drugs between infected and noninfected individuals;</p> <p>(3) the gestation, birthing or breast feeding of an infant when the mother is infected with HIV;</p> <p>(4) transfusion or transplantation of blood, organs, or other tissues obtained from an infected individual to an uninfected individual, providing such products have not tested negatively for antibody or antigen and have not been rendered noninfective by heat or chemical treatment;</p> <p>(5) other circumstances not identified in paragraphs (1) through (4) of this subdivision during which a significant risk body substance (other than breast milk) of an infected individual contacts mucous membranes (e.g. eyes, nose, mouth), nonintact skin (e.g. open wound, dermatitis, abraded areas), or the vascular system of a noninfected person. Such circumstances include, but are not limited to, needlestick or puncture wound injuries and direct saturation or permeation of these body surfaces by the infectious body substance.</p> <p>(d) Circumstances that do not constitute significant risk include:</p> <p>(1) exposure to urine, feces, sputum, nasal secretions, saliva, sweat, tears or vomitus that does not contain blood that is visible to the naked eye;</p> <p>(2) human bites where there is no direct blood to blood, or blood to mucous membrane contact;</p> <p>(3) exposure of intact skin to blood or any other body substance;</p> <p>(4) occupational settings where individuals use scientifically accepted barrier techniques and preventive practices in circumstances that would otherwise pose a significant risk.</p>
9 NYCRR 367.9	<p>Training and protection of probation department employees who may be in contact with human immunodeficiency virus (HIV)</p> <p>(a) Every probation director shall implement and maintain a program for the prevention of circumstances that could result in employees becoming exposed to significant risk body substances during the provision of services. Such a program shall include:</p> <p>(1) information about generally accepted protective barriers and preventive practices during job-related activities that may involve</p>

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	<p>exposure to significant risk body substances. Preventive action should be taken by the employee when job-related activities may involve exposure to such body substances. Preventive action is an essential element to avoid bidirectional spread of HIV;</p> <p>(2) training at the time of initial employment and periodic staff development education on the use of protective equipment, preventive practices, and circumstances that represent a significant risk for all employees whose job-related tasks may involve exposure to significant risk body substances;</p> <p>(3) availability of personal protective equipment for employees that is appropriate to the tasks being performed; and</p> <p>(4) a system for monitoring preventive programs to assure compliance and safety.</p> <p>(b) Every probation director shall develop, implement and maintain a policy/procedure for the management of individuals who may be exposed to significant risk body substances. The policy/procedure shall include, but is not limited to, the following:</p> <p>(1) voluntary employee notification where exposure may have occurred (e.g., a needle stick) to the probation director or his or her designee;</p> <p>(2) availability of services for evaluating the circumstances of a reported exposure and providing appropriate follow-up of the exposed individual; and</p> <p>(3) assurances for protection of confidentiality for those employees involved in reported exposures.</p>
9 NYCRR 367.10	<p>Education of clients and protection of contacts</p> <p>(a) All clients shall, where feasible, be provided with written literature describing the transmission of HIV infection and preventive measures to minimize the risk of transmission.</p> <p>(b) All clients shall be counseled to avoid behavior that creates a significant risk of contracting or transmitting HIV infection.</p> <p>(c) All clients with a confirmed diagnosis of AIDS or HIV infection shall be urged to inform their contacts.</p> <p>(d) If after urging a client with a confirmed diagnosis of AIDS or HIV infection to inform a contact, the probation officer reasonably believes there is a significant risk of infection to the contact and that the client will not inform the contact, the probation officer may, after consultation with the probation department director or authorized designee, discuss with their legal representative the feasibility of obtaining and securing a court order for disclosure of confidential HIV-related information, in accordance with the provisions of article 27-F, section 2785 of the Public Health Law. Disclosures to a contact made with the consent of the protected individual or through a court order may only be made by authorized health employees who have received training in the transmission of HIV infection and must be accompanied by supportive counseling and/or referrals for such counseling. The identity of the protected individual may not be disclosed to a contact.</p>
9 NYCRR 7064.1	<p align="center">TITLE 9. EXECUTIVE DEPARTMENT SUBTITLE AA. STATE COMMISSION OF CORRECTION CHAPTER I. MINIMUM STANDARDS AND REGULATIONS FOR</p>

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	<p style="text-align: center;">MANAGEMENT OF COUNTY JAILS AND PENITENTIARIES SUBCHAPTER A. MINIMUM STANDARDS AND REGULATIONS PART 7064. HUMAN IMMUNODEFICIENCY VIRUS AND AIDS- RELATED INFORMATION-- CONFIDENTIALITY</p> <p>Policy</p> <p>Recognizing that maximum confidentiality protection for information related to human immunodeficiency virus (HIV) infection and acquired immune deficiency syndrome (AIDS) is an essential public health measure and that HIV infection and AIDS issues are of particular concern to correctional professionals, and in order to retain the full trust and confidence of persons at risk, each correctional facility shall ensure that HIV-related information is not improperly disclosed, shall establish clear and certain rules for the disclosure of such information, and provide safeguards to prevent discrimination, abuse, or other adverse actions directed toward protected individuals.</p>
9 NYCRR 7064.2	<p>Definitions</p> <p>As used in this Part, the following definitions shall apply to the terms listed below:</p> <p>(a) HIV infection means infection with the human immunodeficiency virus or any other related virus identified as a probable causative agent of AIDS.</p> <p>(b) HIV-related illness means any clinical illness that may result from or be associated with HIV infection.</p> <p>(c) HIV-related test means any laboratory test or series of tests for any virus, antibody, antigen or etiologic agent whatsoever thought to cause or to indicate the presence of HIV infection.</p> <p>(d) Capacity to consent means an individual's ability, determined without regard to such individual's age, to understand and appreciate the nature and consequences of a proposed health care service, treatment or procedure, and to make an informed decision concerning such service, treatment or procedure.</p> <p>(e) Protected individual means a person who is the subject of an HIV-related test or who has been diagnosed as having HIV infection, AIDS- or HIV-related illness.</p> <p>(f) Confidential HIV-related information means any information, in the possession of a person who provides health or social services or who obtains the information pursuant to a release of confidential HIV-related information, concerning whether an individual has been the subject of an HIV-related test, or has HIV infection, HIV-related illness or AIDS, or information which identifies or reasonably could identify an individual as having one or more of such conditions, including information pertaining to such individual's contacts.</p> <p>(g) Health or social service means any public or private care, treatment, clinical laboratory test, counseling or educational service for adults or children, and acute, chronic, custodial, residential, outpatient, home or</p>

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	<p>other health care; public assistance, employment-related services, housing services, foster care, shelter, protective services, day care, or preventive services; services for the mentally disabled, probation services, parole services, correctional services; and detention and rehabilitative services, all as defined in section 2780(8) of the Public Health Law, and including local correctional facilities.</p> <p>(h) Health facility means a hospital as defined in section 2801 of the Public Health Law, blood bank, blood center, sperm bank, organ or tissue bank, clinical laboratory, or facility providing care or treatment to persons with a mental disability.</p> <p>(i) Health care provider means any physician, nurse, provider of services for the mentally disabled or other person involved in providing medical, nursing, counseling, or other health care or mental health service including those associated with, or under contract to, a health maintenance organization or medical services plan; including local correctional facility medical service providers.</p> <p>(j) Contact means an identified spouse or sex partner of the protected individual or a person identified as having been exposed to infected blood or semen from the protected individual.</p> <p>(k) Person includes any natural persons, partnership, association, joint venture, trust, public or private corporation or State or local government agency.</p>
9 NYCRR 7064.3	<p>Facility policies and procedures.</p> <p>(a) The medical director of each local correctional facility in conjunction with the chief administrative officer shall develop and implement written policies and procedures consistent with the requirements of this Part and article 27- of the Public Health Law.</p> <p>(b) Such policies and procedures shall include, but are not limited to, the following:</p> <ol style="list-style-type: none"> (1) safeguards to prevent discrimination, abuse, or other adverse actions against protected individuals; (2) provisions establishing a schedule for training all facility staff regarding the requirements of Public Health Law, article 27-F and this Part; (3) provisions for safeguarding the confidentiality of all medical records and information concerning HIV testing or HIV-related information as required by Public Health Law, article 27-F and this Part; (4) provisions specifically setting forth those persons having access to HIV testing and HIV-related information when such access is necessary for appropriate medical or psychiatric diagnosis or treatment; (5) provisions for handling requests by other parties for confidential HIV-related information; and (6) provisions to protect individuals in contact with protected individuals when such contact creates a significant risk of contracting or transmitting HIV infection through the exchange of body fluids, as provided for in section 7064.4 of this Part.
9 NYCRR 7064.4	<p>Significant risk of contracting or transmitting HIV infection</p> <p>(a) The three factors necessary to create a significant risk of contracting</p>

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	<p>or transmitting HIV infection are:</p> <p>(1) the presence of a significant risk body substance;</p> <p>(2) a circumstance which constitutes significant risk for transmitting or contracting HIV infection; and</p> <p>(3) the presence of an infectious source and a noninfected person.</p> <p>(b) Significant risk body substances are blood, semen, vaginal secretions, breast milk, tissue and the following body fluids: cerebrospinal, amniotic, peritoneal, synovial, pericardial, and pleural.</p> <p>(c) Circumstances which constitute "significant risk of transmitting or contracting HIV infection" are:</p> <p>(1) sexual intercourse (vaginal, anal, oral) which exposes a noninfected individual to blood, semen or vaginal secretions of an infected individual;</p> <p>(2) sharing of needles and other paraphernalia used for preparing and injecting drugs between infected and noninfected individuals;</p> <p>(3) the gestation, birthing or breast feeding of an infant when the mother is infected with HIV;</p> <p>(4) transfusion or transplantation of blood, organs, or other tissues from an infected individual to an uninfected individual, providing such blood, organs or other tissues have not tested negatively for antibody or antigen and have not been rendered noninfective by heat or chemical treatment; and</p> <p>(5) other circumstances not identified in paragraphs (1)-(4) of this subdivision during which a significant risk body substance (other than breast milk) of an infected individual contacts mucous membranes (e.g., eyes, nose, mouth), nonintact skin (e.g., open wound, skin with a dermatitis condition, abraded areas) or the vascular system of a noninfected person. Such circumstances include, but are not limited to needlestick or puncture wound injuries and direct saturation or permeation of these body surfaces by the infectious body substance.</p> <p>(d) Circumstances that involve "significant risk" shall not include:</p> <p>(1) exposure to urine, feces, sputum, nasal secretions, saliva, sweat, tears or vomitus that does not contain blood that is visible to the naked eye;</p> <p>(2) human bites where there is no direct blood-to-blood, or blood-to-mucous membrane contact;</p> <p>(3) exposure of intact skin-to-blood or any other body substance; or</p> <p>(4) occupational settings where individuals use scientifically accepted barrier techniques and preventive practices in circumstances which would otherwise pose a significant risk.</p>
9 NYCRR 7064.5	<p>Applicability</p> <p>These regulations apply to all administrators, personnel, employees, consultants, independent contractors, and service providers whether paid or volunteer, of local correctional facilities; to persons who order an HIV-related test; to persons who receive confidential HIV-related information in the course of providing any health or social service or who receive confidential HIV-related information pursuant to a release; and to providers and facilities providing health care. These regulations do not apply to information which is received by the Commissioner of Health under Title 10 NYCRR Subpart 24-1 and protected from disclosure</p>

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	pursuant to Public Health Law, section 206(1)(j).
9 NYCRR 7064.6	<p>HIV-related testing</p> <p>(a) Except as noted in paragraph (3) of this subdivision, no physician or other person authorized pursuant to law may order an HIV-related test without obtaining written informed consent.</p> <p>(1) Informed consent shall consist of providing to the person to be tested or, if such person lacks capacity to consent, to the person lawfully authorized to consent to health care for such person. In situations in which a person other than the test subject consents to the test, pretest counseling shall also be provided to the subject to the extent that the person ordering the test deems that the test subject will benefit from counseling. Pretest counseling shall include:</p> <p>(i) explanations regarding the nature of HIV infection and HIV-related illness, an explanation of the HIV-related test including a description of the procedure to be followed, meaning of the test results, and the benefits of taking the test, including early diagnosis and medical intervention;</p> <p>(ii) information regarding discrimination problems which might occur as a result of unauthorized disclosure of HIV-related information and legal protections prohibiting such disclosures;</p> <p>(iii) information on preventing exposure or transmission of HIV infection, including behavior which poses a risk of HIV transmission; and</p> <p>(iv) an explanation that the test is voluntary, that consent may be withdrawn at any time, and that anonymous testing is available, including the location and telephone numbers of anonymous test sites, and that anonymous testing is not available to persons proposed for insurance coverage.</p> <p>(2) Written informed consent must be executed on a form developed by the Department of Health or on another form approved specifically by the Department of Health.</p> <p>(3) Informed consent is not required in the following situations:</p> <p>(i) for court-ordered testing pursuant to Civil Practice Law and Rules, section 3121;</p> <p>(ii) if otherwise authorized or required by State or Federal law;</p> <p>(iii) for testing related to procuring, processing, distributing or use of a human body or human body part, including organs, tissues, eyes, bones, arteries, blood, semen or other body fluids for use in medical research or therapy, or for transplantation to persons, provided that if the test results are communicated to the tested persons, post-test counseling is required;</p> <p>(iv) for research if the testing is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher; or</p> <p>(v) for testing of a deceased to determine cause of death or for epidemiological purposes.</p> <p>(b) In addition to an explanation of the test result, the person who orders the test shall be responsible for ensuring that post-test counseling or referrals as appropriate with respect to a positive or negative test result shall be provided to the person who consented to the test. In situations</p>

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	<p>in which a person other than the test subject consents for the test, post-test counseling and referrals should also be provided to the test subject, to the extent the person ordering the test deems that the test subject will benefit from counseling. Such post-test counseling and referrals must include specific referral information and must address:</p> <ol style="list-style-type: none"> (1) coping emotionally with the test results; (2) discrimination issues; (3) information on the ability to release or revoke the release of confidential HIV-related information; (4) information on preventing exposure to or transmission of HIV infection and the availability of medical treatment; and (5) the need to notify contacts to prevent transmission, including information on State or county assistance in voluntary contact notification, if appropriate. <p>(c) A physician or other person authorized pursuant to law to order an HIV-related test shall certify on a laboratory requisition form that informed consent has been obtained. Authorized employees or agents of the New York State Department of Health or of the New York City Department of Health may order HIV-related tests and certify, as appropriate, with respect to obtaining informed consent in approved anonymous testing sites.</p>
9 NYCRR 7064.7	<p>Disclosure pursuant to a release</p> <p>(a) No confidential HIV-related information shall be disclosed pursuant to a general release. Disclosure is permitted for HIV-related information pursuant to a specific release form which has been developed or approved by the New York State Department of Health. The release must be signed by the protected individual, or if the protected individual lacks capacity to consent, by a person authorized pursuant to law to consent to health care for the individual.</p> <p>(b) All written disclosures of confidential HIV-related information shall be securely packaged and be accompanied by a statement prohibiting redisclosure. The statement shall include the following language or substantially similar language: "This information has been disclosed to you from confidential records which are protected by State law. State law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of State law may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is not sufficient authorization for further disclosure. Disclosure of confidential HIV information that occurs as the result of a general authorization for the release of medical or other information will be a violation of the State law and may result in a fine or a jail sentence or both."</p> <p>(c) If oral disclosures are necessary, they must be accompanied or followed as soon as possible, but no later than 10 days, by the statement required by subdivision (b) of this section.</p> <p>(d) The statement required by subdivisions (b) and (c) of this section is not required for release to the protected person or to his or her legal</p>

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	<p>representative, for releases made by a physician or public health officer to a contact, or for releases made by a physician to a person authorized pursuant to law to consent to the health care of the protected person when the person has been counseled and the disclosure is medically necessary pursuant to Public Health Law, section 2782(4)(e). For disclosures of confidential HIV-related information from the patient's medical record to persons who are permitted access to this information pursuant to section 7064.8(a)(3), (4), (6), (7), (9) and (10) and section 7064.8(e) and (f) of this Part, it shall be sufficient for the statement required by subdivisions (b) and (c) of this section to appear in the medical record itself.</p>
9 NYCRR 7064.8	<p>Confidentiality and disclosure</p> <p>(a) No person who obtains confidential HIV-related information in the course of providing any health or social service or pursuant to a release of confidential HIV-related information may disclose or be compelled to disclose such information, except to the following:</p> <p>(1) the protected individual or, when the protected individual lacks capacity to consent, a person authorized pursuant to law to consent to health care for the individual;</p> <p>(2) any person to whom disclosure is authorized pursuant to a release of confidential HIV-related information in accordance with section 7064.7(a) of this Part;</p> <p>(3) any agent or employee of a health facility or health care provider if:</p> <p>(i) the agent or employee is authorized to access medical records;</p> <p>(ii) the health facility or health care provider itself is authorized to obtain the HIV-related information; and</p> <p>(iii) the agent or employee provides health care to the protected individual, or maintains or processes medical records for billing or reimbursement.</p> <p>(4) a health care provider or health facility, including a health care provider employed or health facility operated by the Department of Correctional Services, when knowledge of the HIV-related information is necessary to provide appropriate care or treatment to the protected individual or a child of the individual;</p> <p>(5) a health facility or health care provider, in relation to the procurement, processing, distributing or use of a human body or a human body part, including organs, tissues, eyes, bones, arteries, blood, semen, or other body fluids, for use in medical education, research, therapy, or for transplantation to individuals;</p> <p>(6) health facility staff committees, or accreditation or oversight review organizations authorized to access medical records, provided that such committees or organizations may only disclose confidential HIV-related information:</p> <p>(i) back to the facility or provider of a health or social service;</p> <p>(ii) to carry out the monitoring, evaluation, or service review for which it was obtained; or</p> <p>(iii) to a Federal, State or local government agency for the purposes of and subject to the conditions provided in subdivision (e) of this section;</p> <p>(7) a Federal, State, county or local health officer when such disclosure is</p>

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	<p>mandated by Federal or State law;</p> <p>(8) authorized agencies as defined by section 371(10) of the Social Services Law, and corporations incorporated or organized to receive children for adoption or foster care, in connection with foster care or adoption of a child. Such agency shall be authorized to redisclose such information only pursuant to the provisions of article 27-F of the Public Health Law or in accordance with the provisions of section 373-A of the Social Services Law;</p> <p>(9) third-party reimbursers or their agents to the extent necessary to reimburse health care providers, including health facilities, for health services, provided that an otherwise appropriate authorization for such disclosure has been secured;</p> <p>(10) an insurance institution, for other than the purpose set forth in paragraph (9) of this subdivision, provided the insurance institution secures a dated and written authorization that indicates that health care providers, health facilities, insurance institutions, and other persons are authorized to disclose information about the protected individual, the nature of the information to be disclosed, the purposes for which the information is to be disclosed and which is signed by:</p> <p>(i) the protected individual;</p> <p>(ii) if the protected individual lacks the capacity to consent, such other person authorized pursuant to law to consent for such individual; or</p> <p>(iii) if the protected individual is deceased, the beneficiary or claimant for benefits under an insurance policy, a health services plan, or an employee welfare benefit plan as authorized in article 27-F of the Public Health Law;</p> <p>(11) to a funeral director upon taking charge of the remains of a deceased person when such funeral director has access in the ordinary course of business to HIV-related information on the death certificate of the deceased individual as authorized by Public Health Law section 4142;</p> <p>(12) any person to whom disclosure is ordered by a court of competent jurisdiction pursuant to section 2785 of the Public Health Law;</p> <p>(13) an employee or agent of the Division of Parole, Division of Probation and Correctional Alternatives or local probation department, or Commission of Correction, to the extent the employee or agent is authorized to access records containing such information in order to carry out his or her agency's functions, powers, and duties with respect to the protected individual, pursuant to each agency's regulations promulgated in accordance with article 27-F of the Public Health Law;</p> <p>(14) a medical director of a local correctional facility in accordance with the policies and procedures of the correctional facility; and</p> <p>(15) an employee or agent of a provider of health or social services, including but not limited to the Department of Correctional Services and local correctional facilities, when reasonably necessary to provide supervision, monitoring or administration of services and when these employees or agents have access in the ordinary course of business to records relating to the care, treatment, or provision of a health or social service, and in accordance with such provider's regulations promulgated in accordance with article 27-F of the Public Health Law. Disclosure to an employee or agent of a local correctional facility pursuant to this</p>

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	<p>paragraph shall be consistent with section 601 of the Correction Law and Part 7033 of this Chapter and shall be authorized only when such disclosure is necessary to:</p> <p>(i) enable the chief administrative officer to appropriately maintain custody and supervision of the protected person or provide for the safety and protection of the protected person or provide for the safety and protection of staff, other inmates, or the facility; and</p> <p>(ii) the medical director reasonably believes that without disclosure circumstances will exist creating a significant risk of contracting or transmitting HIV infection.</p> <p>(b) A State, county or local health officer may disclose confidential HIV-related information when:</p> <p>(1) disclosure is specifically authorized or required by Federal or State law; or</p> <p>(2) disclosure is made pursuant to a release of confidential HIV-related information; or</p> <p>(3) disclosure is requested by a physician pursuant to subdivision (e) of this section; or</p> <p>(4) disclosure is authorized by court order pursuant to the provisions of section 2785 of the Public Health Law.</p> <p>(c) A physician may disclose the confidential HIV-related information during contact notification pursuant to section 7064.10 of this Part.</p> <p>(d) A physician may, upon the consent of a parent or guardian, disclose confidential HIV-related information to a State, county, or local health officer for the purpose of reviewing the medical history of a child to determine the fitness of the child to attend school.</p> <p>(e) Confidential HIV-related information may be disclosed to a governmental agency or to authorized employees or agents of a governmental agency pursuant to the regulations of the governmental agency when the person providing health services is regulated by the governmental agency or when the governmental agency supervises or administers the health program or a social service program and when such employees or agents have access to records in the ordinary course of business and when access is reasonably necessary for supervision, monitoring, administration or provision of services. Such authorized employees or agency may include attorneys authorized by a government agency when access occurs in the ordinary course of providing legal services and is reasonably necessary for supervision, monitoring, administration or provision of services.</p> <p>(f) Confidential HIV-related information may be disclosed to authorized employees or agents of a person providing health or social services when such person is either regulated by a governmental agency or when a governmental agency administers the health or social service program, and when such employees or agents have access to records in the ordinary course of business and when access is reasonably necessary for supervision, monitoring, administration or provision of services and when such employee or agent has been authorized by law. Such authorized employees or agents may include attorneys authorized by persons providing health services when access occurs in the ordinary course of providing legal services and is reasonably necessary for supervision,</p>

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	<p>monitoring, administration or provision of services.</p> <p>(g) A physician may disclose confidential HIV-related information pertaining to a protected individual to a person, known to the physician, authorized pursuant to law to consent to the health care for a protected individual when the physician reasonably believes that:</p> <p>(1) disclosure is medically necessary in order to provide timely care and treatment for the protected individual; and</p> <p>(2) after appropriate counseling as to the need for such disclosure the protected individual will not inform a person authorized by law to consent to health care; provided, however, that the physician shall not make such disclosure if, in the judgment of the physician:</p> <p>(i) the disclosure would not be in the best interest of the protected individual; or</p> <p>(ii) the protected individual is authorized pursuant to law to consent to such care and treatment.</p> <p>(3) A physician's decision to disclose pursuant to this paragraph, and the basis for that decision, shall be recorded in the medical record.</p> <p>(h) Nothing in this section shall limit a person's or agency's responsibility or authority to report, investigate, or redisclose, child protective and adult protective services information in accordance with title 6 of article 6 and titles 1 and 2 of article 9-B of the Social Services Law, or to provide or monitor the provision of child and adult protective or preventive services.</p> <p>(i) Confidential HIV-related information shall not be disclosed to a health care provider or health care facility if the sole purpose of disclosure is infection control when such provider or facility is regulated under Public Health Law and required to implement infection control procedures pursuant to Department of Health regulation.</p> <p>(j) Confidential HIV-related information shall not be disclosed to a health care provider or health care facility if the sole purpose of disclosure is infection control precautions when such provider or facility is regulated under Public Health Law and required to implement such precautions pursuant to Department of Health regulation. This restriction shall not limit access to HIV-related information by a health care provider's infection control personnel for purposes of fulfilling their designated responsibilities.</p> <p>(k) Confidential HIV-related information disclosed pursuant to this subdivision shall be securely packaged and shall contain the redisclosure statement required by section 7064.7(b) of this Part.</p>
<p>9 NYCRR 7064.9</p>	<p>Documentation of HIV-related information and disclosures</p> <p>(a) Confidential HIV-related information shall be recorded in the medical record such that it is readily accessible to provide proper care and treatment.</p> <p>(b) All disclosures of confidential HIV-related information must be noted in the record, except:</p> <p>(1) only initial disclosures to insurance institutions must be noted;</p> <p>(2) notation is not required for disclosure to agents or employees of health facilities or health care providers authorized under section 7064.8(a)(3) of this Part; and</p>

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	<p>(3) notation is not required for persons engaged in quality assurance, program monitoring or evaluation, nor for governmental payment agents acting pursuant to contract or law.</p> <p>(c) Confidential HIV-related information may be noted in a certificate of death, autopsy report or related documents prepared pursuant to article 41 of the Public Health Law or other laws relating to documentation of cause of death.</p> <p>(d) The protected person shall be informed of disclosures of HIV information upon request of the protected person.</p> <p>(e) Confidential HIV-related information shall not be disclosable pursuant to Public Officers Law, article 6, the Freedom of Information Law.</p>
9 NYCRR 7064.10	<p>Contact notification</p> <p>(a) A physician may disclose HIV-related information, without the protected person's consent, to a contract or to a public health officer when:</p> <p>(1) the physician reasonably believes disclosure is medically appropriate and a significant risk of infection exists; and</p> <p>(2) the protected person has been counseled to notify his/her contacts, has been provided a reasonable opportunity to do so, and the physician reasonably believes the protected person will not inform the contacts.</p> <p>(b) The physician must inform the protected person of the physician's intent to disclose and inform the protected person that he or she may choose whether the physician or public health officer will notify the contact. The physician shall honor the protected person's choice. All notification shall be in person, except where circumstances compel otherwise.</p> <p>(c) The identity of the protected person shall not be disclosed to the contact.</p> <p>(d) When a public health officer is requested to notify contacts, the officer shall meet with the protected person, unless conditions prevent it, to counsel and verify information prior to any notification of such person's contacts. Local health units must provide HIV contact notification services.</p> <p>(e) The person notifying the contact shall provide counseling or make referrals for counseling as appropriate. Such counseling must address coping emotionally with potential exposure to HIV, an explanation regarding the nature of HIV infection and HIV-related illness, availability of anonymous and confidential testing, information on preventing exposure or transmission of HIV infection, information regarding problems that might occur as the result of disclosure of HIV-related information, and the legal protections against such disclosures.</p> <p>(f) If a protected person is now deceased and the physician reasonably believes the protected person had not informed his/her contacts and reasonably believes disclosure is medically appropriate and that a significant risk of infection exists, the physician may notify the contact or request the public health officer to notify the contact. All such notifications shall be in person, except where circumstances reasonably prevent doing so, and the identity of the deceased shall not be disclosed.</p> <p>(g) A physician shall have no obligation to identify or locate any contact.</p>

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9 NYCRR 7064.11	<p>Penalties and immunities</p> <p>(a) Any person who shall: (1) perform, permit, or procure the performance of an HIV-related test in violation of section 2781 of the Public Health Law; or (2) disclose, compel another person to disclose, or procure the disclosure of confidential HIV-related information in violation of section 2782 of the Public Health Law shall be subject to a civil penalty not to exceed \$5,000 for each occurrence. Such penalty may be recovered in the same manner as the penalty provided in section 12 of the Public Health Law. (b) Any person who willfully commits an act enumerated in subdivision (a) of this section shall be guilty of a misdemeanor and subject to the penalties provided in section 12-b of the Public Health Law.</p>
9 NYCRR 7064.12	<p>Approved forms; informed consent, release</p> <p>(a) Each local correctional facility shall maintain an adequate supply of forms approved by the New York State Department of Health for the purpose of informed consent relative to any HIV-related test and authorization for release of confidential HIV-related information. (b) Such forms shall be used pursuant to the requirements of article 27-F of the Public Health Law and this Part.</p>
9 NYCRR 7201.1	<p style="text-align: center;">TITLE 9. EXECUTIVE DEPARTMENT SUBTITLE AA. STATE COMMISSION OF CORRECTION CHAPTER II. MISCELLANEOUS PART 7201. CONFIDENTIALITY OF HUMAN IMMUNODEFICIENCY VIRUS- RELATED INFORMATION</p> <p>Policy</p> <p>Consistent with the requirements of Public Health Law, article 27-F, its implementing regulations, Part 7064 of this Title, and this Part, the commission shall obtain, retain and disclose only such HIV- and AIDS-related information as is relevant and necessary to accomplish the mandates of the commission and as authorized by article 3 of the Correction Law, Executive Order, or any other statutory provision.</p>
9 NYCRR 7201.3	<p>Confidentiality and disclosure</p> <p>Confidential HIV-related information obtained by any person in the discharge of their official duties or in the course of their employment by or appointment to the commission, or by any member or agent thereof, or any member of the medical review board or member of the citizens' policy and complaint review council may be disclosed only pursuant to Public Health Law, article 27-F, its implementing regulations, Part 7064 of this Title, and this Part.</p>
9 NYCRR 7201.4	<p>Access to HIV-related information</p> <p>(a) Confidential HIV- and AIDS-related information shall only be made available to and received and retained by the commission to the extent relevant and necessary to accomplish the mandates of the commission as authorized by article 3 of the Correction Law, executive order or any</p>

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	<p>statutory provision.</p> <p>(b) Confidential HIV- and AIDS-related information shall be received by, made available to, or retained only by the following and only to the extent necessary to carry out the express functions, powers and duties of the commission:</p> <p>(1) members of the commission or, as set forth in a written authorization specifically issued for the purpose, their designees;</p> <p>(2) counsel to the commission or, as necessary to carry out the express functions, powers and duties of the commission, assistant counsels to the commission;</p> <p>(3) members of the medical review board and commission staff acting on behalf of such board as necessary in order to carry out the express functions, powers and duties of the board; and</p> <p>(4) members of the citizens' policy and complaint review council and commission staff acting on behalf of such council as necessary in order to carry out the express functions, powers and duties of the council.</p> <p>(c) Redisdisclosure by the commission.</p> <p>(1) All written disclosures of confidential HIV information must be accompanied by a statement prohibiting redisdisclosure. The statement shall include the following language or substantially similar language: "This information has been disclosed to you from confidential records which are protected by State law. State law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of State law may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is not sufficient authorization for further disclosure. Disclosure of confidential HIV information that occurs as the result of a general authorization for the release of medical or other information will be a violation of the State law and may result in a fine or jail sentence or both."</p> <p>(2) If oral disclosures are necessary, they must be accompanied or followed as soon as possible, but no later than 10 days, by the statement required by paragraph (1) of this subdivision.</p> <p>(3) The statement required by paragraphs (1) and (2) of this subdivision is not required for release to the protected person or to his or her legal representative, for releases made by a physician or public health officer to a contact, or for releases made by a physician to a person authorized pursuant to law to consent to the health care of the protected person when the person has been counselled and the disclosure is medically necessary pursuant to Public Health Law, section 2782(4)(e). For disclosures of confidential HIV-related information from the patient's medical record to persons who are permitted access to the information pursuant to section 7064.8(a)(3), (4), (6), (7), (9) and (10) and (e) and (f) of this Title, it shall be sufficient for the statement required by paragraphs (1) and (2) of this subdivision to appear in the medical record itself.</p>
9 NYCRR 7201.5	<p>Intra-agency confidentiality</p> <p>(a) No employee, agent or member of the commission or any member of</p>

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	<p>the citizens' policy and complaint review council or member of the medical review board shall have access to health information relating to any identified person, including confidential HIV-related information on any person, except in connection with the following activities:</p> <p>(1) investigation into the death of any inmate pursuant to article 3 of the Correction Law;</p> <p>(2) investigation or evaluation of health care in any correctional facility;</p> <p>(3) monitoring and providing technical assistance to any correctional facility or operator thereof;</p> <p>(4) maintenance of statistical data as authorized by law;</p> <p>(5) research studies approved by the commission;</p> <p>(6) as necessary in the ordinary course of business to provide legal services to the commission; and</p> <p>(7) as otherwise relevant and necessary to carry out the express statutory functions, powers and duties of the commission.</p> <p>(b) No employee, agent, or member of the commission, or any member of the citizens' policy and complaint review council or member of the medical review board, who has access to confidential HIV-related information shall disclose such information to any other person unless such person also has access to confidential HIV-related information as described in this Part, section 7064 of this Title, or as authorized by Public Health Law, article 27-F or its implementing regulations.</p> <p>(c) Each employee of the State Commission of Correction who is given authorized access to the commission's records of an identified person that contain HIV-related information shall:</p> <p>(1) be advised in writing that such person shall not:</p> <p>(i) examine documents containing HIV-related information unless required to do so in the course of his or her official duties;</p> <p>(ii) remove or copy any such documents unless he or she is acting within the scope of his or her assigned duties; or</p> <p>(iii) discuss the content of any such documents with any person unless that person is authorized to have access to such documents;</p> <p>(2) sign a statement attesting that he or she has read the above restrictions and stating that he or she understands that violation may lead to disciplinary action, including suspension or dismissal from employment and that such violation may be against New York State law and lead to arrest and criminal prosecution.</p>
<p>9 NYCRR 8011.1</p>	<p style="text-align: center;">TITLE 9. EXECUTIVE DEPARTMENT SUBTITLE CC. DIVISION OF PAROLE Best Section Begin PART 8011. CONFIDENTIALITY OF HIV- AND AIDS-RELATED INFORMATION</p> <p>Purpose</p> <p>It is the responsibility and the intent of the division to adopt regulations pursuant to the HIV- and AIDS-Related Information Act (Public Health Law, article 27-F). All officers, employees, and agents of the division shall at all times maintain the confidentiality of any HIV-related information in their possession, in accordance with the requirements of</p>

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	the statute and this Part.
9 NYCRR 8011.2	<p>Definitions</p> <p>When used in this Part:</p> <p>(a) AIDS means acquired immune deficiency syndrome, as may be defined from time to time by the centers for disease control (CDC) of the United States Public Health Service.</p> <p>(b) HIV infection means infection with the human immunodeficiency virus or any other related virus identified as a probable causative agent of AIDS.</p> <p>(c) HIV-related illness means any illness that may result from or may be associated with HIV infection.</p> <p>(d) HIV-related test means any laboratory test or series of tests for any virus, antibody, antigen or etiologic agent whatsoever thought to cause or to indicate the presence of AIDS.</p> <p>(e) Protected individual means a person who is the subject of an HIV-related test or who has been diagnosed as having HIV infection, AIDS or HIV-related illness.</p> <p>(f) Confidential HIV-related information means any information concerning whether an individual has been the subject of an HIV-related test, or has HIV infection, HIV-related illness or AIDS, or information which identifies or reasonably could identify an individual as having one or more of such conditions, including information pertaining to such individual's contacts, when such information is in the possession of a provider of one or more health or social services or has been obtained pursuant to a release of confidential HIV-related information. Parole services provided by the division are health or social services pursuant to Public Health Law, section 2780(8). When such information is in the possession of an authorized officer, employee or agent of the division, the provisions of these regulations apply regardless of whether the information has been obtained by consent, by authorized disclosure pursuant to the provisions of the HIV- and AIDS-Related Information Act (Public Health Law, article 27-F), or in any other manner, including from unofficial sources or through unofficial communications.</p> <p>(g) Authorized officer or employee means an officer or employee of the division who is permitted to have access to confidential HIV information; such individuals, described more specifically in section 8011.4 of this Part, are those officers and employees who, in the performance of their duties for the division, need to have access to records or information relating to the care of, treatment of, or administration or provision of parole services to, protected individuals.</p> <p>(h) Authorized agent means:</p> <p>(1) an entity that has contracted with the division to provide treatment or parole services to parolees, or an employee of such entity, provided that the entity, or the employee, needs to know confidential HIV-related information in order to provide the contracted for service; and</p> <p>(2) attorneys providing legal services to the division, its officers, or employees provided that access occurs in the ordinary course of providing legal services and is reasonably necessary for the provision of legal services.</p>

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	<p>(i) Need to know means that knowledge of confidential HIV-related information is reasonably necessary in order to provide appropriate treatment or parole services to recipients of such services, or to audit, monitor or supervise the provision of such services, or to administer or plan the provision of such services on an individual, regional or statewide planning basis.</p> <p>(j) Treatment or parole services means services provided to inmates or releasees by officers, employees or agents of the division pursuant to article 12-B of the Executive Law, officers or employees of the United States Parole Commission, or parole officers of another state pursuant to article 12-B of the Executive Law.</p> <p>(k) Release of confidential HIV-related information means a written authorization for disclosure of confidential HIV-related information which complies with the requirements of PHL, section 2780(9). Any such release obtained from a protected individual by any officer or employee of the division shall be obtained only by using Department of Health approved form (see subdivision [r] of this section)--Division of Parole form 4136.</p> <p>(l) Contact means an identified spouse or sex partner of the protected individual or a person identified as having shared hypodermic needles or syringes with the protected individual.</p> <p>(m) Health care provider means any physician, nurse, provider of services for the mentally disabled as defined in article one of the Mental Hygiene Law, or other person involved in providing medical, nursing, counseling or other health care or mental health service, including those associated with, or under contract to, a health maintenance organization or medical services plan. As used in this Part, the term includes the medical director of a State correctional facility, and also includes any physician providing any officer, employee or agent of the division with a confirmed diagnosis of AIDS, HIV infection or HIV-related illness.</p> <p>(n) Capacity to consent means an individual's ability, determined without regard to such individual's age, to understand and appreciate the nature and consequences of a proposed health care service, treatment or procedure, and to make an informed decision concerning such service, treatment, or procedure.</p> <p>(o) Significant risk of transmitting or contracting HIV infection or significant risk means the circumstances set forth in regulations promulgated by the Department of Health at 10 NYCRR section 63.9. Those provisions are summarized as follows. The following body fluids and substances are currently considered to be significant risk body substances: blood, semen, vaginal secretions, breast milk, tissue, cerebrospinal fluid, amniotic fluid, peritoneal fluid, synovial fluid, pericardial fluid, and plueral fluid. The following circumstances constitute significant risk of transmitting or contracting HIV infection:</p> <p>(1) sexual contact which exposes a mucous membrane or broken skin to blood, semen or vaginal secretions of an infected individual;</p> <p>(2) sharing of needles or other paraphernalia used for preparing and injecting drugs between infected and noninfected individuals;</p> <p>(3) the gestation, birthing or breast feeding of an infant when the mother is infected with HIV;</p>

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	<p>(4) transfusion or transplantation of blood, organs, or other tissues obtained from an infected individual to an uninfected individual, provided that such products have not tested negatively for antibody or antigen and have not been rendered noninfective by heat or chemical treatment; and</p> <p>(5) other circumstances, not identified in paragraphs (1) through (4) of this subdivision, during which a significant risk body substance (other than breast milk) of an infected person contacts mucous membranes (e.g., eyes, nose, mouth) or nonintact skin (e.g., open wound, dermatitis, abraded areas) or the vascular system of a non-infected person.[FN1]</p> <p>(p) Confirmed diagnosis means confirmation provided by an authorized laboratory that an individual has AIDS, HIV-related illness, or HIV infection.</p> <p>(q) Universal precautions means the use of scientifically accepted protective barriers and preventive practices in circumstances which involve, or may involve, exposure to significant risk body substances or potentially contaminated implements which may cause puncture wounds.</p> <p>(r) Form 4136--authorization for release of confidential HIV-related information.</p> <p>Authorization for Release of Confidential HIV [FN*] Related Information Confidential HIV-Related Information is any information indicating that a person had an HIV-related test, or has HIV infection, HIV-related illness, or AIDS, or any information which could indicate that a person has been potentially exposed to HIV.</p> <p>Under New York State Law, except for certain people, confidential HIV-related information can only be given to persons you allow to have it by signing a release. You can ask for a list of people who can be given confidential HIV-related information without a release form.</p> <p>If you sign this form, HIV-related information can be given to the people listed on the form, and for the reason(s) listed on the form. You do not have to sign the form, and you can change your mind at any time.</p> <p>If you experience discrimination because of release of HIV related information, you may contact the New York State Division of Human Rights at (212) 870-8624 or the New York City Commission of Human Rights at (212) 566-5493. These agencies are responsible for protecting your rights.</p> <p>Name of person whose HIV-related information will be released: _____</p> <p>Name and address of person signing this form (of other than above): _____</p> <p>Relationship to person whose HIV information will be released: _____</p> <p>Reason for release of HIV-related information: _____</p> <p>Time during which release is authorized: From: To: _____</p> <p>My questions about this form have been answered. I know that I do not have to allow release of HIV- related information, and that I can change</p>

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	<p>my mind at any time.</p> <p>_____</p> <p>Date</p> <p>_____</p> <p>Signature</p> <p>_____</p> <p>Division of Parole Form 4136</p> <p>[FN1] The following do not constitute significant risk: exposure to urine, feces, sputum, nasal secretions, saliva, sweat, tears or vomitus that does not contain visible blood; human bites where there is no direct blood to blood or blood to mucous membrane contact; exposure of intact skin to blood or any other body substance.</p> <p>[FN*] Human Immunodeficiency Virus that causes AIDS</p>
9 NYCRR 8011.3	<p>Antidiscrimination.</p> <p>(a) It is the policy of the division that the division and its officers, employees and agents shall not discriminate against any individual by virtue of his or her being identified as, or suspected of, having AIDS, HIV infection, or HIV-related illness.</p> <p>(b) The policy set forth in subdivision (a) of this section shall not be construed to prevent differential treatment of inmates or releasees on account of HIV status or current medical condition, provided that such differential treatment is necessary in order to provide adequate and appropriate treatment or parole services for individuals identified as having AIDS, HIV infection or HIV-related illness.</p> <p>(c) The division will take appropriate steps to make its authorized officers, employees and agents aware of the division's policy as set forth in this section. All officers, employees and agents of the division shall act in a manner consistent with this policy when performing their official duties for the division.</p>
9 NYCRR 8011.4	<p>Access to confidential HIV-related information.</p> <p>The following employees of the division are considered authorized employees who may have access to confidential HIV-related information on a need to know basis, as set forth in this section.</p> <p>(a) Any parole officer assigned to, or any other employee providing treatment or parole services for, a particular case, and any parole officer who is covering a case for the regularly assigned parole officer and who needs access to the parole file in order to perform whatever duties are necessary to cover the case, may have access to any confidential HIV-related information contained in the parole file for that case;</p> <p>(b) Other staff who make entries in case folders or electronic records may have access to confidential HIV-related information, but only to the extent that they actually make entries relating to the provision of treatment or parole services;</p> <p>(c) The direct line casework supervisor (this will ordinarily be the senior parole officer, but may be any other individual performing that function,</p>

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	<p>regardless of actual title) may have access, on a need to know basis, to confidential HIV-related information contained in the parole file for any case for which that direct line supervisor performs any supervisory duties.</p> <p>(d) All supervisors in the direct line of supervision, and any officer or employee performing a planning, monitoring, administrative oversight, litigation or casework assistance function, may have access to any confidential HIV-related information contained in a particular parole file, provided that access to the parole file is reasonably necessary in order to carry out an appropriate supervisory, planning, monitoring, administrative oversight, litigation or casework assistance function. The direct line of supervision will ordinarily include the area supervisor, deputy regional director, regional director and the director of operations, or any other officer or employee designated to perform an equivalent supervisory function, regardless of actual title. Access to the parole file, and to any confidential HIV-related information contained in the file, will be on a need to know basis.</p> <p>(e) Members of the Board of Parole.</p>
9 NYCRR 8011.5	<p>Confidentiality</p> <p>(a) No authorized officer or employee or agent of the division who obtains confidential HIV- related information in the course of performing his or her duties as an officer, employee or agent of the division may disclose such information except in accordance with the provisions of the HIV- and AIDS-Related Information Act (Public Health Law, article 27-F) and the provisions of these regulations.</p> <p>(b) It is the policy of the division that disclosure of confidential HIV-related information should, whenever possible, be made pursuant to the consent of the protected individual, and all reasonable steps, including appropriate counseling, should be taken to obtain consent. Once consent has been obtained, a release form that complies with the requirements of PHL, article 27-F is to be executed, and disclosure may then be made in accordance with that release. Only Department of Health approved form 4138 is to be used as a release form for disclosure of confidential HIV-related information. The provisions of this subdivision shall not apply to disclosures made for the purpose of defending litigation against the division, its officers or employees.</p> <p>(c) In the absence of consent, disclosure may be made only to the following, and, except for disclosure pursuant to paragraph (1) of this subdivision, disclosure by parole officers and senior parole officers may be made only with the written approval of the area supervisor or designee or a parole services program specialist, such written approval to be placed in the parolee's file:</p> <p>(1) an authorized officer or employee of the division, as defined in section 8011.2(g) of this Part;</p> <p>(2) an authorized agent of the division, as defined in section 8011.2(h) of this Part, if disclosure is necessary to permit the agent to carry out his, her or its functions for the division;</p> <p>(3) officers or employees of parole authorities of another state, or the United States Parole Commission, when such officers or employees are</p>

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	<p>providing treatment or parole services pursuant to article 12-B of the Executive Law;</p> <p>(4) a health care provider, but only when knowledge of the HIV-related information is necessary to provide care or treatment to the protected individual; for purposes of these regulations, disclosure to the medical director of the appropriate state correctional facility, or appropriate medical staff at a Division for Youth facility, is deemed to be necessary for any parole violator returned to the custody of the State Department of Correctional Services or the State Division for Youth;</p> <p>(5) the medical director of a local correctional facility whenever a parole violator is being lodged at that correctional facility;</p> <p>(6) any person to whom disclosure is ordered by a court of competent jurisdiction; and</p> <p>(7) any person not listed in this subdivision, to whom disclosure is authorized pursuant to PHL, section 2782.1(a) through (o).</p> <p>(d) Any disclosure, except disclosures pursuant to paragraph (c)(1) of this section, must be accompanied or followed by a written statement prohibiting further disclosure. Form 4137, a copy of which appears in subdivision (i) of this section, is to be used for this purpose.</p> <p>(e) All disclosures, except disclosures pursuant to paragraph (c)(1) of this section, are to be appropriately documented in the case folder of the protected individual, who shall be informed of such disclosures upon request.</p> <p>(f) No flags on case folders, lists on walls, or other similar public displays shall be used to indicate clients with HIV infection. This shall not be construed to prevent the existence of specialized caseloads.</p> <p>(g) Confidential HIV-related information shall not be disclosed in response to a request under the Freedom of Information Law (Public Officers Law, article 6) or in response to a subpoena. A court order issued pursuant to Public Health Law, section 2785 is required.</p> <p>(h) The division will take appropriate steps to make all authorized officers, employees and agents aware of the provisions of the HIV- and AIDS-Related Information Act (PHL, article 27-F) concerning confidentiality of HIV-related information and the division's rules regarding confidentiality of records. All authorized officers, employees and agents of the division shall at all times maintain the confidentiality of any confidential HIV-related information in their possession.</p> <p>(i) Form 4137--HIV information disclosure form.</p> <p style="text-align: center;">NEW YORK STATE</p> <p style="text-align: center;">DIVISION OF PAROLE</p> <p>This information has been disclosed to you from confidential records which are protected by state law. State law prohibits you from making any further disclosures of this information without specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of state law may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is not sufficient authorization for</p>

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	further disclosure.
9 NYCRR 8011.6	<p>Records control</p> <p>(a) The division will ensure the security of files which may contain confidential HIV-related information. All officers, employees and agents of the division in possession of, or having access to, confidential HIV-related information shall at all times maintain the security of all records that contain confidential HIV- related information.</p> <p>(b) The division will ensure that any secondary reports, presentations or statistical compilations that include or refer to confidential HIV-related information will, to the extent possible, minimize the use of names of, or other information tending to identify, protected individuals. With respect to documents that must identify a releasee by name, the division will ensure that confidential HIV-related information is included in such a document only if, and to the extent, necessary.</p>
9 NYCRR 8011.7	<p>Provision of confidential HIV-related information to authorized officers and employees of the division.</p> <p>(a) The Department of Correctional Services, and the medical directors of its correctional facilities, in accordance with the provisions of Executive Law, section 259-1 and Public Health Law, section 2782(1)(I), may provide confidential HIV-related information to the authorized officers and employees of the division described in section 8011.4 of this Part, without the consent of the protected individual. Any such confidential HIV-related information will be subject to the limitations on disclosure imposed by PHL, article 27-F and this Part.</p> <p>(b) The medical director of a local correctional facility, in accordance with the provisions of Public Health Law, section 2782(1)(I), may provide confidential HIV-related information to the authorized officers and employees of the division described in section 8011.4 of this Part, without the consent of the protected individual. Any such confidential HIV-related information will be subject to the limitations on disclosure imposed by PHL, article 27-F and these regulations.</p> <p>(c) The Division for Youth, in accordance with the provisions of Public Health Law, section 2782.1(1), may provide confidential HIV-related information with respect to juvenile offenders to the authorized officers and employees of the division described in section 8011.4 of of this Part, without the consent of the protected individual. Any such confidential HIV-related information will be subject to the limitations on disclosure imposed by PHL, article 27-F and these regulations.</p> <p>(d) A provider of a health or social service (including but not limited to those entities that provide treatment or parole services to releasees, whether by contract with the division or otherwise) which provides health or social services to releasees, may provide confidential HIV-related information to the authorized officers and employees of the division described in section 8011.4 of this Part, without the consent of the protected individual. Any such confidential HIV-related information will be subject to the limitations on disclosure imposed by PHL, article 27-F and this Part.</p>
9 NYCRR 8011.8	Protecting contacts when there is a significant risk of contracting

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	<p>or transmitting HIV infection</p> <p>(a) The division will seek to protect individuals in contact with protected individuals, when such contact creates a significant risk of contracting or transmitting HIV infection through the exchange of significant risk body substances, as defined by the Department of Health and in section 8011.2(o) of this Part.</p> <p>(b) The following procedures will be adopted with respect to employees:</p> <p>(1) Employees will be instructed to use universal precautions in situations where there is the potential for exchange of significant risk body substances as defined by the Department of Health and in section 8011.2(o) of this Part.</p> <p>(2) Appropriate protective clothing and equipment will be kept at an identified location at each work site.</p> <p>(3) Each work site is to develop its own protocol, which is to be posted in areas accessible to all employees, for obtaining medical assistance for emergency situations.</p> <p>(4) In the event of a work related potential exposure reported to the division (e.g., a needle stick), an employee involved in the potential exposure is to be referred to the employee health service for counseling and appropriate medical treatment.</p> <p>(5) The division will promulgate risk reduction guidelines specific to the parole context and will ensure that all employees receive a copy of the guidelines and training with respect to the guidelines.</p> <p>(c) The following procedures will be adopted with respect to members of the public who are potential contacts of releasees.</p> <p>(1) The families and/or individuals with whom a post-release residence is proposed, of all releasees, will be provided with information which will enable such individuals to make informed decisions regarding behavior that may limit the risk of contracting or transmitting AIDS. Such information will be made available to the families, or persons with whom a residence is proposed, of all releasees, regardless of the division's knowledge of the releasee's HIV status, and recipients of information will be advised that information packets are being provided to all families, regardless of a particular releasee's HIV status. Such information will consist of literature available to the division for distribution, whether of a general informational nature, or specifically tailored to the parole context.</p> <p>(2) All releasees will be counseled to behave in ways that minimize the risk of contracting or transmitting HIV infection. Those releasees known to have a confirmed diagnosis of AIDS, HIV-related illness or HIV infection will be counseled with a view to encourage them to inform their families, or persons with whom a residence is proposed, and any contacts as defined in section 8011.2(l) of this Part, of their HIV status for the purposes of limiting infection. A releasee who has told parole staff that he or she plans to notify a contact will also be encouraged to execute a release of confidential HIV-related information permitting disclosure to contact(s) so that authorized employees of the division may participate in any discussions with the protected individual and his or her contacts that may occur in the course of parole supervision and that may involve</p>

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	<p>confidential HIV-related information.</p> <p>(3) In the event that a releasee known to have a confirmed diagnosis of AIDS, HIV-related illness or HIV infection has been counseled in accordance with paragraph (2) of this subdivision, and the releasee refuses to execute a consent for release of confidential HIV-related information to contacts, and the parole officer or other employee providing treatment or parole services has an articulable factual basis for believing that there is a known contact at significant risk of contracting HIV infection from the releasee and that the releasee will not inform the said contact of the releasee's HIV status, then the parole officer may, in accordance with policies and procedures of the division, request that an application be made for a court order permitting disclosure of confidential HIV-related information pursuant to Public Health Law, section 2785.</p>
9 NYCRR 8011.9	<p>Severability</p> <p>If any provision of this Part or the application thereof to any person or circumstance is judged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of this Part or the application thereof to other persons and circumstances.</p>

New York Codes, Rules and Regulations – Title 10: Department of Health

<p>Title 10 NYCRR</p>	<p>Code Language</p>
<p>10 NYCRR 52-3.6</p>	<p style="text-align: center;">TITLE 10. DEPARTMENT OF HEALTH CHAPTER II. ADMINISTRATIVE RULES AND REGULATIONS SUBCHAPTER C. ACCESS TO RECORDS PART 52. TISSUE BANKS AND NONTRANSPLANT ANATOMIC BANKS SUBPART 52-3. GENERAL TECHNICAL STANDARDS FOR TISSUE BANKS</p> <p>HIV antibody testing and notification</p> <p>No tissue bank shall inform any tissue donor or consenting next-of-kin of the results of HIV antibody testing solely on the basis of the enzyme-linked immunosorbent assay (ELISA) or other screening test for HIV antibodies unless such results are negative. Any reactive screening test shall be repeated in duplicate. If two or more separate screening tests are reactive, the sample shall be considered repeatedly reactive. Notification that a donor is positive shall be made only if the results have been reactive or equivocal for more than one screening test and the confirmatory HIV test has been unequivocally reactive. HIV test results that are substantiated as positive shall be reported to living donors. Equivocal or negative results based on confirmatory testing may be reported to the donor, if living, or person legally authorized to consent on behalf of such donor, provided that the person is not informed that the donor is seropositive. Appropriate counseling of living donors or the consenting next-of-kin regarding the significance of all test results shall be made available or arranged for by the comprehensive tissue procurement service. Reporting of any HIV results to living donors or consenting next-of-kin, other than results of negative screening tests, shall be conducted in person, unless repeated efforts to encourage the individual(s) to come in have failed, in which case notification may be made by certified restricted delivery mail.</p>
<p>10 NYCRR 52-4.7</p>	<p style="text-align: center;">TITLE 10. DEPARTMENT OF HEALTH CHAPTER II. ADMINISTRATIVE RULES AND REGULATIONS SUBCHAPTER C. ACCESS TO RECORDS PART 52. TISSUE BANKS AND NONTRANSPLANT ANATOMIC BANKS SUBPART 52-4. CARDIOVASCULAR TISSUE BANKS</p> <p>Required laboratory tests on donors and donated tissue.</p> <p>All required clinical laboratory testing shall be performed by a laboratory operating under a permit issued by the department. For out-of-state cardiovascular tissue procurements, all required clinical laboratory testing shall be performed by a laboratory which is approved by that state's regulatory authority, the United States Health Care Financing Administration, or by the department.</p> <p>(a) Blood samples from all allogeneic cardiovascular tissue donors shall</p>

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	<p>be tested for antibodies to human immunodeficiency virus type 1 (HIV-1), human immunodeficiency virus type 2 (HIV-2), human T-lymphotropic virus type I (HTLV-I), and hepatitis C virus (HCV), as well as for hepatitis B surface antigen (HBsAg) and for syphilis, for purposes of donor selection.</p> <p>(b) Testing of each cardiovascular tissue unit for aerobic and anaerobic contamination from each retrieval site shall be performed prior to final packaging, using standard laboratory procedures. Whenever fresh tissue is transplanted, the results of cultures shall be made available to the transplantation surgeon on a daily basis until the final reading has been completed.</p> <p>(c) All cardiovascular tissue from living donors intended for allogeneic use shall be quarantined for six months. After such time and prior to distribution of the tissue for transplantation, the donor shall be retested for HBsAg and antibodies to HCV, HIV-1 and HIV-2 and tested for antibodies to hepatitis B core antigen (anti-HBc).</p>
10 NYCRR 52-5.7	<p style="text-align: center;">TITLE 10. DEPARTMENT OF HEALTH CHAPTER II. ADMINISTRATIVE RULES AND REGULATIONS SUBCHAPTER C. ACCESS TO RECORDS PART 52. TISSUE BANKS AND NONTRANSPLANT ANATOMIC BANKS SUBPART 52-5. MUSCULOSKELETAL TISSUE BANKS</p> <p>Required laboratory tests on donors and donated tissue.</p> <p>All required clinical laboratory testing shall be performed by a laboratory operating under a permit issued by the department. For out-of-state musculoskeletal tissue procurements, all required clinical laboratory testing shall be performed by a laboratory which is approved by that state's regulatory authority, the United States Health Care Financing Administration, or by the department.</p> <p>(a) Blood samples from all allogeneic musculoskeletal tissue donors shall be tested for antibodies to human immunodeficiency virus type 1 (HIV-1), human immunodeficiency virus type 2 (HIV-2), and hepatitis C virus (HCV), as well as for hepatitis B surface antigen (HBsAg) and for syphilis, and, unless the tissue is to be virally inactivated, antibodies to human T-lymphotropic virus type I (HTLV-I), for purposes of donor selection.</p> <p>(b) Testing of each musculoskeletal tissue unit for aerobic and anaerobic contamination shall be performed prior to final packaging, using standard laboratory procedures. Whenever fresh tissue is transplanted, the results of cultures shall be made available to the transplantation surgeon on a daily basis until the final reading has been completed.</p> <p>(c) All musculoskeletal tissue from living donors intended for allogeneic use shall be quarantined for six months. After such time and prior to</p>

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	distribution of the tissue for transplantation, the donor shall be retested for HBsAg and antibodies to HCV, HIV-1 and HIV-2 and tested for antibodies to hepatitis B core antigen (anti-HBc).
10 NYCRR 52-6.7	<p style="text-align: center;">TITLE 10. DEPARTMENT OF HEALTH CHAPTER II. ADMINISTRATIVE RULES AND REGULATIONS SUBCHAPTER C. ACCESS TO RECORDS PART 52. TISSUE BANKS AND NONTRANSPLANT ANATOMIC BANKS SUBPART 52-6. SKIN BANKS</p> <p>Required laboratory tests on donors and donated tissue.</p> <p>All required clinical laboratory testing shall be performed by a laboratory operating under a permit issued by the department. For out-of-state skin procurements, all required clinical laboratory testing shall be performed by a laboratory which is approved by that state's regulatory authority, the United States Health Care Financing Administration, or by the department.</p> <p>(a) Blood samples from all allogeneic skin donors shall be tested for antibodies to human immunodeficiency virus type 1 (HIV-1), human immunodeficiency virus type 2 (HIV-2), and hepatitis C virus (HCV), as well as for hepatitis B surface antigen (HBsAg) and for syphilis, and, unless the tissue is to be virally inactivated, antibodies to human T-lymphotropic virus type I (HTLV-I), for purposes of donor selection.</p> <p>(b) Microbial testing of skin from each anatomical site for aerobic and anaerobic contamination shall be performed using standard laboratory procedures. Whenever fresh skin is transplanted, the results of cultures shall be made available to the transplantation surgeon on a daily basis until the final reading has been completed.</p> <p>(c) All skin tissue from living donors intended for allogeneic use shall be quarantined for at least six months. After such time and prior to the distribution of the tissue for transplantation, the donor shall be retested for HBsAg and antibodies to HCV, HIV-1 and HIV-2 and tested for antibodies to hepatitis B core antigen (anti-HBc).</p>
10 NYCRR 52-7.7	<p style="text-align: center;">TITLE 10. DEPARTMENT OF HEALTH CHAPTER II. ADMINISTRATIVE RULES AND REGULATIONS SUBCHAPTER C. ACCESS TO RECORDS PART 52. TISSUE BANKS AND NONTRANSPLANT ANATOMIC BANKS SUBPART 52-7. EYE BANKS</p> <p>Required laboratory tests on donors and donated tissue.</p> <p>All required clinical laboratory testing shall be performed by a laboratory operating under a permit issued by the department. For out-of-state</p>

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	<p>tissue procurements, all required clinical laboratory testing shall be performed by a laboratory which is approved by that state's regulatory authority, the United States Health Care Financing Administration, or by the department.</p> <p>(a) Blood samples from all allogeneic ocular tissue donors shall be tested for antibodies to human immunodeficiency virus type 1 (HIV-1), human immunodeficiency virus type 2 (HIV-2) and hepatitis C virus (HCV), as well as for hepatitis B surface antigen (HBsAg), for purposes of donor selection.</p> <p>(b) All ocular tissue from living donors, except corneal tissue, shall be quarantined for six months. After such time and prior to the distribution of the tissue for transplantation, the donor shall be retested for HBsAg and antibodies to HCV, HIV-1 and HIV-2 and tested for antibodies to hepatitis B core antigen (anti-HBc).</p>
10 NYCRR 52-8.6	<p style="text-align: center;">TITLE 10. DEPARTMENT OF HEALTH CHAPTER II. ADMINISTRATIVE RULES AND REGULATIONS SUBCHAPTER C. ACCESS TO RECORDS PART 52. TISSUE BANKS AND NONTRANSPLANT ANATOMIC BANKS SUBPART 52-8. REPRODUCTIVE TISSUE BANKS</p> <p>Required laboratory tests.</p> <p>(a) For reproductive tissue banks located within New York State, all required clinical laboratory testing shall be performed by a laboratory operating under a permit issued by the department. For out-of-state reproductive tissue banks, all required clinical laboratory testing shall be performed by a laboratory which is approved by that state's regulating authority, the United States Health Care Financing Administration, or by the department.</p> <p>(b) The following laboratory tests shall be performed prior to donor acceptance and, except as specified in subdivision (g) of this section, initial collection of donor semen for clinical use:</p> <ol style="list-style-type: none"> (1) Blood shall be tested for: <ol style="list-style-type: none"> (i) determination of ABO and Rh blood groups; and (ii) antibodies to HIV-1, human immunodeficiency virus type 2 (HIV-2), human T-lymphotropic virus type I (HTLV-I), hepatitis B core antigen (HBc), and to hepatitis C virus (HCV), and for hepatitis B surface antigen (HBsAg) and syphilis. (2) Semen or a urethral specimen shall be tested for infection with <i>Neisseria gonorrhoeae</i>, and urine or a urethral specimen shall be tested for infection with <i>Chlamydia trachomatis</i> using a method that meets standards generally accepted by leading authorities in laboratory medicine. (3) Semen shall be tested for sperm quality as measured against criteria set by the director in consultation with the medical director and

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	<p>medical advisory committee, including such parameters as ejaculate volume and sperm motility, concentration, morphology and cryosensitivity, including a post-thaw analysis. Sperm quality tests shall be repeated at a frequency determined by the director.</p> <p>(c) All tests for infectious diseases shall be repeated at least every six months for as long as a donor is participating in the semen banking program, or whenever a donor reenters the program after an absence of longer than six months.</p> <p>(d) Any semen stored from a donor testing repeatedly reactive for antibodies to HIV-1, HIV-2, HCV or HTLV-I, for syphilis infection or for HBsAg, shall be destroyed unless such semen is to be used for research studies authorized by section 4302 of the Public Health Law and approved by the appropriate institutional review board, in which case all semen samples from the donor shall be labeled, "For research use only," and immediately sequestered from other donor samples. Testing for antibody to hepatitis B core antigen (anti-HBc) shall be negative for donor acceptance. For semen donors testing positive for any indicator of HIV infection, the director shall advise the department and the attending physicians of all recipients who received semen that was collected any time after six months prior to the last negative test.</p> <p>(e) Subsequent to testing as required in subdivision (b) of this section, all donated semen shall be frozen and quarantined for six months. After such time and prior to release of the semen for artificial insemination or assisted reproductive procedures, the donor shall be retested for HBsAg and antibodies to HIV-1, HIV-2, HCV and HBc. If the semen to be released originates from a directed donor, the recipient may be given the opportunity to waive the quarantine period in writing after being advised by the director, his/her designee, or the physician performing the insemination of the risks involved in doing so. In such cases, each of the tests required in paragraphs (a)(1), (2) and (3) of this section, except tests for ABO and Rh blood groups, must have been performed after a date one month prior to the first donation and every three months thereafter, while the donor is engaged in donation.</p> <p>(f) Semen shall not be made available for artificial insemination or assisted reproductive procedures if:</p> <ol style="list-style-type: none"> (1) the donor's blood is repeatedly reactive in approved screening tests for HBsAg or antibodies to HIV-1, HIV-2, HTLV-I or HCV; (2) the donor's blood is repeatedly reactive in approved screening tests for antibodies to HBc; (3) the donor's blood tests positively in approved tests for syphilis, unless a confirmatory test is negative; (4) the donor's semen or urethral specimen tests positive in approved tests for <i>Neisseria gonorrhoeae</i>; or (5) the donor's urine or urethral specimen reacts positively to approved tests for <i>Chlamydia trachomatis</i>.

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	<p>(g) A client-depositor who wishes to direct stored semen for use by a specific recipient, other than his current or active regular sexual partner, shall first be fully evaluated and tested in accordance with the requirements of section 52-8.5 of this Subpart and subdivisions (b), (c), (d) and (f) of this section. Tissue from such client-depositors shall not be released unless stored for at least six months prior to such testing.</p> <p>(h) Reproductive tissue donors who, based on their racial/ethnic background or family history, have been identified at increased risk of being carriers of Tay-Sachs disease, thalassemia, cystic fibrosis and/or sickle cell disease shall be tested for such carrier states. The reproductive tissue bank medical director, in consultation with the medical advisory committee, shall establish a policy specifying any other conditions that should be tested for, the testing to be performed on donors with particular racial/ethnic backgrounds and family histories, and the analytes to be tested for.</p> <p>(i) Testing requirements for oocyte donors shall be specified in a written policy approved by the reproductive tissue bank medical director in consultation with the medical advisory committee. At a minimum, donors shall, within one month of each donation, be tested and found negative for HBsAg, and for antibodies to HCV, HIV-1 and HIV-2. Oocytes and embryos stored from donors who test repeatedly reactive for antibodies to HIV-1, HIV-2, or HCV or for HBsAg, shall be destroyed, unless such tissue is to be used for research studies authorized by section 4302 of the Public Health Law and approved by the appropriate institutional review board, in which case all tissue samples from the donor shall be labeled, "For research use only," and immediately sequestered from the donor samples. For donors testing positive for any indicator of HIV infection, the director shall advise the department and the attending physicians of all recipients who received tissue that was collected at any time after six months prior to the last negative test.</p> <p>(j) Male and female contributors to donated embryos shall be tested as specified in section 52-8.6(i) of this Subpart prior to release of embryos for clinical use by others.</p> <p>(k) Results of all donor testing shall be made available, upon request, to the donors and to physicians using the donors' reproductive tissue in artificial insemination and assisted reproductive procedures.</p> <p>(l) Accurate, written donor profiles or other descriptions of pertinent donor characteristics shall be provided upon request to physicians ordering reproductive tissues.</p>
10 NYCRR 58-2.3	<p style="text-align: center;">TITLE 10. DEPARTMENT OF HEALTH CHAPTER II. ADMINISTRATIVE RULES AND REGULATIONS SUBCHAPTER D. LABORATORIES PART 58. CLINICAL LABORATORIES AND BLOOD BANKS SUBPART 58-2. BLOOD BANKS</p>

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	<p>Required laboratory tests for donated blood.</p> <p>(a) For allogeneic collections under New York State permit, approved tests for syphilis; hepatitis B surface antigen (HBsAg); HIV-1 and hepatitis C virus (HCV) nucleic acid; and antibodies to hepatitis B core antigen (anti-HBc), HCV, HIV-1, HIV-2 and human T-lymphotropic virus types I and II (HTLV-I/II) shall be performed in a New York State-permitted laboratory. For autogeneic collections, such testing shall be performed unless the blood is intended for transfusion at the same facility where it is collected and a system is in place to ensure correct disposition of each blood unit, but the testing need not be performed again if already performed within the previous 30 days or performed on a specimen collected subsequently. Results of a given test run shall not be accepted and reported if results of test kit controls are outside of the predetermined acceptable range. A written report shall be received thereon prior to the release of blood or blood components for transfusion and, if serologic tests are positive, shall preclude release for allogenic transfusion except as described in section 58-2.9(b) of this Subpart. Until such testing is completed, all blood and blood components shall be stored in a separate refrigerator or prominently labeled separate area of the refrigerator reserved for quarantined units. However, in an emergency requiring release for transfusion prior to receipt of such report, the results shall be recorded subsequently on the recipient's chart. Any unacceptable blood unit identified, as well as all of its components, shall be removed immediately from the quarantine area and disposed of or moved to a separate area reserved for such units. Units unacceptable for transfusion, which are retained for other purposes, shall be labeled with pertinent test results.</p> <p>(b) All test runs for required tests for infectious disease markers that generate numeric readings shall include a weakly reactive control. If the results of this weakly reactive control or any other control do not fall within the predetermined acceptable range, results from that run shall not be reported until the run is repeated. Results of all tests shall be verified by a second staff member to preclude errors in transcription or interpretation. In a manual system, examination of the original instrument tape shall be conducted by the second staff member. Except for results of tests performed on samples from autogeneic donors, as specified in section 58-2.23 of this Subpart, incomplete test results shall not be reported to donors, including any initially reactive test results not yet repeated in duplicate. Release of blood units from quarantine shall be based on examination of a signed and verified hard copy, or electronic equivalent, of all test results. The director of the laboratory conducting the testing shall be responsible for ensuring that testing is performed in accordance with this Subpart. The blood bank director shall be responsible for development of algorithms for test result interpretation and shall approve, in writing, the laboratory procedures to be used.</p> <p>(c) Plasma collected for fractionation purposes only need not be tested</p>

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	<p>for HTLV-I.</p> <p>(d) If platelets are donated by the infant's mother to an infant with alloimmune neonatal thrombocytopenia, the donor's blood need not be tested as required in subdivision (a) of this section. In such case, the donor requirements specified in section 58-2.2 of this Subpart may also be waived with the written authorization of the medical director of the blood bank or physician designee.</p> <p>(e) If multiple patient-dedicated blood components are donated by a single donor to support a particular patient, that donor's blood may be screened for all analytes specified in subdivision (a) of this section every 30 days, rather than at each donation.</p> <p>(f) For both allogeneic and autogeneic collection, the ABO and Rh groups of every donor shall be determined in accordance with procedures approved by the department. The determination shall be made by:</p> <ol style="list-style-type: none"> (1) testing the blood cells with anti-A and anti-B grouping sera; testing the serum or plasma from the blood with known group A and group B red blood cells; and (2) testing the blood with anti-Rh(o) (anti-D) grouping serum, including, in the case of initially negative testing with anti-Rho (anti-D), a method designed to detect weak D. <p>(g) For allogeneic collection, required tests for detecting unexpected alloantibodies:</p> <ol style="list-style-type: none"> (1) All donor blood shall be tested for unexpected alloantibodies using reagent red blood cells that meet F.D.A. standards and are intended for this purpose. (2) Methods of testing for alloantibodies shall be those that demonstrate sensitizing and hemolytic antibodies. <p>(h) Errors or accidents in collecting, testing or processing of donor blood that may affect the safety or purity of any product or health of the donor or recipient shall be reported to the department's Wadsworth Center within seven calendar days of such an error or its discovery.</p>
10 NYCRR 58-2.23	<p>HIV-1 and HIV-2 antibody testing results.</p> <p>No blood bank shall inform any blood or plasma donor or his/her health care provider of the results of HIV-1, HIV-2 or HIV-1/HIV-2 combination antibody screening tests unless such results are negative, with the exception of autogeneic donors, whose health care provider may be informed of screening test results if there is insufficient time prior to surgery for completion of supplemental testing, provided that such health care provider is instructed that the donor may not be informed that he or she is positive for HIV-1 or HIV-2 antibodies based on the incomplete results. Initial reactive screening tests shall be repeated in duplicate. If two of three screening tests are reactive, the sample shall be considered repeatedly reactive, and supplemental testing shall be performed.</p>

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	<p>Notification that a donor is positive shall be made only if the results have been reactive for more than one screening test, and the supplemental HIV antibody test result has been unequivocally positive. Appropriate counseling of donors regarding the significance of all test results must be available. HIV results must be reported to donors if the results are substantiated as positive, or upon supplemental testing show an increased likelihood of representing seroconversion to positive, as determined by the director of the laboratory performing the supplemental testing. This report must be made in person unless repeated efforts to encourage a donor to come in have failed, in which case notification may be made by certified restricted delivery mail. HIV results that are substantiated as negative, or upon supplemental testing are indeterminate but do not show an increased likelihood of representing seroconversion to positive, as determined by the director of the laboratory performing the supplemental testing, may be reported to donors by mail, provided that such donors are not informed that they are seropositive. Any notification of HIV results to donors who were repeatedly reactive on initial screening tests, regardless of the results of supplemental testing, must include an offer of appropriate counseling.</p>
10 NYCRR 58-8.1	<p style="text-align: center;">TITLE 10. DEPARTMENT OF HEALTH CHAPTER II. ADMINISTRATIVE RULES AND REGULATIONS SUBCHAPTER D. LABORATORIES PART 58. CLINICAL LABORATORIES AND BLOOD BANKS SUBPART 58-8. HUMAN IMMUNODEFICIENCY VIRUS (HIV) TESTING</p> <p>Definitions.</p> <p>For the purposes of this Subpart, unless the context indicates otherwise, the terms below shall have the following meanings:</p> <p>(a) Department means the New York State Department of Health.</p> <p>(b) Donor means a human being, living or dead, who is the source or potential source of a body, organ, tissue or fluid for transfusion, transplantation, transfer, artificial insemination or implantation.</p> <p>(c) FDA means the Food and Drug Administration of the United States Department of Health and Human Services.</p> <p>(d) HIV antibody screening means the performance of tests to detect HIV antibodies, which tests are not sufficiently specific to ensure definitive evidence of HIV infection.</p> <p>(e) HIV identification testing means the performance of tests to detect or characterize HIV or HIV viral components, including, but not limited to, HIV proteins and HIV nucleic acid. HIV identification testing shall also include cultivation of the infectious virus.</p>

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	<p>(f) HIV confirmatory testing means the performance of one or more supplemental tests to substantiate or refute results of HIV testing procedures that are not sufficiently specific to ensure definitive evidence of HIV infection.</p> <p>(g) HIV diagnostic testing means the performance of HIV tests for purposes of diagnosing, assessing or monitoring HIV infection in persons who may have been exposed to HIV, are at risk of exposure to HIV, or are known to be HIV infected, but shall not include testing of donors. HIV testing of individuals in conjunction with an application for insurance shall be considered HIV diagnostic testing whenever test results are communicated to the applicant or his/her medical provider by the insurance company's medical director or a consulting physician or a physician under the medical director's supervision.</p> <p>(h) Preliminary finding of HIV infection means results of antibody screening that have been neither substantiated nor refuted by HIV confirmatory testing.</p>
10 NYCRR 58-8.2	<p>HIV testing and record keeping requirements.</p> <p>In addition to other applicable requirements in this Part, and Parts 52 and 63 of this Title, clinical laboratories, blood banks and tissue banks with a New York State clinical laboratory permit to perform HIV testing shall meet the following requirements:</p> <p>(a) Specimens for testing patients, donors and insurance applicants shall be only of the type approved by the FDA or acceptable to the department for use with the particular method or test kit.</p> <p>(b) All tests shall employ reagents, methods, techniques and procedures approved by the FDA or acceptable to the department in conformance with generally accepted laboratory principles.</p> <p>(c) If the test result is to be communicated to the test subject or other person legally authorized to receive the result, results for specimens found reactive in accordance with the test manufacturer's interpretation of HIV antibody screening test results shall be confirmed with HIV confirmatory testing.</p> <p>(d) Confirmatory testing shall be performed as soon as practicable in all cases when notification of a preliminary finding of HIV infection is made.</p> <p>(e) A standard operating procedure manual (SOPM) shall be developed and maintained current, and shall include, in addition to documentation required elsewhere in this Part and Part 52 of this Title, algorithms for use of each HIV test method or test kit, and policies and processes for accepting specimens, reporting results, and ensuring compliance with confidentiality requirements and, as applicable, reporting requirements of Article 21, Title III and Article 27-F of the Public Health Law and New</p>

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	York State Insurance Law section 2611(c).
10 NYCRR 58-8.3	<p>Confidentiality.</p> <p>Each clinical laboratory, blood bank, tissue bank or organ procurement organization performing, or causing the performance or receiving the results of HIV testing shall establish and implement procedures for confidentiality, disclosure and re-disclosure consistent with applicable Federal and State law and regulations, including Article 27-F of the Public Health Law and New York State Insurance Law section 2611(c). No bill, claim for reimbursement or invoice issued by a clinical laboratory, blood or tissue bank or its agent shall disclose the nature of the service rendered to a named individual by using the acronym HIV, or the words human immunodeficiency virus or similar identifying words, unless disclosure is authorized by law and the intended recipient of the bill, claim or invoice is an entity subject to New York State or Federal confidentiality, disclosure and re-disclosure requirements.</p>
10 NYCRR 58-8.4	<p>HIV result reporting requirements.</p> <p>(a) No clinical laboratory shall notify a physician or other person legally authorized to receive the result that an HIV test is positive solely on the basis of HIV antibody screening, except that a clinical laboratory may report a preliminary finding of HIV infection pursuant to the written request of a physician or other person legally authorized to receive the test results. Results for specimens found non-reactive by HIV antibody screening may be reported to the physician who ordered the testing or other person legally authorized to receive the result.</p> <p>(b) For HIV diagnostic testing, a report of preliminary finding of HIV infection shall prominently and clearly state that the finding is preliminary, that results of confirmatory testing will follow, and that such confirmatory results must be considered in making a diagnosis related to HIV infection.</p> <p>(c) No blood, tissue or organ donor, or consenting next of kin shall be notified that an HIV test result is positive solely on the basis of HIV antibody screening.</p>
10 NYCRR 63.1	<p style="text-align: center;">TITLE 10. DEPARTMENT OF HEALTH CHAPTER II. ADMINISTRATIVE RULES AND REGULATIONS SUBCHAPTER G. AIDS TESTING, COMMUNICABLE DISEASES AND POISONING PART 63. HIV/AIDS TESTING, REPORTING AND CONFIDENTIALITY OF HIV-RELATED INFORMATION</p> <p>Definitions</p> <p>(a) "HIV-infection" means infection with the human immunodeficiency</p>

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	<p>viruses that are the cause of AIDS or as the term may be defined from time to time by the centers for disease control and prevention of the United States Public Health Service.</p> <p>(b) "AIDS" means acquired immune deficiency syndrome, as may be defined from time to time by the centers for disease control and prevention of the United States Public Health Service.</p> <p>(c) "HIV-related illness" means any clinical illness that may result from or be associated with HIV infection.</p> <p>(d) "HIV-related test" means any laboratory test or series of tests for any virus, antibody, antigen or etiologic agent whatsoever, thought to cause or to indicate the presence of HIV infection, HIV-related illness or AIDS.</p> <p>(e) "Capacity to consent" means an individual's ability, determined without regard to the individual's age, to understand and appreciate the nature and consequences of a proposed health care service, treatment, or procedure, or of a proposed disclosure of confidential HIV-related information, and to make an informed decision concerning the service, treatment, procedure or disclosure.</p> <p>(f) "Protected individual" means a person who is the subject of an HIV related test or who has been diagnosed as having HIV infection, AIDS or HIV-related illness.</p> <p>(g) "Confidential HIV-related information" means any information, in the possession of a person who provides health or social services or who obtains the information pursuant to a release of confidential HIV-related information, concerning whether an individual has been the subject of an HIV related test, or has HIV infection, HIV-related illness or AIDS, or information which identifies or reasonably could identify an individual as having one or more of such conditions, including information pertaining to such individual's contacts.</p> <p>(h) "Health or social service" means any care, treatment, clinical laboratory test, counseling or educational service for adults or children, and acute, chronic, custodial, residential, outpatient, home or other health care; public assistance, including disability payments available pursuant to the Social Security Act; employment-related services, housing services, foster care, shelter, protective services, day care, or preventive services; services for the mentally disabled; probation services; parole services; correctional services; detention and rehabilitative services; and the activities of the Health Care Worker HIV/HBV Advisory Panel (see Public Health Law Article 27-DD), all as defined in section 2780(8) of the Public Health Law.</p> <p>(i) "Health facility" means a hospital as defined in section 2801 of the Public Health Law, blood bank, organ procurement organization, tissue bank, clinical laboratory, or facility providing care or treatment to</p>

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	<p>persons with a mental disability.</p> <p>(j) "Health care provider" or "provider" means any physician, nurse, licensed or certified provider of diagnostic medical services, including a nurse practitioner, a midwife and physician assistant, provider of services for the mentally disabled or other person involved in providing medical, nursing, counseling, or other health care or mental health service including those associated with, or under contract to, a health maintenance organization or medical services plan. Diagnostic providers include physicians, nurse practitioners, physician assistants and midwives who are authorized to order diagnostic tests and to make clinical diagnoses.</p> <p>(k) "Contact" means an identified spouse or sexual contact of the protected individual or a person identified as having shared hypodermic needles or syringes with the protected individual, or a person whom the protected individual may have exposed to HIV under circumstances that present a risk of transmission of HIV, as noted in section 63.8(m) of this Part.</p> <p>(l) "Contact tracing" shall mean the process of notifying known contacts of protected individuals as reported by the physician or as disclosed by the protected individuals themselves, and of seeking the cooperation of protected individuals to name contacts, as described in section 63.8 of this Part. For the purposes of this Part, the terms "contact notification", "partner notification", "partner assistance" and "partner counseling and referral services" shall be synonymous with "contact tracing". In all cases of contact tracing authorized in this Part, the name or other identifying information regarding the protected person shall not be disclosed to contacts and the name of contacts shall not be disclosed to other contacts.</p> <p>(m) "Person" includes any natural person, partnership, association, joint venture, trust, public or private corporation or State or local government agency.</p> <p>(n) "Release of confidential HIV-related information" means a written authorization for disclosure of confidential HIV-related information which is signed by the protected individual, or if the protected individual lacks capacity to consent, a person authorized pursuant to law to consent to health care for the individual. Such release shall be dated and shall specify to whom disclosure is authorized, the purpose for such disclosure and the time period during which the release is to be effective. A general authorization for the release of medical or other information shall not be construed as a release of confidential HIV-related information, unless such authorization specifically indicates its dual purpose as a general authorization and an authorization for the release of confidential HIV-related information and complies with this definition.</p> <p>(o) "Insurance institution" means any corporation, association,</p>

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	<p>partnership, reciprocal exchange, interinsurer, fraternal benefits society, agent, broker or other entity in the business of providing health, life and disability coverage including, but not limited to, any health maintenance organization, medical service plan, or hospital plan which:</p> <p>(1) is engaged in the business of insurance;</p> <p>(2) provides health services coverage plans; or</p> <p>(3) provides benefits under, administers, or provides services for, an employee welfare benefit as defined in 29 USC. 1002(1).</p> <p>(p) "Municipal health commissioner" shall mean, for purposes of this Part, a county health commissioner, except, in New York City, the term shall mean the New York City health commissioner. Such county health commissioner and New York City health commissioner shall conduct reporting, counseling and contact notification activities consistent with guidelines acceptable to the commissioner in compliance with Article 21, Title III and Article 27-F of the Public Health Law.</p> <p>(q) "District health officer" shall mean, for the purposes of this Part, the commissioner or his/her designee.</p> <p>(r) For the purposes of this Part, "commissioner" shall mean the New York State Commissioner of Health.</p> <p>(s) For the purposes of this Part, "authorized public health official" shall mean New York State Commissioner of Health, a municipal health commissioner or a district health officer, or their designee.</p>
10 NYCRR 63.2	<p>Application.</p> <p>These regulations apply to physicians and other persons authorized by law to order laboratory tests or to make medical diagnoses, laboratories, blood banks, tissue banks and organ procurement organizations, to persons who receive confidential HIV-related information in the course of providing any health or social service and to persons who receive confidential HIV-related information pursuant to a release. These regulations do not apply to information which was received by the Commissioner under Subpart 24-1 of this Title and protected from disclosure pursuant to Public Health Law section 206(1)(j). These regulations do not apply to insurance institutions and insurance support organizations, except as noted in section 63.6(a)(9), (10) and (12) of this Part. Health care providers associated with or under contract to a health maintenance organization or other medical services plan are subject to these regulations.</p>
10 NYCRR 63.3	<p>HIV-related testing.</p> <p>(a) Except as noted in paragraph (b)(2) of this section, no physician or</p>

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	<p>other person authorized pursuant to law may order an HIV-related test without first obtaining written informed consent. A physician or other person authorized pursuant to law to order an HIV-related test to be used for patient care shall provide to the laboratory the name and address of the person who is the source of the specimen and other such information as specified by the commissioner.</p> <p>(1) Informed consent shall include providing pre-test counseling to the person to be tested or, if such person lacks capacity to consent, to the person lawfully authorized to consent to health care for such person. In situations in which a person other than the test subject consents for the test, pre-test counseling shall also be provided to the test subject to the extent that the person responsible for ordering the test deems that the test subject will benefit from counseling. Pretest counseling shall include:</p> <p>(i) explanations regarding the nature of HIV infection and HIV related illness, an explanation of the HIV-related test, including a description of the procedure to be followed, meaning of the test results, including preliminary positive results obtained prior to confirmation, if applicable, and the benefits of taking the test, including the importance and benefits of early diagnosis and medical intervention;</p> <p>(ii) an explanation that discrimination problems may result from disclosure of confidential HIV-related information and that legal protections exist which prohibit discrimination (NYC and NYS Human Rights Law) and unauthorized disclosures (PHL article 27-F and/or article 21, Title III);</p> <p>(iii) information on preventing exposure or transmission of HIV infection, including behavior which poses a risk of HIV transmission;</p> <p>(iv) an explanation that the test is voluntary, that consent may be withdrawn at any time, information on the benefits of testing and of early treatment, information that HIV reporting is required by law and that such information must be kept confidential and will be used for the purposes of epidemiologic monitoring of the HIV/AIDS epidemic, that persons who test positive will be requested to cooperate in contact notification efforts, that known contacts will be reported by the physician or other person authorized to order a diagnostic test to the health department for the purposes of contact notification as needed, and that anonymous testing is available, including the location and telephone numbers of anonymous test sites, that for the purpose of insurance coverage, confidential, as opposed to anonymous testing is required; and</p> <p>(v) information regarding psychological and emotional consequences of receiving the test result.</p> <p>(b)(1) Written informed consent must be executed on a form developed by the department or on another form approved specifically by the department. At the time at which informed consent is obtained, the subject must be offered a copy of the informed consent form or a document that provides all pertinent information contained on the informed consent form.</p> <p>(2) Informed consent is not required in the following situations:</p> <p>(i) for court-ordered testing pursuant to Civil Practice Law and Rules, section 3121;</p>

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	<p>(ii) when testing without informed consent is otherwise specifically authorized or required by State or Federal law;</p> <p>(iii) for testing related to procuring, processing, distributing or use of a human body or human body part, including organs, tissues, eyes, bones, arteries, blood, semen or other body fluids for use in medical research or therapy, or for transplantation to persons, provided that if the test results are communicated to the tested person, post-test counseling is required;</p> <p>(iv) for research if the testing is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher;</p> <p>(v) for testing of a deceased person to determine cause of death or for epidemiological purposes; and</p> <p>(vi) for comprehensive newborn testing pursuant to PHL section 2500-f.</p> <p>(c) A physician or other person authorized pursuant to law to order an HIV-related test shall certify on a laboratory requisition form that informed consent has been obtained, except when not required pursuant to paragraph (b)(2) of this section. In approved anonymous testing sites, authorized employees or agents of the department, may order HIV-related tests and certify that they obtained informed consent in approved anonymous testing sites.</p> <p>(d) In addition to an explanation of the test result, the person who orders the test shall be responsible for ensuring that post-test counseling or referrals as appropriate with respect to a positive, indeterminate/inconclusive, negative test result and preliminary positive results obtained pursuant to Subpart 58-8 of this Title, if applicable, shall be provided to the person who consented to the test. Blood banks and tissue banks may report results as specified in sections 58-2.23 and 52-3.6 of this Title, respectively. In situations in which a person other than the test subject consents for the test, post-test counseling and referrals should also be provided to the test subject, to the extent the person responsible for ordering the test deems that the test subject will benefit from counseling. Such post-test counseling and referrals shall include specific referral information and shall address:</p> <p>(1)(i) coping emotionally with the test results;</p> <p>(ii) discrimination issues relating to employment, housing, public accommodations, health care and social services;</p> <p>(iii) information on the ability to release or revoke the release of confidential HIV-related information; and</p> <p>(iv) information on preventing exposure to or transmission of HIV infection and the availability of medical treatment;</p> <p>(2) for persons who test positive, post-test counseling shall, in addition, address:</p> <p>(i) that HIV reporting is required by law for the purposes of epidemiologic monitoring of the HIV/AIDS epidemic;</p> <p>(ii) that contacts should be notified to prevent transmission, and to allow early access of exposed persons to HIV counseling and testing,</p>

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	<p>health care, and prevention services, and a description of notification options and assistance available to the protected individual;</p> <p>(iii) an assessment of the risk of domestic violence in conformance with a domestic violence screening protocol developed by the commissioner pursuant to law;</p> <p>(iv) that known contacts, including a known spouse, will be reported and that protected persons will also be requested to cooperate in contact notification efforts of known contacts and may name additional contacts they wish to have notified with the assistance of the provider or authorized public health officials;</p> <p>(v) that the protected individual's name or other information about them is not disclosed to any person during the contact notification process;</p> <p>(vi) information on the availability of medical services and the location and telephone numbers of treatment sites, information on the use of HIV chemotherapeutics for prophylaxis and treatment and peer group support, access to prevention services and assistance, if needed, in obtaining any of these services; and</p> <p>(vii) a discussion of perinatal transmission.</p> <p>(e) Nothing in this Part or Part 58 of this Title shall be construed to prohibit a person from directly ordering an HIV test on a specimen taken from his/her own body and directly receiving the results of such HIV test. The test must be performed by a New York State licensed laboratory using a specimen collection kit which has been approved for home HIV specimen collection by the U.S. Food and Drug Administration and which is available without a prescription.</p> <p>(f) In situations when HIV-related testing is intended to aid in clinical disease monitoring, e.g., HIV nucleic acid (RNA or DNA) detection tests, pre- and post-test counseling may be tailored to the needs of the patient.</p>
10 NYCRR 63.4	<p>Filing of reports</p> <p>(a) (1) All initial determinations or diagnoses of human immunodeficiency virus (HIV) infection, HIV-related illness and acquired immune deficiency syndrome (AIDS) shall be reported to the commissioner by physicians and other persons authorized to order diagnostic tests or make medical diagnoses or their agents as soon as possible after post-test counseling but no later than 21 days after the provider's receipt of a positive laboratory result or after diagnosis, whichever is sooner.</p> <p>(2) All determinations or diagnoses of HIV, HIV-related illness and AIDS shall be reported to the commissioner by blood banks as defined in article 5, title V of the Public Health Law, by tissue banks and organ procurement organizations as defined by article 43-B of the Public Health Law as soon as possible after post-test counseling but no later than 21 days after receipt of a confirmed positive laboratory result or after diagnosis, whichever is sooner. Such banks and organizations shall report confirmed positive HIV antibody test results.</p> <p>(3) Pathologists, coroners and medical examiners or other persons</p>

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	<p>determining from examination of a corpse or from the history of the events leading to death, that at the time of death the individual was apparently affected with HIV infection, HIV-related illness or AIDS shall also make such report to the commissioner within 21 days after receipt of a test result or determination.</p> <p>(4)(i) Laboratories performing diagnostic tests shall report to the commissioner cases of initial determinations or diagnoses of HIV infection, HIV-related illness and AIDS on a schedule to be specified by the commissioner. Laboratories shall report the following: confirmed positive HIV antibody test results, HIV nucleic acid (RNA or DNA) detection test results, all CD4 lymphocyte counts unless the test was known to be performed for reasons other than HIV infection or HIV-related illness, HIV subtype and antiviral drug resistance testing in a format designated by the commissioner, and the results of other tests as may be determined by the commissioner to indicate a diagnosis of HIV infection, HIV-related illness or AIDS.</p> <p>(ii) For the purposes of laboratory reporting, initial diagnosis shall mean the first such test noted in subparagraph (i) of this paragraph which is performed on a specimen submitted after the effective date of these regulations.</p> <p>(b) Reports, including names and addresses of the protected individual, contact information and other information as may be specified by the commissioner, shall be made in a manner and format as prescribed by the commissioner. Information reported shall also include names and addresses, if available, of contacts, including spouses, known to the physician or other person authorized to order diagnostic tests or make medical diagnoses, or provided to them by the protected person, and the date each contact was notified if contact notification has already been done; and information, in relation to each reported contact, required by an approved domestic violence screening protocol. After receiving the report, the commissioner or his/her authorized representative may request the individual making the report or the person who ordered the diagnostic tests to provide additional information as may be required for the epidemiologic investigation, case finding and analysis of HIV infection, HIV-related illness and acquired immune deficiency syndrome (AIDS) and to implement article 21, title III. Notwithstanding this subdivision, test results from New York State approved anonymous test sites shall not be reported to the commissioner unless the test subject chooses to supply identification and convert the anonymous test result to a confidential test result.</p> <p>(c) Confidentiality. Such reports and additional information maintained by the commissioner or his/her designated representative, including all information generated by contact notification and domestic violence screening activities, shall be kept confidential as required by Public Health Law, article 21, title III, and shall not be disclosed except when in the judgment of the public health official, necessary to other authorized public health officials for conducting accurate and complete epidemiological monitoring of the HIV/AIDS epidemic and for conducting</p>

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	contact notification activities, except that contact names and locating information may be disclosed to public health officials in other jurisdictions when necessary to notify the contact; no information about the protected individual will be released to any person in this process.
10 NYCRR 63.5	<p>Disclosure pursuant to a release.</p> <p>(a) No confidential HIV-related information, including such information as related to domestic violence screening, shall be disclosed pursuant to a general release except to insurance companies as noted in section 63.6(a)(9) of this Part. Disclosure is permitted for HIV-related information pursuant to a specific release form for a limited time period which has been developed or approved by the Department. The release must be signed by the protected individual, or if the protected individual lacks capacity to consent, by a person authorized pursuant to law to consent to health care for the individual.</p> <p>(b) All written disclosures of confidential HIV information must be accompanied by a statement prohibiting redisclosure. The statement shall include the following language or substantially similar language: "This information has been disclosed to you from confidential records which are protected by State law. State law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of State law may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is not, except in limited circumstances set forth in this Part, sufficient authorization for further disclosure. Disclosure of confidential HIV information that occurs as the result of a general authorization for the release of medical or other information will be in violation of the State law and may result in a fine or a jail sentence or both."</p> <p>(c) If oral disclosures are necessary, they must be accompanied or followed as soon as possible, but no later than 10 days, by the statement required by subdivision (b) of this section.</p> <p>(d) The statement required by subdivisions (b) and (c) of this section is not required for release to the protected person or when a person lacks the capacity to consent, to a person authorized pursuant to law to consent to health care for the person, for releases made by a physician or their agent or public health officer to a contact; or for releases made by a physician or their agent to a person authorized pursuant to law to consent to the health care of the protected person when the person has been counseled and has refused to disclose and the disclosure is medically necessary. For disclosures of confidential HIV-related information from the patient's medical record to persons who are permitted to access this information pursuant to sections 63.6(a)(3), (4), (5), (6), (7), (9) and (10) and (e) and (f) of this Part, it shall be sufficient for the statement required by subdivisions (b) and (c) of this section to appear as part of the medical record when a medical record is</p>

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	disclosed.
10 NYCRR 63.6	<p>Confidentiality and disclosure.</p> <p>(a) No person who obtains confidential HIV-related information in the course of providing any health or social service or pursuant to a release of confidential HIV-related information may disclose or be compelled to disclose such information, except to the following:</p> <p>(1) the protected individual or, when the protected individual lacks capacity to consent, a person authorized pursuant to law to consent to health care for the individual;</p> <p>(2) any person to whom disclosure is authorized pursuant to a release of confidential HIV-related information in accordance with section 63.5(a) of this Part;</p> <p>(3) an agent or employee of a health facility or health care provider if:</p> <p>(i) the agent or employee is authorized to access medical records; (ii) the health facility or health care provider itself is authorized to obtain the HIV-related information; and (iii) the agent or employee provides health care to the protected individual, or maintains or processes medical records for billing or reimbursement;</p> <p>(4)(i) a health care provider or health facility when knowledge of the HIV-related information is necessary to provide appropriate care or treatment to the protected individual or a child of the individual;</p> <p>(ii) a health care provider or health facility when knowledge of HIV-related information is necessary to provide appropriate care or treatment to a contact, provided the requirements in section 63.8(m) of this Part are followed for disclosures involving exposures in risk situations;</p> <p>(iii) in circumstances where consent for health care is necessary, disclosure may also be made to a person authorized to consent to health care for such contact or for such protected individual, provided that if disclosure is to a person authorized to consent to the health care of a contact or to a contact when such contact has been exposed to HIV under circumstances which present a risk of transmission, the requirements in section 63.8(m) of this Part must be followed;</p> <p>(5) a health facility or health care provider, in relation to the procurement, or use of a human body or a human body part, including organs, tissues, blood, semen, or other body fluids, for use in medical education, research, therapy, or for transplantation to individuals;</p> <p>(6) health facility staff committees, or accreditation or oversight review organizations authorized to access medical records, provided that such committees or organizations may only disclose confidential HIV-related information:</p> <p>(i) back to the facility or provider of a health or social service;</p> <p>(ii) to carry out the monitoring, evaluation, or service review for which it was obtained; or</p> <p>(iii) to a Federal, State or local government agency for the purposes of and subject to the conditions provided in subdivision (e) of this section;</p> <p>(7) a Federal, State, county or local health officer when such disclosure is mandated by Federal or State law, including reporting and contact</p>

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	<p>notification processes authorized pursuant to Article 21, Title III, or pursuant to Article 27-F;</p> <p>(8) authorized agencies as defined by Social Services Law, Section 371 and corporations incorporated or organized to receive children for adoption or foster care, in connection with foster care or adoption of a child. Such agency shall be authorized to redisclose such information only pursuant to the provisions of Article 27-F of the Public Health Law or in accordance with the provisions of Social Services Law Section 373-A and regulations promulgated thereunder;</p> <p>(9) third party reimbursers or their agents to the extent necessary to reimburse health care providers, including health facilities, for health services, provided that, an otherwise appropriate authorization for such disclosure has been secured;</p> <p>(10) an insurance institution, for other than the purpose set forth in paragraph (9) of this subdivision, provided the insurance institution secures a dated and written authorization that indicates that health care providers, health facilities, insurance institutions, and other persons are authorized to disclose information about the protected individual, the nature of the information to be disclosed, the purposes for which the information is to be disclosed and which is signed by:</p> <p>(i) the protected individual;</p> <p>(ii) if the protected individual lacks the capacity to consent, such other person authorized pursuant to law to consent for such individual; or</p> <p>(iii) if the protected individual is deceased, the beneficiary or claimant for benefits under an insurance policy, a health services plan, or an employee welfare benefit plan as authorized in Article 27-F of the Public Health Law;</p> <p>(11) to a funeral director upon taking charge of the remains of a deceased person when such funeral director has access in the ordinary course of business to HIV-related information on the death certificate of the deceased individual, as authorized by Public Health Law Section 4142;</p> <p>(12) any person to whom disclosure is ordered by a court of competent jurisdiction pursuant to Public Health Law Section 2785;</p> <p>(13) an employee or agent of the Division of Probation and Correctional Alternatives, Division of Parole, Commission of Correction, or any local probation department, to the extent the employee or agent is authorized to access records containing such information in order to carry out functions, powers and duties with respect to the protected person and in accordance with regulations promulgated pursuant to Public Health Law Article 27-F;</p> <p>(14) a medical director of a local correctional facility in accordance with regulations promulgated pursuant to Article 27-F to the extent the medical director is authorized to access records to carry out his/her functions relating to the protected person. Redisclosure by the medical director is prohibited except as permitted under Public Health Law Article 27-F, Article 21, Title III and implementing regulations;</p> <p>(15) an employee or agent of the New York City Board of Corrections so that the board may continue to access records of inmates who die</p>

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	<p>while in the custody of the New York City Department of Corrections when necessary for the board to carry out its duties, functions, and powers with respect to the protected individual, pursuant to the New York City charter; or</p> <p>(16) a law guardian, appointed to represent a minor pursuant to the Social Services Law or the Family Court Act, for the purpose of representing that minor. If the minor has the capacity to consent, the law guardian may not redisclose confidential HIV related information without the minor's permission. If the minor lacks capacity to consent, the law guardian may redisclose confidential HIV-related information for the purpose of representing the minor.</p> <p>(b) A State, county or local health officer may disclose confidential HIV-related information when:</p> <p>(1) disclosure is specifically authorized or required by Federal or State law including, but not limited to, Public Health Law, Article 21, Title III and Public Health Law, Article 27-F; or</p> <p>(2) disclosure is made pursuant to a release of confidential HIV related information; or</p> <p>(3) disclosure of information regarding a contact is requested by a physician pursuant to section 63.8 of this Part; or if the contact resides outside the jurisdiction of the authorized public health official, the official shall inform the public health official in the contact's jurisdiction in order to confidentially inform such contact; or</p> <p>(4) disclosure is authorized by court order pursuant to the provisions of Public Health Law Section 2785.</p> <p>(c) A physician or his/her agent may disclose the confidential HIV-related information to a contact and to a public health officer for the purpose of making a disclosure to the contact.</p> <p>(d) A physician or his/her agent may, upon the consent of a parent or guardian, disclose confidential HIV-related information to a State, county, or local health officer for the purpose of reviewing the medical history of a child to determine the fitness of the child to attend school.</p> <p>(e) Confidential HIV-related information of a protected person may be disclosed to authorized employees or agents of a governmental agency pursuant to the regulations of the governmental agency when the person providing health or social services is regulated, supervised or monitored by the governmental agency or when the governmental agency administers the health program or a social service program and when such employees or agents have access to records in the ordinary course of business and when access is reasonably necessary for regulation, supervision, monitoring, administration or provision of services. Such authorized employees or agents may include attorneys authorized by a government agency when access occurs in the ordinary course of providing legal services and is reasonably necessary for supervision, monitoring, administration or provision of services. Such authorized employees or agents may also include public health officers as required</p>

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	<p>for conducting epidemiological or surveillance investigations pursuant to the State Sanitary Code or this Part. Such surveillance or investigational data shall also be disclosed by the public health officer to the State Department of Health as required by the State Sanitary Code or this Part.</p> <p>(f) Confidential HIV-related information of a protected person may be disclosed to authorized employees or agents of a provider of health or social services when such provider is either regulated, supervised or monitored by a governmental agency or when a governmental agency administers the provider's health or social service program, and when such employees or agents have access to records in the ordinary course of business and when access is reasonably necessary for regulation, supervision, monitoring, administration or provision of services. Such authorized employees or agents may include attorneys authorized by persons providing health services when access occurs in the ordinary course of providing legal services and is reasonably necessary for supervision, monitoring, administration or provision of services.</p> <p>(g) A physician or his/her agent may disclose confidential HIV-related information pertaining to a protected individual to a person, known to the physician or his/her agent, authorized pursuant to law to consent to the health care for the protected individual when the physician reasonably believes that:</p> <ol style="list-style-type: none"> (1) disclosure is medically necessary in order to provide timely care and treatment for the protected individual; and (2) after appropriate counseling as to the need for such disclosure the protected individual will not inform a person authorized by law to consent to health care; provided, however, that the physician shall not make such disclosure if, in the judgment of the physician: <ol style="list-style-type: none"> (i) the disclosure would not be in the best interest of the protected individual; or (ii) the protected individual is authorized pursuant to law to consent to such care and treatment. A physician's decision to disclose pursuant to this paragraph, and the basis for that decision shall be recorded in the medical record. <p>(h) No person to whom confidential HIV-related information has been disclosed shall disclose the information to another person except as authorized by law, (including, but not limited to, disclosure authorized by PHL Article 21, Title III), except that this provision shall not apply to:</p> <ol style="list-style-type: none"> (1) the protected individual; (2) a natural person who is authorized pursuant to law to consent to health care for the protected individual; (3) a protected individual's foster parent, subject to Department of Social Services regulations, for the purpose of providing care, treatment or supervision to the protected individual; or (4) a prospective adoptive parent, subject to Department of Social Services regulations, with whom a child has been placed for adoption. <p>(i) Nothing in this section shall limit a person's or agency's responsibility</p>

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	<p>or authority to report, investigate, or redisclose child protective and adult protective services information in accordance with title 6 of article 6 and titles 1 and 2 of article 9-B of the Social Services Law, or to provide or monitor the provision of child and adult protective or preventive services.</p> <p>(j) Confidential HIV-related information shall not be disclosed to a health care provider or health care facility for the sole purpose of implementing infection control precautions when such provider or facility is regulated under the Public Health Law and required to implement such precautions with all individuals pursuant to this Title. This restriction shall not limit access to HIV-related information by a facility's infection control personnel for purposes of fulfilling their designated responsibilities in the facility.</p> <p>(k) Confidential HIV-related information shall not be released pursuant to a subpoena. A court order pursuant to Public Health Law section 2785 is required for release of confidential HIV-related information.</p> <p>(l) Confidential HIV related information shall be disclosed upon the request of the Health Care Worker HIV/HBV Advisory Panel (see Public Health Law Article 27-DD) to the Panel or its designee(s) only when the Panel considers the information reasonably necessary for the evaluation and monitoring of a worker who has voluntarily sought the Panel's review.</p>
10 NYCRR 63.7	<p>Documentation of HIV-related information and disclosures.</p> <p>(a) Confidential HIV-related information shall be recorded in the medical record such that it is readily accessible to provide proper care and treatment.</p> <p>(b) All disclosures of confidential HIV-related information must be noted in the record, except:</p> <ol style="list-style-type: none"> (1) only initial disclosures to insurance institutions must be noted; (2) notation is not required for disclosure to agents or employees of health facilities or health care providers authorized under section 63.6(a)(3) of this Part; and (3) notation is not required for persons engaged in quality assurance, program monitoring or evaluation, nor for governmental payment agents acting pursuant to contract or law. <p>(c) Confidential HIV-related information may be noted, as appropriate, in a certificate of death, autopsy report or related documents prepared pursuant to Public Health Law, Article 41 or other laws relating to documentation of cause of death.</p> <p>(d) The protected person shall be informed of disclosures of HIV information upon request of the protected person.</p> <p>(e) Confidential HIV-related information shall not be disclosable pursuant</p>

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	to Public Officers Law, Article 6 (the Freedom of Information Law).
10 NYCRR 63.8	<p>Contact notification.</p> <p>(a) When contact notification is conducted based on the mandated reporting of cases of HIV infection, HIV-related illness and AIDS and the reporting of known contacts of such cases, and/or provided by the protected individual, all information collected in the course of these contact notification activities, including screening to assess risk of domestic violence, shall be kept confidential as required by Public Health Law, Article 21, Title III, and shall not be disclosed except when in the judgment of the public health official necessary to other authorized public health officials for conducting accurate and complete epidemiological monitoring of the HIV/AIDS epidemic and for conducting contact notification activities except that contact names and locating information may be disclosed to public health officials in other jurisdictions when necessary to notify the contact; no information about the protected individual will be released to any person in this process. Disclosures and notifications shall be made as follows:</p> <p>(1) Physicians and other persons required to report as provided for in section 63.4 of this Part must indicate on the reporting form whether they have conducted post-test counseling and an assessment of the risk of domestic violence in conformance with a domestic violence screening protocol developed by the commissioner, whether they plan to undertake contact notification activities, have completed notification of contacts or are making a referral for partner notification assistance to authorized public health officials. If the physician or other mandated reporter chooses to conduct notification, the results of those activities, including information specified by the commissioner on forms supplied by the commissioner, or their equivalent, must be forwarded to the appropriate authorized public health official within 60 days of the initial report, pursuant to section 63.4 of this Part.</p> <p>(2) The commissioner shall forward initial reports from physicians and other mandated reporters, including the names and addresses of the reported case and of the known contacts, and/or contacts provided by the protected person, the status of provider initiated contact notification activities and the determination of risk of domestic violence, if any, to the authorized public health official in the county where the reported case resides.</p> <p>(3) Consistent with guidelines acceptable to the commissioner in conformance with Article 21 of the Public Health Law, authorized public health officials, upon determination that the reported case, reported contacts, or any other case merits contact notification in order to protect the public health, shall make a good faith effort to seek the cooperation of the protected individual to name contacts they wish to have notified, to notify the known contacts and to inform the public health official in the jurisdiction where any additional contacts reside, when necessary to notify such contacts. No information about the protected individual will be released to any person in this process.</p>

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	<p>(b) Authorized public health officials shall consider the following as important factors in determining the priority for which cases merit contact notification in order to protect the public health:</p> <ul style="list-style-type: none"> (1) reported contacts, including spouses known to the reporting physician or other diagnostic provider, or who the protected person wishes to have notified, unless the provider certifies that these known contacts have already been notified; and (2) protected persons who are newly diagnosed with HIV infection. <p>(c) In cases which merit contact notification, if an indication of risk of domestic violence has been identified, pursuant to a protocol acceptable to the commissioner, the authorized public health official, in consultation with the reporting physician, must be satisfied in his/her professional judgment that reasonable arrangements, efforts or referrals to address the safety of affected persons have been made if and when the notification is to proceed. Such consultation shall also consider information, if available, requested from the protected person, or from a domestic violence service provider pursuant to a signed release.</p> <p>(d) Authorized public health officials shall conduct contact notification activities consistent with guidelines acceptable to the commissioner which will recognize the special needs of adolescents, individuals in residential and institutional settings, and other vulnerable populations.</p> <p>(e) Authorized public health officials will respond to all requests from HIV infected individuals and their health care providers for assistance in notifying contacts.</p> <p>(f) When contact notification is conducted by authorized public health officials, such officials shall:</p> <ul style="list-style-type: none"> (1) confirm that post-test counseling of the protected person is completed; (2) when communication with the protected person is necessary, communicate with the protected person in a confidential, private and safe manner to seek cooperation in contact notification activities, to verify the information about the identity or location of known contacts, to conduct or confirm a screen for domestic violence and if applicable, to make referrals regarding domestic violence, prior to any notification of contacts. If communication cannot be made in a confidential, private and safe manner, it shall be deferred until these requirements can be met; and (3) in circumstances where the protected individual cannot be contacted for post-test counseling or declines to be assessed for risk of domestic violence in relation to known contacts, the authorized public health official shall make the determination of whether to proceed with notification of known contacts, in consultation with the reporting physician. <p>(g) All persons notifying contacts shall provide counseling or make referrals or appointments for counseling and testing as appropriate. Such</p>

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	<p>counseling must address coping emotionally with potential exposure to HIV, domestic violence issues, an explanation regarding the nature of HIV infection and HIV-related illness, availability of anonymous and confidential testing, information on preventing exposure or transmission of HIV infection, information regarding discrimination problems that might occur as a result of disclosure of HIV-related information, and legal protections against such disclosures. All notifications shall be in person, except where circumstances reasonably prevent doing so, e.g., at the request of the contact.</p> <p>(h) If a protected person is now deceased, contacts (e.g., spouse) are known to the physician and the physician believes the protected person had not informed such contacts, the physician or his/her agent may notify such contacts or shall request the authorized public health official to notify the contacts, without identifying the protected individual to the contact.</p> <p>(i) A physician or authorized public health official shall have no obligation to identify or locate any contact, except as provided pursuant to Public Health Law Article 21, Title III. No criminal sanction or civil liability shall arise against a physician, his/her employer or designated agent, health facility, health care provider or authorized public health official for the disclosure of confidential HIV-related information to a contact or to a person consenting to health care for the contact when in compliance with Article 27-F, or for the failure to disclose such information to a contact or to a person consenting to health care for the contact.</p> <p>(j) Municipal health commissioners must provide HIV contact notification services and shall forward to the department, summary data and all identifiable information related to notification activities upon completion of such activity unless otherwise determined by the commissioner. Information identifying the contact collected in the course of contact notification activities by authorized public health officials shall not be maintained at the State or local level for more than one year following completion of such activity.</p> <p>(k) For the purposes of notifying contacts under Public Health Law section 2782(1)(d), blood transfusion and organ and tissue transplantation present a risk of HIV transmission. Notifying contacts potentially exposed to HIV through tissues, organs, or transfused blood under a federally mandated recipient notification program or guidelines acceptable to the commissioner shall be sufficient to meet the notification requirements of Article 21, Title III and Article 27-F. Blood banks, organ procurement organizations, and tissue banks may disclose the HIV status of a donation to a donor's provider for the purposes of notifying known contacts of a donor.</p> <p>(l) When contact notification is initiated by a physician not related to reporting mandates or Article 21, Title III, but based on authority to notify an identified spouse, sex partner, hypodermic needle and syringe</p>

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	<p>partner under Public Health Law section 2782(4), physicians or their agents and authorized public health officials may conduct contact notification as follows:</p> <p>(1) a physician or his/her agent may, without the protected person's consent, notify such contact or report such contact to the authorized public health official for the purpose of notifying a contact when:</p> <p>(i) the physician believes disclosure is medically appropriate and a significant risk of infection may exist to the contact;</p> <p>(ii) the protected person has been counseled to notify his/her contacts or the physician has taken all reasonable efforts to attempt to counsel the person; and</p> <p>(iii) domestic violence screening in accordance with the screening protocol has been applied;</p> <p>(2) the physician must inform the protected person of the physician's intent to notify such contacts and of their responsibility to report the case and such contacts to the commissioner, and inform the protected person that he/she may express a preference whether contact notification shall be made by the physician or authorized public health official, and that the protected individual's name or other information about them is not disclosed to any person during the contact notification process;</p> <p>(3) if the protected person's preference is for the authorized public health official to notify contacts or if the protected person's preference is for the physician to notify contacts but the physician chooses not to do so, he/she shall notify the protected person of his/her decision to contact the authorized public health official and shall forward names and addresses of the case and contacts to the authorized public health official, who shall take reasonable measures to notify such contacts. If the protected person's preference is for the physician to notify contacts and the physician elects to do so, the physician or his/her agent may then notify contacts; and</p> <p>(4) the physician must report to the authorized public health official regarding the success or failure of such efforts, including the names and addresses of the cases and contacts. If contacts have not been notified or notification cannot be verified by the physician or his/her agent, public health officers shall take reasonable measures to inform the contact as set forth in subdivisions (b) through (g) of this section.</p> <p>(m) When the requirements of this section have been met, physicians and other diagnostic providers may disclose HIV-related information to physicians or other diagnostic providers of persons whom the protected individual may have exposed to HIV under the circumstances noted below that present a risk of transmission of HIV, except that disclosures related to exposures of emergency response employees governed by Federal law shall continue to be governed by such law:</p> <p>(1) the incident must involve exposure to blood, semen, vaginal secretions, tissue or the following body fluids: cerebrospinal, amniotic, peritoneal, synovial, pericardial and pleural;</p> <p>(2) a person has contact with the body substances, as noted in paragraph (1) of this subdivision, of another to mucus membranes (e.g.,</p>

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	<p>eyes, nose, mouth), non-intact skin (e.g., open wound, skin with a dermatitis condition, abraded areas) or to the vascular system. Examples of such contact may include needlesticks, puncture wound injuries and direct saturation or permeation of non-intact skin by potentially infectious substances. These circumstances shall not include those delineated in section 63.10(d) of this Part; and</p> <p>(3) the exposure incident occurred to staff, employees or volunteers in the performance of employment or professional duties:</p> <p>(i) in a medical or dental office;</p> <p>(ii) in a facility regulated, authorized or supervised by the Department of Health, Office of Mental Health, Office of Mental Retardation and Developmental Disabilities, Office of Children and Family Services, Office of Alcoholism and Substance Abuse Services, Department of Correctional Services; or</p> <p>(iii) involved an emergency response employee, paid or volunteer, including an emergency medical technician, a firefighter, a law enforcement officer (e.g., police, probation, parole officer) or local correctional officer or medical staff;</p> <p>(4) an incident report documenting the details of the exposure, including witnesses to the incident, if any, is on record with supervisory staff;</p> <p>(5) a request for disclosure of HIV status is made to the provider of the source or to the medical officer designated by the facility by the exposed person or by the provider of the exposed person as soon as possible after the alleged exposure if a decision relating to the initiation or continuation of post-exposure prophylactic treatment is being considered;</p> <p>(6) the medical provider of the exposed person or the medical officer designated by the facility reviews, investigates and evaluates the incident and certifies that:</p> <p>(i) the information is necessary for immediate decisions regarding initiation or continuation of post-exposure prophylactic treatment for the exposed person;</p> <p>(ii) the exposed person's status is either HIV negative or unknown and that if the person's status is unknown, the person has consented to an HIV test; and</p> <p>(iii) if such test result becomes known as positive prior to the receipt of the source's HIV status, no disclosure of the source's HIV status will be made to the person;</p> <p>(7) documentation of the request is placed in the medical record of the exposed person; and</p> <p>(8) if the provider of the source or the medical officer designated by the facility determines that a risk of transmission has occurred or is likely to have occurred in the reasonable exercise of his/her professional judgment, the provider or medical officer may release the HIV status of the source, if known. The provider or medical officer may consult with the municipal health commissioner or district health officer to determine whether a risk of transmission exists. If consultation occurs, both the provider and the local health officer must be in agreement if the HIV information is to be disclosed. In the disclosure process the name of the</p>

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	source shall not be provided to the exposed person. Redisclosure of the HIV status of the source is prohibited except when made in conformance with Public Health Law Article 21, Title III.
10 NYCRR 63.9	<p>Health care provider and health facility policy and procedures.</p> <p>Each health care provider and health facility employing persons or contracting with persons to perform any activity related to such provider's or facility's rendering of health services shall develop and implement policies and procedures to maintain the confidentiality of confidential HIV related information. Such policies and procedures shall assure that such information is disclosed to employees or contractors only when appropriate under this Part. Such policies and procedures shall include:</p> <p>(a) initial employee education and annual inservice education of employees regarding the legal prohibition against unauthorized disclosure in Public Health Law Article 27-F and provisions of Article 21, Title III. A list of all employees who have had such training must be maintained by health care providers and health facilities. Health care providers and health facilities contracting with others for services in which HIV-related information may be disclosed to such contractors, must document evidence that such contractors have been informed of the confidentiality and disclosure requirements of this Part;</p> <p>(b) maintenance of a list of job titles and the specific employee functions within those titles for which employees are authorized to access such information. This list shall describe the limits of such access to information and must be provided to the employees during employee education sessions;</p> <p>(c) a requirement that only full-time or part-time employees, contractors and medical, nursing or health-related students who have received such education on HIV confidentiality, or can document that they have received such education or training, shall have access to confidential HIV-related information while performing the authorized functions listed under paragraph (2) of this subdivision;</p> <p>(d) protocols for ensuring that records, including records which are stored electronically, are maintained securely and used for the purpose intended;</p> <p>(e) procedures for handling requests by other parties for confidential HIV-related information;</p> <p>(f) protocols prohibiting employees/agents/contractors from discriminating against persons having or suspected of having HIV infection; and</p> <p>(g) review of the policies and procedures on at least an annual basis.</p>

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10 NYCRR 69-1.1	<p style="text-align: center;">TITLE 10. DEPARTMENT OF HEALTH CHAPTER II. ADMINISTRATIVE RULES AND REGULATIONS SUBCHAPTER H. FAMILY HEALTH PART 69. TESTING FOR PHENYLKETONURIA AND OTHER DISEASES AND CONDITIONS/EARLY INTERVENTION PROGRAM/NEWBORN HEARING SCREENING/STANDARD INFANT AUTOPSY PROCEDURES SUBPART 69-1. TESTING FOR PHENYLKETONURIA AND OTHER DISEASES AND CONDITIONS</p> <p>Definitions.</p> <p>As used in this Part:</p> <p>(a) Testing laboratory means the Wadsworth Center Laboratory of Newborn Screening and Genetic Services, New York State Department of Health, Empire State Plaza, Albany, New York 12201.</p> <p>(b) Responsible institution means the general hospital or diagnostic and treatment center providing birthing services.</p> <p>(c) Chief executive officer means the person who acts as the administrative officer of the institution and who is responsible to the licensed governing body for overall management of the hospital or diagnostic treatment center providing birthing services.</p> <p>(d) Birth attendant means the physician, licensed midwife or other person who attends a nonhospital birth and who is required to register the birth of a child by section 4130 of the Public Health Law.</p> <p>(e) Responsible physician means the physician or other licensed health care provider named on the specimen collection form, the infant's primary health care provider, if different, or the hospital staff physician as designated by the chief executive officer and identified to the testing laboratory.</p> <p>(f) Parent means the infant's parent or legal guardian or other person legally responsible for the health and well-being of the infant.</p> <p>(g) Public health officer means the officer or commissioner of health of a city, town, village, county or region, or public health nursing service in counties which do not have organized health departments.</p> <p>(h) Specimen collection form means the current specimen collection form as provided by the testing laboratory.</p> <p>(i) Specimen means a dried blood filter specimen collected on an approved specimen collection form.</p>

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	<p>(j) Satisfactory specimen means a specimen received by the testing laboratory in a condition suitable for testing.</p> <p>(k) Unsatisfactory specimen means a specimen which is received by the testing laboratory in a condition unsuitable for testing.</p> <p>(l) Repeat specimen means an additional satisfactory specimen required by the testing laboratory.</p> <p>(m) Specialized care center means a health care facility established under article 28 of the Public Health Law which is approved by the department and certified by the Wadsworth Center to provide treatment and/or services to children identified by the testing laboratory.</p> <p>(n) HIV specialized care center means a health care facility established under Article 28 of the Public Health Law which: (1) is designated as an AIDS Center for providing care to women and children; or (2) receives State and/or Federal funds for comprehensive treatment and services to HIV-exposed newborns identified by the testing laboratory, and to the newborns' mothers and families.</p> <p>(o) Department means the New York State Department of Health.</p>
10 NYCRR 69-1.2	<p>Diseases and conditions tested.</p> <p>a) Unless a specific exemption is granted by the State Commissioner of Health, the testing required by sections 2500-a and 2500-f of the Public Health Law shall be performed by the testing laboratory according to recognized clinical laboratory procedures.</p> <p>(b) Diseases and conditions to be tested for shall include: argininemia (ARG); argininosuccinic acidemia (ASA); biotinidase deficiency; branched-chain ketonuria, also known as maple syrup urine disease (MSUD); carnitine palmitoyl transferase Ia deficiency (CPT-IA); carnitine palmitoyl transferase II deficiency (CPT-II); carnitine-acylcarnitine translocase deficiency (CAT); carnitine uptake defect (CUD); citrullinemia (CIT); cobalamin A,B cofactor deficiency (Cbl A,B); congenital adrenal hyperplasia (CAH); cystic fibrosis (CF); dienoyl-CoA reductase deficiency (DE REDUCT); galactosemia; galactosylceramidase deficiency (Krabbe disease); glutaric acidemia type I (GA-I); hemoglobinopathies, including homozygous sickle cell disease; homocystinuria;</p>

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	<p>human immunodeficiency virus (HIV) exposure and infection; 3-hydroxy-3-methylglutaryl-CoA lyase deficiency (HMG); hyperammonemia/ornithinemia/citrullinemia (HHH); hypermethioninemia (HMET); hypothyroidism; isobutyryl-CoA dehydrogenase deficiency (IBG or IBCD); isovaleric acidemia (IVA); long-chain 3-hydroxyacyl-CoA dehydrogenase deficiency (LCHADD); malonic aciduria (MAL); medium-chain acyl-CoA dehydrogenase deficiency (MCADD); medium-chain ketoacyl-CoA thiolase deficiency (MCKAT); medium/short-chain hydroxyacyl-CoA dehydrogenase deficiency (M/SCHAD); 2-methylbutyryl-CoA dehydrogenase deficiency (2MBG); 3-methylcrotonyl-CoA carboxylase deficiency (3-MCC); 3-methylglutaconic aciduria (3MGA); 2-methyl 3-hydroxy butyryl-CoA dehydrogenase deficiency (2M3HBA); methylmalonic acidemia (Cbl C, D); methylmalonyl-CoA mutase deficiency (MUT); mitochondrial acetoacetyl-CoA thiolase deficiency (BKT); mitochondrial trifunctional protein deficiency (TFP); multiple acyl-CoA dehydrogenase deficiency (MADD, also known as GA-II); multiple carboxylase deficiency (MCD); phenylketonuria (PKU); propionic acidemia (PA); severe combined immunodeficiency and other inherited T-cell deficiencies (SCID); short-chain acyl-CoA dehydrogenase deficiency (SCADD); tyrosinemia (TYR); and very long-chain acyl-CoA dehydrogenase deficiency (VLCADD).</p>
10 NYCRR 69-1.3	<p>Responsibilities of the chief executive officer</p> <p>The chief executive officer shall ensure that a satisfactory specimen is submitted to the testing laboratory for each newborn born in the hospital, or admitted to the hospital within the first 28 days of life from whom no specimen has been previously collected, and that the following procedures are carried out:</p> <p>(a) The infant's parent is informed of the purpose and need for newborn screening, and given newborn screening educational materials provided by the testing laboratory.</p> <p>(b) Specimen collection forms are properly stored in a cool and dry environment prior to use. Such forms shall be legibly and fully completed and shall include all information required by the testing laboratory for processing specimens, and conducting tracking and follow-up activities, including, but not limited to, information identifying:</p> <p>(1) the infant's name; sex; whether single birth or, if twin birth,</p>

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	<p>sequence of birth; ethnicity; date of birth; birth weight; medical record number; and whether premature and/or transfused, with transfusion date;</p> <p>(2) the specimen, including identification number, the date collected, infant's age in hours at time of collection; and whether initial or repeat specimen;</p> <p>(3) the mother's name, address, county of residence, telephone number, social security number, age in years and test result for hepatitis B surface antigen (HBs Ag);</p> <p>(4) the hospital or responsible institution's name and city; permanent facility identifier (PFI) code; and whether hospital of birth, or home birth; and</p> <p>(5) the responsible physician's name, address, telephone number and license number.</p> <p>(c) The above information shall also be submitted to the department in an electronic format which is consistent with the technical specifications established by the department.</p> <p>(1) Providers submitting the required information in an approved and validated electronic format, and submitting the minimal necessary identifying information with the specimen, may be exempted by the department from the manual reporting requirements of this section. Additionally, upon receipt of a request from a provider, the department may exempt the provider from electronic submission of the information if the requirement imposes an undue burden on the provider due to a low number of births and limited access to electronic communications equipment, or if temporary equipment malfunctions occur.</p> <p>(2) The requirement for electronic reporting shall take effect 60 days from the effective date of these regulations.</p> <p>(d) Specimens shall be taken utilizing correct specimen collection techniques.</p> <p>(e) A specimen shall be taken upon discharge of the infant from the facility, except as noted below. If an infant is less than 24 hours of age upon discharge, a second specimen marked "repeat" shall be collected between the 72nd and one-hundred and 120th hour of life.</p> <p>(1) In the event of prolonged hospitalization for specialized medical care, a specimen shall be collected between the 72nd and 120th hour of life. A second specimen marked "repeat" shall be collected upon discharge or at one month of life, whichever comes first.</p> <p>(2) The responsible institution shall make every effort to obtain a</p>

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	<p>specimen prior to any anticipated blood transfusion.</p> <p>(3) In the case of inter-hospital transfer of the infant, the transferring hospital shall provide written notification to the receiving hospital indicating whether or not a specimen has been taken prior to transfer. Following transfer, the chief executive officer of the receiving hospital shall assume responsibility for collection of the specimen in accordance with these regulations.</p> <p>(f) The date and time of specimen collection shall be recorded on the infant's permanent health record.</p> <p>(g) All specimens shall be allowed to air dry thoroughly on a flat nonabsorbent surface for a minimum of four hours prior to forwarding to the testing laboratory. All specimens shall be forwarded to the testing laboratory within 24 hours of collection using the testing laboratory's delivery service or an equivalent arrangement designed to ensure delivery of specimens to the testing laboratory no later than 48 hours after collection.</p> <p>(h) Thoroughly dried specimens shall be submitted in accordance with instructions provided by the testing laboratory.</p> <p>(i) All test results forwarded to the chief executive officer or his/her designee by the testing laboratory shall be included in the infant's permanent health record.</p> <p>(j) The chief executive officer or his/her designee shall transmit to the responsible physician a copy of those test results which are determined by the testing laboratory to be within acceptable limits.</p> <p>(k) The chief executive officer shall be responsible for ensuring that repeat specimens are submitted whenever the hospital is notified by the testing laboratory that the initial specimen was unsatisfactory or that an additional specimen is otherwise required. (1) If a repeat specimen is required and notification has been received from the responsible physician that he/she is no longer the infant's current health provider, the chief executive officer shall determine the infant's new health care provider and cause such repeat specimen to be submitted to the testing laboratory.</p> <p>(2) If a repeat specimen is not obtained, the chief executive officer shall submit to the testing laboratory written documentation of all efforts made to secure such repeat specimen within 10 working days of cessation of specimen collection efforts.</p> <p>(l) In addition to all applicable preceding requirements for HIV testing the following specific procedures shall be carried out:</p> <p>(1) obtain a history of HIV testing and treatment from the mother to</p>

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	<p>enable counseling consistent with such history and knowledge of her own HIV status, and document such history in the medical record;</p> <p>(2) if no HIV test result obtained during the current pregnancy is available for the mother not known to be HIV-infected, arrange an immediate screening test of the mother with her consent or of her newborn for HIV antibody with results available as soon as practicable, but in no event longer than 12 hours after the mother provides consent for testing or, if she does not consent, 12 hours after the time of the infant's birth;</p> <p>(3) the newborn HIV test result shall be maintained securely and confidentially in the medical record of the newborn in accordance with Public Health Law Article 27-F.</p> <p>(4) the chief executive officer or his designee shall transmit to the responsible physician a copy of the newborn's HIV test result, and, at the request of the responsible physician, shall transmit the result to an HIV specialized care center.</p> <p>(5) make referrals as necessary for follow-up of HIV positive newborns who cannot be located.</p> <p>(6) ensure that data required by the department for program evaluation and, in the case of HIV positive newborns, for patient follow-up, is collected and provided to authorized staff at the department.</p> <p>(7) submit to the department information on the prior HIV testing and treatment history of the mother for the purposes of medical audits; such information shall be kept confidential as required by Public Health Law section 206(1)(j).</p>
10 NYCRR 69-1.4	<p>Responsibilities of the birth attendant.</p> <p>It is the duty of the birth attendant to submit to the testing laboratory an initial blood specimen from all infants born outside of, and not admitted to, a responsible institution.</p> <p>(a) The birth attendant must adhere to the procedures specified in sections 69- 1.3(a) through (l) of this Subpart except for subdivisions (c), (i), (j) and (k).</p> <p>(b) The birth attendant shall collect or cause to be collected a repeat specimen when required by the testing laboratory and shall submit or cause such repeat specimen to be submitted to the testing laboratory within 24 hours of collection.</p> <p>(c) If a repeat specimen is not obtained, the birth attendant shall submit to the testing laboratory written documentation of efforts made to secure the repeat specimen.</p>

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	<p>(d) For HIV testing, the following specific procedures shall be carried out:</p> <ul style="list-style-type: none"> (1) obtain a history of HIV testing and treatment from the mother to enable counseling consistent with such history and knowledge of her own HIV status, and document such history in the medical record; (2) ensure that data required by the department for program evaluation and, in the case of HIV positive newborns, for patient follow-up, is collected and provided to authorized staff at the department; and (3) submit to the department information on prior HIV testing and treatment history of the mother for the purposes of medical audits; such information shall be kept confidential as required by Public Health Law, section 206(1)(j).
10 NYCRR 69-1.5	<p>Duties of the responsible physician.</p> <p>The responsible physician shall:</p> <ul style="list-style-type: none"> (a) fully inform the parent of the purpose and need for newborn screening, and interpret all test results; (b) conform with the specimen collection and submission procedures specified in section 69-1.3 of this Subpart. (c) promptly collect and submit repeat specimens requested by the testing laboratory. All repeat specimens shall be clearly marked REPEAT; (d) include in the infant's health record the test results received from the chief executive officer or from the testing laboratory; (e) in the case of confirmed abnormal test results, arrange for diagnostic evaluation and case management with an approved specialized care center; (f) provide case information, specimens and other information for tracking and follow-up reviews requested by the testing laboratory; and (g) in the case of newborns who test positive for HIV antibodies, in addition to applicable preceding requirements: <ul style="list-style-type: none"> (1) provide or arrange for post-test counseling for the mother or, if the mother lacks capacity to consent to health care for the newborn, for the person authorized by law to give such consent; (2) provide or arrange for health care, case management and other social services as needed for the newborn; (3) maintain the newborn HIV test result securely and confidentially in the medical record of the newborn in accordance with Public Health Law Article 27-F; (4) provide the mother with referrals for health and social services as needed and transfer a copy of the newborn's HIV test result to the mother's physician as permitted by Public Health Law Article 27-F; and (5) submit specimens, as specified by the testing laboratory, to the testing laboratory to determine the HIV infection status of the infant; or

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	<p>submit documentation of such test results from a permitted laboratory; or (6) refer the mother and newborn to an HIV specialized care center for provision of the services required by paragraphs (1) through (5) of this subdivision.</p>
10 NYCRR 69-1.6	<p>Responsibilities of the public health officer</p> <p>The public health officer shall:</p> <p>(a) inform the parent of the importance and need for newborn screening and distribute educational materials provided by the testing laboratory;</p> <p>(b) collect or cause a repeat specimen to be collected when notified of the need for a repeat specimen by the testing laboratory. The specimen must be submitted within 24 hours of collection; and</p> <p>(c) submit written documentation to the testing laboratory of efforts made to secure such repeat specimen if a repeat specimen is not obtained.</p>
10 NYCRR 69-1.7	<p>Responsibilities of the specialized care centers.</p> <p>The director of a specialized care center shall:</p> <p>(a) provide consultation and assistance to hospitals, physicians, the testing laboratory and other health care providers upon request;</p> <p>(b) provide diagnostic evaluation and treatment of each infant referred for evaluation and consultation and assistance to the infant's parent;</p> <p>(c) provide case information, specimens and other information for tracking and follow-up reviews requested by the testing laboratory; and</p> <p>(d) in the case of HIV specialized care centers, in addition to the preceding applicable requirements, upon request by the responsible physician for each HIV positive newborn identified by the testing laboratory</p> <p>(1) provide or arrange for post-test counseling for the mother or, if the mother lacks capacity to consent to health care for the newborn, for the person authorized by law to give such consent;</p> <p>(2) provide or arrange for health care, case management and other social services as needed for the newborn;</p> <p>(3) maintain the newborn HIV test result securely and confidentially in the medical record of the newborn in accordance with Public Health Law Article 27-F;</p> <p>(4) provide or arrange for the mother's health and social services as needed; and transfer a copy of the newborn's HIV test result to the mother's health care provider as permitted by Public Health Law Article 27-F; and</p> <p>(5) submit specimens, as specified by the testing laboratory, to the</p>

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	testing laboratory to determine the HIV infection status of the infant; or submit documentation of such test results from a permitted laboratory.
10 NYCRR 69-1.8	<p>Follow-up review, tracking and educational activities</p> <p>The testing laboratory shall:</p> <p>(a) record requested diagnoses and case follow-up information submitted by health care providers and specialty care centers;</p> <p>(b) maintain tracking records on identified cases; and</p> <p>(c) provide educational activities and materials.</p>
10 NYCRR 69-1.9	<p>Inapplicability of this Part.</p> <p>This Part shall not apply in the case of any infant or child whose parent or guardian is a member of a recognized religious organization whose teachings and tenets are contrary to the testing required by this Part and who notifies the person charged with having such tests administered of his objection thereto.</p>
10 NYCRR 80.135	<p style="text-align: center;">TITLE 10. DEPARTMENT OF HEALTH CHAPTER II. ADMINISTRATIVE RULES AND REGULATIONS SUBCHAPTER K. CONTROLLED SUBSTANCES PART 80. RULES AND REGULATIONS ON CONTROLLED SUBSTANCES TOXIC VAPORS, HYPODERMIC SYRINGES AND NEEDLES</p> <p>Authorization to conduct hypodermic syringe and needle exchange programs.</p> <p>(a) Employees or trained volunteers of community-based not-for-profit organizations and government entities engaged in clean hypodermic syringe and needle exchange programs designed to reduce the transmission of human immunodeficiency virus may obtain, possess and furnish hypodermic syringes and hypodermic needles, without prescription, when authorized by the Commissioner in connection with the distribution or collection of hypodermic syringes and hypodermic needles for the purpose of preventing the transmission of human immunodeficiency virus in users of injectable drugs. This authorization will be granted only in accordance with a plan submitted by the not-for-profit corporation or government entity to and approved by the Commissioner, using the standards contained in this section. This authorization will be based upon the plan meeting the requirements of the regulation.</p> <p>(b) The Department will review the plan submitted by the not-for-profit corporation or government entity using the following standards:</p> <p style="padding-left: 40px;">(4) the plan demonstrates organizational capability to provide comprehensive harm reduction services, including HIV prevention</p>

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	<p>education and other appropriate interventions such as counseling for program participants and direct provision of or referral to other health and human services, including drug treatment.</p> <p>(g) An organization or entity authorized by the Commissioner to conduct a hypodermic syringe and needle exchange program must adhere to policies and procedures developed by the Department for the conduct of a hypodermic syringe and needle exchange. An approval plan may propose revisions to the department's policies and procedures to reflect the specific conditions under which the plan is providing services. Any proposed revision must be approved by the department prior to implementation. Such policies and procedures will include, but not be limited to:</p> <p>(13) policies and procedures relating to the provision of HIV prevention education and other appropriate interventions such as counseling for program participants;</p> <p>(14) policies and procedures for referring program participants to services, including developing formal written agreements with service providers and documenting referral linkages;</p>
10 NYCRR 86-4.35	<p style="text-align: center;">ITILE 10. DEPARTMENT OF HEALTH CHAPTER II. ADMINISTRATIVE RULES AND REGULATIONS SUBCHAPTER L. HOSPITALS AND RELATED FACILITIES PART 86. REPORTING AND RATE CERTIFICATIONS FOR FACILITIES SUBPART 86-4. FREE-STANDING AMBULATORY CARE FACILITIES</p> <p>Computation of basic rates for clinic services provided to Acquired Immune Deficiency Syndrome (AIDS) and Human Immunodeficiency Virus (HIV) sero-positive patients by freestanding ambulatory care facilities and hospital clinic outpatient services</p> <p>(a) For payments made pursuant to this section and pursuant to section 86- 1.11(h) of this Part, for ambulatory services to AIDS patients, HIV positive patients, and patients seeking verification of HIV infection, reimbursement shall be based upon a single payment schedule with a discrete price for each of the five clinic services set forth in subdivision (c) of this section.</p> <p>(b) To be eligible to receive reimbursement pursuant to this section, facilities must be licensed pursuant to article 28 of the Public Health Law and certified to provide general medical services and complete a written signed agreement with the commissioner to provide these discrete services. Facilities interested in establishing such agreements must submit in writing the required documentation in a manner acceptable to the commissioner. Such agreement shall describe the Medicaid patients who will be eligible for reimbursement under this section and shall</p>

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	<p>establish the documentation and services required for patient assignment to each of the five clinic services.</p> <p>(c) The five clinic services for which reimbursement shall be available according to the prices as established by this section are as follows:</p> <p>(1) HIV counseling and testing visits. This visit shall mean the provision of pre-test HIV counseling in a medical setting as performed in compliance with article 27-f of the State Public Health Law. This visit shall also include laboratory testing necessary to determine whether a person has HIV disease. This visit shall also mean the provision of post-test HIV counseling in a medical setting as performed in compliance with the confidentiality provisions of article 27-f of the State Public Health Law for those individuals whose test results are positive. This visit is available for the purpose of informing these individuals of their test results and providing supportive counseling for those HIV zero positive persons experiencing adverse psychological responses to their serostatus.</p> <p>(2) Post-test counseling visit. This visit shall mean the provision of post-test HIV counseling in a medical setting as performed in compliance with the confidentiality provisions of article 27-f of the State Public Health Law for those persons whose test results are negative. This visit is available for the purpose of informing these individuals of their results and counseling them on preventive measures.</p> <p>(3) Initial comprehensive HIV medical evaluation visit. This visit shall mean a comprehensive medical history and physical examination, and laboratory testing necessary for the evaluation of HIV disease and related conditions. The evaluation shall be complete enough to: establish the state of HIV illness, diagnose active opportunistic infections and tumors, identify appropriate prophylactic therapies to prevent future opportunistic infections, initiate indicated anti-HIV therapy, and identify significant psycho-social problems to be addressed in the care plan.</p> <p>(4) Drug and immunotherapy visits for HIV infected patients. This visit shall mean to those HIV-related treatments that require active health care supervision during the treatment visit and/or extensive amount of provider monitoring following the treatment.</p> <p>(5) Monitoring visit for asymptomatic HIV disease. This visit shall mean the clinical and laboratory evaluation necessary to monitor the status of HIV disease to indicate the appropriate stage to initiate active drug treatment for HIV or prophylactic treatment for opportunistic infections.</p> <p>(d) The prices established pursuant to this section shall provide full reimbursement for the following:</p> <p>(1) physician services, nursing services, technician services, and other related professional expenses directly incurred by the licensed facility;</p> <p>(2) space occupancy and plant overhead costs;</p> <p>(3) administrative personnel, business office, data processing, recordkeeping, housekeeping, and other related facility overhead expenses;</p> <p>(4) all ancillary services including laboratory tests and diagnostic X-ray services where specified in the treatment regimes and as detailed in the agreement pursuant to subdivision (b) of this section; and</p> <p>(5) all medical supplies, immunizations, and drugs directly related to the provision of the services except for those drugs used to treat AIDS</p>

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	<p>patients for which fee for service reimbursement is available under section 7.0 of the Medicaid Ordered Ambulatory Services Fee Schedule as contained in the Medicaid Management Information Systems (MMIS) Clinic Services Provider Manual (revised October, 1988). Copies of the schedule may be obtained from the New York State Department of Social Services and are available for inspection and copying at the Department of Health, Records Access Office, 22nd Floor, Corning Tower Building, Governor Nelson A. Rockefeller Empire State Plaza, Albany, New York 12237-0042.</p> <p>(e) The price for each service shall be adjusted for regional differences in wage levels, space occupancy and facility overhead costs.</p> <p>(f) The commissioner shall establish trend factors to project increases in the base year prices during the effective period of the reimbursement rates. The trend factors shall be developed using available price indices including elements of the United States Department of Labor consumer and producer price indices and special price indices developed by the commissioner for this purpose. The projected trend factors shall be updated on an annual basis, based upon current and available data.</p> <p>(g) At the discretion of the commissioner, health services may be added or deleted from the visits contained in subdivision (c) of this section. The commissioner shall notify participating providers of such changes at least 60 days before such changes shall be effective and the agreements as outlined in subdivision (b) of this section shall be modified to encompass any such changes.</p> <p>(h) Payment for any other clinic services which are not covered pursuant to subdivision (c) of this section shall be reimbursed as follows:</p> <p>(1) for facilities with a cost-based all inclusive clinic visit rate established pursuant to this Subpart or to Subpart 86-1, services shall be reimbursed at the all inclusive clinic visit rate.</p> <p>(2) for facilities without a cost-based all-inclusive rate, fee for service reimbursement is available under the Ordered Ambulatory Services Fee Schedule as referenced in paragraph (d)(5) of of this section for medical services ordered by the patient's attending physician.</p> <p>(i) For financial reporting purposes and statistical reporting purposes, facilities which provide services pursuant to subdivision (c) of this section must comply as appropriate with the standards established for said reporting in section 86-1.3 or 86-4.3 of this Part.</p>
<p>10 NYCRR 400.20</p>	<p style="text-align: center;">TITLE 10. DEPARTMENT OF HEALTH CHAPTER V. MEDICAL FACILITIES SUBCHAPTER A. MEDICAL FACILITIES--MINIMUM STANDARDS ARTICLE 1. GENERAL PART 400. ALL FACILITIES--GENERAL REQUIREMENTS</p> <p>HIV infection control.</p> <p>(a) All facilities regulated under this article shall:</p> <p>(1) implement and enforce a program for the prevention of circumstances which could result in an employee or patient/client becoming exposed to significant risk body substances which could put them at significant risk of HIV infection during the provision of services,</p>

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	<p>as defined in sections 63.1 and 63.9 of this Title. Such a program shall include:</p> <ul style="list-style-type: none"> (i) use of scientifically accepted protective barriers during job-related activities which involve, or may involve, exposure to significant risk body substances. Such preventive action shall be taken by the employee with each patient/client as an essential element for the prevention of bi-directional spread of HIV; (ii) use of scientifically accepted preventive practices during job-related activities which involve the use of contaminated instruments or equipment which may cause puncture injuries; (iii) training at the time of employment and yearly staff development programs on the use of protective equipment, preventive practices, and circumstances which represent a significant risk for all employees whose job-related tasks involve, or may involve, exposure to significant risk body substances; (iv) provision of personal protective equipment for employees which is appropriate to the tasks being performed; and (v) a system for monitoring preventive programs to assure compliance and safety; <p>(2) implement and enforce a policy/procedure for the management of individuals who are exposed to significant risk body substances under circumstances which constitute significant risk of transmitting or contracting HIV infection. The policy/procedure shall include:</p> <ul style="list-style-type: none"> (i) a system for reporting to a designated individual in the facility exposure thought to be a circumstance which constitutes significant risk of transmitting or contracting HIV infection; (ii) evaluation of the circumstances of a reporting exposure and services for providing follow-up of the exposed individual which includes: <ul style="list-style-type: none"> (a) medical and epidemiological assessment of the individual who is the source of the exposure, where that individual is known and available; (b) if indicated epidemiologically, HIV counseling and voluntary testing of the source individual. Disclosure of the HIV status of the source individual can be made with the express written consent of the protected individual, or a person authorized pursuant to law to consent to health care for the protected individual if such person lacks capacity to consent, or pursuant to court order, if the HIV status is not known to the exposed individual; (c) appropriate medical follow-up of the exposed individual; (iii) assurances for protection of confidentiality for those involved in reported exposures.
10 NYCRR 754.1	<p style="text-align: center;">TITLE 10. DEPARTMENT OF HEALTH CHAPTER V. MEDICAL FACILITIES SUBCHAPTER C. STATE HOSPITAL CODE ARTICLE 6. TREATMENT CENTER AND DIAGNOSTIC CENTER OPERATION PART 754. BIRTH CENTER SERVICES</p> <p>Definitions</p>

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	<p>(a) A birth center is a diagnostic and treatment center organized to provide care to low-risk patients during pregnancy, labor and delivery who require a stay of less than 24 hours after birth. Services are provided by a physician or licensed midwife to women during a normal and an uncomplicated pregnancy, labor, birth and puerperium. Birth center services are based on a philosophy that promotes a family-centered approach to care and views pregnancy and delivery as a normal physiological process requiring limited technological and pharmacological support. The center services are designed to meet the specific needs of the population being served and promote optimum pregnancy outcomes. The licensed midwife or physician provides care for the low-risk woman during pregnancy and stays with her during labor from the time of admission to the birth center through the immediate postpartum period providing continuous physical and emotional support, evaluating progress, facilitating family interaction and assisting the woman in labor and delivery. Nurse practitioners may provide prenatal and post partum care to birthing center patients. They may also provide supportive care during labor and delivery, but the attending provider for birth must be a physician or licensed midwife.</p> <p>(b) A patient at low risk means a patient with a normal medical, surgical and obstetrical history and a normal, uncomplicated prenatal course as determined by adequate prenatal care, and prospects for a normal uncomplicated birth. A pregnant woman, parturient or newborn shall be determined as low risk during the prenatal period, intrapartum and postpartum by the use of standardized criteria based on generally accepted standards of professional practice such as those approved by the department's Prenatal/Perinatal Advisory Council Subcommittee on Birth Centers in Guidelines for Birth Centers in New York State.</p>
10 NYCRR 754.7	<p>Services for the care of mothers and newborns.</p> <p>The operator shall ensure that the birth center provides at least the following:</p> <p>(a) admission screenings to assure that only low risk women are admitted to the birth center;</p> <p>(b) active participation by women and families in their own health care plan to include but not be limited to:</p> <ol style="list-style-type: none"> (1) orientation to the birth center services and its philosophy and goals preceding registration; and (2) attendance at prenatal education classes approved by the clinical staff which address, as a minimum, labor and delivery, infant care and feeding, parenting, nutrition, the effects of smoking, alcohol and other drugs on the fetus, what to expect if transferred, and the newborn screening program with the distribution of newborn screening educational literature; <p>(c) prenatal and intrapartum care including:</p>

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	<p>(1) a plan of care developed according to accepted professional standards;</p> <p>(2) selection of pediatric services by the woman for follow-up care of the infant;</p> <p>(3) providing HIV counseling and recommending voluntary testing to pregnant women during a prenatal visit. Counseling and/or testing, if accepted, shall be provided pursuant to Public Health Law Article 27-F. Information regarding the woman's HIV counseling and HIV status must be transferred as part of her medical history to the labor and delivery site. Women with positive test results shall be referred to the necessary health and social services within a clinically appropriate time;</p> <p>(4) continuous risk assessment of the woman and fetus; and</p> <p>(5) labor support and professional attendance at birth for the mother and her family;</p> <p>(d) postpartum care including:</p> <p>(1) care in the birth center to be provided for a minimum of four hours and a maximum of 24 hours after the third stage of labor is complete;</p> <p>(2) a physical assessment of the newborn with the required eye prophylaxis in accordance with section 12.2 of this Title and newborn screening tests in accordance with Part 69 of this Title;</p> <p>(3) birth registration in accordance with section 4130 of the Public Health Law;</p> <p>(4) a physical assessment of the mother in accordance with established protocols including the evaluation of Rh status, need for Rh prophylaxis and the mother's ability to feed the infant prior to discharge from the center; and</p> <p>(5) the transfer to the newborn's medical record of a mother's HIV test result, if one exists;</p> <p>(e) discharge and follow-up including:</p> <p>(1) maternal and newborn home visits the following day after discharge and upon the third day after discharge unless arrangements have been made for the infant to be seen by his/her physician. The home visits may be performed by professional nursing staff from the birth center, if the facility is approved under article 36 of the Public Health Law, or through an arrangement with a certified or licensed home health agency, to include an assessment of the mother-child relationship, an evaluation of the nutritional status of the infant and the physical and psychological status of the mother, performance of a hematocrit, rubella vaccination and Rh prophylaxis, if indicated, and newborn screening blood collection in accordance with Part 69 of this Title;</p> <p>(2) assurance of immediate and ongoing pediatric care;</p> <p>(3) provision of family planning counseling or arrangements for family planning services, if desired by the patient; and</p> <p>(4) arrangements for follow-up visits at the birth center within a six-week period following the birth.</p>

New York Codes, Rules and Regulations – Title 14: Department of Mental Hygiene

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14 NYCCR 309.1	<p style="text-align: center;">TITLE 14. DEPARTMENT OF MENTAL HYGIENE CHAPTER X. ALCOHOLISM PART 309. RESPONSIBILITIES OF FACILITIES FOR ALCOHOLISM IN REGARD TO AIDS, HIV ILLNESS AND HIV-RELATED INFORMATION</p> <p>Applicability</p> <p>This Part applies to all alcoholism facilities, alcoholism outpatient facilities and community residences whether operated or certified by the Division of Alcoholism and Alcohol Abuse and any staff member, contractor, employee, associate or agent thereof. Any such facility which is a unit or part of a hospital shall also conform to related regulations of the Commissioner of Health to the extent compliance is allowed by Federal confidentiality regulations.</p>
14 NYCCR 309.2	<p>Definitions</p> <p>(a) Facility means an alcoholism facility, alcoholism outpatient facility or community residence operated or certified by the Division of Alcoholism and Alcohol Abuse.</p> <p>(b) HIV infection means infection with the human immunodeficiency virus or any other agent identified as a probable causative agent of AIDS.</p> <p>(c) HIV-related illness means any clinical illness that may result from or be associated with HIV infection.</p> <p>(d) HIV-related test means any laboratory test or series of tests for any virus, antibody, antigen or etiologic agent whatsoever thought to cause or to indicate the presence of HIV infection.</p> <p>(e) Capacity to consent means an individual's ability, determined without regard to such individual's age, to understand and appreciate the nature and consequences of a proposed health care service, treatment or procedure, and to make an informed decision concerning such service, treatment or procedure.</p> <p>(f) Protected individual means a person who is the subject of an HIV-related test or who has been diagnosed as having HIV infection, AIDS or HIV-related illness.</p> <p>(g) Confidential HIV-related information means any information, in the possession of a facility or staff member thereof concerning whether an individual has been the subject of an HIV-related test, or has HIV infection, HIV-related illness or AIDS, or information which identifies or reasonably could identify an individual as having one or more of such conditions, including information pertaining to such individual's contacts.</p> <p>(h) Contact means an identified spouse or sex partner of the protected individual or a person identified as having shared hypodermic needles or syringes with the protected individual.</p> <p>(i) Case record for purposes of this Part, means the patient case record including medical information maintained by a facility about a protected</p>

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	<p>individual regardless of where or in what form such information is maintained.</p> <p>(j) Federal confidentiality regulations means 42 CFR 2 or any successor or additional Federal regulations governing the confidentiality of alcohol patient information.</p> <p>(k) Significant risk of contracting or transmitting HIV infection means the presence of the three factors necessary to create a significant risk of contracting or transmitting HIV infections which are: 1) the presence of a significant risk body substance; 2) a circumstance which constitutes significant risk; and 3) the presence of an infectious source and a noninfected person.</p> <p>(1) Significant risk body substances are blood, semen, vaginal secretions, breast milk and the following body fluids: cerebrospinal, amniotic, peritoneal, synovial, pericardial, and pleural.</p> <p>(2) Circumstances which constitute significant risk for transmitting or contracting HIV infection are as follows:</p> <p>(i) sexual intercourse (vaginal, anal, or oral) which exposes a noninfected individual to blood, semen or vaginal secretions of an infected individual;</p> <p>(ii) sharing of needles and other paraphernalia used for preparing and injecting drugs between infected and noninfected individuals;</p> <p>(iii) the gestation, birthing or breast feeding of an infant when the mother is infected with HIV;</p> <p>(iv) transfusion or transplantation of blood, organs, or other tissues obtained from an infected individual to an uninfected individual, provided such blood, organs, or other tissues have not tested negatively for antibody or antigen and have not been rendered noninfective by heat or chemical treatment; and</p> <p>(v) other circumstances not identified in subparagraphs (i) through (iv) of this paragraph during which a significant body risk body substance (other than breast milk) of an infected individual contacts mucous membranes (e.g., eyes, nose, mouth), nonintact skin (e.g., open wound, skin with a dermatitis condition, abraded areas) or the vascular system of a noninfected person. Such circumstances include, but are not limited to, needlestick or puncture wound injuries and direct saturation or permeation of these body surfaces by the infectious body substance.</p> <p>(3) Circumstances that involve significant risk shall not include:</p> <p>(i) exposure to urine, feces, sputum, nasal secretions, saliva, sweat, tears or vomitus that does not contain blood that is visible to the naked eye;</p> <p>(ii) human bites where there is no direct blood to blood, or blood to mucous membrane contact;</p> <p>(iii) exposure of intact skin to blood or any other body substance; and</p> <p>(iv) occupational settings where individuals use scientifically accepted barrier techniques and preventive practices in circumstances which would otherwise pose a significant risk.</p>
14 NYCCR 309.3	<p>Nondiscrimination.</p> <p>(a) No facility shall deny admission to, terminate care and/or treatment, change the status of, limit or otherwise reduce the range, quality or variety of alcoholism services to any person solely on the basis of that</p>

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	<p>person's actual, presumed, or alleged HIV-related condition or status. (b) No facility shall condition admission, continuation of services or provision of any needed service on an agreement by the individual to obtain an HIV-related test or to disclose the results of any such test conducted in the past or which may be conducted in the future.</p>
14 NYCCR 309.4	<p>HIV-related testing</p> <p>(a) Each facility which provides or has arrangements for performing laboratory tests shall specify in its policy and procedure those individuals on staff who are authorized pursuant to law to order laboratory tests. (b) If a patient indicates an interest in obtaining an HIV-related test, he or she shall be provided the location and telephone number of the nearest HIV testing site where he or she may obtain an anonymous test. If access to an anonymous HIV testing site is not readily available, the person shall be referred to a convenient, accessible source of confidential testing. (c) If the individual rejects the offered referral for anonymous testing and requests the facility to provide testing, the person shall be provided an appointment with a facility physician or with a staff person appointed to handle such requests if a physician is not available. (1) The physician or other staff person shall repeat the offer of referral for anonymous testing, but if the patient continues to request that the facility provide the test, the physician may order the test in accordance with the requirements of this Part. (2) If, after the circumstances in which testing can be provided are explained, the patient declines to participate in testing under the circumstances available, no test shall be ordered. (d) Except as noted in subdivision (g) of this section, no physician or other staff person may order an HIV-related test without obtaining written informed consent of the subject. (e) Informed consent shall consist of providing the following to the person to be tested or, if such person lacks capacity to consent, to the person lawfully authorized to consent to health care for such person: (1) explanations regarding the nature of AIDS and HIV infection and HIV-related illness, an explanation of the test and procedures to be followed and the meaning of test results, and the benefits of taking the test including early diagnosis and medical intervention; (2) information regarding discrimination problems which might occur as a result of unauthorized disclosure of HIV-related information and legal protections prohibiting such disclosures; (3) information on preventing exposure to or transmission of HIV infection, including behavior which poses a risk of HIV transmission; and (4) an explanation that the test is voluntary, that consent may be withdrawn at any time, that anonymous testing is available and how an anonymous test may be obtained, and the location and telephone number of anonymous test sites and that anonymous testing is not available for persons proposed for insurance coverage. (f) The written informed consent must be executed by the subject on the form established or approved by the Department of Health. (g) Informed consent is not required under these regulations in the</p>

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	<p>following circumstances:</p> <p>(1) for court ordered testing pursuant to Civil Practice Law and Rules, section 3121;</p> <p>(2) if otherwise authorized or required by State or Federal law;</p> <p>(3) for testing related to procuring, processing, distributing or use of a human body or human body part, including organs, tissues, eyes, bones, arteries, blood, semen or other body fluids for use in medical research or therapy, or for transplantation to persons, provided that if the test results are communicated to the tested person, post-test counseling is required;</p> <p>(4) for research if the testing is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher; and</p> <p>(5) for testing of a deceased to determine cause of death or for epidemiological purposes.</p> <p>Informed consent may be required under Federal regulations, however, if Federal regulations are applicable.</p> <p>(h) Post-test counseling, and referrals with respect to a positive or negative test result, shall be provided to the person who consented to the test. Such post-test counseling and referrals must address:</p> <p>(1) coping emotionally with the test results;</p> <p>(2) discrimination issues;</p> <p>(3) information on the ability to release or revoke the release of confidential HIV-related information;</p> <p>(4) information on preventing exposure to or transmission of HIV infection and the availability of medical treatment; and</p> <p>(5) the need to notify contacts to prevent transmission, including information on State or county assistance in voluntary contact notification, if appropriate.</p> <p>(i) The physician or other person authorized by law to order an HIV-related test shall certify on the laboratory requisition form that written informed consent has been obtained.</p>
14 NYCCR 309.5	<p>Disclosure of HIV-related information</p> <p>(a) No HIV-related information shall be disclosed pursuant to a general release, or, when applicable, a specific consent to disclosure obtained in accordance with Federal confidentiality regulations. Each release of HIV-related information shall be accompanied by a specific completed consent form for the release of HIV-related information which is signed by the protected individual or, when applicable, by the person authorized by law to consent to health care for the individual. The form used for such consent shall be one established or approved by the Department of Health for such purpose.</p> <p>(b) If any disclosure authorized by this section is prohibited by applicable Federal confidentiality regulations, the Federal regulations shall govern. If a facility desires to release HIV-related information and appropriate consent cannot be obtained, the facility may not release the information unless it has applied for and received a court order, consistent with both the Federal confidentiality regulations and section 2785 of the Public Health Law.</p>

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	<p>(c) The consent of the protected individual is a confidential record in accordance with the Federal confidentiality regulations when they apply.</p> <p>(d) The facility shall minimize the number of and types of staff who have access to HIV-related information in case records as required by section 309.8 of this Part.</p> <p>(e) All requests for disclosure of HIV-related information shall be handled by qualified professional staff responsible for the treatment of the patient and decisions regarding disclosure shall be made only by professional staff.</p> <p>(f) Requests for disclosure of HIV-related information which originate outside the facility must be accompanied by a properly completed consent to disclose alcoholism and drug treatment information, when the Federal confidentiality regulations apply, in addition to a proper consent to release HIV-related information unless the requestor is the protected individual. If the Federal confidentiality regulations apply and a proper consent is not present, the Federal regulations must be followed in advising the requestor of the Federal requirements.</p> <p>(g) All written disclosures of confidential HIV-related information must be accompanied by a statement prohibiting redisclosure.</p> <p>(1) The statement shall include the following language or substantially similar language: This information has been disclosed to you from confidential records which are protected by State law. State law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of State law may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is not sufficient authorization for further disclosure.</p> <p>(2) The HIV-related information accompanied by the foregoing prohibition on redisclosure must also be accompanied by a statement prohibiting redisclosure of alcoholism patient information, when required by Federal confidentiality regulations.</p> <p>(h) No person who obtains confidential HIV-related information in the course of providing any service or pursuant to a release of confidential HIV-related information may disclose or be compelled to disclose such information, except to the following; and, when applicable, any such disclosure shall be in accordance with the Federal confidentiality regulations:</p> <p>(1) the protected individual or, when the protected individual lacks capacity to consent, a person authorized pursuant to law to consent to health care for the individual;</p> <p>(2) any person to whom disclosure is authorized pursuant to a release of confidential HIV-related information in accordance with this Part;</p> <p>(3) an agent or employee of the facility authorized by facility policy pursuant to section 309.8 of this Part;</p> <p>(4) a health care provider or health facility when knowledge of the HIV-related information is necessary to provide appropriate care or treatment to the protected individual or a child of the individual;</p> <p>(5) a health facility or health care provider, in relation to the procurement, processing, distributing or use of a human body or a</p>

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	<p>human body part, including organs, tissues, eyes, bones, arteries, blood, semen, or other body fluids, for use in medical education, research, therapy, or for transplantation to individuals;</p> <p>(6) accreditation or oversight review organizations authorized to access case records for audit and evaluation purposes, provided that such organizations may only disclose confidential HIV-related information:</p> <p>(i) back to the facility;</p> <p>(ii) to carry out the monitoring evaluation or service review for which it was obtained; or</p> <p>(iii) to a governmental agency or to authorized employees or agents of a governmental agency pursuant to the regulations of the governmental agency when reasonably necessary for supervision, monitoring, administration or provision of services;</p> <p>(7) a Federal, State, county or local health officer when such disclosure is mandated by Federal or State law;</p> <p>(8) authorized agencies as defined by Social Services Law, section 371 and corporations incorporated or organized to receive children for adoption or foster care, in connection with foster care or adoption of a child. Such agency shall be authorized to redisclose such information only pursuant to the provisions of article 27-F of the Public Health Law or in accordance with the provisions of section 373-A of the Social Services Law;</p> <p>(9) third-party reimbursers or their agents to the extent necessary to reimburse health care providers, including health facilities, for health services, provided that, where necessary, an otherwise appropriate authorization for such disclosure has been secured by the provider;</p> <p>(10) an insurance institution, for other than the purpose set forth in paragraph (9) of this subdivision, provided the insurance institution has secured dated and written authorizations that indicate that a health care provider, a health facility, another insurance institution, or another person is authorized to disclose to the insurance institution information about the protected individual, the nature of the information to be disclosed, the purposes for which the information is to be disclosed and which is signed by:</p> <p>(i) the protected individual;</p> <p>(ii) if the protected individual lacks the capacity to consent, such other person authorized pursuant to law to consent for such individual; or</p> <p>(iii) if the protected individual is deceased, the beneficiary or claimant for benefits under an insurance policy, a health services plan, or an employee welfare benefit plan as authorized in article 27-F of the Public Health Law;</p> <p>(11) any person to whom disclosure is ordered by a court of competent jurisdiction pursuant to section 2785 of the Public Health Law;</p> <p>(12) an employee or agent of the Division of Parole, Division of Probation and Correctional Alternatives, or Commission of Correction, in accordance with regulations promulgated by those agencies; or</p> <p>(13) a medical director of a local correctional facility in accordance with regulations promulgated by the facility operator. Redisclosure by the medical director is prohibited except as permitted under Public Health Law, article 27-F and its implementing regulations.</p>

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	<p>(i) A physician may disclose the confidential HIV-related information during contact notification pursuant to section 309.8 of this Part.</p> <p>(j) A physician may, upon the consent of a parent or guardian, disclose confidential HIV-related information to a State, county, or local health officer for the purpose of reviewing the medical history of a child to determine the fitness of the child to attend school.</p> <p>(k) Confidential HIV-related information may be disclosed to a governmental agency or to authorized employees or agents of the division or another governmental agency when the facility is regulated by the governmental agency and when such employees or agents have access to records in the ordinary course of business and when access is reasonably necessary for supervision, monitoring, administration or provision of services. Such authorized employees or agents may include attorneys authorized by a government agency when access occurs in the ordinary course of providing legal services and is reasonably necessary for supervision, monitoring, administration or provision of services.</p> <p>(l) Nothing in this section shall limit a person's or agency's responsibility or authority to report, investigate, or redisclose, child protective and adult protective services information in accordance with title 6 of article 6 and titles 1 and 2 of article 9-B of the Social Services Law, or to provide or monitor the provision of child and adult protective or preventive services.</p> <p>(m) Confidential HIV-related information shall not be disclosed to a health care provider or health care facility if the sole purpose of disclosure is infection control when such provider or facility is regulated under Public Health Law and required to implement infection control procedures pursuant to Department of Health regulations.</p> <p>(n) Confidential HIV-related information shall not be released pursuant to a subpoena. A court order pursuant to Public Health Law, section 2785 and Federal confidentiality regulations, when applicable, is required. 14 CRR-NY 309.5</p>
14 NYCCR 309.6	<p>Documentation of HIV-related information and disclosures</p> <p>(a) All disclosures of confidential HIV-related information must be noted in the record, except:</p> <p>(1) only initial disclosures to insurance institutions must be noted;</p> <p>(2) notation is not required for disclosure to authorized agents or employees of the facility; and</p> <p>(3) notation is not required of disclosures to persons engaged in quality assurance, program monitoring or evaluation, nor for governmental payment agents acting pursuant to contract or law.</p> <p>(b) The protected individual shall be informed of disclosures of HIV-related information upon his or her request.</p> <p>(c) Confidential HIV-related information shall not be disclosable pursuant to the Public Officers Law, article 6, the Freedom of Information Law.</p>
14 NYCCR 309.7	<p>Contact notification.</p> <p>(a) A facility physician whose practice is not limited to employment by alcoholism and/or drug abuse treatment facilities or any physician in a facility to which the Federal confidentiality rules do not apply may</p>

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	<p>disclose HIV-related information, without the protected person's consent, to a contact or to a public health officer when:</p> <p>(1) the physician reasonably believes disclosure is medically appropriate and a significant risk of infection exists;</p> <p>(2) the protected person has been counseled to notify his/her contacts and the physician reasonably believes the protected person will not inform the contacts;</p> <p>(3) the identity of the protected person is not to be disclosed to the contact; and</p> <p>(4) the physician's association with an alcoholism facility is not disclosed to the contact.</p> <p>(b) If the physician's practice is limited to employment in alcoholism and/or drug abuse facilities and the Federal confidentiality rules apply, the physician may disclose HIV-related information to a contact or health officer only if he or she or the facility obtains a court order authorizing disclosure as required by the Federal confidentiality regulations.</p> <p>(c) The physician must inform the protected person of the physician's intent to disclose, provide the protected individual an opportunity to express a preference as to whether the physician or a public health officer will notify the contact and comply with the protected individual's choice. All notification shall be in person, except where circumstances reasonably prevent doing so.</p> <p>(d) When making contact notification the physician shall provide or make provision for appropriate medical advice, emotional counseling and education about contracting or transmitting HIV infection.</p> <p>(e) The physician making contact notification shall not disclose the identity of the protected individual or any other contact.</p> <p>(f) A physician shall have no obligation to identify or locate any contact.</p>
14 NYCCR 309.8	<p>Policy and procedure.</p> <p>(a) Each facility shall develop and implemented by July 1, 1989, written policies and procedures regarding HIV testing and confidentiality of HIV-related information.</p> <p>(b) Policies and procedures shall assure that responses to patient interest in testing, requests for testing, counseling related to testing when testing is provided, confidentiality and disclosure of HIV-related information, prevention of contracting or transmitting HIV infection, contact notification and any other matters prescribed by this Part are carried out in accordance with the provisions of this Part.</p> <p>(c)</p> <p>(1) Policies of the facility shall be established and maintained in writing to minimize the number and types of facility employees or agents who have access to HIV-related information in case records and shall include agents or employees of the facility who:</p> <p>(i) are authorized to access case records for other than HIV-related purposes; and</p> <p>(ii) provide direct care to protected individuals; or</p> <p>(iii) process case records for billing or reimbursement purposes except that no record maintained solely for billing or reimbursement purposes shall contain confidential HIV-related information; or</p>

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	<p>(iv) are program directors or clinical supervisors of direct care staff serving protected individuals; or</p> <p>(v) are attorneys providing legal services to the facility and access is reasonably necessary for supervision, monitoring, administration or provision of services; or</p> <p>(vi) are members of facility staff committees performing audit and evaluation functions as long as such committee members disclose confidential HIV-related information only to facility staff otherwise eligible to access it and as necessary to carry out the monitoring, evaluation or review functions assigned.</p> <p>(2) These policies shall include a list of job titles and specific employee functions within those titles for which employees are authorized to access HIV-related information in case records.</p> <p>(3) Policies must describe the limits of such access to information.</p> <p>(4) Policies must prohibit disclosure of HIV-related information by any facility employee or agent except as provided in this Part.</p> <p>(5) Policy must prohibit all access to HIV-related information by any employee or agent who has not received education and training regarding confidentiality of HIV-related information.</p> <p>(6) Policy and procedures shall require that each employee or agent of the facility who is authorized access to the case records of protected individuals must be advised in writing by his or her supervisor that the employee shall not:</p> <p>(i) examine documents or computer data containing HIV-related information unless required to in the course of his or her duties and responsibilities;</p> <p>(ii) remove or copy any such documents or computer data unless he or she is acting within the scope of his or her assigned duties;</p> <p>(iii) discuss the content of any such document or computer data with any person unless that person is authorized access to such document or data;</p> <p>(iv) disclose the alcoholism patient status of the patient unless necessary and in compliance with Federal confidentiality regulations, when applicable, when HIV-related information is properly disclosed pursuant to this Part; and</p> <p>(v) disclose HIV-related information unless necessary and in compliance with this Part when alcoholism treatment information is properly disclosed.</p> <p>(7) Policy and procedure shall require that each employee or agent authorized to access confidential HIV-related information in case records shall sign a statement that he or she has read the above restrictions.</p> <p>(i) Such statement shall also specify that the employee or agent understands that violation may lead to disciplinary action, including suspension or dismissal and that violation may be against New York State law and lead to arrest and criminal prosecution.</p> <p>(ii) A copy of such statement shall be provided to the employee or agent and the original shall be filed in the individual's personnel record.</p> <p>(d) A facility which contracts with another organization for management, services, and/or staff shall ensure, by terms of the contract, that all staff of such contractor is aware of the requirements of this Part, contractor's</p>

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	<p>staff is authorized access to HIV-related information only in accordance with facility policy as required by this section, and that such staff are provided training and education consistent with the requirements of section 309.9 of this Part.</p> <p>(e) Policy and procedure shall ensure that records, including records that are stored electronically, are maintained securely.</p> <p>(f) Policy and procedures shall specify procedures for handling requests for HIV-related information by outside parties which shall conform to the requirements of this Part and, when applicable, Federal confidentiality regulations.</p> <p>(g) Each facility shall establish an infection control plan which is appropriate for the services provided, and, at a minimum, includes the following:</p> <p>(1) Prevention of circumstances which could result in an employee or patient becoming exposed to a significant risk body substance including but not limited to:</p> <p>(i) use of scientifically accepted preventive barriers during job-related activities which involve, or may involve, exposure to significant risk body substances. Such preventive actions shall be taken by the employee with each patient as an essential element for the prevention of bi-directional spread of HIV; and</p> <p>(ii) use of scientifically accepted preventive practices and equipment during job-related activities which involve the use of contaminated instruments or equipment which may cause puncture injuries.</p> <p>(2) A system for monitoring preventive activities to assure compliance and safety.</p> <p>(3) Procedures for the management of any individual who is exposed to a significant risk body substance under circumstances which constitute significant risk of transmitting or contracting HIV infection. These procedures shall include:</p> <p>(i) a system for reporting to a designated individual in the facility any circumstance which constitutes significant risk of contracting or transmitting HIV infection;</p> <p>(ii) a system for evaluating the circumstances of a reported exposure and procedures for appropriate medical and epidemiological follow-up services for the exposed individual. Any disclosure of HIV-related information related to exposures must comply with section 309.5 of this Part; and</p> <p>(iii) a system to protect the confidentiality of those involved in reported exposures.</p>
14 NYCCR 309.9	<p>HIV-related staff training and education.</p> <p>(a) Training and orientation of new employees shall include:</p> <p>(1) Information regarding the legal prohibitions against unauthorized disclosure.</p> <p>(2) Instruction in the use of protective equipment and preventive practices and recognition of circumstances which represent significant risk of contracting or transmitting HIV infection.</p> <p>(3) Information on facility policy and procedure established pursuant to this Part.</p>

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	<p>(b) All employees shall be provided retraining on the material specified in subdivision (a) of this section at least annually.</p> <p>(c) Initial orientation and annual retraining as provided by this section shall also be provided to employees of any other organization providing management, services or staff by contract whose staff is authorized access to HIV-related information in case records.</p> <p>(d) The facility shall maintain a list of all its staff members and, when applicable contractors' staff members, who have received the training required by this section.</p> <p>(e) All employees shall be provided the training required by this section by July 1, 1989 and all employees hired thereafter shall be provided this training as part of their initial orientation.</p>
14 NYCCR 309.10	<p>Intra-division confidentiality.</p> <p>(a) No employee or agent of the Division of Alcoholism and Alcohol Abuse shall have access to information relating to any identified person receiving services, including confidential HIV-related information, except in connection with the following activities:</p> <p>(1) investigation of any alleged violation of the patient's rights of a protected individual, including allegations of discrimination, abuse or neglect;</p> <p>(2) review of the quality of care rendered and compliance with regulations by a facility;</p> <p>(3) as reasonably necessary to determine eligibility for services or for reimbursement of services;</p> <p>(4) approved scientific or epidemiologic studies and research which will not maintain or disclose identification of the protected individual;</p> <p>(5) as necessary in order to fulfill explicit statutory responsibilities;</p> <p>(6) as related to the delivery of services to protected individuals in State-operated alcoholism facilities. In these facilities, disclosure of HIV-related information shall be restricted as provided by this Part and the Federal confidentiality regulations.</p> <p>(b) No employee or agent of the division who has access to confidential HIV-related information shall disclose such information to any other person unless such person also has access to confidential HIV-related information as described in this Part.</p> <p>(c) The supervisor of each organizational unit in which personnel have access to information relating to an identified person, including confidential HIV-related information, shall prepare and submit to the records access office a description of the unit's protocols for ensuring the confidentiality of such information in the ordinary course of business. These protocols shall include, at a minimum:</p> <p>(1) procedures to ensure that letters, memoranda and other documents containing information relating to an identified person, including confidential HIV-related information, are accessible only to authorized personnel;</p> <p>(2) measures to ensure that information relating to an identified person, including confidential HIV-related information stored electronically, is protected from access by unauthorized persons;</p> <p>(3) a training program for all employees authorized access to information</p>

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	<p>relating to an identified person and confidential HIV-related information that acquaints them with how to protect such information in the course of day-to-day business; and</p> <p>(4) measures to protect the confidentiality of records of an identified person, including HIV-related information, being transferred to other authorized personnel within the division or other State agencies.</p> <p>(d) Each employee who is authorized access to the records of an identified person, including confidential HIV-related information, shall be advised in writing by the supervisor that the employee shall not:</p> <p>(1) examine documents or computer data containing such information unless required to in the course of his or her official duties and responsibilities;</p> <p>(2) remove or copy any such documents or computer data unless he or she is acting within the scope of his or her assigned duties; or</p> <p>(3) discuss the content of any such documents or computer data with any person unless that person is authorized access to such documents or data.</p> <p>(e) Each employee who has access to information related to an identified person shall sign a statement attesting that he or she has read the above restrictions and stating that he or she understands that violation may lead to disciplinary action, including suspension or dismissal from employment and that such violation may be against New York State law and lead to arrest and criminal prosecution.</p>
14 NYCRR 505.1	<p style="text-align: center;">TITLE 14. DEPARTMENT OF MENTAL HYGIENE CHAPTER XIII. OFFICE OF MENTAL HEALTH PART 505. REQUIREMENTS REGARDING TESTING, CONFIDENTIALITY AND PRECAUTIONS CONCERNING THE HUMAN IMMUNODEFICIENCY VIRUS (HIV) AND ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS)</p> <p>Background and intent</p> <p>(a) The purpose of this Part is to establish standards for the proper disclosure of HIV-related information.</p> <p>(b) The purpose of this Part is to establish standards which limit the risk of discrimination and harm to an individual's privacy which unauthorized disclosure of HIV information can cause.</p> <p>(c) The purpose of this Part is to establish standards which seek to enhance the safety of employees of facilities or programs operated or certified by the Office of Mental Health as well as other individuals.</p>
14 NYCRR 505.3	<p>Applicability</p> <p>(a) This Part applies to any provider of services which operates or proposes to operate a program certified or funded by the Office of Mental Health.</p> <p>(b) This Part applies to facilities and programs operated by the Office of Mental Health.</p>
14 NYCRR 505.4	Definitions pertaining to this Part

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	<p>(a) Capacity to consent means an individual's ability, without regard to such individual's age, to understand and appreciate the nature and consequences of a proposed health care service, treatment or procedure, and to make an informed decision concerning such service, treatment or procedure.</p> <p>(b) Confidential HIV-related information means any information, in the possession of a person who provides one or more health or social services or who obtains the information pursuant to a release of confidential HIV-related information, concerning whether an individual has been the subject of an HIV-related test or has HIV infection, HIV-related illness or AIDS, or information which identifies or reasonably could identify an individual as having one or more of such conditions, including information pertaining to such individual's contacts.</p> <p>(c) Contact means an identified spouse or sex partner of the protected individual or person identified as having shared hypodermic needles or syringes with the protected individual.</p> <p>(d) Health care provider means any physician, nurse, provider of services for the mentally disabled, or other persons involved in providing medical, nursing, counseling, or other health care or mental health service including those associated with, or under contract to, a health maintenance organization or medical services plan.</p> <p>(e) Health facility means a hospital as defined in section 2801 of the Public Health Law, blood bank, blood center, sperm bank, organ or tissue bank, clinical laboratory, or facility providing care or treatment to persons with a mental disability.</p> <p>(f) Health or social service means any public or private care, treatment, clinical laboratory test, counseling or education service for adult or children, and acute, chronic, custodial, residential, outpatient, home or other health care; public assistance; employment-related services, housing services, foster care, shelter, protective services, day care, or preventive services for the mentally disabled; probation services, parole services, correctional services; and detention and rehabilitative services, all as defined in section 2780(8) of the Public Health Law.</p> <p>(g) HIV infection means infection with the human immunodeficiency virus or any other related virus identified as a probable causative agent of AIDS.</p> <p>(h) HIV-related illness means any illness that may result from or be associated with HIV infection.</p> <p>(i) HIV-related test means any laboratory test or series of tests for any virus, antibody, antigen or etiologic agent thought to cause or to indicate the presence of HIV infection.</p> <p>(j) Person includes any natural person, partnership, association, joint venture, trust, public or private corporation or State or local government agency.</p> <p>(k) Protected individuals means a person who is the subject of an HIV-related test or who has been diagnosed as having HIV infection, AIDS or HIV-related illness.</p>
14 NYCRR 505.6	<p>HIV-related testing</p> <p>(a) Except as noted in paragraph (b)(2) of this section, no physician or</p>

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	<p>other person authorized pursuant to law may order an HIV-related test without obtaining written informed consent.</p> <p>(1) Informed consent shall consist of providing to the person to be tested or, if such person lacks capacity to consent, to the person lawfully authorized to consent to health care for such person:</p> <p>(i) explanations regarding the nature of HIV infection and HIV-related illness, the accuracy of the HIV-related test, the significance and benefits of the test and its result;</p> <p>(ii) information regarding discrimination problems which might occur as a result of unauthorized disclosure of HIV-related information and legal protections prohibiting such disclosures;</p> <p>(iii) information on preventing exposure or transmission of HIV infection, including behavior which poses a risk of HIV transmission; and</p> <p>(iv) information on the availability of anonymous HIV testing, including the location and telephone numbers of anonymous test sites, except that anonymous testing is not available to persons proposed for insurance coverage.</p> <p>(b)</p> <p>(1) Written informed consent must be executed on a form developed by the Department of Health or on another approved specifically by the Office of Mental Health.</p> <p>(2) Informed consent is not required in the following situations:</p> <p>(i) for court-ordered testing pursuant to Civil Practice Law and Rules, section 3121;</p> <p>(ii) if otherwise authorized or required by State or Federal law;</p> <p>(iii) for testing related to procuring, processing, distributing or use of a human body or human body part, including organs, tissues, eyes, bones, arteries, blood, semen or other body fluids for use in medical research or therapy, or for transplantation to persons, provided that if the test results are communicated to the tested person, post-test counseling is required;</p> <p>(iv) for research if the testing is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher; and</p> <p>(v) for testing of a deceased person to determine cause of death or for epidemiological purposes.</p> <p>(c) Post-test counseling, and referrals with respect to a positive or negative test result, shall be provided to the person who consented to the test. Such post-test counseling and referrals must address:</p> <p>(1) coping emotionally with the test results;</p> <p>(2) discrimination issues;</p> <p>(3) information on the ability to release or revoke the release of confidential HIV-related information;</p> <p>(4) information on preventing exposure to or transmission of HIV infection and the availability of medical treatment; and</p> <p>(5) the need to notify contacts to prevent transmission, including information on State or county assistance in voluntary contact notification, if appropriate.</p> <p>(d) A physician or other person authorized pursuant to law to order an HIV-related test shall certify on a laboratory requisition form that written</p>

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	informed consent has been obtained.
14 NYCRR 505.7	<p>Confidentiality and disclosure</p> <p>(a) Access to an individual's clinical records, including HIV information, shall be limited to those staff with treatment responsibility for that individual. No flags on charts, lists on walls, or similar public displays shall be used to indicate individuals with HIV infection.</p> <p>(b) No person who obtains confidential HIV-related information in the course of providing any health or social service or pursuant to a release of confidential HIV-related information may disclose or be compelled to disclose such information, except to the following:</p> <p>(1) the protected individual or, when the protected individual lacks capacity to consent, a person authorized pursuant to law to consent to health care for the individual;</p> <p>(2) any person to whom disclosure is authorized pursuant to a release of confidential HIV-related information;</p> <p>(3) an agent or employee of a health facility or health care provider if:</p> <p>(i) the agent or employee is authorized to access medical records;</p> <p>(ii) the health facility or health care provider itself is authorized to obtain the HIV-related information; and</p> <p>(iii) the agent or employee provides health care to the protected individual, or maintains or processes medical records for billing or reimbursement;</p> <p>(4) a health care provider or health facility when knowledge of the HIV-related information is necessary to provide appropriate care or treatment to the protected individual or a child of the individual;</p> <p>(5) a health facility or health care provider, in relation to the procurement, processing, distributing or use of a human body or a human body part, including organs, tissues, eyes, bones, arteries, blood, semen, or other body fluids, for use in medical education, research, therapy, or for transplantation to individuals;</p> <p>(6) health facility staff committees, or accreditation or oversight review organizations authorized to access medical records, provided that such committees or organizations may disclose confidential HIV-related information only:</p> <p>(i) back to the facility or provider of a health or social service;</p> <p>(ii) to carry out the monitoring, evaluation, or service review for which it was obtained; or</p> <p>(iii) to a Federal, State or local government agency for the purposes of supervising, monitoring or administering such facility;</p> <p>(7) a Federal, State, county or local health officer when such disclosure is mandated by Federal or State law;</p> <p>(8) authorized agencies as defined by Social Services Law, section 371 and corporations incorporated or organized to receive children for adoption or foster care, in connection with foster care or adoption of a child. Such agency shall be authorized to redisclose such information only pursuant to the provisions of article 27-F of the Public Health Law or in accordance with the provisions of section 373-A of the Social Services Law;</p> <p>(9) third-party reimbursers or their agents to the extent necessary to</p>

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	<p>reimburse health care providers, including health facilities, for health services, provided that, where necessary, an otherwise appropriate authorization for such disclosure has been secured by the provider;</p> <p>(10) an insurance institution, for other than the purpose set forth in paragraph (9) of this subdivision, provided the insurance institution secures a dated and written authorization which indicates that health care providers, health facilities, insurance institutions, and other persons are authorized to disclose information about the protected individual, the nature of the information to be disclosed, the purposes for which the information is to be disclosed, and which is signed by:</p> <p>(i) the protected individual;</p> <p>(ii) if the protected individual lacks the capacity to consent, such other person authorized pursuant to law to consent for such individual; or</p> <p>(iii) if the protected individual is deceased, the beneficiary or claimant for benefits under an insurance policy, a health services plan, or an employee welfare benefit plan as authorized in article 27-F of the Public Health Law;</p> <p>(11) any person to whom disclosure is ordered by a court of competent jurisdiction pursuant to section 2785 of the Public Health Law;</p> <p>(12) an employee or agency of the Division of Parole, Division of Probation and Correctional Alternatives, or Commission of Correction, in accordance with regulations promulgated by those agencies; and</p> <p>(13) a medical director of a local correctional facility in accordance with regulations promulgated by the facility operator. Rediscovery by the medical director is prohibited except as permitted under Public Health Law, article 27-F and its implementing regulations.</p> <p>(c) No confidential HIV-related information shall be disclosed pursuant to a general release. Disclosure is permitted for HIV-related information pursuant to a specific release form which has been developed or approved by the Department of Health. The release must be signed by the protected individual, or if the protected individual lacks capacity to consent, by a person authorized pursuant to law to consent to health care for the individual.</p> <p>(1) All written disclosures of confidential HIV-related information must be accompanied by a statement prohibiting redisclosure. The statement shall include the following language or substantially similar language: "This information has been disclosed to you from confidential records which are protected by State law. State law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of State law may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is not sufficient authorization for further disclosure."</p> <p>(2) If oral disclosures are necessary, they must be accompanied or followed as soon as possible, but no later than 10 days, by the statement required in paragraph (1) of this subdivision. All disclosures, oral or written, shall be recorded in the individual's record.</p> <p>(3) The statement required by paragraphs (1) and (2) of this subdivision is not required for release to the protected person or to his or her legal</p>

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	<p>representative, for releases made by a physician or public health officer to a contact, or for releases made by a physician to a person authorized pursuant to law to consent to the health care of the protected person when the person has been counseled and the disclosure is medically necessary pursuant to Public Health Law, section 2782(4)(e).</p> <p>(d) At time of discharge from a program operated or certified by the Office of Mental Health, a physician may disclose an individual's HIV status to an appropriate person at the program operated or certified by the Office of Mental Health which is assuming responsibility for the individual, after conducting a specific evaluation of the individual. Such evaluation shall include the individual's condition, the risk of HIV transmission, the individual's wishes regarding disclosure, and the risks of discrimination against the individual. The evaluation must be discussed with the individual. This evaluation and discussion shall be documented. If a decision is made not to disclose the individual's HIV status, the information contained within the evaluation and the fact that the evaluation was made shall not be disclosed.</p>
14 NYCRR 505.9	<p>Contact notification</p> <p>(a) A physician may disclose HIV-related information, without the protected person's consent, to a contact or to a public health officer when:</p> <p>(1) the physician reasonably believes disclosure is medically appropriate and a significant risk of infection exists; and</p> <p>(2) the protected person has been counseled to notify the contact and the physician reasonably believes the protected person will not inform the contacts.</p> <p>(b) The physician must inform the protected person of the physician's intent to disclose. The physician must comply with the protected person's choice of whether the physician or health officer will attempt to notify the contact. All notification shall be in person, except where circumstances reasonably prevent doing so.</p> <p>(c) The identity of the protected person shall not be disclosed to the contact.</p> <p>(d) The person notifying the contact shall provide or make a referral for appropriate medical advice and counseling relating to emotional coping and recommended behavior changes.</p> <p>(e) If a protected person is now deceased and the physician reasonably believes the protected person had not informed his/her contacts and reasonably believes disclosure is medically appropriate and that a significant risk of infection exists, the physician may notify the contact or may request the public health officer to notify the contact. All such notifications shall be in person, except where circumstances reasonably prevent doing so, and the identity of the deceased shall not be disclosed.</p> <p>(f) A physician shall have no obligation to identify or locate any contact.</p>
14 NYCRR 505.10	<p>Monitoring</p> <p>Employees and agents of the Office of Mental Health, Commission on Quality of Care and Advocacy for Persons with Disabilities, and other Federal, State and local agencies responsible for monitoring, inspecting,</p>

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	supervising, and investigating programs operated or certified by the Office of Mental Health shall have access to confidential HIV information to the extent necessary to discharge those responsibilities.
14 NYCRR 820.6	<p style="text-align: center;">TITLE 14. DEPARTMENT OF MENTAL HYGIENE CHAPTER XXI. OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES PART 820. RESIDENTIAL CHEMICAL DEPENDENCY PROGRAMS FOR YOUTH</p> <p>Program services</p> <p>(c) Each program must make the following support services available to individual residents as needed. These services may be provided directly by the program or through arrangements with appropriate providers:</p> <p>(5) HIV testing, if requested by the patient, in accordance with Part 309 of this Title.</p> <p>(e) Each program shall provide HIV-related education to residents regarding the HIV virus, HIV infection, HIV transmission, AIDS, risk factors and behaviors related to the HIV virus, the effect of alcohol and drug abuse on the probability of infection, safer sex guidelines and means to prevent the contracting or transmitting HIV infection and, in addition, additional information, supportive counseling and appropriate referral of HIV positive patients.</p>
14 NYCRR 1072.1	<p style="text-align: center;">TITLE 14. DEPARTMENT OF MENTAL HYGIENE CHAPTER XXV. DIVISION OF SUBSTANCE ABUSE SERVICES PART 1072. HIV TESTING AND RELATED INFORMATION</p> <p>Definitions</p> <p>(a) "HIV infection" means infection with the human immunodeficiency virus or any other related causative agent of AIDS.</p> <p>(b) "HIV related illness" means any illness which may result from or be associated with HIV infection.</p> <p>(c) "AIDS" means acquired immune deficiency syndrome, as may be defined from time to time by the centers for disease control of the United States Public Health Service.</p> <p>(d) "HIV related test" means any laboratory test or series of tests for any virus, antibody, antigen or etiologic agent whatsoever thought to cause or to indicate the presence of HIV infection.</p> <p>(e) "Capacity to consent" means an individual's ability, determined without regard to such individual's age, to understand and appreciate the nature and consequences of a proposed health care service, treatment or procedure, and to make an informed decision concerning such service, treatment or procedure.</p> <p>(f) "Protected individual" means a person who is the subject of an HIV related test or who has been diagnosed as having HIV infection, AIDS or HIV related illness.</p> <p>(g) "Confidential HIV related information" means any information</p>

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	<p>concerning whether an individual has been the subject of an HIV related test, or has HIV infection, HIV related illness or AIDS, or information which identifies or reasonably could identify an individual as having one or more of such conditions, including information pertaining to such individual's contacts.</p> <p>(h) "Contact" means an identified spouse or sex partner of the protected individual or a person identified as having shared hypodermic needles or syringes with the protected individual.</p> <p>(i) "Health facility" means a hospital, blood bank, blood center, sperm bank, organ or tissue bank, clinical laboratory, a facility providing substance abuse services or any other facility providing care or treatment to persons with a mental disability as defined in article one of the mental hygiene law.</p> <p>(j) "Health care provider" means any physician, nurse, provider of substance abuse services, provider of other services for the mentally disabled as defined in article one of the mental hygiene law, or other person involved in providing medical, nursing, counseling, or other health care or mental health service, including those associated with, or under contract to, a health maintenance organization or medical services plan.</p>
14 NYCRR 1072.2	<p>Applicability</p> <p>The rules in this part apply to all providers of substance abuse services.</p>
14 NYCRR 1072.3	<p>HIV related testing</p> <p>Referrals by a substance abuse program for HIV testing of a participant in that program must meet the confidentiality requirements of 42 CFR Part 2.</p> <p>(a) Except as provided in section three thousand one hundred twenty-one of the civil practice law and rules, or unless otherwise specifically authorized or required by a state or federal law, no person shall order the performance of an HIV related test without first receiving the written, informed consent of the subject of the test or, when the subject lacks capacity to consent, of a person authorized pursuant to law to consent to health care for such individual. A physician or other person authorized pursuant to law to order the performance of an HIV related test shall certify, in the order for the performance of an HIV related test, that informed consent required by this section has been received prior to ordering such test by a laboratory or other facility.</p> <p>(b) Informed consent to an HIV related test shall consist of a statement signed by the subject of the test or, when the subject lacks capacity to consent, by a person authorized pursuant to law to consent to health care for the subject which includes at least the following:</p> <p>(1) an explanation of the test, including its purpose, the meaning of its results, and the benefits of early diagnosis and medical intervention; and</p> <p>(2) an explanation of the procedures to be followed, including that the test is voluntary, that consent may be withdrawn at any time, and a statement advising the subject that anonymous testing is available; and</p> <p>(3) an explanation of the confidentiality protections afforded confidential HIV related information under these regulations, including the circumstances under which and classes of persons to whom disclosure of</p>

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	<p>such information may be required, authorized or permitted under these regulations or in accordance with other provisions of law or regulation.</p> <p>(c) Prior to the execution of a written informed consent, a person ordering the performance of an HIV related test shall provide to the subject of an HIV related test, or if the subject lacks capacity to consent, to a person authorized pursuant to law to consent to health care for the subject, an explanation of the nature of AIDS and HIV related illness, information about discrimination problems that disclosure of the test result could cause and legal protections against such discrimination, and information about behavior known to pose risk for transmission and contraction of HIV infection.</p> <p>(d) A person authorized pursuant to law to order the performance of an HIV related test shall provide to the person seeking such test an opportunity to remain anonymous and to provide written, informed consent through use of a coded system with no linking of individual identity to the test request or results. A health care provider who is not authorized by the commissioner to provide HIV related tests on an anonymous basis shall refer a person who requests an anonymous test to a test site which does provide anonymous testing. The provisions of this subdivision (d) shall not apply to a health care provider ordering the performance of an HIV related test on an individual proposed for insurance coverage.</p> <p>(e) At the time of communicating the test result to the subject of the test, a person ordering the performance of an HIV related test shall provide the subject of the test or, if the subject lacks capacity to consent, the person authorized pursuant to law to consent to health care for the subject with counseling or referrals for counseling:</p> <ol style="list-style-type: none"> (1) for coping with the emotional consequences of learning the result; (2) regarding the discrimination problems that disclosure of the result could cause; (3) for behavior change to prevent transmission or contraction of HIV infection; (4) inform such person of available medical treatments; and (5) regarding the test subject's need to notify his or her contacts. <p>(f) The provisions of this section shall not apply to the performance of an HIV related test:</p> <ol style="list-style-type: none"> (1) by a health care provider or health facility in relation to the procuring, processing, distributing or use of a human body or a human body part, including organs, tissues, eyes, bones, arteries, blood, semen, or other body fluids, for use in medical research or therapy, or for transplantation to individuals provided, however, that where the test results are communicated to the subject, post-test counseling, as described in subdivision (e) of this section, shall nonetheless be required; or (2) for the purpose of research if the testing is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher; or (3) on a deceased person, when such test is conducted to determine the cause of death or for epidemiological purposes.
14 NYCRR	Disclosure of HIV Related Information

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1072.4	<p>The identity and records of clients in substance abuse programs are confidential in accordance with the provisions of section 527 of the Public Health Service Act, (42 U.S.C. 290-ee-3) and the regulations contained in 42 Code of Federal Regulations Part 2.</p> <p>(a) No information about substance abuse program clients may be disclosed except in accord with such federal regulations. A copy of Title 42 of the Code of Federal Regulations containing Part 2 may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. A copy of 42 CFR Part 2 is available for public inspection and copying at the Office of Counsel, Division of Substance Abuse Services at the following locations: Executive Park South, Albany, New York 12203 and 250 Broadway, New York, New York 10007.</p> <p>(b) When a disclosure about a substance abuse program client is permitted by 42 CFR Part 2 or such regulations are inapplicable, the disclosure of HIV related information shall be governed by Article 27-F of the Public Health Law section 2782 and 10 NYCRR 63.5 and by these regulations.</p> <p>(c) Confidential HIV related information shall be recorded in the medical records of the protected individual.</p> <p>(d) Within a program, HIV related information may not be disclosed to administrators, staff or other personnel except:</p> <p>(1) to a person to whom disclosure is authorized pursuant to a written release of confidential HIV related information; or</p> <p>(2) to an agent or employee of a health facility or health care provider if (A) the agent or employee is authorized to access medical records, (B) the health facility or health care provider itself is authorized to obtain the HIV related information, and (C) the agent or employee provides health care to the protected individual, or maintains or processes medical records for billing or reimbursement. A health care provider or health facility is authorized to obtain HIV related information when knowledge of the HIV related information is necessary to provide appropriate care or treatment to the protected individual or a child of the individual. Agents or employees authorized to access medical records are those individuals who are identified in the program's written protocol pursuant to section 1072.6 of these regulations, as having a need to know such information. Programs which are located in, or otherwise part of, larger medical facilities should include a discussion of procedures for disclosing records to that facility's medical personnel who are not part of the substance abuse program. These procedures must conform to the requirements of 42 CFR Part 2.</p> <p>(e) A written authorization (release) to disclose HIV related information must be in a form approved by the Division and the Department of Health and, for programs subject to 42 CFR Part 2, in a form which meets those federal requirements. The form consenting to release of HIV related information must be signed by the protected individual, or if the protected individual lacks capacity to consent, by a person authorized pursuant to law to consent to health care for the individual.</p> <p>(f) A notation of each authorized disclosure must be placed in the record of the protected individual. Upon that individual's request, she or he</p>

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	<p>must be informed of any such disclosures. For disclosures made to insurance institutions, such notation need only be entered at the time the disclosure is first made.</p> <p>(g) All written disclosures of confidential HIV information must be accompanied by a statement prohibiting redisclosure. The statement shall include the following language or substantially similar language: "This information has been disclosed to you from confidential records which are protected by Federal and State law. The law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by both Federal and State law. Any unauthorized further disclosure in violation of these laws may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is NOT sufficient authorization for further disclosure."</p> <p>(h) If oral disclosures are necessary, they must be accompanied or followed as soon as possible, but no later than ten (10) days, after the disclosure, by the required written statements.</p> <p>(i) All clients in substance abuse programs must receive a written notice summarizing these confidentiality requirements.</p>
14 NYCRR 1072.5	<p>Disclosures by a Physician</p> <p>(a) A physician may disclose confidential HIV related information under the following conditions:</p> <ol style="list-style-type: none"> (1) disclosure is made to a contact or to a public health officer for the purpose of making the disclosure to said contact; and (2) the physician reasonably believes disclosure is medically appropriate and there is a significant risk of infection to the contact; and (3) the physician has counseled the protected individual regarding the need to notify the contact, and the physician reasonably believes the protected individual will not inform the contact; and (4) the physician has informed the protected individual of his or her intent to make such disclosure to a contact and has given the protected individual the opportunity to express a preference as to whether disclosure should be made by the physician directly or to a public health officer for the purpose of said disclosure. If the protected individual expresses a preference for disclosure by a public health officer or by the physician, the physician shall honor such preference. <p>(b) When making such disclosures to the contact, the physician or public health officer shall provide or make referrals for the provision of the appropriate medical advice and counseling for coping with the emotional consequences of learning the information and for changing behavior to prevent transmission or contraction of HIV infection. The physician or public health officer shall not disclose the identity of the protected individual or the identity of any other contact. A physician or public health officer making a notification pursuant to this subdivision shall make such disclosure in person, except where circumstances reasonably prevent doing so.</p> <p>(c) A physician shall have no obligation to identify or locate any contact.</p> <p>(d) A physician may, upon the consent of a parent or guardian, disclose confidential HIV related information to a state, county, or local health</p>

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	<p>officer for the purpose of reviewing the medical history of a child to determine the fitness of the child to attend school.</p> <p>(e) A physician may disclose confidential HIV related information pertaining to a protected individual to a person (known to the physician) authorized pursuant to law to consent to health care for a protected individual when the physician reasonably believes that:</p> <p>(1) disclosure is medically necessary in order to provide timely care and treatment for the protected individual; and</p> <p>(2) after appropriate counseling as to the need for such disclosure, the protected individual will not inform a person authorized by law to consent to health care; provided, however, that the physician shall not make such disclosure if, in the judgment of the physician: (A) the disclosure would not be in the best interest of the protected individual; or (B) the protected individual is authorized pursuant to law to consent to such care and treatment. Any decision or action by a physician under this paragraph, and the basis therefor, shall be recorded in the protected individual's medical records.</p>
14 NYCRR 1072.6	<p>Disclosures to the Division and Other Agencies</p> <p>(a) Programs maintaining confidential HIV related information shall not routinely disclose this information to the division or other regulatory agencies.</p> <p>(b) HIV related information may only be disclosed to other federal, state or local government agencies in accordance with regulations promulgated under Article 27-F of the Public Health Law. Programs should request a copy of an agency's regulations prior to disclosing HIV related information to that agency.</p> <p>(c) Authorized program staff shall disclose confidential HIV related information to DSAS personnel only when:</p> <p>(1) the person seeking the information has specified in a written authorization the need for such information;</p> <p>(2) such written authorization contains a statement acknowledging the confidential nature of the information and agreeing to redisclose it only as specified in the authorization;</p> <p>(3) such statement has been signed by the party authorized to access the records; and</p> <p>(4) the person seeking the information has obtained written authorization to access such records from the Director of the Division or the Director's designee.</p>
14 NYCRR 1072.7	<p>Program Procedures</p> <p>(a) All providers of substance abuse services shall develop and implement policies and procedures to maintain and confidentiality of HIV related information. The policies and procedures shall assure that such information is disclosed only when appropriate under this Part, Public Health Law Article 27-F and, if applicable, 42 CFR Part 2. Policies and procedures shall include:</p> <p>(1) initial and annual education of employees regarding the legal protection against unauthorized disclosure provided by Public Health Law, Article 27-F;</p>

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	<p>(2) protocols for:</p> <p>(i) ensuring that HIV related information will not be disclosed unless authorized to be so disclosed;</p> <p>(ii) ensuring that medical records necessary to provide appropriate medical care and treatment shall be readily accessible to provide proper care and treatment; and</p> <p>(iii) ensuring that records are maintained securely and are used solely for the purpose intended, including records which are electronically stored;</p> <p>(3) the titles of persons with a need to know HIV related information. A description shall be provided, for each title listed, of the functions of that title which generate the need to know such information, as well as the particular circumstances under which an individual holding such title shall have access to such information. Need to know shall be limited to those persons who reasonably need information regarding HIV status to provide the protected individual with services necessary to that individual's treatment. Responsibility for overall program administration shall not, in itself, constitute a need to know clients' HIV status. Such protocol shall evidence the program's sensitivity to the protected individual's right to privacy, to the law's prohibition on disclosure and to the need to maintain the integrity of a program by ensuring that information disclosed under a promise of confidentiality remains confidential.</p> <p>(4) procedures for handling requests by other parties for confidential HIV related information.</p> <p>(5) a summary of internal disclosure procedures which must be given to all clients. Such summary shall include, but not be limited to, a listing of individuals within the program to whom information may be disclosed.</p> <p>(b) Copies of written procedures shall be made available to DSAS upon request.</p>
14 NYCRR 1072.8	<p>Approved Forms</p> <p>Samples of forms meeting the requirements of section 1072.4 subdivisions (e), (g) and (i) are available from the Division upon request.</p> <p style="text-align: center;">CONSENT TO RELEASE OF PROTECTED INFORMATION</p> <p>_____</p> <p>1. I (name of patient) [] Request [] Authorize:</p> <p>_____</p> <p>2. (name or general designation of program which is to make the disclosure)</p> <p>_____</p> <p>3. *To disclose: (kind and amount of information to be disclosed)</p> <p>_____</p> <p>4. To: (name or title of the person or organization to which disclosure is to be made)</p>

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	<p>_____ 5. For (purpose of the disclosure)</p> <p>_____ 6. This consent is subject to revocation at any time except to the extent that the program which is to make the disclosure has already taken action in reliance on it. If not previously revoked, this consent will terminate upon: (specific date, event, or condition)</p> <p>_____ 7. Date (on which this consent is signed)</p> <p>_____ 8. Signature of patient</p> <p>_____ 9. Signature of parent or guardian (where required)</p> <p>_____ 10. Signature of person authorized to sign in lieu of the patient (where required) *HIV related information must be specifically described.</p> <p style="text-align: center;">PROHIBITION ON REDISCLOSURE OF CONFIDENTIAL INFORMATION</p> <p>This information has been disclosed to you from confidential records protected by Federal confidentiality rules (42 CFR Part 2) and State law. The Federal rules and State law prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the specific written consent of the person to whom it pertains or is otherwise permitted by both 42 CFR Part 2 and State law. A general authorization for the release of medical or other information is NOT sufficient authorization for further disclosure. The Federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.</p> <p>Any unauthorized further disclosure in violation of these laws may result in a fine or jail sentence or both. Any violation of the Federal rules may result in a fine.</p> <p style="text-align: center;">NOTICE TO CLIENT OF CONFIDENTIALITY REQUIREMENTS</p> <p>Confidentiality of Alcohol and Drug Abuse Patient Records and of HIV Related Information.</p> <p>The confidentiality of alcohol and drug abuse patient records maintained by this program is protected by Federal and State law and regulations. Generally the program may not say to a person outside the program that a patient attends the program or disclose any information identifying a patient as an alcohol or drug abuser unless:</p> <ol style="list-style-type: none"> (1) The patient consents in writing; (2) The disclosure is allowed by court order; or

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	<p>(3) The disclosure is made to medical personnel in a medical emergency or to qualified personnel for research, audit, or program evaluation.</p> <p>Violation of the Federal or State law and regulations by a program is a crime. Suspected violations may be reported to appropriate State or local authorities.</p> <p>Under New York State law, HIV related information can only be given to persons allowed to have it by law or allowed to have it by a release that you sign. You can ask for a list of people who can be given confidential HIV related information without a release form.</p> <p>Confidential HIV related information is any information indicating that you had an HIV related test, have HIV related illness or AIDS, HIV related infection, or any information which could reasonably identify you as a person who has had a test or has HIV infection.</p> <p>(See 42 USC 290dd-3 and 42 USC 290ee-3 for Federal laws and 42 CFR Part 2 for Federal regulations; see New York Mental Hygiene Law Section 23.05, Public Health Law Article 27-F, 10 NYCRR Part 63 and 14 NYCRR Parts 1070 and 1072.)</p> <p>*If you experience discrimination because of release of HIV related information, you may contact the New York State Division of Human Rights at (212) 566-8624 or the New York City Commission of Human Rights at (212) 566- 5493. These agencies are responsible for protecting your rights.</p>

New York Codes, Rules and Regulations – Title 18: Social Services
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18 NYCCR 303.7	<p style="text-align: center;">TITLE 18. DEPARTMENT OF SOCIAL SERVICES CHAPTER II. REGULATIONS OF THE DEPARTMENT OF SOCIAL SERVICES SUBCHAPTER A. GENERAL WELFARE ARTICLE 1. PROGRAM AND ORGANIZATION PART 303. PROHIBITIONS AGAINST DISCRIMINATION</p> <p>Persons with AIDS or infected with HIV.</p> <p>For purposes of this Part, the term handicap includes being diagnosed as having AIDS, testing positive for HIV infection, or being perceived as susceptible to AIDS or HIV infection. Such persons must be protected from discrimination in accordance with all applicable provisions of this Part.</p>
18 NYCCR 357.1	<p style="text-align: center;">TITLE 18. DEPARTMENT OF SOCIAL SERVICES CHAPTER II. REGULATIONS OF THE DEPARTMENT OF SOCIAL SERVICES SUBCHAPTER B. PUBLIC ASSISTANCE ARTICLE 1. DETERMINATION OF ELIGIBILITY--GENERAL PART 357. CONFIDENTIAL NATURE OF RECORDS</p> <p>Nature of information to be safeguarded</p> <p>(a) Information to be safeguarded includes names and addresses of applicants, recipients, and their relatives, including lists thereof; information contained in applications and correspondence; reports of investigations; reports of medical examination, diagnostic tests and treatment, including reports on whether an applicant or recipient has had an HIV-related test or has been diagnosed as having AIDS, HIV infection or an HIV-related illness; resource information; financial statements; and record of agency evaluation of such information. This applies to all information secured by the agency whether or not it is contained in the written record.</p> <p>(b) For purposes of this Part:</p> <p>(1) AIDS means acquired immune deficiency syndrome, as may be defined from time to time by the Centers for Disease Control of the United States Public Health Service.</p> <p>(2) HIV infection means infection with the human immunodeficiency virus or any other related virus identified as a probable causative agent of AIDS.</p> <p>(3) HIV-related illness means any illness that may result from or may be associated with HIV infection.</p> <p>(4) HIV-related test means any laboratory test or series of tests for any virus, antibody, antigen or etiologic agent whatsoever thought to cause or to indicate the presence of AIDS.</p>
18 NYCCR 357.2	Prohibition against disclosure of information

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	<p>(a) Officers and employees of social services districts shall not reveal information obtained in the course of administering public assistance for purposes other than those directly connected with the administration of public assistance, except for the name, address and the amount received by or expended for a recipient of public assistance when the appropriating body or social services official has authorized their disclosure to an agency or person deemed entitled to it pursuant to section 136 of the Social Services Law.</p> <p>(b) Any release of information pursuant to this section which would reveal that a person has been the subject of an HIV-related test, or has HIV infection, HIV-related illness or AIDS, is subject to the provisions of section 2782 of the Public Health Law. In accordance with such section, confidential HIV-related information relating to a recipient of a health or social service as defined in section 2780 of the Public Health Law, may be disclosed to authorized employees of the department or of social services districts when reasonably necessary for such employees to supervise, monitor, administer or provide such service and such employees would, in the ordinary course of business, have access to records relating to the care of, treatment of or provision of a health or social service to such recipient.</p> <p>(c) Each social services official shall designate the person, or persons, within the agency with authority to disclose information.</p>
18 NYCCR 357.3	<p>Basis for disclosure of information</p> <p>(a) Safeguards in disclosing information. Information shall be released to another agency or person only when the public welfare official providing such data is assured that:</p> <ol style="list-style-type: none"> (1) the confidential character of the information will be maintained; (2) the information will be used for the purposes for which it is made available, such purposes to be reasonably related to the purposes of the public welfare program and the function of the inquiring agency; and (3) the information will not be used for commercial or political purposes. <p>(b) Disclosure of medical information.</p> <ol style="list-style-type: none"> (1) Upon the transfer of a foster child to the care of another authorized agency, the former agency must provide to the receiving agency the child's comprehensive health history, both physical and mental, to the extent it is available. (2) To the extent they are available, the comprehensive health history of the child and of his or her biological parents and the health care needs of the child must be provided by an authorized agency to foster parents at the time of the child's placement in foster care. In all cases, information identifying the biological parents must be removed from the comprehensive medical history. (3) To the extent it is available, the comprehensive health history, both physical and mental, of a child legally freed for adoption and of his or her biological parents must be provided by an authorized agency to the child's prospective adoptive parent(s). Prospective adoptive parent means an individual who meets criteria as defined in section 421.16 of this Title and who has indicated an interest in adopting a particular child, and for whom the authorized agency has begun the placement

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	<p>agreement process in accordance with section 421.18 of this Title. In the case of finalized adoptions, such information must be provided upon request to the child's adoptive parents. In all cases, information identifying the biological parents must be removed from the comprehensive health history.</p> <p>(4) To the extent it is available, the comprehensive health history, including both physical and mental, of the child in foster care and of his or her biological parents must be provided by an authorized agency at no cost to such child when discharged to his or her own care. Such information must include the names and addresses of the child's health care providers.</p> <p>(5) To the extent it is available, the comprehensive health history of a child in foster care must be provided to the child's parents or guardian when the child is discharged to their care, except that confidential HIV-related information must not be disclosed without a written release from the child if the child has the capacity to consent as defined in section 360-8.1(a)(8) of this Title and in article 27-F of the Public Health Law. The conditions for the written release authorizing such disclosure are described in section 360- 8.1(a)(8) of this Title and in article 27-F of the Public Health Law. The term confidential HIV-related information is defined in section 360-8.1(a)(5) of this Title and in article 27-F of the Public Health Law.</p> <p>(6) To the extent it is available, the comprehensive health history, both physical and mental, of any adopted former foster child and of his or her biological parents must be provided by an authorized agency to the adopted former foster child upon request. In all cases, information identifying the biological parents must be removed from the comprehensive health history.</p> <p>(7) For the purposes of this subdivision, the comprehensive health history must include, but is not limited to, conditions or diseases believed to be hereditary, where known; drugs or medication taken during pregnancy by the child's biological mother, where known; immunizations received by the child while in foster care and prior to placement in care, where known; medications dispensed to the child while in care and prior to placement in care, where known; allergies the child is known to have exhibited while in care and prior to placement in care, where known; diagnostic tests, including developmental or psychological tests and evaluations given to the child while in care and prior to placement in care, where known, and their results, laboratory tests for HIV, where known, and their results; and any follow-up treatment provided to the child prior to placement in care, where known, or provided to the child while in care, or still needed by the child.</p> <p>(c) Disclosure to applicant, recipient, or person acting in his behalf.</p> <p>(1) The case record shall be available for examination at any reasonable time by the applicant or recipient or his authorized representative upon reasonable notice to the local district. The only exceptions to access are:</p> <p>(i) those materials to which access is governed by separate statutes, such as child welfare, foster care, adoption or child abuse or neglect or any records maintained for the purposes of the Child Care Review Service;</p>

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	<p>(ii) those materials being maintained separate from public assistance files for purposes of criminal prosecution and referral to the district attorney's office; and</p> <p>(iii) the county attorney or welfare attorney's files.</p> <p>(2) Information may be released to a person, a public official, or another social agency from whom the applicant or recipient has requested a particular service when it may properly be assumed that the client has requested the inquirer to act in his behalf and when such information is related to the particular service requested.</p> <p>(d) Disclosure to relatives and other legally responsible persons.</p> <p>(1) To the extent available and upon request, an authorized agency must provide a relative or other legally responsible person with whom a child is placed, or to whom a child is discharged or released, by the family court pursuant to section 1017 or 1054 of the Family Court Act, but who is not a foster parent for the child, with the same background information regarding the child as is provided to a foster parent with whom a child is placed. Such information, as available, must include the child's medical history and any other information which is provided to a foster parent as necessary for the child's health, safety and welfare pursuant to this section, section 443.2 of this Title, and any other applicable regulations of the Office of Children and Family Services. However, if the child's medical history includes confidential HIV-related information, such information must not be provided to the relative or other legally responsible person without a written release from:</p> <p>(i) the child, if the child has capacity to consent as defined in section 360- 8.1(a)(8) of this Title and in article 27-F of the Public Health Law; or</p> <p>(ii) a person authorized to consent to health care for the child, if the child lacks capacity to consent.</p> <p>(2) A social services district is required, under section 132 of the Social Services Law, to investigate the ability and willingness of relatives, and the liability of legally responsible relatives, to contribute to the support of an applicant for or recipient of public assistance or care. In regard to these investigations, such a relative is a person considered entitled, under section 136 of the Social Services Law, to necessary and appropriate information regarding the applicant or recipient. Information concerning the applicant's or recipient's needs and basic circumstances may be disclosed to such a relative to the extent necessary to discuss contributions of support from that relative. However, confidential HIV-related information may not be disclosed to such a relative without a written release from:</p> <p>(i) the applicant or recipient, if the applicant or recipient has capacity to consent as defined in section 360-8.1(a)(8) of this Title and in article 27-F of the Public Health Law; or</p> <p>(ii) from a person authorized to consent to health care for the applicant or recipient, if the applicant or recipient lacks capacity to consent.</p> <p>(3) The social services district or other authorized agency must, in writing, inform the relative or other legally responsible person receiving information under this subdivision, of the confidential nature of the information and of any restrictions against redisclosure of such</p>

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	<p>information. In the case of confidential HIV-related information, the warning statement against redisclosure set forth in section 360-8.1(h) of this Title and in article 27-F of the Public Health Law must be provided to the person receiving confidential HIV-related information.</p> <p>(4) The term confidential HIV-related information is defined in section 360- 8.1(a)(5) of this Title and in article 27-F of the Public Health Law. The conditions for the written release authorizing disclosure of such information are set forth in section 360-8.1(g) of this Title and in article 27-F of the Public Health Law.</p> <p>(e) Disclosure to Federal, State or local official.</p> <p>(1) Information may be disclosed to any properly constituted authority. This includes a legislative body or committee upon proper legislative order, an administrative board charged with investigating or appraising the operation of public welfare, law enforcement officers, grand juries, probation and parole officers, government auditors, and members of public welfare boards, as well as the administrative staff of public welfare agencies.</p> <p>(2) Information may be released to a selective service board when such information is necessary in order that the board may arrive at a valid and consistent decision regarding dependency.</p> <p>(3) A social services official must disclose to a Federal, State or local law enforcement officer, upon request of the officer, the current address of any recipient of family assistance, or safety net assistance if the duties of the officer include the location or apprehension of the recipient and the officer furnishes the social services official with the name of the recipient and notifies the agency that such recipient is fleeing to avoid prosecution, custody or confinement after conviction, under the laws of the place from which the recipient is fleeing for a crime or an attempt to commit a crime which is a felony under the laws of the place from which the recipient is fleeing, or which, in the case of the state of New Jersey, is a high misdemeanor under the laws of that state, or is violating a condition of probation or parole imposed under a Federal or State law or has information that is necessary for the officer to conduct his or her official duties. In a request for disclosure pursuant to this paragraph, such law enforcement officer must endeavor to include identifying information to help ensure that the social services official discloses only the address of the person sought and not the address of a person with the same or similar name.</p> <p>(4) Nothing in this Part precludes a social services official from reporting to an appropriate agency or official, including law enforcement agencies or officials, known or suspected instances of physical or mental injury, sexual abuse or exploitation, sexual contact with a minor or negligent treatment or maltreatment of a child of which the social services official becomes aware of in the administration of public assistance and care.</p> <p>(5) Nothing in this Part precludes a social services official from communicating with the Federal Immigration and Naturalization Service regarding the immigration status of any individual.</p> <p>(f) Disclosure upon subpoena by court.</p> <p>(1) When a public assistance record is subpoenaed by court, the public welfare agency shall immediately consult its legal counsel before</p>

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	<p>producing any record or revealing any information or giving any testimony.</p> <p>(2) When the subpoena is for a purpose directly related to the administration of public assistance or protection of the child, the agency before complying with the subpoena shall endeavor to get in touch with the client whose record is involved or his attorney and secure permission to reveal the contents of the record which relate to the administration of public assistance.</p> <p>(3) In the event that the subpoena is for a purpose not directly related to the administration of public assistance or the protection of a child, the agency shall plead, in support of its request to withhold information, that the Social Security Act, the Social Services Law and the regulations of the State Department of Social Services prohibit disclosure of confidential information contained in records and files, including names of clients. The agency will be governed by the final order of the court after this plea is made.</p> <p>(g) Disclosure to bona fide news disseminating firm. The written assurance required by section 136 of the Social Services Law that the names and addresses of applicants and recipients of assistance shall not be published, shall be obtained by the public welfare official before allowing examination of records of disbursements by that bona fide news disseminating firm.</p> <p>(h) Disclosure of confidential HIV-related information.</p> <p>(1) Notwithstanding any other provision of any law or regulation, confidential HIV-related information concerning persons claiming disability benefits under the provisions of titles II and XVI of the Social Security Act may be disclosed to persons employed by or acting on behalf of the department's office of disability determinations engaged in the conduct of processing such claims on the basis of a general medical release in the form approved by the Social Security Administration of the United States Department of Health and Human Services. The employees and agents of the office of disability determinations, including providers of clinical laboratory services, consultative medical examinations or claimant-related medical information, to the extent they have acted in accordance with department procedures and instructions, will be held harmless and indemnified by the department for any liability for the disclosure or redisclosure of any HIV-related information when such information is solicited by or provided to the office of disability determination.</p> <p>(2) All medical information, including confidential HIV-related information, solicited by or provided to the office of disability determinations for the purpose of determining a person's disability will be treated as confidential and this information must not be disclosed except as prescribed by the regulations of the Secretary of the United States Department of Health and Human Services.</p> <p>(3) The term confidential HIV-related information is defined in section 360-8.1 of this Title.</p> <p>(i) Disclosure of domestic violence related information.</p> <p>(1) Information with respect to victims of domestic violence collected as a result of procedures for domestic violence screening, assessment,</p>

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	<p>referrals and waivers pursuant to Part 351 of this Title shall not be released to any outside party or parties or other government agencies unless the information is required to be disclosed by law, or unless authorized in writing by the public assistance applicant or recipient.</p> <p>(2) Employees of the office, social services district or any agency providing domestic violence liaison services, consistent with applicable statute and regulation, may have access to client identifiable information maintained by a domestic violence liaison or by the welfare management system only when the employees' specific job responsibilities cannot be accomplished without access to client identifiable information.</p> <p>(3) Each social service district and agency providing domestic violence liaison services, with access to the welfare management system, must develop and implement policies and practices to ensure the maintenance of confidential individual information.</p> <p>(j) Disclosure of education information. To the extent available, an authorized agency must provide a copy of a foster child's education record at no cost to the child when such foster child is discharged to his or her own care. For the purposes of this subdivision, the education record of a foster child includes the names and addresses of the child's educational providers; the child's grade level performance; assurances that the child's placement in foster care took into account proximity to the school in which the child was enrolled at the time of placement; and any other relevant education information concerning the child.</p>
18 NYCRR 360.1	<p style="text-align: center;">TITLE 18. DEPARTMENT OF SOCIAL SERVICES CHAPTER II. REGULATIONS OF THE DEPARTMENT OF SOCIAL SERVICES SUBCHAPTER B. PUBLIC ASSISTANCE ARTICLE 2. DETERMINATION OF ELIGIBILITY--CATEGORICAL PART 360. MEDICAL ASSISTANCE SUBPART 360-8. CONFIDENTIALITY OF HIV- AND AIDS-RELATED INFORMATION</p> <p>Confidentiality of HIV- and AIDS-related information</p> <p>(a) Definitions.</p> <p>(1) acquired immune deficiency syndrome, as may be defined from time to time by the Centers for Disease Control of the United States Public Health Service.</p> <p>(2) HIV infection means infection with the human immunodeficiency virus or any other related virus identified as a probable causative agent of AIDS.</p> <p>(3) HIV related illness means any illness that may result from or may be associated with HIV infection.</p> <p>(4) HIV related test means any laboratory test or series of tests for any virus, antibody, antigen or etiologic agent whatsoever thought to cause or to indicate the presence of AIDS.</p> <p>(5) Confidential HIV related information means any information, in the possession of a person who provides one or more health or social services or who obtains the information pursuant to a release of confidential HIV related information, concerning whether an individual</p>

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	<p>has been the subject of an HIV related test, or has HIV infection, HIV related illness or AIDS, or information which identifies or reasonably could identify an individual as having one or more of such conditions, including information pertaining to such individual's contacts.</p> <p>(6) Health or social service means any public or private care, treatment, clinical laboratory test, counseling or educational service for adults or children, and acute chronic, custodial, residential, outpatient, home or other health care provided pursuant to the Public Health Law or the Social Services Law; public assistance or care as defined in article one of the Social Services Law; employment-related services, housing services, foster care, shelter, protective services, day care, or preventive services provided pursuant to the Social Services Law; services for the mentally disabled as defined in article one of the Mental Hygiene Law; probation services, provided pursuant to article twelve of the Executive Law; parole services, provided pursuant to article twelve-B of the Executive Law; correctional services, provided pursuant to the Correction Law; and detention and rehabilitative services provided pursuant to article nineteen-G of the Executive Law.</p> <p>(7) Person includes any natural persons, partnership, association, joint venture, trust, public or private corporation, or State or local government agency.</p> <p>(8) Capacity to consent means an individual's ability, determined without regard to the individual's age, to understand and appreciate the nature and consequences of a proposed health care service, treatment or procedure, or of a proposed disclosure of confidential HIV-related information, as the case may be, and to make an informed decision concerning the service, treatment, procedure or disclosure.</p> <p>(b) Applicability. This section applies to any person who obtains or receives confidential HIV related information in the course of administering the medical assistance program (MA) and implements article 27-F of the Public Health Law. Any use or disclosure of such confidential HIV related information made on or after February 1, 1989 is subject to the terms of this section.</p> <p>(c) Standard of use and disclosure. Confidential HIV related information can be used or disclosed only for a purpose which is directly connected with the administration of the MA program and consistent with the limitations of section 2782 of the Public Health Law relating to persons to whom or entities to which confidential HIV related information may be disclosed. As applied to this section, such a purpose may include supervision, monitoring, administration or provision of MA care, services and supplies. Any adverse case action taken against an applicant for or recipient of MA must be based solely upon the terms and conditions of eligibility and the furnishing of care, services and supplies as established by the Social Services Law and this Title. All social services district officials, employees and their agents are responsible for ensuring that no discrimination or abuse occurs against an applicant for or recipient of MA about whom confidential HIV related information is maintained.</p> <p>(d) Access to confidential HIV related information. No social services district official, employee or agent will have access to confidential HIV related information except as necessary for the fulfillment of a purpose</p>

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	<p>which is related to an official duty of such official, employee or agent and is directly connected with the administration of the MA program.</p> <p>(e) Redisdisclosure of confidential HIV related information. No social services district official, employee or agent to whom confidential HIV related information has been disclosed can disclose such information to any other person except as authorized under subdivisions (c) and (d) of this section.</p> <p>(f) Disclosure of confidential HIV related information under legal process. Confidential HIV related information must be disclosed for purposes of judicial administration only upon service of a court order for disclosure made pursuant to section 2785 of the Public Health Law.</p> <p>(g) Disclosure of confidential HIV related information pursuant to a release.</p> <p>(1) Confidential HIV related information may be disclosed pursuant to a release. A release is a written authorization for disclosure of confidential HIV related information which satisfies the following conditions. The release:</p> <p>(i) is signed by the person who is the subject of the confidential HIV related information or, if such person lacks capacity to consent, a person authorized pursuant to law to consent to health care for the person lacking capacity;</p> <p>(ii) is dated and specifies the time period during which the release is to be effective; and</p> <p>(iii) specifies to whom disclosure is authorized and the purpose for such disclosure.</p> <p>(2) A general authorization for release of medical or other information does not satisfy the requirements of this subdivision and confidential HIV related information cannot be disclosed in response to a general release.</p> <p>(h) Statement accompanying disclosure.</p> <p>(1) Any written disclosure of confidential HIV related information must be accompanied by a statement in writing which includes the following or substantially similar language: "This information has been disclosed to you from confidential records which are protected by State law. State law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of State law may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is not sufficient authorization for further disclosure."</p> <p>(2) Any oral disclosure of confidential HIV related information must be accompanied or followed as soon as possible, but no later than 10 days, by the statement in writing required by paragraph (1) of this subdivision.</p> <p>(3) The statement in writing provided for in paragraph (1) of this subdivision is not required to accompany or follow a disclosure of confidential HIV related information made to the person who is the subject of the confidential HIV related information or, if such person lacks capacity to consent, a person authorized pursuant to law to consent to health care for the person lacking capacity.</p> <p>(i) Policy and procedures for maintaining confidentiality. The department and social services districts must develop and implement policies and</p>

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	<p>procedures to maintain the confidentiality of HIV related information. Such policies and procedures must be effectively communicated to social services officials, employees and agents and must include, but not be limited to, the following:</p> <p>(1) responsibilities of staff to safeguard confidential HIV related information;</p> <p>(2) procedures for secure record maintenance of confidential HIV related information, including electronically stored records; and</p> <p>(3) procedures for accessing and disclosure of confidential HIV related information to assure that only authorized persons gain access to such information for permissible purposes.</p>
18 NYCRR 420.2	<p style="text-align: center;">TITLE 18. DEPARTMENT OF SOCIAL SERVICES CHAPTER II. REGULATIONS OF THE DEPARTMENT OF SOCIAL SERVICES SUBCHAPTER C. SOCIAL SERVICES ARTICLE 2. FAMILY AND CHILDREN'S SERVICES PART 421. STANDARDS OF PRACTICE FOR ADOPTION SERVICES</p> <p>Principles of adoption services</p> <p>(d) In accordance with section 373-a of the Social Services Law and section 357.3(b) of this Title, disclosure of the child's comprehensive health history is required to be made to prospective adoptive parents. This includes information related to a diagnosis of AIDS, HIV-related illness or HIV infection or an HIV-related test. The terms AIDS, HIV-related illness, HIV infection and HIV-related test are defined in section 360-8.1 of this Title. A prospective adoptive parent may redisclose confidential HIV-related information concerning the child placed with such parent for adoption.</p>
18 NYCRR 507.2	<p style="text-align: center;">TITLE 18. DEPARTMENT OF SOCIAL SERVICES CHAPTER II. REGULATIONS OF THE DEPARTMENT OF SOCIAL SERVICES SUBCHAPTER E. MEDICAL CARE ARTICLE 3. POLICIES AND STANDARDS GOVERNING PROVISION OF MEDICAL AND DENTAL CARE PART 507. HEALTH SUPERVISION AND MEDICAL CARE FOR CHILDREN</p> <p>Special assessments, examinations and tests required for children in foster care.</p> <p>(a) Assessment of each child in foster care for risk factors related to HIV infection.</p> <p>(1) Each child placed in foster care must be assessed for risk factors related to HIV infection in accordance with section 441.22(b) of this Title as follows:</p> <p>(i) Each child entering foster care on or after September 1, 1995, must be assessed for risk factors related to HIV infection within five business days of entry into care if it is determined within five business</p>

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	<p>days of entry into care that there is no possibility that the child has capacity to consent to HIV-related testing, or within 30 business days of entry into care if it is determined within five business days of entry into care that there may be a possibility that the child has capacity to consent to HIV-related testing.</p> <p>(ii) Each child who entered foster care prior to September 1, 1995, must be assessed for risk factors related to HIV infection within 60 business days of the next periodic medical examination required for the child according to the schedule for periodic medical examinations provided in section 441.22(f) of this Title or within 60 business days of the child's next service plan review date, whichever occurs sooner.</p> <p>(iii) In addition, each service plan review of a child and each periodic medical examination of a child required pursuant to section 441.22(f) of this Title that occurs after the initial assessment of the child for risk factors related to HIV infection must include an assessment of whether HIV-related testing of the child is recommended based on the child's medical history and any available information regarding the child obtained since the initial assessment of the child, the prior service plan review of the child or the prior periodic medical examination of the child, as applicable.</p> <p>(2) If the child is determined through the required assessment to have one or more risk factors for HIV infection or if the child's medical provider recommends the HIV-related testing of the child, designated agency staff must initiate the process to arrange for the HIV-related testing of the child in accordance with section 441.22(b) of this title including obtaining the necessary written informed consent for such testing.</p>
18 NYCRR 900.19	<p style="text-align: center;">TITLE 18. DEPARTMENT OF SOCIAL SERVICES CHAPTER II. REGULATIONS OF THE DEPARTMENT OF SOCIAL SERVICES SUBCHAPTER L. HOMELESS HOUSING AND ASSISTANCE PROGRAM PART 900. SHELTER FOR FAMILIES</p> <p>Confidentiality of HIV and AIDS related information</p> <p>(a) An operator or employee must not require that an applicant for employment, volunteer, prospective resident, resident or employee be tested for HIV.</p> <p>(b) An operator or employee must not require an applicant for employment, volunteer, prospective resident, resident or employee to disclose confidential HIV related information.</p> <p>(c) Confidential HIV related information means any information, in the possession of a person who provides one or more health or social services or who obtains the information pursuant to a release of confidential HIV related information, concerning whether an individual has been the subject of an HIV related test, or has HIV infection, HIV related illness or AIDS, or information which identifies or reasonably could identify an individual as having one or more of such conditions, including information pertaining to such individual's contacts. The terms</p>

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	<p>HIV related test, HIV infection, HIV related illness and AIDS are defined in section 360-8.1 of this Title.</p> <p>(d) The HIV status of an applicant for employment, prospective resident, resident, volunteer or employee cannot be used as the sole basis to deny admission, retention or employability.</p> <p>(e) Confidential HIV related information may be disclosed by an operator, employee or volunteer only in accordance with the procedures set forth in this section and only as necessary to provide appropriate services to a resident.</p> <p>(f)</p> <p>(1) The operator must maintain the confidentiality of individual resident records, and not release information in a resident record to anyone other than the resident, next of kin or authorized representative of the resident, an employee or designee of the department or employees of the facility providing social services without the resident's written permission, provided that confidential HIV related information concerning residents must be maintained in accordance with this section.</p> <p>(2) The operator must maintain confidential HIV related information concerning employees, volunteers, applicants for employment and prospective residents in accordance with this section.</p> <p>(g) An operator, volunteer or employee who obtains confidential HIV related information concerning any prospective resident, resident, applicant for employment, employee or volunteer may disclose that information to a health care provider or health facility when knowledge of the confidential HIV related information is necessary to provide appropriate care or treatment to the protected individual. Except as specified in subdivision (k) of this section, in all other circumstances, an operator, volunteer, or employee who obtains confidential HIV related information concerning any applicant for employment, prospective resident, resident, employee or volunteer must not disclose that information without specific written authorization to release that information from:</p> <p>(1) the protected individual; or</p> <p>(2) a person authorized by law to consent to health care for the individual.</p> <p>(h) The authorization to release HIV information must:</p> <p>(1) be dated;</p> <p>(2) specify to whom disclosure is authorized;</p> <p>(3) specify the purpose for the disclosure;</p> <p>(4) specify the time period during which the release is effective;</p> <p>(5) specify that the information to be disclosed is confidential HIV information; and</p> <p>(6) be signed by the protected individual or, if the individual lacks capacity to consent, a person authorized pursuant to law to consent to health care for the individual.</p> <p>(i) A general authorization for the release of medical or other information cannot be used as an authorization to release confidential HIV related information.</p> <p>(j) Whenever an operator, volunteer or employee discloses confidential HIV related information, that person must:</p>

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	<p>(1) enter a dated and signed notation of disclosure of confidential HIV related information in the protected individual's record; and (2) within 10 days of the date of disclosure, when disclosure is oral, or simultaneous, when disclosure is written, give a written statement to the person to whom the confidential HIV related information is disclosed which states:</p> <p>"This information has been disclosed to you from confidential records which are protected by State law. State law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of State law may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is not sufficient authorization for further disclosure."</p> <p>(k) Notwithstanding the requirements of this section, an operator of a shelter for homeless families or an employee or volunteer of such a facility is obligated to release confidential HIV related information to authorized employees or agents of the department or a social services district when such information is reasonably necessary to supervise, monitor, or administer the facility and such employee or agent of the department or a social services district would, in the ordinary course of business have access to such records. Authorized employees and agents of the department or a social services district may obtain confidential HIV related information under this subdivision even though the facility does not obtain the release specified in subdivision (h) of this section. In addition, when information is released under this section by a shelter for homeless families, the facility is not required to give the statement specified in subdivision (j) of this section to the employees or agents of the department nor is the facility required to indicate in any resident's record that the information was released.</p> <p>18 CRR-NY 900.19</p>