**Section 2060.321 Confidentiality - HIV Antibody/AIDS Status**

a) The organization shall have written policies and procedures controlling access to records and information governed by the AIDS Confidentiality Act [410 ILCS 305] (AIDS Act), and the AIDS Confidentiality and Testing Code (77 Ill Adm Code 697) (AIDS Code).

b) The confidentiality of the following information is protected by the AIDS Act and AIDS Code:

1) the identity of a person upon whom a test for HIV is performed; and

2) the results of a test for HIV for an individual.

c) This Section shall not apply to HIV and/or AIDS risk reduction education and/or counseling, or other HIV and/or AIDS education which is provided to all persons but shall apply to information regarding individual requests for or participation in HIV pre-test and/or post-test counseling.

d) When dealing with information governed by the AIDS Confidentiality Act and AIDS Code, this Section shall control, notwithstanding any other provisions of this Part to the contrary.

e) An HIV antibody or AIDS test cannot be required as a condition of treatment, and an individual cannot be required to disclose or to sign an authorization for release of information concerning his or her HIV antibody test or HIV or AIDS status as a condition of treatment.

f) An individual who wishes to be tested for HIV antibodies shall be informed that he or she may undergo testing on an anonymous basis.

g) Unless disclosure is otherwise authorized by statute and rule, no information governed by the AIDS Confidentiality Act and the AIDS Code shall be released by an organization, or by any member of its staff, to other staff members, including but not limited to the executive director, and/or to the medical director, and/or to any other person or entity, unless there is a legally effective consent or another exception in accordance with the statute and rule. Release of information which is allowed by consent or by statute and rule shall be done only to the extent provided therein.

h) Records which document the above confidential information shall be maintained in a separate portion of the file and be accessible only in accordance with the AIDS Confidentiality Act and Section 697.140(c) of the AIDS Code.

i) The organization shall have a policy regarding how and what shall be recorded if a person self-discloses HIV status during the course of treatment or if the person requires the administration of medications or other services by staff related to AIDS treatment. The policy shall protect the confidentiality of the person and protect his or her right to give consent prior to disclosure of HIV status, and shall limit disclosure to only what is necessary to accomplish the purpose of the disclosure.

j) Any HIV and/or AIDS counseling or testing service which is operated within the facility is considered a separate service and shall maintain separate records. Organization staff shall not have access to such counseling and testing records unless otherwise authorized in writing by the patient's informed consent.