**Section 697.20 Definitions**

"Act" means the AIDS Confidentiality Act.

"*AIDS" means acquired immunodeficiency syndrome* (Section 3(a) of the Act).

"Blood Bank" means any facility or location at which blood or plasma is procured, furnished, donated, processed, stored or distributed.

"*Department" means the Illinois Department of Public Health or its designated agents*. (Section 3(f) of the Act)

"Designated Agent" means an organization designated by the Department to conduct public health activities in accordance with a written agreement with the Department.

"Director" means the Director of the Illinois Department of Public Health.

"Health Care Facility" or "Facility" means any institution, building or agency, or portion of any institution, building or agency, whether public or private (for-profit or nonprofit) that is used, operated or designed to provide health services, medical treatment or nursing, rehabilitative or preventive care to any person or persons, as well as *a hospital, nursing home, blood bank, blood center, sperm bank, or other health care institution, including any "health facility" as that term is defined in the Illinois Finance Authority Act* [20 ILCS 3501] (Section 3(k) of the Act).

*"Health Care Professional"* meansany of the following:

*a licensed physician;*

*a physician assistant to whom the physician assistant's supervising physician has delegated the provision of AIDS and HIV-related health services;*

*an advanced practice registered nurse who has a written collaborative agreement with a collaborating physician which authorizes the provision of AIDS and HIV-related health services;*

*an advance practice nurse or physician assistant who practices in a hospital or ambulatory surgical treatment center and possesses appropriate clinical privileges;*

*a licensed dentist;*

*a licensed podiatric physician; or*

*an individual certified to provide HIV testing and counseling by a State or local public health department.* (Section 3(i) of the Act)

"*Health Care Provider"* has the meaning *ascribed by HIPAA as specified in 45 CFR 160.103*. (Section 3(j) of the Act)

*"Health Information Exchange" or "HIE" means a health information exchange or health information organization that oversees and governs the electronic exchange of health information that:*

*is established pursuant to the Illinois Health Information Exchange and Technology Act and any administrative rules adopted under that Act;*

*has established a data sharing arrangement with the Authority; or*

*as of August 16, 2013, was designated by the Authority Board as a member of, or was represented on, the Authority Board's Regional Health Information Exchange Workgroup;*

*provided that designation shall not require the establishment of a data sharing arrangement or other participation with the Illinois Health Information Exchange or the payment of any fee. In certain circumstances, in accordance with HIPAA, an HIE will be a business associate.* (Section 3(l) of the Act)

*"HIPAA" means the Health Insurance Portability and Accountability Act of 1996.* (Section 3(n) of the Act)

*"HIV" means the human immunodeficiency virus*. (Section 3(o) of the Act)

"HIV Infection" means infected with HIV, as evidenced by a positive or reactive supplemental laboratory test result.

*"HIV-related information" means the identity of a person upon whom an HIV test is performed, the results of an HIV test, as well as diagnosis, treatment, and prescription information that reveals a patient is HIV-positive, including information contained in a limited data set. HIV-related information does not include information that has been de-identified in accordance with HIPAA.* (Section 3(p) of the Act)

"*Informed Consent" means:*

when *a health care provider, health care professional, or health facility has implemented opt-in testing, a process by which an individual or* his or her *legal representative receives pre-test information, has an opportunity to ask questions, and consents verbally or in writing to the test without undue inducement or any element of force, fraud, deceit, duress, or other form of constraint or coercion; or*

when *a health care provider, health care professional, or health care facility has implemented opt-out testing, the individual or* his or her *legal representative has been notified verbally or in writing that the test is planned, has received pre-test information, has been given the opportunity to ask questions and the opportunity to decline testing, and has not declined testing.* (Section 3(q) of the Act)

"Laboratory" means a CLIA approved or licensed facility at which tests are performed to determine the presence of a sexually transmitted infection (STI).

"Legally Authorized Representative" means an individual who is authorized to consent to HIV testing and/or disclosure of HIV test results and HIV-related information for an individual who is:

Under the age of 12;

Deceased;

Declared incompetent by a court of law; or

Otherwise not competent to consent (for reasons other than age, such as the apparent inability to understand or communicate with the health care professional) as determined by the health care professional seeking the consent.

The following individuals shall be authorized to consent, in the stated order of priority:

For a living or deceased child under the age of 18:

Parent, except as limited by Section 9(k) of the Act providing limitations on the ability of a parent or legal guardian to receive the child's test results, and Sections 4 and 5 of the Consent by Minors to Medical Procedures Act regarding release of test results involving a sexually transmitted infection;

Legal guardian or other court-appointed personal representative;

Adult next-of-kin.

For a living or deceased adult age 18 or over:

Agent authorized by durable power of attorney for health care;

Legal guardian or other court-appointed personal representative;

Spouse;

Person in a civil union;

Adult children;

Parent;

Adult next-of-kin.

*"Local Health Authority" means* *the full-time official health department or board of health* recognized by the Department as *having jurisdiction over a particular area*. (Section 3(2) of the Illinois Sexually Transmissible Disease Control Act)

*"Opt-in testing" means an approach* in which *an HIV test is presented by offering the test and the patient accepts or declines testing.* (Section 3(s-1) of the Act)

*"Opt-out testing" means an approach* in which *an HIV test is presented such that a patient is notified that HIV testing may occur unless the patient declines.* (Section 3(s-2) of the Act)

"Physician" means a physician licensed to practice medicine under the Medical Practice Act of 1987.

*"Pre-test information" means:*

*a reasonable explanation of the test, including its purpose, potential uses, limitation, and the meaning of its results; and*

*a reasonable explanation of the procedures to be followed, including the voluntary nature of the test, the availability of a qualified person to answer questions, the right to withdraw consent to the testing process at any time, the right to anonymity to the extent provided by law with respect to participation in the test and disclosure of test results, and the right to confidential treatment of information identifying the subject of the test and the results of the test, to the extent provided by law*. (Section 3(w-5) of the Act)

"Rapid HIV Test" means any test approved by the U.S. Food and Drug Administration (FDA) or validated under a laboratory's CLIA certification for the detection of HIV that can be collected and processed within 60 minutes.

"Screening Test" means any HIV test approved by the FDA or validated under a laboratory's CLIA certification that must be followed by a supplemental test to confirm a positive result.

"Sexually Transmissible Infection" or "STI" means infection with syphilis, gonorrhea, chlamydia, chancroid or HIV.

"Supplemental Test" means any HIV test approved by the FDA or validated under a laboratory's CLIA certification used to confirm the positive result of a screening test.

*"Test" or "HIV Test" means a test to determine the presence of the antibody or antigen to HIV, or of HIV infection* approved by the FDA or validated under a laboratory's CLIA certification. (Section 3(aa) of the Act)

"Treatment" means the provision, coordination or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to a patient; or the referral of a patient for health care from one health care provider to another. Treatment includes services for prevention, diagnosis and medical management of STIs, including examination, laboratory testing, medication and immunization.

(Source: Amended at 42 Ill. Reg. 6425, effective March 21, 2018)