



**Notice of Proposed Rulemaking
Summary**

Amend Part 807

Responsibilities Regarding Transmissible Infections Associated with Injection Drug Use: HIV, Hepatitis A, B, and C, Chlamydia, Gonorrhea, Syphilis, and Tuberculosis

In addition to technical amendments updating this regulation consistent with Title 14, the Proposed Rule amends Part 807 as follows:

§807.1 Applicability: no changes made.

§807.2 Legal Basis: technical changes to update language.

§807.3 Intent: technical changes to update language and add additional information related to the expansion of infectious diseases that this regulation now addressed.

§807.4 Definitions: adds numerous definitions including those related to Hepatitis A, B, and C, Chlamydia, Gonorrhea, Syphilis, and Tuberculosis, and updates outdated definitions.

§807.5 Policies and Procedures: technical changes to update language and addition of language related to communicable disease reporting.

§807.6 Infection Control Plan: technical changes updating language.

§807.7 HIV [-related] Testing and Prevention: addition of language related to patient consent of HIV tests.

§807.8 Hepatitis A Testing and Prevention: NEW section including language related to Hepatitis testing and prevention.

§807.9 Hepatitis B Testing and Prevention: NEW section including language related to Hepatitis B testing and prevention.

§807.10 Hepatitis C Testing and Prevention: NEW section including language related to Hepatitis C testing and prevention.

§807.11 Chlamydia Testing and Prevention: NEW section including language related to chlamydia testing and prevention.

§807.12 Gonorrhea Testing and Prevention: NEW section including language related to gonorrhea testing and prevention.

§807.13 Syphilis Testing and Prevention: NEW section including language related to syphilis testing and prevention.

§807.14 Tuberculosis Testing and Prevention: NEW section related to tuberculosis testing and prevention.

§807.15[8] Non-discrimination: technical changes updating language.

§807.16[9] Confidentiality and Disclosure of HIV-Related Information: no changes made.

§807.17 Communicable Disease Reporting Requirements: NEW section including language referencing the requirements to report in 10 NYCRR Part 2.

§807.18[0] [HIV-Related] Staff Training and Education about HIV, Hepatitis A, Hepatitis B, Hepatitis C, Chlamydia, Gonorrhea, Syphilis, and Tuberculosis: technical changes updating language.

§807.1 Severability: no changes made.

Definitions. A new section addressing definitions applicable to this Part is added.

§819.3 Standards applicable to all residential service providers. Adds and updates requirements applicable to residential service providers consistent with other OASAS residential programs including the development of policies and procedures, access to medications for addiction treatment for substance use disorders and service provision.

§819.4 Admission procedures. Updates consistent with appropriate use of terminology. Provisions relating to non-discrimination are removed and reference is added to compliance with Part 815.

§819.5 Post admission procedures. Updates consistent with appropriate use of terminology related to medical and clinical assessments post-admission. Treatment planning and discharge provisions are updated consistent with OASAS updates to all certified programs.

§819.6 Record keeping. Updates consistent with appropriate use of terminology and record keeping requirements around medications for addiction treatment.

§819.8 General staffing. Updates consistent with appropriate use of terminology consistent with OASAS regulations. Reference is added to appropriate duties that may fall to residents consistent with OASAS guidance. Staff training requirements are amended to occur every year instead of every three years and the list of appropriate trainings are updated consistent with other certified program requirements.

**PROPOSED AMENDMENT
14 NYCRR PART 807**

**RESPONSIBILITIES REGARDING TRANSMISSIBLE INFECTIONS ASSOCIATED WITH
INJECTION DRUG USE: HIV, HEPATITIS A, B, AND C, CHLAMYDIA, GONORRHEA, SYPHILIS,
AND TUBERCULOSIS [HIV/AIDS]**

Statutory authority: Mental Hygiene Law, §§ 19.07, 19.09(b), 31.04, 32.07(a); Public Health Law Article 27F,
21 Title 7, Article 21 Title 1 § 2101

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807.1 Applicability

This Part applies to any program certified by the Office to provide addiction treatment services.

807.2 Legal Basis

- (a) Section 19.07 of the Mental Hygiene Law (MHL) authorizes the commissioner to adopt standards including necessary rules and regulations pertaining to [chemical dependence] **addiction** treatment services.
- (b) Section 19.09(b) of the MHL authorizes the commissioner to adopt regulations necessary and proper to implement any matter under [his] **their** jurisdiction.
- (c) Section 32.07(a) of the MHL authorizes the commissioner to adopt regulations to effectuate the provisions and purposes of Article 32 of the MHL.

(d) Article 27-F of the Public Health Law defines the rules governing HIV testing, treatment, and confidentiality/disclosure in New York.

(e) Article 21, Title 7 of the Public Health Law defines the rules governing hepatitis C testing and treatment.

(f) Article 21, Title 1 § 2101 of the Public Health Law defines the rules governing the reporting of communicable diseases.

807.3 Intent

The intent is to clarify **the** obligations of providers certified or otherwise authorized pursuant to this Chapter regarding **services related to transmissible infections associated with substance use, including those associated with injection drug use: HIV (Human Immunodeficiency Virus) , hepatitis A, hepatitis B, hepatitis C, chlamydia, gonorrhea, syphilis, and tuberculosis,** [related services and] **HIV** confidentiality, **and communicable disease reporting.** This Part is aligned with New York’s plan to end the **HIV** [AIDS] **and hepatitis C** epidemics by ensuring that everyone knows their HIV **and hepatitis C** status and has access to medications used to prevent or treat HIV, **and to treat and cure hepatitis C.** Effective treatment with antiretroviral medication **for HIV** results in an undetectable viral load, making it [nearly] impossible to transmit HIV **by sexual contact** to another person. **Effective treatment with direct acting antivirals for hepatitis C leads to a cure for hepatitis C, meaning a sustained viral response (SVR) or undetectable viral load 3 months after completion of hepatitis C treatment. Treatment with certain antiretrovirals can lead to sustained reductions in hepatitis B viral loads but vaccination programs are the primary strategy for preventing hepatitis B infection. Hepatitis A does not become a chronic, long-term infection like untreated hepatitis B or C. There is no treatment for hepatitis A, and, like hepatitis B, vaccination programs are the primary prevention strategy to prevent infection. Tuberculosis is treated with a combination of antibiotics for at least four months while chlamydia, gonorrhea, and syphilis are treated with short courses of antibiotics. There are no vaccines for HIV, hepatitis C, chlamydia, gonorrhea, syphilis, or tuberculosis.**

807.4 Definitions

As used in this Part, the following terms shall have the following meanings:

- (a) “AIDS” means acquired **immunodeficiency** [immune-deficiency] syndrome, [as may be defined from time to time by the Centers for Disease Control of the United States Public Health Service.]
- (b) “Capacity to consent” means an individual’s ability, determined without regard to age, to understand and appreciate the nature and consequences of a proposed health care service, treatment or procedure **for HIV,**

hepatitis A, hepatitis B, hepatitis C, chlamydia, gonorrhea, syphilis, or tuberculosis, or of a proposed disclosure of confidential HIV related information, and to make an informed decision concerning such services, treatments, procedures or disclosures.

(c) “Chlamydia” means an infection caused by the bacteria, *Chlamydia trachomatis*.

(d) “Chlamydia test” means any laboratory test or series of tests approved for the diagnosis of chlamydia.

(e) “Chlamydia-related medical complication” means any medical complication that may result from or be associated with a *Chlamydia trachomatis* infection.

(f) [(e)] “Contact” means a person who the protected individual may have exposed to HIV, hepatitis A, hepatitis B, hepatitis C, chlamydia, gonorrhea, syphilis, or tuberculosis under circumstances presenting a risk of HIV, hepatitis A, hepatitis B, hepatitis C, chlamydia, gonorrhea, syphilis, or tuberculosis transmission.

(g) [(f)] “Confidential HIV-related information” means any information concerning whether an individual has received [been the subject of] an HIV-[related] test, has HIV infection, HIV-related [illness] medical complications 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.

(h) [(g)] “Exposure to bodily fluids” [Significant risk” or “significant risk body substance”] means any circumstance where an individual comes in contact with bodily fluids that [or substance which] may cause the transmission of HIV, hepatitis A, hepatitis B, hepatitis C, chlamydia, gonorrhea, syphilis, and tuberculosis.

(i) “Gonorrhea” means an infection caused by the bacteria, *Neisseria gonorrhoeae*.

(j) “Gonorrhea test” means any laboratory test or series of tests approved for the diagnosis of gonorrhea.

(k) “Gonorrhea-related medical complication” means any medical complication that may result from or be associated with a *Neisseria gonorrhoeae* infection.

(l) [(h)] “Health care provider” means any provider of services [for] to individuals with a mental health condition [the mentally disabled] as defined in article one of the mental hygiene law, or other health care or mental health service, including those associated with, or under contract to, a third-party payor.

(m) [(i)] “Health facility” means a hospital, blood bank, blood center, sperm bank, organ or tissue bank, clinical laboratory, or a facility providing care or treatment to persons with a mental health condition [disability].

(n) “Hepatitis A” means infection with the hepatitis A virus.

(o) “Hepatitis A test” means any laboratory test or series of tests approved for the diagnosis of hepatitis A.

(p) “Hepatitis A-related medical complication” means any medical complication that may result from or be associated with a hepatitis A infection.

(q) “Hepatitis A vaccine” means a non-infectious preparation of the surface antigen of the hepatitis A virus that is administered by injection to induce immunity and prevent hepatitis A infection.

(r) “Hepatitis B” means infection with the hepatitis B virus.

(s) “Hepatitis B test” means any laboratory test or series of tests approved for the diagnosis of hepatitis B.

(t) “Hepatitis B-related medical complication” means any medical complication that may result from or be associated with a hepatitis B infection.

(u) “Hepatitis B vaccine” means a non-infectious preparation of the surface antigen of the hepatitis B virus that is administered by injection to induce immunity and prevent hepatitis B infection.

(v) “Hepatitis C infection” means infection with the hepatitis C virus.

(w) “Hepatitis C test” means any laboratory test or series of tests approved for the diagnosis of hepatitis C.

(x) “Hepatitis C-related medical complication” means any medical complication that may result from or be associated with a hepatitis C infection.

(y) [(j)] “HIV infection” means infection with the human immunodeficiency virus [or any other related virus identified as a probable causative agent of AIDS].

(z) [(k)] “HIV[-related] test” means any laboratory test or series of tests approved for the diagnosis of HIV.

(aa) [(l)] “HIV-related **medical complication” [illness] means any **medical complication that** [illness which] may result from or be associated with **an** HIV infection.**

(bb) [(m)] “Post-exposure prophylaxis (PEP) means the use of [antiretroviral] medication **by individuals who are HIV-negative or uncertain of their HIV status within 72 hours after a possible exposure to HIV to prevent [acquisition of] HIV infection [among HIV-negative people who report a specific high-risk exposure to HIV, such as through sexual contact or sharing injection equipment with someone who might have HIV].**

(cc) [(n)] “Pre-exposure prophylaxis” (PrEP) means the use of [antiretroviral] medication to prevent [acquisition of] HIV infection by HIV-negative people who are at risk of being exposed to HIV, such as through sexual contact or sharing injection equipment with someone who might have HIV.

(dd) [(o)] “Protected individual” means a person who is the subject of an HIV [related] test or who has been diagnosed as having **an HIV infection, AIDS or **an** HIV-related **medical complication** [illness].**

(ee) “Syphilis” means an infection caused by the bacteria, *Treponema pallidum*.

(ff) “Syphilis-related medical complication” means any medical complication that may result from or be associated with a *Treponema pallidum* infection.

(gg) “Syphilis test” means any laboratory test or series of tests that approved for the diagnosis of syphilis.

(hh) [(p)] “Staff,” for purposes of this Part, means any staff member, employee, associate, agent, intern, volunteer, or contractor working for or with the provider.

(ii) “Tuberculosis” means an infection caused by the bacteria, *Mycobacterium tuberculosis*.

(jj) “Tuberculosis test” means any laboratory or intradermal test or series of tests approved to diagnose tuberculosis.

(kk) “Tuberculosis-related medical complication” means any medical complication that may result from or be associated with a *Mycobacterium tuberculosis* infection.

807.5 Policies and Procedures

(a) All providers of **addiction treatment** [substance use disorder] services must develop and implement written policies, procedures and methods governing the provision of HIV, **hepatitis A, hepatitis B, hepatitis C, chlamydia, gonorrhea, syphilis, and tuberculosis** prevention education, testing, counseling, [and] the confidentiality of HIV-related information, **and communicable disease reporting** pursuant to this Part and laws and regulations of the Department of Health.

(b) Policies and procedures must specify each staff **member** who has access to confidential HIV-related information, and the education and training such staff must receive at least annually, in order to minimize the number of individuals with access to such information.

(c) Policies and procedures must require that each staff **member** of the program authorized to access confidential HIV-related information be advised in writing and sign a statement attesting to the following:

(1) they will not examine HIV-related information in the treatment/recovery plan unless required to in the course of their duties and responsibilities;

(2) they will not remove or copy any such documents or computer data unless they are acting within the scope of their assigned duties;

(3) they will not disclose HIV-related information unless necessary and in compliance with this Part and all other state and federal laws; and

(4) that violation may lead to disciplinary action, including suspension or dismissal, as well as arrest and criminal prosecution.

(d) Policies and procedures must ensure that records, including records stored electronically, are maintained securely.

(e) Policies and procedures must specify procedures for handling requests for HIV-related information by outside parties pursuant to the requirements of this Part, Article 27F of the Public Health Law and all other state and federal laws.

807.6 Infection Control Plan

(a) Each program must establish an infection control plan appropriate for the services provided including, at a minimum, the following:

(1) Prevention of circumstances **that** [which] could result in staff or patient [(s)] **exposure to bodily fluids**, [becoming exposed to a significant risk body substance] including but not limited to:

(i) use of scientifically accepted preventive barriers during job-related activities which involve, or may involve, exposure to **bodily fluids**. [significant risk body substances.] Such preventive actions must be taken with each patient as an essential element for the prevention of bi-directional spread of **infectious agents or transmissible infections, including HIV, hepatitis A, hepatitis B, hepatitis C, and tuberculosis**; [and]

(ii) use of scientifically accepted preventive practices and equipment during job-related activities involving the use of contaminated instruments or equipment which may cause puncture injuries; **and**

(iii) use of scientifically accepted isolation practices and preventive barriers for patients with suspected or confirmed tuberculosis during job-related activities which involve or may result in exposure to aerosolized material.

(2) A system for monitoring preventive activities to ensure compliance and safety.

(b) Procedures must be developed in response to circumstances in which a staff or patient is exposed to **bodily fluids** [a significant risk body substance] including a system for:

(1) reporting any such exposure to a designated individual in the program;

(2) evaluating the circumstances of a reported exposure and procedures for appropriate medical and epidemiological follow-up services for the exposed individual, including access to medications for post-exposure prophylaxis **(PEP) for potential HIV exposure**.

(c) Any disclosure of HIV-related information related to exposures must comply with this Part and applicable state and federal confidentiality laws.

807.7 HIV [-related] Testing and Prevention

(a) *Testing.* **(1)** Patients admitted to any Office certified, funded and/or otherwise authorized program shall be offered an HIV test **upon admission to the program**. Such test **must** [may] be offered on-site or by referral. **Written or oral informed consent from a patient prior to ordering an HIV test is not required.** [Staff must note in the patient's case record that the test was offered and whether the patient declined to be tested.]

(2) Patients shall be informed that an HIV test will be included in their admission laboratory tests.

(3) Patients shall be informed that they may decline the HIV test.

(i) Physicians, physician assistants, and nurse practitioners shall not order an HIV test for a patient who declines testing.

(ii) A patient's decision to decline an HIV test must be documented in the patient record.

(4) Patients must be provided with oral or written information about HIV before an HIV test is conducted. This information shall include that:

(i) HIV causes AIDS and can be transmitted through sexual activities and needle-sharing, by pregnant persons to their fetuses, and through breastfeeding infants;

(ii) there is treatment for HIV that can help an individual stay healthy;

(iii) individuals with HIV or AIDS can adopt safe practices to protect uninfected and infected individuals in their lives from becoming infected or multiply infection with HIV;

(iv) testing is voluntary and can be done anonymously at a public testing center;

(v) the law protects the confidentiality of HIV test results

(vi) the law prohibits discrimination based on an individual's HIV status and services are available to help with such consequences; and

(vii) the law requires that an individual be advised before an HIV test is performed, and that no test shall be performed over their objection.

(5) Post-test counseling shall be provided to the patient who has received an HIV test.

(i) Post-test counseling must include:

(a) coping emotionally with the test results,

(b) addressing potential stigma and discrimination associated with the test results,

(c) consenting to release confidential HIV-related information voluntarily,

(d) revoking consent to release of confidential HIV-related information,

(e) discussing options for informing contacts that they may have been exposed to HIV without revealing the identity of the patient, including information about state or county assistance in voluntary, confidential contact notification without revealing the identity of the patient.

(b) *Prevention.* (1) Prevention counseling shall include, but not be limited to, discussions **about the correct** [regarding] use of condoms **and dental dams** and sexual health, not sharing [drug] **any equipment utilized to prepare substances for use or to use substances** [substance use paraphernalia], and pre- and post-exposure prophylaxis.

(2) Patients entering **Office** certified, funded and/or otherwise authorized programs on a prescribed HIV prevention medication regimen (**PrEP**) must be maintained on such regimen unless consultation with the

prescribing practitioner and the patient has occurred and the patient has consented to an alternative regimen or requests discontinuation.

807.8 Hepatitis A Testing and Prevention.

(a) Testing. Patients admitted to an Office certified, funded, and or otherwise authorized program shall be offered a screening test for hepatitis A infection if any signs or symptoms consistent with acute hepatitis A infection are present or if a patient reports close person-to-person contact, including sexual contact or sharing of substance use equipment with an individual who is suspected of having or known to have hepatitis A. Such test must be offered on-site or by referral. Staff must note in the patient's record that the test was offered and whether the patient accepted or declined to be tested.

(b) Prevention. (1) Prevention counseling shall include, but not be limited to, discussions about transmission through close person-to-person contact including sexual contact with an individual know to have hepatitis A, injection and non-injection substance use, and ingestion of contaminated food or water. Prevention counseling also should include discussions about the hepatitis A vaccine.

(2) All patients not immune to hepatitis A shall be offered the hepatitis A vaccine, which is a series of two vaccines of hepatitis A vaccine alone, or, more typically, in combination with hepatitis B vaccine. Vaccination may be performed on site or by referral. Follow-up appointments to complete the vaccination series should be made after the patient receives the first injection. If a patient is scheduled to receive the hepatitis A vaccination series on site but will not complete the series at the program, then an appointment to complete the vaccination series should be scheduled for them before they leave the program.

807.9 Hepatitis B Testing and Prevention

(a) Testing. Patients admitted to any Office certified, funded, and/or otherwise authorized program shall be offered a hepatitis B screening test upon admission to the program. Such test must be offered on-site or by referral.

(1) Patients shall be informed that a hepatitis B screening test will be included in their admission laboratory tests.

(2) Patients shall be informed that they may decline a hepatitis B screening test.

(i) Physicians, physician assistants, and nurse practitioners shall not order a hepatitis B screening test for a patient who declines testing.

(ii) A patient's decision to decline a hepatitis B screening test must be documented in the patient's record.

(b) *Prevention.* Prevention counseling shall include, but not be limited to, discussions regarding transmission through sexual contact with an individual who is suspected of having or known to have hepatitis B, injection drug use that involves sharing any equipment utilized to prepare or use substances and sharing other items with an individual who is suspected of having or known to have hepatitis B that can break the skin or mucous membranes. Prevention counseling also should include discussions about the hepatitis B vaccine.

(2) All patients not immune to hepatitis B shall be offered the hepatitis B vaccine.

Vaccination may be performed on-site or by referral. The hepatitis B vaccine is administered as a series of three doses either of hepatitis B vaccine alone or, more typically, in combination with hepatitis A vaccine. Follow-up appointments to complete the vaccination series should be made after the patient receives the first injection. If a patient is scheduled to receive the hepatitis B vaccination series on site but will not complete the series at the program, then an appointment to complete the vaccination series should be scheduled for them before they leave the program.

807.10 *Hepatitis C Testing and Prevention*

(a) *Testing.* Patients admitted to any Office certified, funded and/or otherwise authorized program shall be offered a hepatitis C test. Such test must be offered on-site or by referral.

(1) Patients shall be informed that a hepatitis C screening test will be included in their admission laboratory tests.

(2) Patients shall be informed that they may decline a hepatitis C screening test.

(i) Physicians, physician assistant, and nurse practitioners shall not order a hepatitis C screening test for a patient who declines testing.

(ii) A patient's decision to decline a hepatitis C screening test must be documented in the patient's record.

(b) *Prevention.* (1) Prevention counseling shall include, but not be limited to, discussions regarding possible transmission through anal, although less commonly, vaginal sex with an individual who is suspected of having or known to have hepatitis C, by sharing any equipment utilized to prepare substances for use or for substance use itself, regardless of the route, and by sharing personal hygiene items that may have microscopic blood on them.

807.11 *Chlamydia Testing and Prevention*

(a) *Testing.* Patients admitted to an Office certified, funded, and/or otherwise authorized program shall be offered a chlamydia test if any signs or symptoms consistent with a *Chlamydia trachomatis*

infection are present or if a patient reports having sexual contact with someone who was suspected of having or known to have chlamydia. Since most patients with chlamydia have no symptoms or abnormal findings on physical examination, all sexually active patients should be considered for and offered a test, with targeted testing based on a patient's stated sexual behaviors. Such test must be offered on-site or by referral. Staff must note in the patient's record that the test was offered and whether the patient accepted or declined testing.

(b) *Prevention.* Prevention counseling shall include, but not be limited to, discussions about transmission of *Chlamydia trachomatis* through anal, oral, or vaginal sex without a condom or dental dam with an individual who is suspected of having or known to have chlamydia, and discussions about the correct use of condoms and dental dams.

807.12 Gonorrhea Testing and Prevention

(a) *Testing.* Patients admitted to an Office certified, funded, and/or otherwise authorized program shall be offered a gonorrhea test if signs or symptoms of an infection with *Neisseria gonorrhoeae* are present or if a patient reports having sexual contact with someone who is suspected of having or known to have gonorrhea. Since many patients with gonorrhea have no or mild symptoms, all sexually active patients should be considered for and offered a gonorrhea test, with targeted testing based on a patient's stated sexual behaviors. Such test must be offered on-site or by referral. Staff must note in the patient's record that the test was offered and whether the patient accepted or declined testing.

(b) *Prevention.* (1) Prevention counseling shall include, but not be limited to, discussions about transmission of *Neisseria gonorrhoeae* through anal, oral, or vaginal sex without a condom or dental dam with an individual who is suspected of having or known to have gonorrhea and discussions about the correct use of condoms and dental dams.

807.13 Syphilis Testing and Prevention

(a) *Testing.* Patients admitted to an Office certified, funded, or otherwise authorized program shall be offered a syphilis test if signs or symptoms of an infection with *Treponema pallidum* are present or if a patient reports sexual contact with someone who is suspected of having or known to have syphilis. Since patients may not be aware that they have acquired syphilis, all sexually active patients should be considered for a syphilis test as well as patients who are not sexually active but for whom a concern about a latent syphilis infection exists. Such test must be offered on-site or by referral. Staff must note in the patient's record that the test was offered and whether the patient accepted or declined testing.

(b) Prevention. Prevention counseling shall include, but not be limited to, discussions about transmission of *Treponema pallidum* through anal, oral, and vaginal sex without a condom or dental dam with an individual who is suspected of having or known to have syphilis, and discussions about the correct use of condoms and dental dams.

807.14 Tuberculosis Testing and Prevention

(a) Testing. Patients admitted to any Office certified, funded and/or otherwise authorized program shall be offered a tuberculosis screening test. Such test must be offered on-site or by referral. Staff must note in the patient's record that the test was offered and whether the patient declined to be tested.

(b) Prevention. (1) Prevention counseling shall include but not be limited to discussions about aerosolized transmission of tuberculosis by sneezing or coughing as well as those who are at risk for contracting tuberculosis. At risk individuals include those who have close contacts with an individual who is suspected of having or known to have tuberculosis or groups with a high rate of transmission, such as persons who are unstably housed, people who inject drugs, persons living with HIV, and persons who work or live with people who are at high risk for tuberculosis in facilities or institutions such as shelters, corrections facilities, nursing homes, and residential homes for persons living with HIV.

807.15 [8] Non-discrimination

(a) Discrimination prohibited. No program shall deny admission to, terminate care and/or treatment, change the status of, limit or otherwise reduce the range, quality or variety of addiction services to any person solely on the basis of that person's actual, presumed, or alleged HIV-, **hepatitis A-, hepatitis B-, hepatitis C-, chlamydia-, gonorrhea-, syphilis- or tuberculosis-**related condition or status; provided that this requirement shall not preclude appropriate differential treatment necessitated by the individual's medical condition.

(b) Conditions prohibited. No program shall condition admission, continuation of services or provision of any needed service on an agreement by the individual to obtain an HIV, **hepatitis A, hepatitis B, hepatitis C, chlamydia, gonorrhea, syphilis, or tuberculosis** [related] test or services or to disclose the results of any previous or future HIV, **hepatitis A, hepatitis B, hepatitis C, chlamydia, gonorrhea, syphilis, or tuberculosis** test.

807.16 [9] Confidentiality and Disclosure of HIV-related Information

(a) Confidentiality. (1) The disclosure of HIV-related information is governed by Article 27-F of the Public Health Law, 42 C.F.R. Part II, the Health Insurance Portability and Accountability Act (HIPAA) and by this Part.

- (2) Confidential HIV-related information must be recorded in the case record of the protected individual.
- (3) HIV-related information may not be disclosed to staff of the provider except to:
- (i) a person to whom disclosure of confidential HIV-related information is specifically authorized pursuant to a written release; or
 - (ii) an authorized staff of a health facility or health care provider in accordance with this Part and Article 27F of the Public Health Law.
- (4) All clients in addiction treatment programs must receive a written notice summarizing these confidentiality requirements.
- (5) Confidential HIV-related treatment information may be recorded in the treatment/recovery plan of the protected individual.
- (b) *Authorized disclosure.* (1) A written authorization to disclose HIV-related information must be in a form, compliant with any applicable federal requirements, approved by the Office and the **NYS** Department of Health. 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 legally authorized to consent to health care for the individual.
- (2) A notation of each authorized disclosure must be placed in the protected individual's case record. The protected individual must be informed of any disclosures upon request.
- (3) All written disclosures of confidential HIV-related information must be accompanied by a statement prohibiting re-disclosure.
- (4) 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 statement prohibiting re-disclosure.
- (c) *Additional prohibitions.* Confidential HIV-related information shall not be released pursuant to a subpoena. An order from a court of competent jurisdiction is required, pursuant to section 2785 of the Public Health Law and 42 CFR Part II, when applicable.

807.17 Communicable Disease Reporting Requirements

- (a) **All programs are required to comply with the requirements of 10 NYCRR Part 2, which requires reporting of suspected or confirmed communicable diseases to appropriate government officials.**
- (b) **Information about the requirements for reporting communicable diseases can be found on the New York State Department of Health (NYS DOH) website.**

807.18 [0] [HIV-related]Staff Training and Education about HIV, Hepatitis A, B, and C, Chlamydia, Gonorrhea, Syphilis, and Tuberculosis

(a) **Staff training and education** [*Training and orientation*]. (1) [Training and o] **O**rientation of new staff must include information and instruction **about** [regarding]:

- (i) the legal prohibitions against unauthorized disclosure of confidential HIV-related information;
- (ii) **NYS DOH requirements for communicable disease reporting;**
- (iii) **discrimination and stigma faced by individuals diagnosed with HIV, hepatitis A, hepatitis B, hepatitis C chlamydia, gonorrhea, syphilis, and tuberculosis.**

(iv) the use of protective equipment and preventive practices **for staff and for patients** and recognition of circumstances which represent significant risk of [contracting] **acquiring** or transmitting HIV, **hepatitis A, hepatitis B, [or] hepatitis C or tuberculosis.**

(v) program policies and procedures established pursuant to this Part.

(2) All staff must be provided retraining on the material specified in this Part at least annually.

807.19 [1] Severability

If any provision of this Part or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Part that can be given effect without the invalid provisions or applications, and to this end the provisions of this Part are declared to be severable.