(A) Policy Statement

Disclosure of HIV test results or diagnosis will be performed in such a manner as:

a) to protect the rights of the person tested/diagnosed and

b) to share patient care information with health care workers with a medical need to know.

(B) Purpose of Policy

To control the release of confidential information to persons with need to know for the diagnosis, care or treatment of persons with HIV infection.

(C) Procedure

1. Unless specified in this protocol or in the protocol addressing disclosure of information to law enforcement and emergency care workers, no person or agency of the state or local government that acquires information as specified below, while providing any health care service or while in the employment of a health care facility or health care provider shall disclose or compel another to disclose any of the following:

   a. The identity of any individual for whom an HIV test is performed;
   b. The results of an HIV test in a form that identifies the individual tested;
   c. The identity of any individual diagnosed as having AIDS or HIV Infection.

2. The results of an HIV test or the identity of an individual on whom an HIV test is performed or who is diagnosed as having AIDS or HIV infection may be disclosed only to the following:

   a. The individual who is tested or the individual’s legal guardian. Disclosure to spouse or any sexual partner must be done by a physician. A person to whom disclosure is authorized by a written release, executed by the individual tested or by his legal guardian and specifying to whom disclosure of the test results or diagnosis is authorized and the time period during which the release is to be effective;
   c. The individual’s physician;
   d. The Department of Health or a health commissioner to whom reports are made under Section 3701.24 of the Ohio, Revised Code.
   e. A health care facility or provider that procures, processes, distributes, or uses a human body part from a deceased individual, donated for a purpose specified in Chapter 2108 of the Ohio Revised Code,
that needs medical information about the deceased individual to ensure that the body part is medically acceptable for its intended purpose;

f. Health care facility staff committees or accreditation or oversight review organizations conducting program monitoring, program evaluation, or service reviews;

g. A health care provider, emergency medical services worker, or peace officer who has significant exposure to the body fluids of another individual, if that individual was tested pursuant to paragraph 6(f) of the Ohio Department of Health Protocols for implementation of Ohio's Omnibus AIDS Law, entitled "Consent and Counseling for HIV Testing," except that the identity of the individual tested shall not be revealed.

h. To law enforcement authorities pursuant to a search warrant or a subpoena issued by or at the request of a grand jury, a prosecuting attorney, city director of law or similar chief legal officer of a municipal corporation, or village solicitor in connection with a criminal investigation or prosecution.

3. The results of an HIV test or diagnosis of AIDS or HIV Infection may be disclosed to a health care provider, or an authorized agent or employee of a health care facility or health care provider, if the provider, agent, or employee has a medical need to know the information and is participating in the diagnosis, care, or treatment of the individual on whom the test was performed or who has been diagnosed as having AIDS or HIV Infection.

4. Disclosure may not be requested or made solely for the purpose of identifying an individual who has a positive HIV test result or has been diagnosed as having AIDS or HIV Infection in order to refuse to treat the individual. Referral of the individual to another health care provider or facility based on reasonable professional judgment does not constitute refusal to treat the individual.

5. Access to or authority to disclose the HIV test records of an individual may also be sought by filing an action for the same in a court of common pleas. Legal counsel should be consulted for the filing of such actions.

6. Persons or government agencies who consider it necessary to disclose test results of an HIV test of a specific individual in an action in which it is a party may seek authority for the disclosure by filing a motion with the court in which the action is being heard.

7. Except pursuant to an order issued in a criminal prosecution or an order issued pursuant to the proceedings set forth in paragraphs 5 and 6 above, no hospital blood center shall be compelled by any other court to disclose the results of HIV tests performed on the blood of voluntary donors in a way that reveals the identity of any donor.

8. Any disclosure made pursuant to this protocol shall be in writing and accompanied by a written statement that includes the following or substantially similar language:

   This information has been disclosed to you from confidential records protected from disclosure by state law. You shall make no further disclosure of this information with the specific, written and informed release of the individual to whom it pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is not sufficient for the purpose of the release of HIV test results or diagnosis.

9. It is recommended that individuals who are authorized to disclose positive results of an HIV test to the individual tested or to render a diagnosis of AIDS or HIV infection to an individual, should apprise such
individual that he/she has the legal obligation to disclose this information to any other person with whom he/she intends to make common use of hypodermic needle or engage in sexual contact.

Reference: [http://codes.ohio.gov/orc/3701.24](http://codes.ohio.gov/orc/3701.24)