

HIV CONFIDENTIALITY



HOW CONFIDENTIAL IS YOUR HIV INFORMATION?

New York has a very strict HIV privacy law. But the law does not apply to everyone. Read more to learn who must keep your HIV status private and how to protect your confidentiality.



Which laws protect my HIV status?

New York's HIV confidentiality law is in Article 27-F of the Public Health Law (Article 27-F). Other health information is protected by HIPAA, New York's general medical privacy law, and by laws protecting mental health and addiction information.



Is everyone required to keep my HIV status confidential?

No. New York's HIV privacy law applies to most health and social service providers, such as hospitals, doctors' offices, school nurses, and foster care agencies. It also applies to many government agencies, such as the New York City HIV/AIDS Service Administration (HASA), Department of Social Services, child welfare agencies, and Department of Corrections. But friends, neighbors and family are not required to follow Article 27-F! Neither are landlords.

What about employers?

Most employers are required to keep HIV and other medical information confidential in some instances. These requirements are in the Americans with Disabilities Act and other anti-discrimination laws. Article 27-F does not apply to employers. Be warned, however, that voluntary, self-disclosure of your status at work may not be protected. We suggest calling the Legal Action Center or another lawyer for advice before disclosing your HIV status at work.

Exactly how much privacy do I have under New York's confidentiality law?

Article 27-F makes it illegal to disclose your "HIV-related information" unless you sign an HIV-specific release form or one of the law's exceptions applies. These exceptions include health providers caring for you or your exposed child, public health officials when required by law, insurers to permit payment, foster care or adoption agencies, corrections, probation, and parole, and emergency or health care staff accidentally exposed to your blood.

What is a release form?

By signing a release form, you give permission to disclose your HIV status to whomever is listed on the form. The people who get the information must keep it confidential (follow Article 27-F).



My primary care doctor told my other doctor that I have AIDS. Is that legal?

It is legal for doctors to share your HIV-related information with other health care providers when appropriate for your care and treatment. They do not need your written consent.

Is it legal for my doctor tell my employer about my status?

Not unless you sign an HIV-specific release form. For more information about HIV privacy and employment, read *Employment and HIV: 7 Rights You have in New York*, available at lac.org/resources/hivaid-resources.

What about my family? Can my doctor tell them my HIV status?

Only if you sign an HIV-specific release form. But be careful if you bring a family member to the doctor! Many health care providers do not realize that they need an HIV-specific release to share HIV information with family and friends who accompany patients.

Should I tell my child's school that my child has AIDS?

Talk to your child's doctor to see if there is any medical reason to disclose your child's status. Disclosure would only be appropriate if necessary for your child's health. No law requires you to tell the school, and children living with HIV/AIDS do not pose a risk to other children. Note that Article 27-F applies only to school health care workers – not teachers and administrators. Other confidentiality protections might apply depending on whether the school is public or private and its location.



Someone posted my HIV status on Facebook. People are talking. What can I do?

Unfortunately, Article 27-F and other health privacy laws do not apply to your friends and family. However, you can ask Facebook to remove the posts. If you feel that you are being harassed, you may be able to file a criminal complaint, but it is wise to consult with a lawyer first.

Should I tell my friends and family about my status?

Disclosure of your status is a personal decision. It can be empowering, but also can have unpredictable consequences. Trained professionals, such as a counselor, social worker, or therapist, can provide support. The Legal Action Center can help connect you to these services.

My sexual partner did not tell me they had AIDS. Can I sue them?

Some people have sued their sexual partners for not disclosing their HIV status. These cases are challenging to win and generally require proof that you contracted HIV from that partner. Your local bar association might be able to refer you to an appropriate lawyer.

What should I do if someone violates my HIV confidentiality?

You may call the Legal Action Center for help at (212) 243-1313.

STILL HAVE QUESTIONS?

Visit our website at lac.org/resources/hivaids-resources.

