

# Physician Perceptions and Knowledge of the Legal and Ethical Issues Regarding HIV/AIDS Confidential Disclosure in Managing Persons With HIV/AIDS at an Academic Medical Center (AMC)

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## Abstract

Knowledge of current institutional policies and state laws regarding HIV/AIDS disclosure and confidentiality issues is imperative for appropriate management of patients with HIV/AIDS. The literature suggests that physicians lack understanding in these areas. The purpose of this study was to measure perceptions and knowledge of physicians concerning state law and institutional policies and procedures on issues of confidentiality. Data were collected from via a 27 item objective questionnaire. Surveys were then scored and descriptively evaluated revealing a mean survey score of 51.2% indicating that subjects had relatively limited knowledge regarding state law and institutional policies and procedures on issues of confidentiality specific to patients with HIV or AIDS. Continuing education opportunities for physicians should be developed and implemented. Programmatic opportunities should target elements of state law as well as institutional policy and procedures relative to HIV testing, reporting, and disclosure. Further research should also examine the level of discordance between state law and institutional policy.

## INTRODUCTION

A 45-year-old man is seen by his physician for treatment of high blood pressure. He admits to having engaged in extra-marital sexual relations and requests testing for HIV. He is subsequently found to be HIV positive. When being counseled, he is questioned about notifying his wife. He states that he refuses to tell his wife of his HIV status and refuses to allow his physician to do so either. Question: Under these circumstances when and how is a physician allowed to breach confidentiality? §

Ethical questions such as these are ever present within the healthcare environment, crossing all clinical domains from pre-natal genetic testing to mental illness among seniors. Nowhere are these concerns more critical than within academic medical centers (AMC) where future generations of physicians are being trained. Indeed, physicians' understanding of ethical concerns has the potential to impact the quality of both short-term and long-term patient care and health outcomes. Adequate education and training of physicians is essential if they are to balance the importance of confidentiality with the psychosocial and clinical

consequences of non-disclosure (e.g., the possibility of secondary exposure both within health settings and the social / domestic arena).

Before the problem of misinformation regarding policy and law can be addressed, it must first be quantified and described, data largely absent in the medical and scientific literature. The purpose of this study was to assess the level of knowledge among physicians at an AMC in regard to HIV/AIDS testing and reporting. Gaining a base-line understanding will be helpful in generating effective educational opportunities for physicians.

## BACKGROUND

### PATIENT CARE AND QUALITY OUTCOMES

As caretakers of the health of the general public, it is important that physicians ensure the highest standards of patient care. To a degree, this is dependent upon education and training in matters pertaining to institutional policies and procedures, local and state laws, and public health regulations. Doing so raises the overall level of the quality of care offered to the patient. Recently, many individuals and

organizations (1,2,3,4) have raised concern regarding quality and patient safety within the hospital setting, linking issues of quality and medical error not only to immediate and undesirable patient outcomes, but also to the potential for adverse effects on a patient's long-term health (e.g., quality of life; well-being, social, physical, and mental functioning; and use of healthcare services).

To address these concerns at both a national and individual level, the Institute of Medicine suggested a multifaceted approach toward the enhancement of patient care. Such an approach includes an examination of policy, confidentiality, and legal issues associated with the care process. A clearer understanding of these issues has the potential to augment the overall patient experience, as well as curtail the likelihood of medical error and subsequent legal / administrative issues. For example, in the case of our 45-year old male patient, if all the members of the healthcare team were aware of pertinent state law and institutional procedures regarding sharing HIV status with family members, then the likelihood of embarrassing and potentially harmful information (and misinformation) sharing could be minimized.

## **PHYSICIANS, HEALTHCARE LAWS AND POLICIES, AND HIV/AIDS**

A physician's care for a patient with HIV/AIDS extends beyond the tradition of patient-centered therapeutic interventions to incorporate an appreciation of policy, law, and confidentiality, each of which are supplemental yet integral parts of delivering high quality healthcare. Quite often it is assumed that these issues are incorporated into the routine provision of care, yet the consequences of a misinformed or misguided medical staff are serious and may lead to legal challenges (such as malpractice), ethical violations, and poor patient management, all ultimately having a negative impact on the quality of care received by the patient. Indeed, anecdotal and empirical evidence suggests that physicians may be largely uninformed of current institutional policies and procedures, public health regulations, and local and state laws specific to HIV/AIDS disclosure and confidentiality. For example, Segal (5) reported that one-quarter of physicians sampled in California were not up-to-date on state codes relating to HIV. Heath et al. (6) acknowledged variation between physicians in terms of therapeutic management of HIV/AIDS. Specific to issues of confidentiality, the authors identified that prolonged hours of duty, disparate stages of career development, and the

breadth of clinical problems faced on a given day may all contribute to sub-optimal knowledge of the legal and ethical issues in managing persons with HIV/AIDS. Samuels, et al. (7) stated that, among rural physicians, legal and ethical issues serve as primary barriers to providing service. These threats, coupled with inadequate knowledge may be significant and damaging to the individual patient, his/her family and personal contacts, medical personnel, and ultimately the public at large.

The major challenges to universal physician understanding and adherence to HIV/AIDS policies are that (a) laws concerning confidential disclosure vary from state to state (b) individual hospitals have unique local policies and procedure codes, and (c) both the aforementioned are continuously examined and changed. In regard to state statute, recurring themes address a physician's role in HIV confidentiality issues with respect to HIV testing, the contacts and family members of the HIV infected patient, and healthcare workers who are exposed to bodily fluids. Hospital policies, in theory, are designed to reflect state laws as they pertain to HIV confidential disclosure. It is, therefore, paramount that the physician be properly exposed to both state statute and hospital policy in order to facilitate proper consideration toward the patient as well as all concerned.

Although research to address the challenges of physician knowledge of legal and policy issues is minimal, some work has been conducted in this field. Yedidia and Berry (8), utilizing a nationwide longitudinal panel design of 394 physicians, demonstrated that various aspects of residency training can have a significant impact on how medical staff care for individuals with HIV/AIDS. Important factors identified included the residency environment, various faculty characteristics, cynicism regarding patient care, social biases such as homophobia, and attitudes related to those with HIV/AIDS. The authors argue that many concerns about physician knowledge can be successfully alleviated through proper experiential training, medical education, and continued professional development. Similarly Pattullo, et al. (9) concluded that adherence with appropriate standards of care was associated with more stable physician-patient relationships and a more favorable perspective, on the part of the patient, regarding the level of knowledge possessed by the physician.

A related issue in promoting comprehensive patient care in HIV/AIDS involves the perceptions of health care providers

regarding a patient's sexual orientation and lifestyle. Not all cases of HIV/AIDS stem from homosexual / bisexual contacts, but in the United States an overwhelming proportion of cases are within the “men who have sex with men” category. According to the Centers for Disease Control and Prevention (10) 56% of cumulative AIDS cases are reported among this group. As bias and stereotyping may play an important role in the level of care received by a patient, psychosocial aspects of medical education are also important. Radacki et al. (11) conducted a cross-sectional survey of 249 physicians across the medical training continuum and reported that those who were further along in their medical training reported significantly less fear and misconception regarding HIV, and a diminished need to test patients who are not at high-risk for infection compared with those in earlier stages of medical training. In essence, the physician's social view of patient risk characteristics may impact patient care, however, with appropriate supplemental training, a physicians understanding of HIV/AIDS increases, leading to better care. The authors concluded that “comfort relative to being around homosexuals continues to exert an impact on the intent to treat,” offering evidence to support a multidimensional approach to medical education that includes an examination of the relationship between perceptions of patients and level of care, a perspective congruent with IoM suggestions discussed earlier.

## **METHODOLOGY**

The purpose of this study was to measure perceptions and knowledge of the legal and ethical issues related to confidential disclosure in managing persons with HIV/AIDS among a group of resident physicians at an academic medical center. A questionnaire was developed by a multidisciplinary research team and administered to 34 medical residents. The survey consisted of 22 items: six questions on the topic of personal beliefs and attitudes, six covering state law, and ten examining institutional policies and procedures. In addition, five demographic items were also included for general descriptive purposes. The instrument was piloted among non-AMC physicians prior to administration. Questionnaire data were collected and tabulated for statistical analysis. Correct responses to legal / policy questions were secured from state legislative documents and the AMC.

## **FINDINGS**

### **PARTICIPANT DEMOGRAPHICS**

A total of 34 questionnaires were collected and analyzed.

Mean participant age was 31 years with 47% of participants being female. Whites represented 27% of the sample, Asians 35%, Hispanics 15%, Blacks 9%, and those of Middle Eastern descent 9%. Year of medical school graduation ranged from 1982 to 2001 with the median being 1996. Almost half (47.1%) of respondents were in their first year of residency at the time of the survey with 9% second year residents, 27% third year, and 6% fourth year residents. Upon collection, each questionnaire response was compared against an answer key yielding a mean “correct” survey score of 51.2% (range 32%-68%).

### **GENERAL BELIEFS AND ATTITUDES**

Only 27% of participants responded “yes” to the question of whether or not they received adequate training on the subject of HIV confidentiality policies and procedures during their medical training. Similarly, few participants (18%) reported receiving sufficient information during their initial orientation to the AMC. Given these estimates it is not surprising that 79% of the sample indicated a need for additional education and training in the area of HIV/AIDS policy and law. Additionally, the majority of participants indicated a belief that residents and physicians should receive training on the rights of HIV patients (91%). Sixty-five percent of respondents indicated that senior faculty within their medical specialty should be held responsible for educating junior physicians on policy / legal issues concerning HIV patients. Finally, 77% stated that issues regarding HIV should not be reserved for attending-level specialists in the field of HIV, but rather this topic should be discussed openly by all physicians. (See Table 1) It should be noted that questions regarding potential sexual bias were not included in the survey as such questions, though an important factor in patient care, exceeded the purpose of the study.

**Figure 1**

Table 1: Questionnaire Items Responses: General Beliefs and Perceptions

Question	Response %		
	Yes	No	Unsure
In your medical education and training, do you believe you received sufficient information regarding HIV data confidentiality policies and procedures?	26.5	47.1	26.5
In your orientation to the AMC, did you receive sufficient information regarding HIV policies and procedures at the hospital?	17.6	55.9	26.5
Do you believe that you need additional education/training in HIV policies and procedures?	79.4	2.9	17.6
Do you think that residents and physicians should receive training on the rights of HIV patients?	91.2	2.9	5.9
Do you believe that, in your field of medicine, you should be held responsible for issues concerning HIV patients?	64.7	17.6	17.6
Do you believe that issues regarding HIV should be reserved for attending-level specialists in this area?	11.8	76.5	11.8

## ISSUES OF STATE LAW

In our state it is not required that HIV/AIDS confidential information be released given subpoena, court order or other judicial process. Only 35% of participants responded accurately to this item, yielding 65% of participants who believed that given a subpoena, etc., such information must be released to the authorities. However, the majority of participants understood the legality of releasing such information to parents or legal guardians of minor or incompetent patients (77%). The majority (70%) also understood disclosure in cases where the HIV+ patient's partner or child is at risk. Less than half (41%) understood that intentionally or knowingly disclosing HIV/AIDS confidential information is considered a misdemeanor offense. Regarding pre- and post-test counseling, 71% of respondents incorrectly reported that counseling is legally required while 77% correctly responded that it is "legally necessary to inform the patient of his/her HIV test results."

## AMC POLICIES AND PROCEDURES

Over 50% of respondents accurately indicated that patient information regarding whether he/she has been tested, counseled or is considered at-risk is considered confidential. Seventy percent of participants correctly responded "no" to the question of whether or not some exceptions to the provision of patient care are applicable given a diagnosis of HIV. Well over 90% of subjects were able to correctly identify patient categories subject to HIV testing. The only exceptions were incorrect responses for "homosexual females" and "bisexual females" both of which are not subject to testing according to AMC policy. Regarding institutional policies and procedures, 74% correctly indicated that HIV counseling is required before testing, yet only 47% identified post-test counseling requirements. On a

similar note, only 24% of subjects correctly reported that HIV/AIDS counseling is not required for patient's spouse, partner or next of kin. Also, given health care worker exposure to a patient's body fluids, only 32% had knowledge of the institutional policy that the consent of the patient in question is not required for HIV testing in cases where the healthcare worker has been exposed to a patient's blood or body fluid.

Less than half of participants (41%) were able to correctly indicate the AMC department that should be notified of positive HIV test results (hospital epidemiology / infectious disease department). As stated by institutional policy, two originating sources of reporting must be engaged: the AMC lab and the patient's physician. Only 18% of participants correctly identified the former while 68% identified the latter. Finally, no respondent was able to successfully identify the location within the hospital where institutional policies and procedures on the subject of HIV were kept, although all participants were able to indicate the location of HIV testing consent forms. (See Table 2)

## DISCUSSION

According to our research, the overall level of knowledge on the part of study participants regarding HIV/AIDS law and policy is quite limited. Given this apparent lack of insight, it is clear that additional efforts must be developed to educate physicians on legal statutes and policies regarding the care of HIV/AIDS patients. A physician who gains a better appreciation for patient care guidelines is in a much better position to offer a higher level of patient care than less informed professionals. Becoming informed has a tendency to augment care and decreases the likelihood of legal and administrative obstacles to the delivery of quality healthcare.

## EDUCATIONAL INTERVENTION

The authors have identified a number of educational opportunities specific to state law and institutional policy. We also suggest that the AMC be held responsible for comprehensive educational programs that address legal and policy matters on all diseases. Because HIV/AIDS accompanies several unique ethical and legal issues concerning confidentiality and disclosure, it is particularly important that AMCs attend to education needs in these areas.

**Figure 2**

Table 2: Questionnaire Items and Percent Correct Responses: State Law and Institutional Policies and Procedures

Question	% Physicians Responding Correct
<b>Questions Relating to State Law</b>	
Must HIV/AIDS confidential information be released to any person, or legal entity, as a result of a subpoena, court order, or other judicial process?	35.3
Can HIV/AIDS confidential information be released to parents or legal guardians if the patient is a minor or is incompetent?	76.5
When a patient tests HIV+ and the physician reasonably believes that the spouse, sexual partner, or any child of the patient is at risk of being infected, can the physician disclose HIV/AIDS status to these persons (after first attempting to notify the patient that such disclosure is going to be made)?	79.4
Is it considered an offense to intentionally, or knowingly, disclose HIV/AIDS confidential information to anyone who is not legally authorized to receive such information?	41.2
Is it legally necessary for a health care provider ordering an HIV test to provide pre-test and post-test counseling in all situations?	8.8
Is it legally necessary to inform the patient of his/her HIV test results?	76.5

**Figure 3**

<b>Questions Relating to Institutional Policies and Procedures</b>	
What information concerning HIV/AIDS is considered confidential?	42.8
Healthcare professionals are required to provide care to any patient in need. Are there some exceptions if the patient is diagnosed with HIV/AIDS?	70.6
Which of the following patient categories may be subject to HIV testing?	90
HIV/AIDS counseling should be done	8.8
Must HIV/AIDS counseling be provided to patient's spouse/partner/next of kin?	23.5
If a health care worker has been exposed to a patient's body fluids, must consent to test that patient for HIV/AIDS be obtained?	32.4
The appropriate procedure when obtaining an HIV+ test result is to report to	41.2
Which of the following bear(s) responsibility for reporting an HIV positive test to the above listed facilities	11.7
Where is the HIV/AIDS policy and procedure kept in the hospital?	0
Where are HIV/AIDS testing consent forms kept in the hospital?	100

Physician education should address the following three areas. The first involves ethical issues of informed consent and proper dissemination of medical information regarding HIV/AIDS. Second, guidelines regarding testing procedures should be addressed to ensure proper counseling opportunities for patients. Finally, physicians should be aware of and adhere to requisite accounting procedures necessary to enable federal and state agencies to calculate prevalence data. Specifically, any educational intervention undertaken at AMCs should focus on the following content areas:

1. Timely and well directed release of confidential information regarding HIV/AIDS testing and status.
2. A well-defined understanding of who is and is not "at-risk."
3. The appropriateness of HIV/AIDS counseling opportunities before and after testing.
4. Work site exposures and subsequent testing / reporting procedures.
5. Onsite administration and reporting of descriptive data necessary for prevalence calculations.

## CONCLUSION

The findings of this study, though original and descriptive in nature, raise many questions surrounding the adequacy of physicians' understanding of both state law and institutional policy regarding the proper administrative care of patients with HIV/AIDS. To optimize the quality of care it is of paramount importance that medical staff at all levels (i.e., resident, fellows, and attending physicians) become aware of state statute and institutional guidelines. Of particular interest to future research efforts should be the level of congruency between institutional policy and state law. By examining the questions broached in this study, physicians will be better suited to accommodate the HIV/AIDS patient in terms of providing well-balanced services and quality care. Also, investigations should examine associations among bias, knowledge and perceptions, and quality of patient care. Finally, consideration should be given to the impact of a collaborative association between hospital administration and the physician. To foster an open dialogue between the two in order to disseminate timely and accurate information, continuing medical education initiatives must assume an active role, one which ensures patient safety as well as the safety of society in general.

## References

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