

Psycho Social Aspects of Disclosure

- Issues for People with Bleeding Disorders & Living with HIV

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Introduction

- Disclosure of a chronic illness such as HIV is an on-going concern for people with a bleeding disorder and can occur in many areas and arenas of a client's life. The theme of disclosure of one's HIV status in a social work context may require practical, legal and emotional support. Of specific specialty is the legal requirements, concepts such as shared responsibility for sex and risk and transmission issues.

- Disclosure may facilitate self acceptance of one's condition. It is a process that is life long and can have many psycho-social consequences on and for the individual. I will attempt to present some of the experiences of people with a bleeding disorder and living with HIV that I have encountered through several non-identifying case studies

What is Disclosure?

- Disclosure is communicating personal health information about yourself to another person
- Disclosure is a process rather than a one off event. Often further discussion around HIV can occur after disclosing your status

What the law says

<http://www.thinkagain.com.au/whosays1.htm>

The law and HIV transmission

A person with HIV who transmits the virus to another, or exposes another person to the risk of HIV transmission, may have broken the law. There are significant variations between state and territory laws concerning disclosure of your positive HIV status to sexual partners, and the possible penalties for HIV transmission. Somewhat confusingly, there are potentially two types of laws involved. These are the public health laws, and the criminal laws, of each state and territory. The following is a brief outline of the relevant laws in each state and territory.

What the Law says

Australian Capital Territory

- **Public health law:** there is no specific legal obligation on HIV-positive people to disclose their status before having sex.
- **Criminal law:** It is an offence to intentionally or recklessly inflict grievous bodily harm on another person. Maximum penalty: imprisonment for 15 years. It is possible that this law could be used to prosecute an HIV-positive person for transmission of HIV.

Tasmania

- **Public health law:** An HIV-positive person must take "all reasonable measures and precautions" to prevent the transmission of HIV to others, and must not knowingly or recklessly place another person at risk of contracting the disease. Maximum penalty: a fine of up to \$10,000, or imprisonment for one year. If an HIV-positive person is charged with an offence under this law, it is a defence for the HIV-positive person to prove that the other person knew of, and voluntarily accepted, the risk of contracting HIV.
- **Criminal law:** A person who causes grievous bodily harm to a person by any means is guilty of a crime. Maximum penalty: imprisonment for 21 years. It is possible this law could be used to charge an HIV-positive person for transmitting HIV to another person, although no such prosecutions are known to have taken place.

Victoria

- **Public health law** in Victoria does not specifically require an HIV-positive person to disclose their HIV status before having sex. The law states that a person must not knowingly or recklessly infect another person with an infectious disease. Maximum penalty: a fine of \$20,000. In addition, it is a defence to a charge under this law, to show that the person who becomes infected with the infectious disease knew of and voluntarily accepted the risk of infection.
- **Criminal law:** A person who intentionally causes another person to be infected with a "very serious disease" (which includes HIV) is guilty of a crime, and liable to a maximum penalty of imprisonment for up to 25 years. In Victoria, the offence of "conduct endangering life" has been used to charge HIV-positive people who place others at risk of HIV infection. This charge carries a maximum penalty of 10 years imprisonment.

New South Wales

- **Public health law:** A person who knows they have a sexually transmissible medical condition (which includes HIV) is guilty of an offence if he or she has sexual intercourse with another person unless, before intercourse takes place, the other person has been informed of and voluntarily accepts the risk of contracting the sexually transmissible medical condition. Maximum penalty: a \$5000 fine.
- **Criminal law:** A person who maliciously causes another person to contract a "grievous bodily disease" (which includes HIV), is guilty of a crime. Maximum penalty: 25 years imprisonment

South Australia

- **Public health law:** A person with a "controlled notifiable disease" (which includes HIV) must take all reasonable measures to prevent transmission of the disease to others. Maximum penalty: a fine. The law does not specifically require a person with HIV to disclose their HIV status to a prospective sexual partner.
- **Criminal law:** A person who recklessly endangers another person's life is guilty of a criminal offence. Maximum penalty: 15 years imprisonment. It is possible this law could be used to charge an HIV-positive person for transmitting HIV to another person.

Western Australia

- **Public Health laws** requires disclosure before sex.
- **Criminal law:** a person who does any act that is likely to result in another person contracting a serious disease (which includes HIV), is guilty of a crime. Maximum penalty: imprisonment for 20 years.

Northern Territory

- There are no public health laws dealing with HIV transmission or disclosure of HIV status in the Northern Territory.
- **Criminal law:** it is an offence to do grievous bodily harm to another person. Maximum penalty: imprisonment for life. It is also an offence to endanger another person's life. Maximum penalty: imprisonment for 10 years. It is possible that these laws could be used to prosecute an HIV-positive person for transmission of HIV. One prosecution was commenced, but there have been no such prosecutions successfully completed in the Northern Territory.

Queensland

- Queensland public health law does not specifically require an HIV-positive person to disclose their HIV status before having sex. The law makes it an offence to deliberately or recklessly infect another person, or to place them at risk of infection. Maximum penalty: a fine of \$20,000, or imprisonment for two years. It is a defence to such a charge if the other person knew of and voluntarily accepted the risk of infection.
- The criminal law provides that a person who transmits a serious disease (including HIV) to another person is guilty of a crime. Maximum penalty: life imprisonment.

Disclosure Issues to Consider



Making the decision to disclose

- **WHO**

- Who are you going to tell?
 - Who can help you?

- **WHERE**

- Where will you disclose?
- A place which is comfortable, private, emotionally safe.

- **WHAT**

- What Support do you need?
- What support do they need?
- What supports are available?
- Know what you want to say and how much to say?

- **WHY**

Why do you want to tell them?
Do they need to know?

- **HOW**

How are they likely to react?
How can you prepare yourself?

Pitfalls of Disclosure

Disclosure can raise feelings and sometime exacerbate existing feelings such as

- Regret
- Rejection
- Fear
- Isolation

Benefits of Disclosure

It can offer feelings of :

- Relief
- Happiness
- Freedom
- Belonging
- Support



Personal Reflections

“Frank” –

“I was diagnosed with HIV when I was in my 20’s. I was out going and enjoyed relationships with women. Ever since I was told it was like my world changed for ever. But who would want me now? I’m much older now but I’ve never told anyone about my diagnosis except my dad who lives in the old country but I’m not sure how much he understood. I think people can tell I have it because of my face”

Personal Reflections

Wayne

“I avoided sexual relationships since I was told. Then I decided to have sex and telling someone (about my status) is always a struggle. I didn’t always tell at first because I didn’t know what to say....”



Personal Reflection

Kane

“I thought only old people got HIV.... We were just getting on so well, I thought we could talk about everything until he told me about his HIV.. I’m ok now, everything has come back clear so we are going to make a go of it

- The decision to disclose your HIV status to another person is a deeply personal one and requires careful consideration, although you may be required to disclose to your sexual partners according to the law of the state that you are in.