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September 16, 2011

PERSONAL & CONFIDENTIAL

John Doe, Esq.
Attorney at Law.
123 Broadway
Bedford Falls, CA

Re: Darlene Client
File No. 99000.04910

Dear John:

As promised, I am following up on our discussion about Ms. Client's potential claim against Agency. In outlining the claim, I will summarize the facts as I understand them, provide a summary of the applicable law, and offer a proposal for resolving this matter. I do hope that we can resolve this quickly without the need to go beyond our informal discussions. I think that our conversation of Friday went a long way to achieve this.

FACTUAL BACKGROUND OF CLAIM

Ms. Client is a 54-year-old Bedford Falls native who has lived all her life in this City. She is a mother and grandmother. Recently her health has declined to the point that, because of her disabilities, she is unable to use public transportation. Because of her health and physical limitations, she is unable to drive herself and is dependent on others to help her accomplish such every day necessities as shopping, seeing her physicians and visiting her family. These functional disabilities prevent, in the language of the Application verification form, her "independent use of the existing and otherwise accessible public transit some or all of the time." These functional disabilities include chronic shortness of breath, complications arising from a multiple fracture in her foot, glaucoma, kidney problems, back discomfort, diabetes with

neuropathy. Each of these, individually or together, prevents her from using existing public transportation some if not all of the time.

In April 2002, Ms. Client was hospitalized at Bedford Falls General Hospital. Just before discharge her physician and social worker each concluded that she qualified for ADA Agency Eligibility. They encouraged her to apply. She completed the application on March 25, 2002. A copy of her application is attached.

In the application she detailed the disabilities that prevented her from using public transportation. She also noted that her daughter helped her with the application and agreed in the form that could "be contacted directly if additional information is requested."

I believe that we can agree this agreement was not in the form of a waiver permitting the agency to inquire about a medical history that had nothing to do with her disability. I trust we can also agree that the statement was limited to obtaining additional information from about the "disability or health-related condition that prevents [her] from using pubic transit."

On the other hand, the only authorization she has ever given for a discussion of her disabilities was for the agency to contact Elsa Treater, her physician. She did so only after having read and understanding that

> All information will be kept confidential, and only the information required to provide the services I request **will be disclosed to those who perform the services**. (Emphasis added). **I understand that it may be necessary to contact a professional familiar with my functional abilities to use public transit in order to assist in the determination of eligibility. (Emphasis in original).** (Application).

She then authorized Dr. Treater to provide information about her disability. She did this with the following limitations:

> The information released will be used solely to determine my eligibility. I realize that I have the right to receive a copy of this authorization. I understand that I may revoke this authorization at any time.

Presumably because Agency thought that the application was unclear ("professional & phone" -- see Application), Dr. Treater filled out her evaluation on April 11, 2002. She confirmed that Ms. Client had a documented functional or cognitive disability and that the disability was permanent. She provided her diagnosis and noted:

> Ambulation limited by pain; health issues require frequent medical visits.

Thus, as of April 11, 2002, Agency knew or should have known from both Ms. Client's application, as well as the report from her physician, that Ms. Client met the eligibility criteria of the agency:

> That her disabilities (ambulation limited by pain, chronic shortness of breath, complications arising from a multiple fracture in her foot, glaucoma, kidney problems, back discomfort, diabetes with neuropathy) prevented her "independent use of the existing and otherwise accessible public transit some or all of the time."

For whatever reason, however, someone at Agency concluded that the evaluation provided by the patient and confirmed by her physician was not enough. Four days after Dr. Treater's confirmation was received, Agency contacted Ms. Client's daughter on April 19, 2002.

Despite the fact that Ms. Client did not consent to the disclosure of any otherwise confidential information about her health to anyone other than her own physician, Agency told Ms. Client's daughter that Ms. Client was HIV Positive.

Agency summarizes the conversation:

> (Applicant's daughter) indicated that the applicant has shortness of breath, poor vision, swollen feet and ankles and she is unable to stand long.

All of this was in the application and was, and could have been, confirmed by a telephone call to the physician charged with her care. Instead, Agency told her daughter that her mother was HIV positive. While Agency could not have known this, the fact of the matter is that this is the first time that any family member learned of Ms. Client's infection. Ms. Client had earlier decided that she would deal with this issue with each member of her family in her way and in her time.

Now this unconsented to disclosure by a stranger during a phone call has had significant, severe and devastating impact on the family.

I am enclosing statements by Ms. Client as well as a Case Manager and Treatment Advocate that summarize the humiliation and emotional effects this disclosure has had on her.

This unnecessary conversation was not only an unconsented disclosure of perhaps the most confidential type of information that any one would want to protect but turns out, ironically, to have been unessential in evaluating Ms. Client's disability.

APPLICABLE LAW

PRESENT PROTECTIONS FOR CONFIDENTIALITY OF HIV-RELATED INFORMATION[1]

> "[T]here are few matters of a more personal nature, and there are few decisions over which a person could have a greater desire to exercise control, than the manner in which he reveals [an AIDS] diagnosis to others."
>
> Doe v. Coughlin, 697 F. Supp. 1234, 1237 (N.D.N.Y. 1988); see also Woods v. White, 689 F. Supp. 874, 876 (W.D. Wis. 1988) ("Given the most publicized aspect of the AIDS disease, namely that it is related more closely than most diseases to sexual activity and intravenous drug use, it is difficult to argue that information about this disease is not information of the most personal kind, or that an individual would not have an interest in protecting against the dissemination of such information.").

There are three interrelated levels of legal protection that safeguard the confidentiality of HIV-related information. The first level in California is a state statute enacted to prevent unauthorized disclosure of HIV-related information. Second, both federal and state statutes provide broad protection against the improper disclosure about, including HIV-related information. State and federal constitutional privacy protections provide the most sweeping protections against unauthorized disclosure of HIV-related information. Finally, certain common law privacy doctrines offer possible recourse for victims of disclosures made by private parties.

A. HIV-Specific Statutory Protection in California

California has a number of laws that prohibit the disclosure of HIV status. See, CA HLTH & S §§ 1603.1, 1603.3,10000,100330, 120820[2],120975 et seq.[3], 121025 et seq.[4], 121050 et seq.[5], and 121130[6] and CA INS § 799.03 These sections in essence prohibit the disclosure of HIV test results developed or acquired by public health agencies without written patient authorization. The law imposes substantial liability and civil penalties for both negligent and willful disclosure. The scope of the statute is broad, covering all persons who might come into contact with HIV test information.

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[1] This section is based on the article, California Law Review entitled *The Confidentiality Of HIV-Related Information: Responding To The Resurgence Of Aggressive Public Health Interventions In The Aids Epidemic*, January, 1994
[2] Confidentiality of Personal data and protective orders re data obtained by Department of Health Services
[3] Confidentiality and civil/criminal penalties for disclosure of blood tests
[4] AIDS Public Health Records Confidentiality Act
[5] AIDS Public Safety and Testing Disclosure
[6] AIDS Exposure Notification

The penalties include statutory compensation, punitive and lost awards as well as criminal penalties.

The general prohibition on disclosure of HIV-related information notwithstanding, the California statute does permits disclosure under several clearly delineated circumstances. None of which apply here. First, disclosure is permitted when expressly authorized in writing by the patient. Second, the statute permits disclosure to other members of a health care team responsible for the treatment of an HIV-positive patient. Third, as a result of Proposition 96, enacted by voter referendum in 1988, certain categories of persons (e.g., sexual assault victims, firefighters) can request a court to require testing of persons with whose bodily fluids they have come into contact. Finally, the statute contains a general provision allowing disclosure to fulfill the needs of various state public health functions. More specifically, it permits disclosure of individually identifiable HIV-related information to local, state, or federal health agencies for surveillance and disease control purposes. The statute also permits physicians and county health officers to undertake partner notification efforts.

None of these exceptions was met here and, thus, the unconsented-to disclosure by the Agency is a violation of this statute.

B. General Statutory Protection for Confidentiality of Medical Information

HIV-specific safeguards constitute a specialized subset of more general protections for medical confidentiality. At both the federal and state levels, various statutes protect the confidentiality of medical information, including HIV-related information.

One federal statute of particular import is the Privacy Act of 1974, (5 USC § 552 a (1988)) which restricts government disclosure of information lawfully in its possession. Its principal provision mandates that" no agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains."

No exception seems to apply here.

Another significant piece of federal legislation that helps to protect against disclosures by private individuals is the Americans with Disabilities Act of 1990 (ADA). (42 USC §§ 12101-12213). The ADA requires that employers treat as confidential any medical information acquired in the course of pre-employment medical examinations. But the Act's principal significance in the area of confidentiality is that it protects HIV-positive persons and persons with AIDS from discrimination in employment, housing, public accommodations, and other areas. Thus, under the ADA, a person suffering discrimination due to a confidentiality breach has recourse for this.

California also has a general statute, the Confidentiality of Medical Information Act (CMIA), designed to ensure confidential treatment of all medical information. California Civil Code Section 56 et seq. The Act covers all "medical information," defined as "any individually identifiable information in possession of or derived from a provider of health care regarding a patient's medical history, mental or physical condition, or treatment." While limited to disclosure by healthcare providers, its intent is applicable here.

CMIA prohibits disclosure of any medical information by medical workers without authorization from the patient. The Act also contains a number of exceptions to that prohibition. A court, board, commission, or administrative agency can require disclosure for purposes of adjudication by subpoena or "[w]hen otherwise specifically required by law." Disclosure is also permitted, though not required, in several specified circumstances. For example, a healthcare provider has discretion under certain circumstances to release medical information about a patient to other health care providers, employers, insurers, and others. Disclosure to another healthcare provider is permitted when done "for purposes of diagnosis or treatment of the patient." A healthcare provider may pass on information to an entity responsible for making payment for health services-including insurers, employers, or government agencies-in order to determine whether payment will be made. More generally, any recipient of medical information, including employers and insurers, who makes an unauthorized disclosure may be held liable for compensatory and punitive damages of up to $3,000, attorneys' fees of up to $1,000, and costs.

The CMIA, gives clear statutory expression to the public policy favoring confidentiality and provides a specific cause of action for unauthorized disclosure of HIV-related information, outside of the specified cases of mandatory and permissive disclosure.

C. The Right to Privacy: Constitutional and Common Law Doctrines

1. Federal Right to Privacy

Since the Supreme Court first recognized the existence of a constitutional right to privacy in the 1965 case of Griswold v. Connecticut, 381 U.S. 479 (1965), it has struggled to define the right's parameters. This remains true in the area of informational privacy, which is especially relevant in the HIV context. Here, the Court has acknowledged, but has not clearly demarcated, a right to privacy in personal information. In Whalen v. Roe, 479 U.S. 589 (1977)), patients receiving certain regulated prescription drugs challenged a New York law requiring the names of all patients receiving these drugs to be filed with the state Health Department on the ground that the law violated their right to privacy. While the U.S. Supreme Court upheld the law, it recognized that the plaintiffs had a valid privacy interest in the medical information. Specifically, the Court drew on prior decisions acknowledging a constitutional right to privacy and found two major dimensions to the right: an interest in

avoiding disclosure of personal matters and an interest in maintaining autonomy in personal decision-making. Shortly after Whalen, the Court reiterated its finding of a right to informational privacy in Nixon v. Administrator of General Services 433 U.S. 425 (1977). In Nixon, the Court built on the Whalen analysis and also imported the "legitimate expectation of privacy" standard from Fourth Amendment search and seizure decisions into a case dealing with the violation of privacy interests through disclosure of personal information. Because the former President had a "legitimate expectation of privacy" in his documents and tapes of conversations, the Court found that his right to privacy was at issue. Although in succeeding years the Court has never unambiguously held that personal information enjoys explicit constitutional protection, numerous courts have interpreted Whalen in particular as carving out just such a protected area.

The factors that are to be considered in deciding whether an intrusion into an individual's privacy is justified are the type of record requested, the information it does or might contain, the potential for harm in any subsequent nonconsensual disclosure, the injury from disclosure to the relationship in which the record was generated, the adequacy of safeguards to prevent unauthorized disclosure, the degree of need for access, and whether there is an express statutory mandate, articulated public policy, or other recognizable public interest militating toward access. Taking each of these into account, the unconsented-to disclosure about Ms. Client's status clearly was an invasion of her privacy.

The courts have found that the right to privacy extends to the medical context generally and to medical information specifically. Whalen v. Roe itself concerned medical information. Although the Court upheld the statute, it did so only after acknowledging that the plaintiffs had a valid privacy interest in medical information.

Thus, the privacy case law developed HIV-related information specifically, confirms that disclosures of HIV-related information, such as occurred here, run afoul of federal constitutional protections.

2. The Right to Privacy in California

Unlike the federal Constitution, the California Constitution contains an explicit recognition of the "inalienable right" to privacy, adopted by ballot initiative in 1972: "All people are by nature free and independent and have inalienable rights. Among these are ... pursuing and obtaining safety, happiness, and privacy." California Constitution, Article I, Section 1. California courts have interpreted this provision as extending further than the federal right to privacy, and have applied it in a wide variety of contexts.

In defining the contours of the California right to privacy, courts have used the Fourth Amendment standard that a "reasonable expectation of privacy" will trigger privacy protections, and have found that "improper use of information properly

obtained" may conflict with such protections. Indeed, personal control of information about one's own affairs was a central aspect of the ballot argument supporting passage of the privacy right. Under this standard, even someone in rightful possession of information about a patient, such as a transit authority with HIV-related information, may violate the constitutional privacy provision if it unjustifiably discloses that information.

California doctrine, like federal doctrine, does not establish an absolute right to privacy even when the plaintiff can prove a reasonable expectation of privacy. In California, however, courts require a showing of a compelling state interest to overcome the individual's privacy right. In the HIV context, the state will generally meet this burden, as courts give the state wide latitude when it acts under the banner of public health. However, the courts impose on the state the additional hurdle of proving that the proposed action, for example, obtaining information, is "necessary" to achieve the claimed interest.

Agency hardly had a necessary reason to disclose this information.

California courts have found that the right of privacy encompasses medical information in general and HIV-related information in particular. Disclosure of information contained in an individual's medical records violates the right to privacy, unless justified by a compelling state interest. In the case of Urbaniak v. Newton, 277 Cal. Rptr. 354 (1991), the Court found that an HIV-positive person had a privacy cause of action against a physician who, after the plaintiff disclosed his HIV status to the physician's assistant, passed that information along to the attorney for the insurer of the plaintiff's employer. The Court held that the physician's disclosure, while falling short of a tortious breach of privacy, constituted the "improper use of information properly obtained."

3. Common Law Privacy Causes of Action

Disclosure of HIV-related information is also actionable under common law contract and tort theories. Most common law actions for violation of privacy concern disclosure of private information to the public, often through the media. Since disclosures of medical information often lack a public dimension, courts have developed specific bases for common law privacy actions in the medical context.

For example, courts have found that unauthorized disclosure of medical information by a physician may violate the physician's duty of confidentiality or the implied contract of confidentiality between the physician and the patient. The California Supreme Court has held that the constitutional right to privacy protects individuals such as Ms. Client from the improper use of information which has been properly obtained for a specific purpose. White v. Davis, 13 Cal. 3d 757, 775, 120 Cal. Rptr. 94 (1975).

On a more general level, disclosure of HIV-related information may give rise to a tort claim based on invasion of privacy. Four basic causes of action come under the invasion of privacy rubric, the most relevant here being public disclosure of private facts. The Restatement (Second) of Torts defines this claim as publicizing "the private life of another" in a way that "(a) would be highly offensive to a reasonable person, and (b) is not of legitimate concern to the public." In a leading case, the Alabama Supreme Court found such a tortious invasion of privacy when a physician disclosed information obtained during treatment to the patient's employer.

Intrusion into an individual's private affairs might also give rise to a tort claim. Injury to an individual's interests in "solitude or seclusion" may be grounds for a suit when such intrusion would be "highly offensive to a reasonable person." An HIV-related intrusion would be actionable if the defendant physically invaded part of the plaintiff's personal realm, such as personal records, personal mail, or medical files, without authority or authorization to do so. Unlike the "publicity" privacy tort, an "intrusion" claim does not depend on publicity; the invasion itself provides grounds for a claim.

4. Summary

What follows is a sampling of recent verdicts for the invasion of privacy such as occurred here.

CASE	FACTS	VERDICT
Doe v. Roe, 155 Misc.2d 392 (1992)	Physician disclosed patient's HIV Status to Workers Compensation Board without patient's consent.	Plaintiff stated claim for breach of confidentiality, invasion of privacy. General written release without more is not a release of information about HIV based upon state law.
Behringer v. Medical Center at Princeton, October 1992	Hospital disclosed that a Physician treated for AIDS in hospital where he worked had the infection to co-workers.	
Doe v. State of California, 1995	Disclosure of HIV positivity by employee's supervisor actionable.	$950,000
Dhi v. State of California	Civil engineer's HIV status disclosed by supervisor.	$1,333,399
Doe v. Marselle, Connecticut	Nursing assistant who learned about plaintiff's HIV status from her chart disclosed infection to family.	Actionable disclosure requires only intent to disclose confidential information and did not require proof of intent to cause injury
Doe v. Chand, Illinois, 99-L-738-A	Physician disclosed patient's HIV status without patient's consent.	$900,000

But it must be kept in mind that "none of these is able to restore the value of something that has been lost by a breach of confidentiality: the individual's privacy" and the devastating effect on a family.

Settlement Proposal

A. Tightening Up Disclosure

The fact that someone has a particular diagnosis or disease goes beyond the type of information that Agency requires in order to evaluate whether an individual has functional disabilities that prevent, her "independent use of the existing and otherwise accessible public transit some or all of the time."

I request that Agency adopt a program that in evaluating transportation requests for Transit no one within the agency is to inquire about an applicant's HIV status.

If the applicant inadvertently discloses this status the program will delete all references on the form and will not act on the information.

Also, when records are requested the consent form is in the following format:

> This Authorization for Release of Information authorizes you to furnish to _____, for their examination, review, and photocopying any and all records, files, information or opinion regarding the above-referenced patient, including but not limited to the following:
>
> Any and all **MEDICAL RECORDS** (**excluding PSYCHOLOGICAL or PSYCHIATRIC records and records referring to mentioning or discussing HIV or AIDS**), including, but not limited to hospital records, reports, charts, notes and correspondence with respect to medical histories, consultations, examinations, prescriptions, treatments, diagnoses and prognoses, including x-ray plates and x-ray reports, film and film reports, laboratory reports, EKG and EKG tracings, and billing records, which were obtained in the course of the examinations, diagnoses and/or treatments. This authorization shall remain valid for one month from the date of the signing hereof.
>
> Only the original of this authorization is valid. The undersigned acknowledges that she has the right to receive a copy of this authorization upon request.
>
> I hereby consent to the release of all such records.
>
> Dated: _____

Finally, if the patient consents in writing to the disclosure of information about HIV or AIDS status, any discussion, communication or otherwise be limited to the patient and to the patient's physician with the patient's express written consent. Neither AIDS nor HIV will be discussed, mentioned or referred to in discussions by the agency with anyone other than these two individuals.

Monetary Settlement

Ms. Client agrees to release Agency, as well as its employees, from all future claims for the payment of $10,000. Because I am representing her on a *pro bono* basis, attorneys' fees in the amount of $4,000.00 will be paid to AIDS Legal Referral Panel of San Francisco.

I look forward to a prompt response.

Very truly yours,

James M. Wood
Reed Smith LLP

Citation	Summary
CA H& S §120820	Personal data confidential – reference to 100330 and 1603.1 and 1603.3
§120975	No person can be compelled to identify or provide identifying characteristics – reference to 1603.1 and 1603.2 See Historical notes under H&S Code100100 Get 229 CA3d 151
§120980	Penalties for unauthorized disclosures Reference to 120775 – HIV test defined
§120985	Disclosure to HCP
§120990	Written consent of test subjects Reference to 120885 and 120895
§120995	Exceptions to 120990 Reference to W&I 1768.9
§121005	Liability of state department, blood bank or plasma center
§121010	Disclosure to certain persons without written consent Reference to 42 USC 201
§121015	Disclosure to spouse, sexual partner, needle sharer or county health officer
§121020	Consent for incompetent persons
§121025	Confidentiality of pubic health records Reference to 17 Cal Code of Regs 2641.15, .25 82 Cal L Rev 113
W&I 799.03	No test by insurer without consent Reference to H&S 121025 – AIDS Public Health Records Confidentiality Act California AIDS Program – H&S 120800
Doe v. Coughlin, 697 F. Supp. 1234,1237 (N.D.N.Y. 1988)	"Given the most publicized aspect of the AIDS disease, namely that it is related more closely than most diseases to sexual activity and intravenous drug use, it is difficult to argue that information abut this disease is not information of the most personal kind, or that an individual would not have an interest in protecting against the dissemination of such information."
CA Health & Safety §§ 1603.1, 1603.3,	Sections prohibit the disclosure of HIV test results developed or acquired by public

Citation	Summary
	health agencies without written patient authorization.
CA Ins. § 799.03	Same.
5 USC § 552(a) (1988)	Restricts government disclosure of information lawfully in its possession.
42 USC §§ 12101-12213	Americans with Disabilities Act of 1990 (ADA), which helps protect against disclosures by private individuals.
CA Civil Code § 56, et seq.	Confidentiality of Medical Information Act (CMIA), designed to ensure confidential treatment of all medical information.
Whalen v. Roe, 479 U.S. 589 (1977)	Patients receiving certain regulated prescription drugs challenged a NY law requiring the names of all patients receiving these drugs to be filed with the state Health Department on the ground that the law violated their right to privacy.
State statutes or regulations expressly governing disclosure of fact that person has tested posivite fo rhuman immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS), 12 ALR5th 149	
AIDS and the Law in California, 21 Bev Hills BJ No 2 p. 130	
The confidentiality of HIV-related information: responding to the resurgence of aggressice public health interventions in the AIDS epidemic, 82 Cal L Rev 113	
Protecting HIV confidentiality after Urbaniak v. Newton: Will California's constituion provide adequate protection? 29 Cal Western LR 471	
CA Const., Art. I, Sec. 1	California's explicit recognition of the "inalienable right" to privacy.
Urbaniak v. Newton, 277 Cal. Rptr. 354 (1991)	Court found that a HIV-positive person had a privacy cause of action against a physician, and that the physician's disclosure constituted the "improper use of information properly obtained."

Citation	Summary
White v. Davis, 13 Cal. 3d 757, 775, 120 Cal. Rptr. 94 (1975)	Unauthorized disclosure of medical information by a physician may violate the physician's duty of confidentiality or the implied contract of confidentiality between the physician and the patient.

50 STATE SURVEYS
INSURANCE
DISCLOSURE OF HIV/AIDS STATUS (WEST 2005)

Disclosure of HIV/AIDS Status

In an effort to protect the public health from HIV/AIDS, many jurisdictions have enacted statutes legislating the disclosure and use of HIV/AIDS positive test results. Many jurisdictions legislate this topic through laws specific to HIV/AIDS. Others legislate this topic through general communicable disease statutes. The scope of this survey includes only statutes that specifically discuss disclosure and/or use of HIV/AIDS information [or HIV/AIDS/Hepatitis B/C]. Excluded from this survey are broader statutes that group this information with other communicable diseases disclosure and use laws. This survey does not address court ordered disclosures in individual criminal proceedings, but does include instances where an individual is judicially compelled to disclose his or her name and the names of his or her partners. Statutes requiring disclosure to protect healthcare/police officer/public employees and workers that have been exposed to a patient's bodily fluids were excluded from this survey. Also excluded were statutes requiring disclosure of a healthcare police officer/public employees and workers HIV/AIDS status to those who have come into contact with the infected employee/worker.

Alabama, Alabama Statute § 22-11A-54

Alaska, Alaska Statute, None

Arizona, Arizona Statutes § 20-448.01, 32-1457, 32-1860, 32-2556

Arkansas, Arkansas Statutes § 20-15-904, 20-15-906

California, California Health & Safety § 120820; California Health & Safety § 120975; California Health & Safety § 120985; California Health & Safety § 121010; California Health & Safety § 121015; California Health & Safety § 121025; California Insurance § 799.03

Colorado, Colorado Statutes § 10-3-1104.5, 25-4-1402, 25-4-1402.5, 25-4-1403, 25-4-1404

Connecticut, Connecticut Statutes § 19a-583, 19a-584, 19a-587

Delaware, Delaware Statute Title 16 § 1203; Delaware Statute Title 18 § 7404

District Of Columbia, District of Columbia Code § 31-1606

Florida, Florida Statutes § 381.004, 627.429

Georgia, Georgia Statute § 24-9-47

Hawaii, Hawaii Statute § 325-101

Idaho, Idaho Statute § 39-610

Illinois, Illinois Statute Chapter 410 § 305/9; Illinois Statute Chapter 410 § 305/10

Indiana, Indiana Statute § 16-41-2-3

Iowa, Iowa Statutes § 141A.5, 141A.6, 141A.9

Kansas, Kansas Statutes § 65-6002, 65-6003, 65-6004

Kentucky, Kentucky Statutes § 214.181, 214.625, 214.645

Louisiana, Louisiana R.S. 40:1300.14, 40:1300.15

Maine, Maine Statute T. 5 § 19203; Maine Statute T. 5 § 19203-D

Maryland, Maryland Health Gen § 18-201.1; Maryland Health Gen § 18-207; Maryland Health Gen § 18-337

Massachusetts, None

Michigan, Michigan Statutes 333.5114, 333.5114a, 333.5131, 333.5133

Minnesota, None

Mississippi, None

Missouri, Missouri 191.656, 191.657, 191.671, 191.683

Montana, Montana Statute 50-16-1009

Nebraska, Nebraska Statute § 71-532

Nevada, None

New Hampshire, New Hampshire Statutes § 141-F:7, 141-F:8, 141-F:9

New Jersey, New Jersey Statutes 26:5C-6, 26:5C-7, 26:5C-9, 26:5C-10, 26:5C-12, 26:5C-13

New Mexico, New Mexico Statutes § 24-2B-6, 24-2B-7, 24-2B-8

New York, New York Civil Serv App § 83.4; New York Civil Serv App § 83.5; New York Pub Health § 2130; New York Pub Health § 2133; New York Pub Health § 2134; New York Pub Health § 2135; New York Pub Health § 2782; New York Pub Health § 2784; New York Pub Health § 2785

North Carolina, None

North Dakota, North Dakota Statutes 23-07-02.1, 23-07.5-06

Ohio, Ohio Statutes § 3701.24, 3701.241, 3701.243, 3901.46

Oklahoma, None

Oregon, None

Pennsylvania, Pennsylvania Statute 35 Pennsylvania Statute § 7605; Pennsylvania Statute 35 Pennsylvania Statute § 7607; Pennsylvania Statute 35 Pennsylvania Statute § 7608; Pennsylvania Statute 35 Pennsylvania Statute § 7609

Rhode Island, Rhode Island Statutes § 23-6-17, 23-6-20, 23-6-21, 23-6-24

South Carolina, South Carolina Statute § 44-29-250

South Dakota, None

Tennessee, Tennessee Statute § 68-10-115

Texas, Texas Health & Safety § 81.051; Texas Health & Safety § 81.052; Texas Health & Safety § 81.103; Texas Health & Safety § 85.086; Texas Health & Safety § 85.115; Texas Health & Safety § 85.260; Texas Health & Safety § 85.262; Texas Insurance § 38.103; Texas Insurance § 38.104; Texas Insurance § 38.105; Texas Insurance § 38.106; Texas Insurance § 545.057; Texas Insurance Art. 21.21-4

Utah, Utah Statute § 26-6-3.5

Vermont, None

Virginia, Virginia Statutes § 32.1-36.1, 32.1-37.2

Washington, Washington Statutes 70.24.325, 70.24.400

West Virginia, West Virginia Statute § 16-3C-3

Wisconsin, Wisconsin Statutes 252.15, 631.90

Wyoming, None

Additional Jurisdictions:

Puerto Rico, None

Virgin Islands, 19 Virgin Island Code § 32a, 19 Virgin Island Code § 32b, 19 Virgin Island Code § 32c

Guam, none

Bermuda, none

Cayman Islands, none

Federal, none

OBLIGATION OF HEALTH CARE PROVIDERS TO

IDENTIFY HIV STATUS TO THIRD PARTIES

	CA	GA	W.VA	NY	MIC	TX	FL	CN	IA	PA	WA	FL	IL	KA	AL
Mandatory duty to provide name to state agency which then notifies the contact	x	x	x												
Optional to provide name to state agency which then notifies the contact															
Physician has option to notify state health agency or directly notifying third party contacts	x			x	x	x									
Duty to counsel patient to inform sexual and needle sharing partners of status	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Notification of at-risk patient contacts is done by health commissioner				x											
Duty to talk to HIV patient about options for informing partners and report names of partners to state agency				x											
Physician permitted to directly contact partner if preconditions met (e.g. where MD has													x		

	CA	GA	W.VA	NY	MIC	TX	FL	CN	IA	PA	WA	FL	IL	KA	AL
counseled patient to refrain from risk activity and knows patient has not complies or patient has not advised partner)															
MDs must advise patient of intent to notify partner before doing so	x							x	x	x					
but cannot identify patient								x		x	x				
can identify patient									x		x				
no position taken						x							x	x	
civil immunity provided for making disclosure if there has been compliance with law										x				x	x
immunity for NOT notifying the contact										x				x	x