

An Introduction to Disclosure


WELCOME TO THE WHAI TOOLKIT

This resource is part of a broader toolkit about women & HIV disclosure created for people who work with women who are (or may be) living with HIV.

This resource outlines information about HIV disclosure including privacy legislation, policies and guidelines for handling personal health information and the importance of these in building positive relationships with women living with HIV. >>

This resource is not about:

- ⊗ Criminal law pertaining to HIV non-disclosure and sex
- ⊗ How HIV is transmitted

This toolkit is a starting point for further learning and awareness building. If you want additional information, see the  **More Information** section in this resource.



The term 'disclosure' in this toolkit refers to sharing someone's HIV positive status without consent in the context of community or social support roles.




For many professionals working with women who are (or may be) living with HIV, the ethics, rules, and laws about HIV Disclosure can be confusing and at times contradictory. There are many considerations. We hope this resource will provide helpful information about how to handle this information, strategies to build positive and supportive relationships with women living with HIV, as well as ideas about where to look for more information.

WHAT LAWS, POLICIES, AND GUIDELINES INFORM MY WORK WITH WOMEN LIVING WITH HIV?

- People working in health and social services have a professional responsibility to protect people's confidential information. HIV status is considered confidential personal health information under the *Personal Health Information Protection Act*.
- All people, including people living with HIV, have the right to privacy. Privacy rights are central to practicing our work in ways that are ethical and build positive relationships with the community.
- Policies about privacy are part of our workplaces, professional colleges and associations, and the law.

Examples include:

- Codes of Ethics and Standards of Practice embedded in bodies such as the Ontario College of Social Workers and Social Service Workers and the College of Nurses of Ontario
- The Personal Health Information Protection Act
- Human Rights legislation.
- In broad terms, these policies define the responsibilities you have to protect health information, as well as requirements and limitations for sharing people's information.
- These policies can help you to do your work ethically while also creating a foundation for you to build relationships where people feel comfortable to share personal information. This is an important part of the work because it allows professionals to connect women with other supports in the community, often improving health outcomes.
- There are details in the  **More Information** section about where to find these laws, policies, and guidelines.

While there are clear laws, policies, and guidelines about privacy and the role of professionals in protecting people's privacy, there can also be, at times, competing considerations.

Questions that sometimes come up for people working with women who are living with HIV:

- ☐ Is there any risk of acquiring HIV for others at the organization?
- ☐ Am I at risk of being held liable or responsible if I don't share the HIV status of the woman I'm working with? If I do share this information, am I at risk of a privacy infraction?
- ☐ Do I have an obligation to tell my staff team? What do laws, policies, and guidelines say about this?

These questions are important to consider in your work. It is also important to recognize that each individual circumstance might be different. Reflecting upon these questions can help you to do your work ethically, and in a way that builds positive, responsive, and supportive relationships with the women you work with.

HERE ARE SOME STEPS YOU CAN TAKE THAT MAY HELP YOU TO THINK ABOUT THE ABOVE QUESTIONS:

- 1** Learn up to date information about how HIV is transmitted. Understanding the current realities of HIV transmission may help to reduce concerns staff may have.
- 2** Read up about Universal Precautions and how they may be helpful in your workplace.
- 3** Review your organizational policies and procedures to see what they say about privacy and confidentiality.
- 4** Review confidentiality laws like the *Personal Health Information Protection Act* in Ontario and Human Rights legislation to understand how it pertains to your work. These outline what you are allowed and not allowed to disclose and in what contexts.
- 5** If you are unclear about your organizational obligations regarding privacy and confidentiality, work with your team to find out more. Together, you can also seek further information from legal counsel, a privacy officer, or the Information and Privacy Commissioner in Ontario. Collaboratively building your knowledge and making decisions together can be a great way to make ethical and policy driven decisions.

BEING KNOWLEDGEABLE ABOUT PRIVACY CAN BE A KEY FACTOR IN BREAKING DOWN STIGMA AND BUILDING POSITIVE WORK RELATIONSHIPS WITH WOMEN LIVING WITH HIV. IT CAN HELP TO FACILITATE:

- ✓ Trust and respectful work with people living with HIV who have disclosed their HIV positive status as well as people who have not disclosed their status, but may in the future.
- ✓ A pathway to support for people living with HIV to connect with community, access useful services, and improve their health outcomes.
- ✓ Autonomy and respect for women living with HIV.

IF WE COMPROMISE PEOPLE'S CONFIDENTIALITY ABOUT HIV, WE MAY:

- ✗ Discourage women from sharing information with us or others now or in the future.
- ✗ Discourage women from accessing other support services and health care services.
- ✗ Increase stigma, discrimination, and fear.
- ✗ Increase safety risks as some women may experience violence because of their HIV-positive status.



Ultimately, it is important to know and respect what the law, professional colleges, and workplace policies say about sharing someone's confidential personal health information, which includes their HIV positive status. There are always individual considerations. These policies exist to help guide us and build positive and respectful relationships with women who are living with HIV.