

Confidentiality, Disclosure, and Protection of Others POSITION STATEMENT

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"Policy documents are approved by the APA Assembly and Board of Trustees... These are ... position statements that define APA official policy on specific subjects..." -- *APA Operations Manual*.

The AIDS epidemic presents potential conflicts between the rights of infected individuals and public health interest in containing HIV disease. The duty to preserve patient confidentiality may conflict with the need to inform past and present contacts of an HIV-infected patient of possible exposure to the virus. (See also *Policy Guideline for HIV Antibody Testing*.)

The guidelines presented herein are informed by: (1) the principles of physician-patient confidentiality; (2) psychiatry's role in helping HIV-infected patients to inform past and present sexual or needle-sharing partners of possible exposure to HIV; and (3) the importance of identifying asymptomatic HIV-positive individuals for the purpose of initiating early medical treatment.

Patients must be confident that issues discussed with their psychiatrists will not be unnecessarily divulged. Protection of confidentiality is also important so that patients will not be dissuaded from testing, treatment, and behavioral counseling.

Psychiatrists should be aware that although ethically permissible, state laws may restrict some of the actions described in these guidelines.

I Confidentiality and Informed Consent

Although psychiatrists have an ethical obligation to preserve the confidences of their patients, there are circumstances under which confidentiality may be breached such as danger to self and others, child abuse, etc. During the initial clinical evaluation, the psychiatrist should clarify the general limits of confidentiality. If the psychiatrist knows, or has reason to suspect, or intends to inquire about the patient's HIV-status or risk behaviors, the psychiatrist should advise the patient of the specific limits of confidentiality with respect to HIV disease as described below.

II Reporting to Public Health Authorities

All states require name reporting for AIDS cases, and most require name reporting for HIV positive antibody test results. It is ethically permissible for psychiatrists to report the names of patients who meet these criteria to the appropriate authority when not otherwise prohibited.

III Protection of Persons Currently at Risk

All patients engaging in risk behavior should be encouraged to change such behavior, and the issue of HIV testing should be explored. In addition, the potential risk to others should be discussed.



The American Psychiatric Association is a national medical specialty society, founded in 1844, whose 36,500 physician members specialize in the diagnosis and treatment of mental and emotional illnesses including substance use disorders.

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In situations where a psychiatrist has received convincing clinical information that the patient is infected with HIV and is engaging in behavior that places others at risk of infection, the psychiatrist should seek the patient's agreement either to cease that behavior or to inform the individual(s). In some circumstances, the psychiatrist may be able to help a reluctant patient make such a notification. Alternatively, patients may prefer that the psychiatrist, another clinician, or public health authorities make such notification.

If a patient refuses to change behavior placing others at risk for HIV infection, or to inform individual(s) at ongoing risk, or if the psychiatrist has good reason to believe that the patient has failed to or is unable to cease such behaviors or to inform those at risk, it is ethically permissible for the psychiatrist to notify identifiable individuals at risk or to arrange for public health authorities to do so. Any breach of confidentiality should be undertaken only after all other efforts to work with the patient have failed. Before deciding to inform third parties, the psychiatrist should consider the potential profound impact of such notification and the problems it may generate.

In certain circumstances a patient's behavior may constitute a risk to unidentifiable person(s). In these situations it is ethically permissible to notify public health authorities. Alternatively, if the psychiatrist believes that the patient's dangerous behavior is a result of mental illness which can be treated by hospitalization, it is ethically permissible to commit the patient to an inpatient unit or other appropriate facility for treatment. Commitment should be used only in the event that hospitalization is deemed therapeutic and should not be used as a form of quarantine. Psychiatrists should recognize that in some circumstances their available choices may not be adequate to assure the safety of unidentifiable others.

IV. Notification of Previous Contacts

In situations where third parties are no longer at ongoing risk of infection, they may benefit from knowledge of past exposure. The advantage of detecting HIV infection before the onset of clinical symptoms is now dramatically clear. Psychiatrists should encourage HIV-infected patients to personally inform past contacts or have public health authorities do so. In situations where the patient objects to informing contacts despite efforts to persuade the patient, or the patient is unable to do so (e.g., because of dementia), it is ethically permissible for the psychiatrist to contact public health authorities.

(This is a revision of a statement approved by the APA Assembly in November 1992 and by the APA Board of Trustees in December 1992.)