

Who we are

The AIDS Legal Network (ALN) is a human rights organisation committed to the promotion, protection and realisation of fundamental rights and freedoms of people living with, and affected by, HIV and AIDS.

What we do

- **WORKSHOPS:** Facilitate legal literacy and human rights education and training on HIV and AIDS and the law, including Paralegal Training and Training-for-Trainers
- **LEGAL ADVICE DESK:** Respond to infringements of human rights
- **NETWORKING, CAMPAIGNS, AWARENESS RAISING:** Promote behavioural change and address discriminatory attitudes and practices ensuring the dignity of all people living with, and affected by, HIV and AIDS
- **LOBBYING/ADVOCACY:** Promote provincial, national and international law reform to advance the rights of people living with, and affected by, HIV and AIDS
- **PUBLICATIONS:** *ALQ*, the newsletter of the ALN; Training and Resource Manuals, such as *HIV/AIDS & The Law* and *HIV/AIDS and Human Rights*, as well as various information leaflets and flyers

Contact

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HIV & Disclosure



Legal Advice Desk

HIV & Disclosure

Right

Everyone has the right to privacy, which includes the right not to have –

(d) The privacy of their communications infringed.

(Section 14, Bill of Rights, the Constitution of South Africa)

Interpretation of Right

Everyone has the right to have her/his personal information kept confidential and no one can be forced and/or force someone to disclose personal information. This means that everyone has the right to decide whether or not to disclose their HIV status and that no one has the right to disclose another person's HIV status without permission to do so.



Legal Advice Desk

Legislation

National Health Act (No 61 of 2003)

The National Health Act (NHA) prohibits disclosure without consent (i.e. without permission) and thus, protects from having one's personal information disclosed without permission to do so.

Section 14(1): All information, including information relating to a person's health status, treatment or stay in a health care facility is confidential.

Section 14(2): No person may disclose any information relating to a person's health status, treatment or stay in a health care facility, unless:

- (a) The person gives *written permission* to do so;
- (b) A court order or a law requires the disclosure; or
- (c) Non-disclosure of the information represents a serious threat to public health

Where to report unlawful disclosure

Unlawful disclosure by health care providers: Any person has the right to lodge a complaint against a health care provider who unlawfully discloses personal information, including one's HIV status and/or treatment and to have such a complaint investigated.

It is the responsibility of the health care facility to publicly display (i.e., visible to any person entering the facility) the procedures of how to lodge a complaint.

Report the health care provider to the person in charge of the health care facility (i.e., clinic, hospital, VCT site). Make sure to have the health care provider's full name and surname.

Unlawful disclosure by any other person: Any person, including family members, disclosing (talking about) another person's HIV status without the consent/permission of the person is liable for unlawful disclosure.

Lay a charge of unlawful disclosure against the person at the nearest police station. Apply for a *gagging order* against the person/s.

A *gagging order* is an order by the court that orders the person/s to refrain from discussing or spreading information about someone.

Who to contact for complaints

For more information and/or to report complaints contact your local Advice Office

Or the AIDS Legal Network

Tel: 021 447 8435

Fax: 021 447 9946

Email: lad@aln.org.za