

5. CAN MY EMPLOYER GET A COPY OF MY MEDICAL RECORDS?

No. Those records are confidential. The only way your employer can get them is if you sign a release authorizing your doctor to give your records to your employer.

6. WHAT IF I HAVE INSURANCE THROUGH MY EMPLOYER?

Many employers handle insurance claims internally; claims may be filed with someone in the company who would thus have information about your HIV status. An employer may also obtain information from its insurance company about medical claims submitted by employees in order to monitor its health insurance costs. Employers are generally required to strictly segregate this information such that general management staff and co-workers who do not have a need to know do not have access to the information.

It's easy to think of AIDS as a medical problem. But AIDS is also a social problem. Since the epidemic was first identified in 1981, many people have used AIDS as an excuse to discriminate. People with HIV have been fired from their jobs, kicked out of their apartments, denied health care and abandoned by their families. Discrimination has always been a symptom of AIDS.

The best defense against discrimination is knowledge. If you have questions after reading this, you can call the Alabama Disabilities Advocacy Program. Someone there will be happy to speak with you.

ADAP

Attn: Aiding Alabama
Box 870395
Tuscaloosa, AL 35487-0395
205-348-4928
1-800-826-1675 (in-state only)
205-348-9484 (TDD)
205-348-3909 (FAX)
E-mail: adap@adap.ua.edu
Website: www.adap.net



**UNDERSTANDING
YOUR
LEGAL RIGHTS:**

**HIV/AIDS
&
PRIVACY ON
THE JOB**



This is one in a series of pamphlets designed by the Alabama Disabilities Advocacy Program. All are designed to help you understand your legal rights in Alabama. Currently, other pamphlets in this series include the following:

Working with HIV/AIDS

Returning to Work with HIV/AIDS

HIV/AIDS and Privacy on the Job

Getting Hired with HIV/AIDS

HIV/AIDS and the FMLA

This guide is intended as an overview of HIV-related Alabama and federal law. As with any legal matter, it is always a good idea to consult an attorney concerning the particular circumstances of your case.

INTRODUCTION

Virtually every complaint of AIDS discrimination begins with an unnecessary disclosure of HIV or AIDS information to someone without the training and understanding to handle it properly. It is important for you to understand how to control the disclosure of information about your status in connection with your employment.

1. DO I HAVE TO TELL MY BOSS I AM HIV POSITIVE?

No. You do not have to tell your employer you are HIV positive. Some people choose to tell their boss that they are HIV positive because they believe that their employer will be supportive. Some people choose not to tell because they do not want anyone in their company to know. The choice is yours. In general, the Alabama Disabilities Advocacy Program does not recommend disclosing your HIV status at work unless there is a good reason to do so.

2. IS IT EVER A GOOD IDEA TO TELL MY BOSS I AM POSITIVE?

The decision to tell your boss you are HIV positive is a very personal one. If you need some sort of accommodation to be able to do your job, you may have a right to that accommodation, according to a federal law called the Americans with Disabilities Act. Some people with HIV need accommodations such as flexible hours, time off to visit the doctor, or permission to work at home one day a week. If you need an accommodation, you might be able to avoid disclosing your HIV status by instead disclosing the condition that you have (for example, lymphoma). It would be important to get a doctor's note verifying your condition.

If you feel that your boss is discriminating against you because he suspects you are HIV positive, it might be a good idea to disclose your HIV status to protect your rights. This is a very complicated situation. We recommend that you discuss it further with someone from our office before doing anything.

3. IF I TELL MY BOSS I AM HIV POSITIVE, DOES SHE HAVE TO KEEP THAT INFORMATION CONFIDENTIAL?

Yes. Under the Americans with Disabilities Act, an employer must maintain strict confidentiality regarding all medical information. If you tell your boss you are HIV positive, and the next week you learn that your boss told other co-workers in your office, then your boss has violated the law.

The law says your boss can tell first-aid personnel about your disability if you might require emergency treatment at work. He can also tell your supervisor about any restrictions on your work or accommodations you might need.

4. IF I DISCLOSE MY STATUS AT WORK, WILL THAT INFORMATION BE IN MY PERSONNEL FILE?

It should not be. The law requires that employees' medical information be kept in separate files.