

HIV Status Disclosure

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Dr. Al-Kourainy has no financial disclosures to share



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“Do the best you can until you know better. Then when you know better, do better.”
-Dr. Maya Angelou



Learning Objectives

- Review federal anti-discrimination statutes related to employment of persons with HIV
- Discuss laws which may lead to criminalization of HIV in Nebraska
- Apply policies and processes related to potential disclosure of HIV status for healthcare professionals

Chief complaint



- 30 year old male with a **positive HIV Ag/Ab test** collected as part of routine STI (sexually transmitted infection) screening. Last negative HIV test was in 2015. No recent illnesses or hospitalizations.
- Did not report fevers, chills, night sweats, weight loss, cough, abdominal pain, nausea, vomiting, or diarrhea.



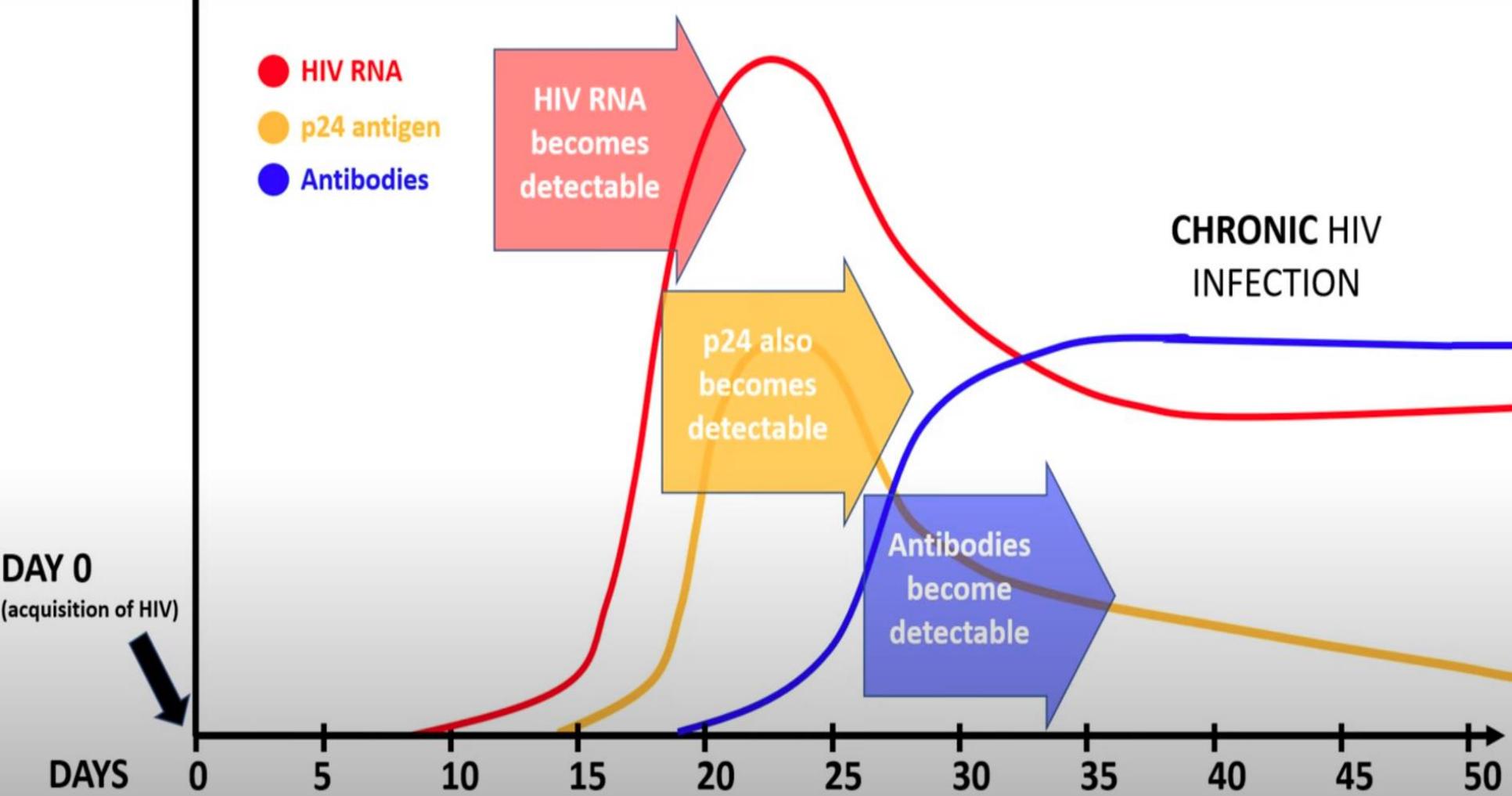
Histories

- **Medical:** Seasonal allergies
- **Surgical:** None
- **Social:** No tobacco or illicit drug use. Occasional alcohol use, did not report binge drinking. Nebraska native, no recent travel outside the Midwest. Works as an RN on the inpatient wards.

Sexual history



- MSM (man who has sex with men) with condomless receptive anal intercourse.
- 7 years ago, he developed febrile illness (fever and rash on torso) ~1.5 weeks after a sexual encounter. HIV test was negative at that time.
- Presented outside the post-exposure prophylaxis (PEP) window.
- **He was not asked to return for re-testing.** And did not himself seek re-testing until 7 years later.



Adapted from: Kotarski, V. HIV Tests Explained for Clinicians



Exam

VITALS: afebrile and stable with elevated BP (blood pressure) 141/86

GENERAL: appeared stated age, anxious

HEENT (head, eyes, ears, nose, and throat): EOMI (Extra-ocular eye movements intact), **no thrush or oral lesions, no lymphadenopathy**

CARDIOLOGY: RRR (regular rate and rhythm), no m/r/g (murmurs, rubs, or gallops)

PULMONARY: CTAB (lungs clear to auscultation bilaterally)

EXTERNAL: no edema, **no rashes**

ABDOMEN: abdomen is soft, nontender, and nondistended



Initial labs and imaging

Labs:

- HIV Ag/Ab (antigen/antibody) - **Reactive**
- HIV 1,2 Ab confirmation EIA (enzyme immunoassay) – **Reactive for HIV-1 Ab**
- **CD4 15 (1.9%)**
- HIV RNA **185,000 copies/mL**
- HIV-1 Drug Resistance: no major resistance to any ART(antiretroviral therapy) classes
- Toxoplasma Ab – negative
- **WBC**(white blood count) **3**; ANC (absolute neutrophil count) 1500
- CMP (comprehensive metabolic panel) unremarkable



Diagnosis: Advanced HIV disease

- Started on **Biktarvy (BIC / TAF / FTC) + TMP-SMX (Bactrim)** for PJP (*Pneumocystis jirovecii*) prophylaxis
- Viral load 185,000 copies/mL decreased to 197 copies/mL within 1 month of ART; 21 copies/mL within 4 months
- CD4 15 -> 36 -> 92



Case Summary

A 30-year-old male healthcare worker with advanced HIV disease, now on ART and PJP prophylaxis





**Are persons with HIV disease
(PWH) required to disclose their
HIV status to employers?**

U.S. Equal Employment Opportunity Commission



"If you have HIV infection or AIDS, you have workplace privacy rights, you are protected against discrimination and harassment at work because of your condition, and you may have a legal right to reasonable accommodations that can help you to do your job."

Am I Allowed to Keep My Condition Private?

When there is objective evidence that you may be unable to do your job or that you **may pose a safety risk because of your condition.**

You may also need to discuss your condition to establish eligibility for benefits under other laws, such as the FMLA (family medical leave act).



U.S. Equal Employment Opportunity Commission

What if My Condition Could Affect My Job Performance?

If your job performance could be affected by HIV infection, the side effects of HIV medication, or another medical condition that has developed because of HIV, you may be entitled to a reasonable accommodation.

- Changes in supervisory methods
- Accommodations for visual impairments
- Ergonomic office furniture
- Unpaid time off (for treatment or recovery)
- Permission to work from home
- Reassignment to a vacant position if you can no longer do your job because of a condition



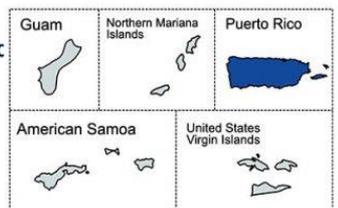
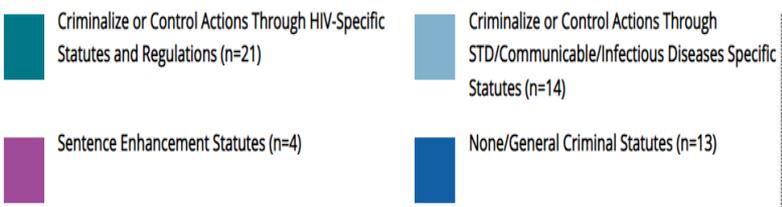
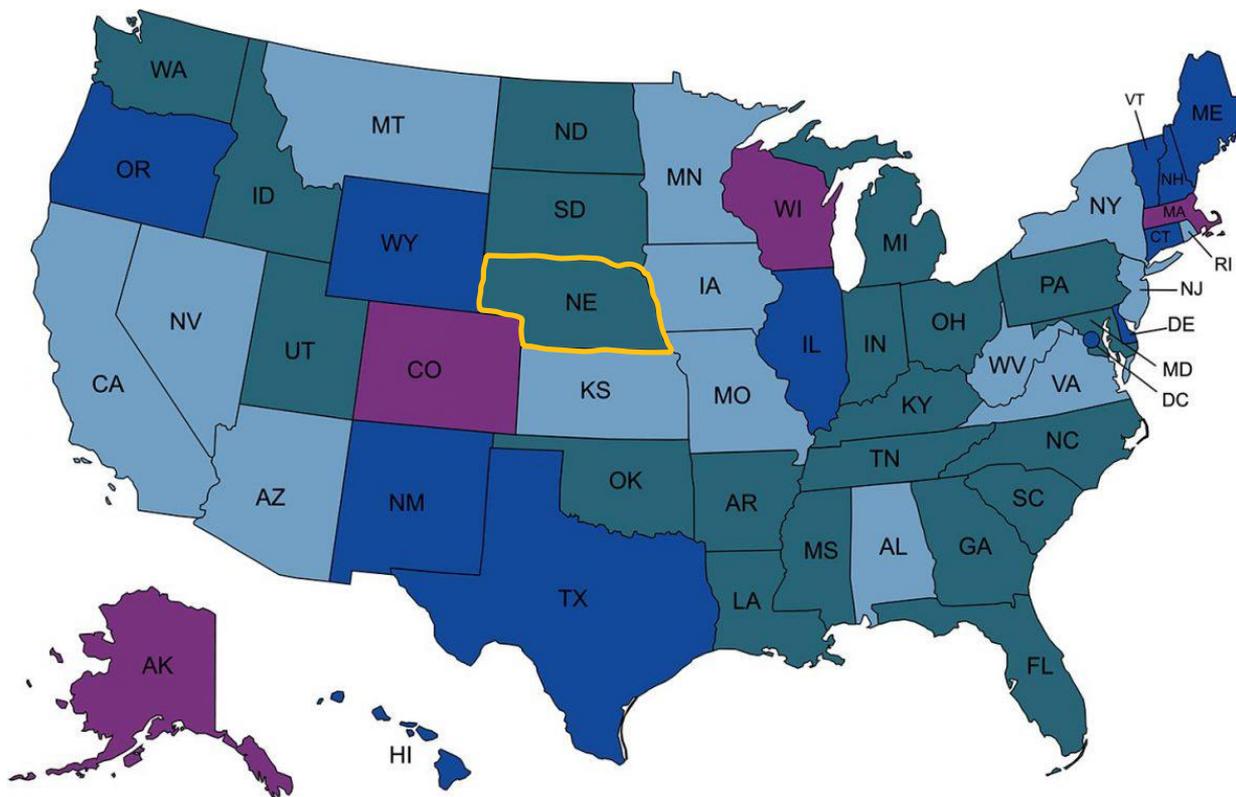
As per CDC:

“After more than 40 years of HIV research and significant biomedical advancements to treat and prevent HIV transmission, many state laws are now **outdated** and do not reflect our current understanding of HIV.”

In many cases, this **same standard is not applied** to other infectious, treatable diseases.

*These laws have been shown to **increase stigma, exacerbate disparities, and may discourage HIV testing.***”

CDC. HIV and STD Criminalization Laws (March 2023)



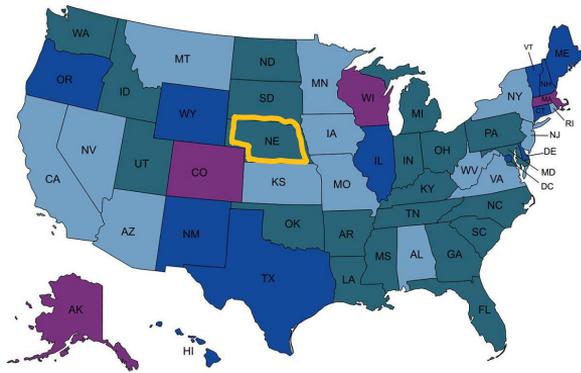


Nebraska HIV Criminalization Laws

NEBRASKA REVISED STATUTE

§ 28-934 (2016) **

Assault with a bodily fluid against a public safety officer; penalty; order to collect evidence



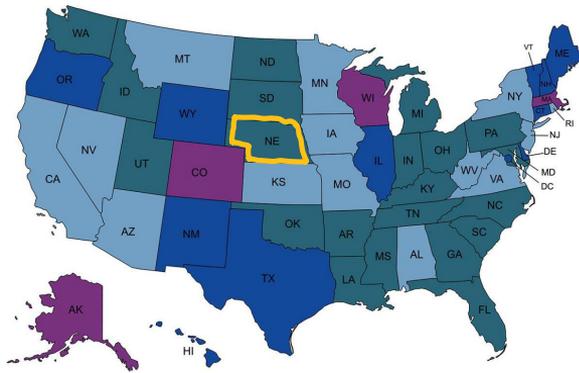
- Any person who knowingly and intentionally strikes any public safety officer with any bodily fluid is guilty of assault with a bodily fluid against a public safety officer.
- In Nebraska, it is a Class I misdemeanor, punishable by imprisonment of not more than one year and a fine of up to \$1000, to knowingly strike a public safety officer with any bodily fluid.
- This charge is elevated to a **class IIIA felony** if the fluids came **from a person with HIV**, Hepatitis B, or Hepatitis C and strike the officer's eyes, mouth or skin.



Nebraska HIV Criminalization Laws

NEBRASKA REVISED STATUTE § 28-934 (2016) **

Assault with a bodily fluid against a public safety officer; penalty; order to collect evidence



- **Bodily fluid means**...human blood, urine, saliva, mucus, vomitus, seminal fluid, or feces.
- There are *no documented cases of HIV being transmitted through spitting* as HIV is not transmitted through saliva. – CDC (Center for Disease Control).
- Class IIIA felony: **Up to 3 years imprisonment** and 18 months post-release supervision or ten thousand dollars, or both.
- Public safety officers are able to file for an order to **compel individuals** charged with assault with a bodily fluid **to undergo STI testing**... collection of evidence including fluids, medical records, and scientific testing and analysis.



Nebraska HIV Criminalization Laws

NEBRASKA REVISED STATUTE. § 29-2290 (2016); NEBRASKA REVISED STATUTE ANNULMENT §§ 71-502.02, 71-501(3) (2016).

The State may quarantine and isolate persons to prevent or limit the spread of communicable disease.... “to control and suppress sexually transmitted diseases.”

- NE Supreme Court the department’s broad authority to act to limit the spread of communicable diseases.
- **1919** case **Brown v. Manning**, the Court denied a habeas corpus petition for a sex worker who was found to have a “communicable venereal virus” was ***arrested and isolated***.
- The Court denied the writ because she was only isolated “for such reasonable time and in such reasonable manner as to prevent the danger of said petitioner from communicating such infection to others, and until the danger of the infection should be removed.

Policy Example: Recommendations for Prevention of Infections in Healthcare Personnel

III. Infectious Disease Management

A. Those who have a potentially transmissible infectious disease, including, but not limited to, fever, rash, gastrointestinal symptoms, **should** report their condition promptly to their manager or designee.

B. **Restriction from work** is determined on a **case-by-case basis** and is dependent on the potentially infectious / contagious disease.

Policy Example: Recommendations for Prevention of Infections in Healthcare Personnel

- Risk of transmission of bloodborne pathogen (BBP) from HCWs (health care workers) to patients is minimal.
- **When it becomes known that a HCW is infected with a BBP, a meeting of an Advisory Committee is called.**
- Committee formulates a judgement as to “whether the infected healthcare provider’s or employee’s practice should be limited in any way.” Infection with a BBP should not require restrictions on rendering care to patients in most circumstances. However, **special considerations may be appropriate when exposure-prone, invasive procedures are performed.**



Back to our patient...

- Opted to disclose their HIV status to employee health
- Advisory committee met and concluded employee should have no work restrictions





Take Home Points:

- **PWH cannot legally be discriminated against for purposes of employment** in the United States – American Disabilities Act.
- **Nebraska continues to criminalize HIV** based on obsolete non-scientific evidence, increasing the likelihood of stigma, while decreasing the likelihood of HIV testing.
- PWH and working in Nebraska, are encouraged but **not required to disclose their HIV status.**



QUESTIONS?



MATEC Resources



National Clinician Consultation Center

<http://nccc.ucsf.edu/>

- HIV Management
- Perinatal HIV
- HIV PrEP
- HIV PEP line
- HCV Management
- Substance Use Management

AETC National HIV Curriculum

<https://aidsetc.org/nhc>

AETC National HIV-HCV Curriculum

<https://aidsetc.org/hivhcv>

Hepatitis C Online

<https://www.hepatitisc.uw.edu>

AETC National Coordinating Resource Center

<https://aidsetc.org/>

Additional Trainings <https://matec.info>





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