

# LEGAL EAGLE EYE NEWSLETTER

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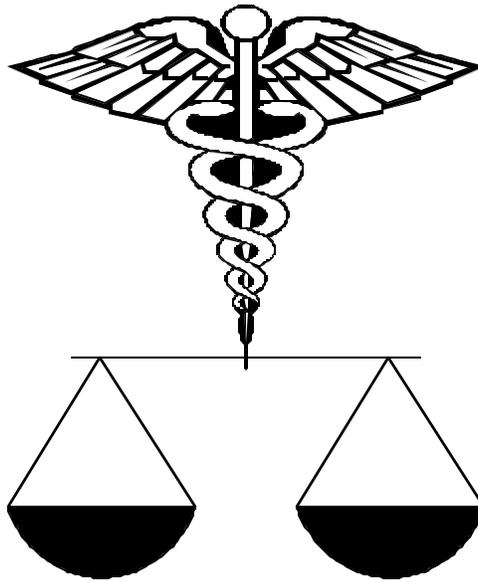
## HIV Status: Hospital Need Not, May Not Tell Spouse Without Patient's Consent.

**T**he husband of a woman who had tested positive for HIV while she was a patient involuntarily committed for mental-health treatment at a public hospital run by the District of Columbia sued the District of Columbia government. The husband's lawsuit alleged professional negligence and claimed damages for negligent infliction of emotional distress.

The factual background was that the wife and husband had separated prior to her entering the hospital. While still in the hospital, although she had in fact tested positive for HIV, she told her estranged husband she was negative. Upon her release from the hospital, the two reconciled, went back to living together and resumed sexual relations, according to the record in the District of Columbia Court of Appeals.

Some time later, the husband learned his wife had tested HIV-positive in the hospital. There was no indication in the court record how this knowledge came to him. The court record also did not indicate that the husband ever contracted HIV himself.

The husband claimed in his suit the hospital had had the legal responsibility to inform him when it learned that his wife was HIV-positive. His suit further



***A hospital has no legal duty to inform a patient's spouse that the patient has tested positive for HIV.***

***On the contrary, a hospital and its staff must refrain from disclosing a patient's HIV status to anyone, including the patient's spouse, without first obtaining the patient's expressed consent.***

DISTRICT OF COLUMBIA COURT OF APPEALS, 1996.

alleged that he was entitled to monetary damages for emotional distress he said was inflicted upon him in learning he had been cohabiting with an HIV-positive mate, allegedly due to the hospital's negligence in not informing him of his wife's HIV status.

The suit was thrown out of court. Healthcare professionals have no duty to inform a spouse of a spouse's HIV status. In fact, absent expressed consent from the patient, no disclosure of a patient's HIV status can be made to anyone, according to the court.

The District of Columbia and many U.S. states have enacted laws which explicitly hold that information about a patient's HIV status is strictly protected from disclosure to anyone without the patient's expressed consent. Not all states require that such consent be given in writing. However, obtaining a patient's expressed consent in writing can minimize problems of credibility later on, even if not strictly required by law.

According to the court, if the hospital's personnel ignored the strict legal duty of non-disclosure of the patient's HIV status, they could have exposed themselves and the hospital to a potential lawsuit for breach of medical confidentiality. ***"N.O.L." vs. District of Columbia, 674 A. 2d 498 (D.C. App., 1996).***

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