

13. Richard L.North, Karen H.Rothenberg, Sounding Board : Partner Notification and The Threat of Domestic Violence Against Women with HIV Infection, The New England Journal of Medicine, Vol. 329, No. 16, 1194-96, 1993

The general assumption is that it makes good sense from the standpoint of public health, for a patient to notify sexual partners of his or her positive HIV status. Three common justifications are (1) to protect uninfected partners from a possible future infection; (2) to inform those who have been exposed so that they can be tested and, if positive, avail themselves of appropriate medical care; and (3) to bring into the public health system people whose behavior puts them at risk of contracting (or transmitting) HIV and to counsel them to change their behavior. If a patient does not disclose her positive status to partners, health care providers and public health authorities are expected to trace and notify them.

The connections among domestic violence, drug abuse, and AIDS suggest that thousands of women with HIV infection may be at risk of harm from their partners if the partners are informed of the infection.

Nonetheless, the CDC continues to urge that all partners be notified of a likely exposure.

When there is a risk of violence, how should the health care provider respond? How can the physician reconcile the public health strategy of notifying all partners with the duty to do no harm to the patient, especially when the patient reports a strong possibility of violence should her partner learn of her HIV infection?

An analysis of the potential for legal liability offers little help, since the physician has duties to the patient and to the patient's partner, although to different degrees, if there is a foreseeable risk of harm to either party. Instead, we propose as guiding principles four ethical tenets that underlie the relationship between physician and patient : beneficence, nonmaleficence (doing no harm), respect for autonomy and confidentiality. Beneficence compels the physician to maintain a loyalty to the patient that is unencumbered by nonmedical considerations. Non-maleficence directs the physician not only to address the manifestations of disease but also to protect the patient from additional harm. Respect for autonomy means encouraging self-determination on the part of the patient. Confidentiality requires deference to the patient's concern for privacy.

We propose an analytic framework for decisions about partner notification that is consistent with the physician's primary ethical concern for the patient. In making these decisions, physicians must balance both the likelihood and the seriousness of potential harm to the parties in choosing whether to breach confidentiality against the wishes of the patient. Although the seriousness of HIV transmission cannot be overstated, a high risk that an infected patient will be subject to immediate violence or death outweighs the risk that she will transmit HIV to her partner.

In addition to balancing the seriousness of potential harms, the physician must weigh the risk of occurrence before deciding on a course of action. For example, there is considerable scientific evidence that the risk of HIV transmission from women to men through vaginal sex is quite low as compared with the risk of transmission from men to women. If transmission by sexual contact is the only risk faced by a male partner, the threat of violence to the patient may outweigh the obligation to notify the partner.

When the patient's partner is also a patient of the physician, the physician would appear to have identical obligations to both patients. Obviously, it is impossible to ascribe a greater value to one patient than to another. Nevertheless, we believe a distinction can be made in terms of the need for protection. Whereas men have available the means to protect themselves from HIV infection, women are often powerless to protect themselves from male-to-female transmission and are more susceptible than men to infection through vaginal intercourse. At the very least, informed consent must include a warning to the patient that her partner may be notified if she has a positive test for HIV.

To minimize the risk of violence of an HIV-infected woman, pre-and post-test counseling must include a safety plan if the physician intends to notify the partner. Notification must be delayed until a plan is in place to protect the patient from harm. Of course, if there is no indication of a risk of violence against the woman, the provider should follow public health directives with respect to partner notification.