



WHITMAN-WALKER HEALTH

# Tips for Navigating Workplace Issues When Living With HIV

**Daniel Bruner, JD, MPP**  
**Senior Director of Policy**  
**Whitman-Walker Health**  
**701 14<sup>th</sup> Street NW**  
**Washington, DC 20009**  
[dbruner@whitman-walker.org](mailto:dbruner@whitman-walker.org)

**Institute on HIV and Employment**  
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WHITMAN-WALKER HEALTH

# Whitman-Walker Health

- **Nonprofit community health center serving the greater Washington, DC metropolitan area.**
- **Specialties in HIV care and the health and wellness of the LGBT community.**
- **Primary and HIV specialty medical care; mental health and substance abuse treatment; dental care; legal services; HIV and STI testing, counseling and prevention; other community health services.**
- **Began in 1970s as a gay and lesbian clinic and mental health center. First agency to respond to the HIV epidemic in the early 1980s in Washington, DC.**
- **Whitman-Walker Legal Services, created in 1986, has provided legal advice and representation to tens of thousands of persons living with HIV on a wide range of legal issues, including workplace rights, protections against discrimination, and confidentiality.**



## Fundamental Things to Remember

- **Stand up for your rights – but be open to opportunities for an amicable resolution.**
- **Be proactive – address issues at an early stage if you can.**
- **Consult with a lawyer before you do anything, if possible.**
  - If in the Washington, DC metropolitan area, contact Whitman-Walker Legal Services at (202) 939-7628 or [contact-legal@whitman-walker.org](mailto:contact-legal@whitman-walker.org).



# Disclosing Your HIV Status

- **Talk to a lawyer before you disclose at work.**
- **Any disclosure you make should be confirmed in writing and your employer should be reminded in writing of their obligation to keep, the information confidential.**



# Disclosing Your HIV Status

- Generally, your HIV status is no one's business.
- However, the law may be different if you work in *health care* or in *public safety/law enforcement*.
- In those jobs, find out your employer's policy for employees disclosing their personal health conditions, and *talk to a lawyer before you answer any question untruthfully*.



# Disclosing Your HIV Status

- **If your employer asks for medical records or to talk with your doctor, talk to a lawyer before just telling the employer no.**
  - **Often the employer's specific concern can be identified and addressed without escalating the matter.**
- **But don't just turn over your medical records!**



# Disclosing Your HIV Status

- **If your employer has a health insurance plan, talk to a lawyer before you answer untruthfully any question about your health history or health status on an enrollment questionnaire.**



# Disclosing Your HIV Status

- If you are *returning to the work force after an extended period of time on disability*, think about what you will say about your time out of work.
- Don't lie, and talk about what you learned from your experiences and how they have made you a better person and a better employee.
- But you don't have to (and shouldn't) answer questions about your actual disability, so long as you are able to perform the job you are applying for.





## **Getting A Reasonable Accommodation or Medical Leave Under the FMLA**

- **Under the ADA (and many state disability rights laws, a reasonable accommodation can be obtained for time off for medical appointments and illness, for adjustments to work schedule and work responsibilities, and (sometimes) for assignment to a different job.**
- **Under the Family and Medical Leave Act, limited time off can be obtained for a “serious health condition.”**
  - **Under the federal FMLA, up to 12 weeks of leave in any 12-month period.**
  - **Leave can be intermittent or consecutive.**
  - **Leave is unpaid unless you have accrued, unused paid time off (vacation, sick leave, short-term disability).**



## **Getting A Reasonable Accommodation or Medical Leave Under the FMLA**

- **For a reasonable accommodation, the law strongly favors an “interactive process.”**
  - **Bring your needs to your employer’s attention sooner rather than later, and be prepared to negotiate an outcome that will meet your needs and your employer’s reasonable needs.**
- **For FMLA leave, the process is usually simpler – but be sure to comply with your employer’s standard procedures for requesting the leave.**



## **Getting A Reasonable Accommodation or Medical Leave Under the FMLA**

- **If you request an accommodation, or time off under the FMLA, your employer is legally entitled to information on your health condition.**
  - **For a reasonable accommodation – the nature of your disability and why the accommodation is needed.**
  - **For FMLA leave – the nature of the “serious health condition.”**
- **Start out being general rather than specific, but be prepared to disclose more if pressed.**
- **This is best done with the help of a lawyer, in writing, and with written reminder to the employer of their obligation to keep your diagnosis confidential.**



## **Getting A Reasonable Accommodation or Medical Leave Under the FMLA**

- **If you need time off for medical appointments or for illness, provide as much advance, or prompt, notice as you reasonably can.**
- **For medical appointments, try to make them as regular as reasonably possible.**
- **If you need time off for illness, a longer period to make sure you are well may be more reasonable than frequent, unpredictable absences.**
- **Courts and civil rights agencies are sympathetic to an employer's need for predictability and regularity of attendance.**