

Performing Artists are often involved in scenes requiring physical contact, including kissing. What are the responsibilities of artists with HIV or Hepatitis B & C in such situations? And what are employers responsible for?

These are complicated questions and answering them involves considering employment law, criminal law and privacy legislation. The following information is intended to provide a brief overview of the issues.

The Artist

In British Columbia, a worker is required to take reasonable care to protect their health and safety and the health and safety of other persons who may be affected by their acts or omissions at work. This requirement means that a worker with a communicable disease would be required to assess the level of risk involved in the scene or performance before making a decision about disclosing their disease or condition.

You cannot spread HIV or Hepatitis B or C by kissing, hugging or physical contact. These are “no-risk” activities. Caution should be exercised if there is any possibility of blood being transmitted through kissing (which could occur with recent brushing, flossing or scratching due to orthodontic appliances), although this remains a “low-risk” activity.

The Canadian HIV/AIDS Legal Network’s position is that there is no legal duty to disclose HIV-positive status to partners before engaging in activities that pose “no risk”, such as kissing.

The Producing Company

In general, when engaged in “no-risk” activities, an employee has no legal duty to disclose their status to their employer. Should the employer be aware of the artist’s status, consideration must be given to Privacy legislation under the Personal Information Protection Act before making a decision about disclosure.

An employer has a general duty to provide a safe work place. They have dual responsibilities to both the infected and the uninfected worker. From the production company’s standpoint, the safest and most prudent course of action is:

- Provide a safe and confidential environment where performers are encouraged to disclose their status voluntarily;

- To promote awareness of any risks associated with any activity involved in the production.

Higher Risk Activities

Should there be a possibility of an exchange of bodily fluids such as blood or any sexual contact, the situation is very different. These are “high risk” activities for disease transmission. Both the artist and the producing company carry significant legal responsibilities. Disclosure is required by law, a medical determination of the level of risk of transmission is recommended and steps should be taken to put appropriate methods of protection in place.

For more information, contact Actsafe or refer to the following sources:

BC Centre for Disease Control
www.bccdc.ca

Canadian HIV/AIDS Legal Network
www.aidslaw.ca

HIV Transmission- Guidelines for Assessing Risk
www.cdnaids.ca/web/repguide.nsf/pages/cas-rep-0307

Personal Information Protection Act
www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_03063_01

***Please Note:** The material in this publication is intended only as educational information and is not meant to replace the knowledge and services of qualified medical professionals. Furthermore, this publication does not replace the Occupational Health & Safety Regulations administered by WorkSafeBC. Employers and workers should always refer to the regulation for specific requirements that apply to their activities.*

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