

# Should a Physician Report An Impaired Patient to DMV?

**Q. Whether it is considered a breach of confidentiality to report a patient to the DMV for questionable driving ability due to some physical or mental impairment.**

A. This is one of those counterintuitive, tricky questions where from the public policy standpoint one may infer it is a doctor's duty to report a driver putting the public at risk due to physical or mental impairment. Most states have either mandatory or permissive reporting laws that specify whether a doctor must or has the option to report a patient for impaired driving; a mandatory reporting law requires the doctor to report the patient for certain impairments to the DMV; and a permissive law permits, but does not require a doctor to report a patient for certain impairments to the DMV. In a state with mandatory or permissive laws requiring or authorizing reporting, the laws also provide immunity to the doctor who reports to the DMV in good faith.

New York is not one of these states. New York does not have a mandatory or permissive reporting law; and, therefore, New York doctors are not provided immunity from other statutes when reporting to the DMV. Because no immunity is available, an unauthorized disclosure of protected health information is a risk the doctor runs by reporting a patient to the DMV without the patient's or an authorized agent's consent. The risks of a potential breach of confidentiality are not promulgated clearly in this situation, especially since the DMV even has a form for doctor disclosure posted online at <http://www.nydmv.state.ny.us/forms/ds6.pdf>. However, without clear legislation on this matter allowing doctors immunity for such reporting, the laws as they stand today indicate that a doctor may not make such a disclosure. Although, it is noteworthy that anyone may call the police to report hazardous driving.

For additional information on this topic, please contact [Jennifer@Kirschenbaum.esq.com](mailto:Jennifer@Kirschenbaum.esq.com). This information is for education and discussion purposes only and does not constitute legal advice.

## ALLIANCE NEWS

Join the Alliance to Support Your Physician Spouse

### Top 10 Reasons to Join:

10. Our mission is to support the work of physicians to benefit patients and community health. You can make a difference by contacting your legislators to help them understand the issues physicians face each day in their practice of medicine.

9. You can keep informed of the issues by reading MSSNY eNews and the News of New York.

8. Just as patients need advocates, so do physicians. You CAN advocate for them in the community and explain why the high cost of malpractice insurance is driving physicians out of New York State.

7. You can join the MSSNYPAC and support those who are advocating for our physicians.

6. You can make sure your physician spouse joins MSSNYPAC.

5. You can plan to attend our yearly Legislative Day in Albany to address legislators in person.

4. You can share your voice or expertise by serving on state committees.

3. You can make a difference in your own community by tackling the problems of childhood obesity, dangers of smoking, Internet safety for our children, and bullying using our national resources found at the AMAA website [www.amaalliance.org](http://www.amaalliance.org).

2. You can join us at our Fall Conference and Annual Convention, meet new like-minded friends and hear about what is happening around the state.

1. You will be an important member of the county, state, and national family of medicine involved in sharing, learning, giving and most of all receiving the benefits of the experience and friendship of other members.

# Webinar Series on HIV in Marginalized And Underserved Populations

MSSNY is pleased to announce that a series of webinars, titled "HIV in Marginalized and Underserved Populations: A Case Based Approach," is now being offered. MSSNY invites you to join us for one of its seven free online WebEx webinar programs. MSSNY will provide one hour of free CME credit for attendance at these webinars; all that is needed for participation is a telephone and an Internet connection. The webinars will be held on the following dates:

- Thursday, May 13, 2010 8-9 am
- Wednesday, May 19, 2010 5:30-6:30 pm
- Friday, May 21, 2010 12 noon-1 pm

Pre-registration is required by contacting Sharon Damiano at [sdamiano@mssny.org](mailto:sdamiano@mssny.org) or by calling (518) 465-8085. You may also go online to <https://mssny.webex.com>. Once on the website, click the "Upcoming" tab and then select the webinar that you would like to attend. Participants will be limited for each session and physicians are strongly encouraged to register now for the webinars. A link to the webinar will then be sent to you to complete your registration for this session.

The webinars are conducted through WebEx; and upon taking the webinar, physicians will learn about 1) How the US HIV/AIDS epidemic affects marginalized and underserved populations disproportionately; 2) The barriers these populations encounter when seeking testing and treatment for HIV/AIDS; 3) Approaches to HIV testing in primary care settings and 4) Center of Disease Control's "Revised Recommendations for HIV Testing - 2006" that are effective and culturally appropriate. Physicians will discuss case histories relevant to the content.

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