

I. Introduction

This AIDS Law Brief Background Paper assesses the legal environment of health information privacy laws in Uganda relevant to HIV/AIDS services and compares Uganda's existing legal framework with UNAIDS' *Consideration and Guidance for Countries Adopting National Health Identifiers*. This Background Paper was prepared by the University of Washington and Makerere University and provides support for an AIDS Law Brief on Health Information Privacy and HIV/AIDS in Uganda. This Background Paper does not constitute legal advice and should not be relied on for the purposes of complying with Ugandan law.

II. Summary

- Ugandans are guaranteed the right to privacy under the Ugandan Constitution
- The HIV and AIDS Prevention and Control Act and the Access to Information Act are the primary laws affecting health information privacy
- The Ministry of Health's Patients' Charter contains health information privacy provisions, but its enforceability is unclear
- Privacy protections are weakened by laws mandating disclosure of health information in various contexts

III. Background

As of 2014, approximately 1.5 million Ugandans were living with HIV, with a prevalence of 7.3% among adults aged 15–49.¹ The HIV/AIDS pandemic has presented a major health crisis and unprecedented challenges for the Ugandan health system, including challenges regarding health information privacy. Health information privacy laws generally consist of two interrelated categories of protections: confidentiality and security.² Confidentiality provisions govern when personal health information may be disclosed and how it can be used.³ Security provisions require the implementation of technical and procedural safeguards to prevent personal health information from being inadvertently or maliciously accessed by unauthorized individuals.⁴ Effective health information privacy frameworks also include robust enforcement mechanisms, such as patient complaint systems, civil and criminal penalties, and linkages with facility and professional licensing bodies that can conduct regular compliance assessments.⁵

1. Health information privacy protections facilitate the utilization of health services

Confidentiality of health information and security of personally identifiable health information are particularly important for HIV and AIDS prevention efforts due to high levels of stigma and discrimination surrounding HIV and AIDS.⁶ HIV stigmatization is an international concern, because patients who are uncertain whether their information will remain confidential may not seek treatment.⁷

Safeguarding privacy and confidentiality are important for both individuals and for society. Individuals are less likely to participate in health research or other socially and individually beneficial activities, including candid and complete disclosures of sensitive information to their physicians, if they do not believe their privacy is being protected.⁸ When stigma keeps people from communicating sensitive health information, this affects prevention, care, support, and treatment.⁹

Confidentiality of medical information is especially important for the most at-risk populations for HIV, such as injecting drug users, commercial sex workers, and men who have sex with men. Especially for such populations, stigma, discrimination, and criminalization can limit access to care, inhibit service uptake, and reduce patient disclosure of risks.¹⁰

When effective laws regulating health information privacy are in place, this tends to increase patient trust in how well their personal health information is protected. After the United States passed the new/updated Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, public perception about the confidentiality of medical records improved.¹¹ Since HIPAA was enacted, “[a] number of studies suggest that the relative strength of privacy, confidentiality, and security protections can play an important role in people’s concerns about privacy.”¹² As noted, “protecting the privacy of health information is important for ensuring that individuals seek and obtain quality care.”¹³

2. Privacy protections are an important component of effective health information management systems

An appropriate legal framework combined with a national health information system, especially one that uses unique patient identifiers, could assist with the process of developing HIV services, promote confidentiality, and strengthen the healthcare system as a whole.¹⁴ To improve the lives of people living with HIV/AIDS and to reduce HIV transmission, countries must be able “to provide and sustain effective long-term HIV care with ART,”¹⁵ to which a key element is record keeping:

A key element of continuity of care [for HIV patients] is keeping a record which summarizes this care and allows each health worker or counselor to understand what has happened before: the patient’s HIV clinical stage, weight and functional status; what prophylaxis, other medications, education and psychosocial support have been provided on earlier visits; the patient’s family, pregnancy, contraception and TB status (checked at each visit); and a summary of the patient’s ART over time.¹⁶

Keeping such a record requires an effective patient information system to keep track of demographic information, HIV care and family status, ART data, and patient encounter information.¹⁷

The Third Health Sector Strategic Plan, produced by Uganda’s Ministry of Health, identified the Health Management Information System (HMIS) as one of the “challenges in programme management and

coordination of the national response to HIV and AIDS.”¹⁸ The Plan notes, “one of [the Ministry of Health’s] major priorities will be to strengthen the HMIS through filling in of vacancies, inservice training, provision of requisite hard and software.”¹⁹

3. Unique patient identifiers facilitate continuity of care, while reducing the chance of inadvertent disclosure

UNAIDS also endorses the use of unique patient identifiers (a.k.a. national health identifiers) to address continuity of care, because it will ensure “that each patient has one unique identity within the health system.”²⁰ If properly implemented, national health identifiers can eliminate “multiple parallel and disconnected patient registration mechanisms.”²¹ In addition to efficiency, unique health identifiers can be used “to help identify the source of a particular data item without posing any confidentiality risks.”²² However, “[d]eveloping a national patient identification system depends critically on developing the appropriate legal framework to protect patient privacy and corresponding public policy to implement such protections.”²³

IV. Key Findings

The current legal privacy framework for medical information in Uganda derives from the Constitution, the HIV and AIDS Prevention and Control Act (HIV and AIDS Act), the Health Commission Act, the Patients’ Charter, and the Access to Information Act.

1. Ugandan Constitution

Uganda’s Constitution guarantees the right to noninterference “with the privacy of [a] person’s home, correspondence, communication or other property,” and the “right of access to information in the possession of the State or any other organ or agency of the state.”²⁴ Constitutional rights are considered the “supreme law of Uganda” and “[i]f any other law. . . is inconsistent with any of the provisions of this Constitution, the Constitution shall prevail.”²⁵ In *Victor Mukasa and Yvonne Oyoo v. Attorney General*, the High Court of Uganda applied Section 27 of the Ugandan Constitution in finding that governmental officials’ warrantless searches of the plaintiffs’ home breached the plaintiffs’ constitutional rights to privacy and personal liberty, regardless of their sexual orientation.²⁶

In another case, *Kasha Jacqueline, David Kato, and Onziema Patience v. Rolling Stone and Giles Muhame*,²⁷ the applicants filed a complaint with the High Court of Uganda alleging that the publication of an article identifying suspected homosexuals violated their constitutional rights to human dignity and protection from inhuman treatment, as well as privacy of person and home protected under Section 27. The court granted an injunction and grounded its decision in the “fundamental rights and freedoms” protected by the Ugandan Constitution, including the right to privacy.

2. HIV and AIDS Act

In 2014, Uganda adopted the HIV and AIDS Prevention and Control Act, 2014 (“HIV and AIDS Act”). The HIV and AIDS Act’s stated purpose is “to provide for the prevention and control of HIV and AIDS, including protection, counselling, testing, care of persons living with and affected by HIV and AIDS, rights and obligations of persons living with and affected by HIV and AIDS . . .”²⁸ The Act also establishes an HIV and AIDS Trust Fund.²⁹

a. Confidentiality

The HIV and AIDS Act mandates the confidentiality of HIV test results and HIV status (subject to the below disclosure exceptions) and penalizes breaches of “medical confidentiality” and the unlawful disclosure of a person’s HIV status.³⁰ These confidentiality protections apply to any “person in possession of information relating to the HIV status of any person,”³¹ and are subject to the following important exceptions, which allow disclosure: to a guardian if the person is a minor, legally incompetent, or has given consent; to medical staff directly involved in treatment, to those authorized by the Act, the court, or other laws; to any person exposed to the body fluid of a person tested; and to people that a person living with HIV is in close contact with.³²

The disclosure provisions allow medical practitioners³³ or other qualified officers³⁴ to release the results of an HIV test to “any other person” in “close or continuous contact” with an HIV infected person.³⁵ Other sections of the HIV and Aids Act provide separate limitations and requirements for permissible use of patient information. First, “confidentiality of test results and counselling information” requires “[a] person in possession of information relating to the HIV status of any person” to “observe confidentiality in handling that information” and makes failure to comply an offense.³⁶

In the event that a medical practitioner discloses HIV test information to a third party under one of the above exceptions, that medical practitioner must “inform the person tested of the disclosure” by providing “the nature and purpose of disclosure,” the date of disclosure, and the recipient of the information.³⁷

b. Enforcement of confidentiality provisions

The HIV and AIDS Act creates an offense for general breach of confidentiality which prohibits health practitioners, health units, medical practitioners, counselors, and certain other health care providers³⁸ from “breach[ing] medical confidentiality” or “unlawfully disclos[ing] information regarding the HIV status of any person.”³⁹ A health practitioner who violates the confidentiality provisions of the HIV and AIDS Act shall be subject to a fine of “not more than two hundred and forty currency points,”⁴⁰ imprisonment for up to five years, or both.⁴¹

c. Mandatory testing and criminalization provisions

The HIV and AIDS Act permits anonymous testing in some circumstances,⁴² but also requires mandatory HIV testing for “(a) the victim of a sexual offence; (b) a pregnant woman; (c) a partner of a pregnant woman,⁴³” anyone “under a court order,”⁴⁴ and “[a] child born of a mother who is HIV positive.”⁴⁵ Additionally, the Act requires that anyone “apprehended for a sexual offence” be “subjected to HIV testing for purposes of criminal proceedings and investigations.”⁴⁶ Sexual offence “includes rape, defilement or incest.”⁴⁷ The Penal Code defines defilement as “[a]ny person unlawfully having sexual intercourse with a girl under the age of eighteen years.”⁴⁸ Uganda’s Anti-Homosexuality Act (which was struck down by the Ugandan Supreme Court due to a lack of quorum at the time of its enactment)⁴⁹ also contained mandatory HIV testing requirements, including mandatory HIV status disclosure for anyone charged with “aggravated homosexuality.”⁵⁰

The HIV and AIDS Act also criminalizes the attempted transmission of HIV and the intentional transmission of HIV. Attempted transmission is a felony with a maximum of five years imprisonment and/or a twelve currency point fine.⁵¹ “Attempted transmission” is not defined by the act. Intentional transmission, however, is defined:

- (1) A person who wilfully and intentionally transmits HIV to another person commits an offence, and on conviction shall be liable to a fine of not more than one hundred and twenty currency points or to imprisonment for a term of not more than ten years or to both.
- (2) A person shall not be convicted of an offence under subsection (1) if—
 - (a) the person was aware of the HIV status of the accused and the risk of infection and he or she voluntarily accepted the risk;
 - (b) the alleged transmission was through sexual intercourse and protective measures were used during penetration.⁵²

A thorough analysis of the criminalization and mandatory testing provisions of the HIV and AIDS Act is outside the scope of this Background Paper, but the UNAIDS International Guidelines on HIV / AIDS and Human Rights state that “[c]riminal and/or public health legislation should not include specific offences against the deliberate and intentional transmission of HIV.”⁵³ These same guidelines state that “[p]ublic health, criminal and anti-discrimination legislation should prohibit mandatory HIV-testing of targeted groups, including vulnerable groups.”⁵⁴

3. The Health Commission Act

The Health Commission Act protects the “confidentiality of information relating to a patient and his or her family.”⁵⁵ The Health Commission Act’s privacy protection (“information relating to a patient and his or her family”) applies to “health workers.” A “health worker means a health professional, administrative, scientific and support staff employed in the health service, and designated by the Commission in consultation with the Public Service Commission.”⁵⁶ Those employed in the “health service” are generally “appointed by the Commission for the efficient administration, management and delivery of health services in Uganda.”⁵⁷

The Health Service Commission Act contains a code of conduct that applies to all health workers.⁵⁸ The code of conduct contains a nondisclosure requirement: information relating to a patient and his family “shall not be disclosed to anyone without the patient’s or appropriate guardian’s consent *except where it is in the best interest of the patient.*”⁵⁹ Under the Health Service Commission Act, no specific consequences ensue if a health worker breaches the code of conduct. This “best interest of the patient” standard may conflict with some of the permissive disclosures in the HIV and AIDS Act. It is unclear how a Ugandan court would resolve this conflict.

4. The Access to Information Act

The Ugandan Access to Information Act grants persons the right to access information in the possession of the government, unless an exception applies. The Access to Information Act states an “information officer shall refuse access to health records, the disclosure of which would constitute an invasion of personal privacy.”⁶⁰ The statute does not define “health records,” and it is unclear which health records would constitute an invasion of privacy and which would not. Privacy is “the right of a person to keep his or her matters and relationships secret.”⁶¹ The Access to Information Act also protects other confidential information that “would constitute an action for breach of a duty of confidence owed to a third party in terms of an agreement.”⁶²

The Access to Information Act establishes a set of nondisclosure rules that apply to all public bodies, including, for example, the Ministry of Health. The nondisclosure provisions for health records and other confidential information apply to the release of “records” by an “information officer.” Records are “any recorded information, in any format, including an electronic format in the possession or control of a public body, whether or not that body created it.”⁶³ Information officer “means the Chief executive of a public body.”⁶⁴

The Access to Information Act provides more specific instruction regarding disclosure of “certain confidential information.”⁶⁵ If the information in question “was supplied in confidence by a third party” and meets other criteria, it is subject to the discretion of the information officer; that is, an information officer “*may* refuse a request for access.”⁶⁶ If the information is “already publicly available” or if “the third party concerned” has “consented in writing” to the disclosure, the Act requires the information officer not to refuse a request for access.⁶⁷

5. Patients' Charter

In 2009, the Ugandan Ministry of Health adopted a Patients' Charter to "to raise the standard of Health care by empowering the clients and patients to responsibly demand good quality health care from government facilities."⁶⁸ The Patients' Charter states that "[p]atients have the right to privacy in the course of consultation and treatment. Information concerning one's health, including information regarding treatment may only be disclosed with informed consent, except when required by law or on court order."⁶⁹ The Patients' Charter puts an affirmative obligation on facility management to "make arrangements to ensure that health workers under their direction shall not disclose any matters brought to their knowledge in the course of their duties or their work."⁷⁰

The Patients' Charter permits disclosure of health information when (1) the disclosure is for "the purpose of the patient's treatment by another health worker"; (2) "disclosure of the information is vital for the protection of the health of others or the public, and that the need for disclosure overrides the interest in the information's non-disclosure" or (3) "the disclosure is for the purpose of publication in a medical journal or for research or teaching purposes if all details identifying the patient have been suppressed."⁷¹

The Patients' Charter also contains access to information rights by stating that "patient[s] shall be entitled to obtain from the clinician or the medical facility medical information concerning himself/herself, including a copy of his/her medical records."⁷²

With respect to enforcement, the Patients' Charter states that each facility must designate a person or committee responsible for overseeing compliance with the Patients' Charter.⁷³ The Patients' Charter also states that "Any health worker who contravenes these rights may face appropriate disciplinary actions from Health Unit Management committees, Health Professional Councils, Medical Boards, and Courts of law."⁷⁴

6. UNAIDS example privacy act guidance

UNAIDS issued *Considerations and Guidance for Countries Adopting National Health Identifiers* ("UNAIDS Guidance"), which includes example elements of a "health data privacy act for individual patients."⁷⁵ The example elements focus on restrictions on governmental use of personal health information specifically, but the example privacy act is still a helpful framework for assessing the comprehensiveness of health information privacy laws that apply to public and private actors. This section compares the elements of the UNAIDS Guidance with the provisions of Uganda's HIV and AIDS Act, Constitution and Access to Information Act.

UNAIDS Example Privacy Act Element	Explanation	Equivalent Provision in Ugandan Law?
1. <i>Definition of personally identifiable information</i>	The UNAIDS Guidance suggests adopting a definition of “personally identifiable information” that includes written, spoken, electronic and all other forms of information about an identifiable individual. ⁷⁶	No.
2. <i>Judicial review of privacy violations</i>	The UNAIDS Guidance highlights the importance of judicial review of claims of health information privacy act violations. Specifically, the UNAIDS Guidance notes the importance of judicial review of denial of access to personal health information and improper collection, use, and disclosure of personally identifiable information. ⁷⁷	The HIV and AIDS Act provides criminal penalties for violating health information confidentiality, but the Act does not establish a private cause of action by individuals against persons who violate their health information privacy rights.
3. <i>Access and corrections Rights</i>	The UNAIDS Guidance highlights the importance of patients having the right to access and correct errors in personally identifiable information, regardless of citizenship. ⁷⁸	The Patients’ Charter states that “patient[s] shall be entitled to obtain from the clinician or the medical facility medical information concerning himself/herself, including a copy of his/her medical records.”
4. <i>Notice of privacy practices</i>	The UNAIDS Guidance raises the importance of notifying individuals regarding what data may be collected, how it will be used, if the data may be shared, and the consequences of not providing the information. ⁷⁹ This type of notice is sometimes referred to as a notice of privacy practices. ⁸⁰	No.
5. <i>Complaint procedures</i>	The UNAIDS Guidance suggests including in health information privacy acts requirements of providing notice to patients for how to file a complaint in cases of potential misuse of their personally identifiable information. ⁸¹	The Patients’ Charter requires public facilities to designate a person or committee to oversee compliance with the Patients’ Charter and to investigate complaints.

UNAIDS Example Privacy Act Element	Explanation	Equivalent Provision in Ugandan Law?
6. <i>Breach notification</i>	The UNAIDS Guidance notes the importance of establishing a duty to notify individuals of an improper use or disclosure of personal health information. ⁸²	In cases where a “medical practitioner or other qualified officer” discloses “the results of an HIV test to any person,” he or she is required to “inform the person tested of the disclosure giving—(a) the nature and purpose of disclosure; (b) date of disclosure; and (c) the recipient of the information,” “except in the case of other professionals involved in the treatment or care of the person tested.” ⁸³
7. <i>Limits on data use</i>	The UNAIDS Guidance notes the importance of data only being used for the purposes disclosed and suggests no data matching or aggregation should be allowed without disclosure to the patient. ⁸⁴	No.
8. <i>Least privileged access</i>	The UNAIDS Guidance notes the importance that people who have access to health information systems “are assigned the lowest level of access rights necessary to do their jobs.” ⁸⁵	No.
9. <i>Privacy protections should apply to subcontractors</i>	The UNAIDS Guidance highlights the importance of preserving the confidentiality and accountability of health information that is outsourced to third parties. ⁸⁶	No.
10. <i>Enforcement focal point</i>	The UNAIDS Guidance states that it is important to establish an office of information security or similar government office responsible for implementing the policies and operational mechanisms to support the privacy act. ⁸⁷	No.

V. Considerations

Establishing a complete legal or policy framework to govern aspects of data confidentiality and patient privacy is beyond the scope of this document. However, UNAIDS recommends a clear legal framework for the collection, storage, disclosure, and use of health information to protect individual patient data. UNAIDS suggests two major areas that a framework would need to cover: data confidentiality and patient privacy. With respect to patient privacy, UNAIDS states “[t]he mandate for governance should be achieved through legislation that governs the right to privacy of information for people in a privacy act.”⁸⁸ Uganda could consider adopting a health privacy act that addresses the elements of the UNAIDS Guidance, including:

1. Clear definition of personally identifiable health information;
2. Judicial remedies for privacy violations;
3. Access and correction rights;
4. Notice of privacy practices;
5. Complaint procedures;
6. Breach notification requirements;
7. Limits on data use;
8. Least privileged access;
9. Privacy protections apply to subcontractors; and
10. Enforcement focal point.

The Government of Uganda could also consider removing the criminalization and mandatory disclosure provisions from the HIV and AIDS Act to help encourage HIV testing, counseling and treatment and combat HIV stigma in Uganda.

VI. Research Methods

To assess the legal landscape relating to confidentiality of health information in Uganda, the research collaborators searched numerous databases for relevant statutes, case law, and articles. Databases searched include, but are not limited to, Lexis-Nexis, Uganda Legal Information Institute, and the University of Washington WorldCat service (which runs searches across approximately 95 databases worldwide, including PubMed and Academic Search Complete). The search terms used include, but are not limited to, “patient confidentiality Uganda,” “medical information Uganda,” “Uganda and privacy of medical records,” and “breach of confidentiality Uganda.” Research limitations included limited access to potentially relevant materials, particularly case law and materials that were not available in English.

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References:

¹ *Uganda: HIV and AIDS estimates*, UNAIDS.ORG,

<http://www.unaids.org/en/regionscountries/countries/uganda> (last accessed August 12, 2015).

² UNAIDS, DEVELOPING AND USING INDIVIDUAL IDENTIFIERS FOR THE PROVISION OF HEALTH SERVICES INCLUDING HIV, 6–7 (2009), available at

http://www.unaids.org/sites/default/files/sub_landing/files/20110520_Unique_Identifiers_Meeting_Report_Montreux.pdf.

³ *Id.*

⁴ *Id.* at 7.

⁵ See, e.g., UNAIDS, CONSIDERATIONS AND GUIDANCE FOR COUNTRIES ADOPTING NATIONAL HEALTH IDENTIFIERS, 51 (2014) (suggesting that “[a]ll collections of data must enumerate...how an individual files a complaint in cases of potential misuse of their personally identifiable information.”).

⁶ JESSICA OGDEN & LAURA NYBLADE, COMMON AT ITS CORE: HIV-RELATED STIGMA ACROSS CONTEXTS, 7 (2005), available at <http://www.icrw.org/files/publications/Common-at-its-Core-HIV-Related-Stigma-Across-Contexts.pdf> (noting that “HIV and AIDS-related stigma and discrimination together have long been recognized as one of the main obstacles to the prevention, care, and treatment of HIV and AIDS.”).

⁷ See, e.g., U.S. Department of Health and Human Services, *What Are the Specific Privacy and Security Needs of HIV/AIDS Patients?* HRSA.GOV,

<http://www.hrsa.gov/healthit/toolbox/HIVAIDSCaretoolbox/SecurityAndPrivacyIssues/whatspecificprivsecneeds.html> (last accessed April 23, 2015) (noting that “Patients who are concerned that their health information will not be held private or secure may be discouraged from being tested for HIV and may be dissuaded from pursuing or adhering to recommended treatment regimens.”).

⁸ SHARYL NASS, ET AL., BEYOND THE HIPAA PRIVACY RULE: ENHANCING PRIVACY, IMPROVING HEALTH THROUGH RESEARCH 18 (The National Academies Press ed., 2009).

⁹ USAID, WORKING REPORT MEASURING HIV STIGMA: RESULTS OF A FIELD TEST IN TANZANIA, 3 (2005), available at <http://www.icrw.org/files/publications/Working-Report-Measuring-HIV-Stigma-Results-of-a-Field-Test-in-Tanzania.pdf>; see also HIV-RELATED STIGMA ACROSS CONTEXTS, *supra* note 6, at 33–36 (detailing the consequences of stigma for HIV and AIDS treatment and prevention efforts, including its impact on treatment, prevention, and testing); Suzanne Maman, et al., *A comparison of HIV stigma and discrimination in five international sites: The influence of care and treatment resources in high prevalence settings*, 68 SOC. SCI. MED. 2271, 2273 (2009) (“Among those who agree to be tested, stigma has been identified as a

factor contributing to the refusal to return for the results (Worthington & Myers, 2003) and low HIV disclosure rates (Derlega, Winstead, Greene, Servoich, & Elwood, 2002). Researchers have also described how stigma can negatively affect people's uptake of and adherence to antiretroviral therapy (ART)."

¹⁰ Chris Beyrer, et al., *Expanding the Space: Inclusion of Most-at-Risk Populations in HIV Prevention, Treatment, and Care Services*, 57 J. ACQUIR. IMMUNE DEFIC. SYNDR. Supp. 2, S96 (2011), available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3164959/pdf/nihms293734.pdf>.

¹¹ BEYOND THE HIPAA PRIVACY RULE, *supra* note 8, at 65–66 ("After reviewing the available evidence, the committee concluded that the public is deeply concerned about the privacy and security of personal health information, and that the HIPAA Privacy Rule has reduced, but not eliminated, those concerns.").

¹² *Id.* at 80.

¹³ *Id.*

¹⁴ DEVELOPING AND USING INDIVIDUAL IDENTIFIERS, *supra* note 2, at 3.

¹⁵ WHO, PATIENT MONITORING GUIDELINES FOR HIV CARE AND ANTIRETROVIRAL THERAPY (ART), 9 (2006), available at <http://www.who.int/3by5/capacity/ptmonguidelinesfinalv1.PDF>.

¹⁶ *Id.*

¹⁷ *Id.* at 16.

¹⁸ MINISTRY OF HEALTH, HEALTH SECTOR STRATEGIC PLAN III, 63 (2010), available at http://www.health.go.ug/docs/HSSP_III_2010.pdf.

¹⁹ *Id.* at 112.

²⁰ ADOPTING NATIONAL HEALTH IDENTIFIERS, *supra* note 5, at 5.

²¹ *Id.*

²² *Id.* at 6.

²³ *Id.* at 10.

²⁴ Uganda Const. §§ 27(2), 41(1) (1995).

²⁵ *Id.* § 2.

²⁶ *High Court Miscellaneous Cause No 24 of 2006.*

²⁷ *High Court Miscellaneous Cause No.163 of 2010.*

²⁸ HIV and AIDS Prevention and Control Act, 2014 (preamble) (Uganda).

²⁹ *Id.*

³⁰ *Id.* §§ 42 (referring to breach of confidentiality offense), 18 (disclosure of HIV test results), 19 (confidentiality of HIV status).

³¹ *Id.* § 19(1).

³² *Id.* § 18(2).

³³ Medical practitioners are persons "registered under the Medical and Dental Practitioners Act to practice medicine, surgery or dentistry." *Id.* § 1.

³⁴ An "other qualified officer" includes "an allied health professional registered under the Allied Health Professionals Act, nurse or midwife registered or enrolled under the Nurses and Midwives Act or any other person as the Minister may by statutory instrument prescribe." HIV and AIDS Act, *supra* note 28, § 1.

³⁵ *Id.* § 18(e).

³⁶ *Id.* § 19.

³⁷ *Id.* § 20.

³⁸ The offense for breaching confidentiality may be levied against health practitioners, health units, medical practitioners and other qualified officers. "Health practitioner" is defined as a "medical practitioner, other qualified officer or counsellor." *Id.* § 1. "Other qualified officer" is defined as "an allied health professional registered under the Allied Health Professionals Act, nurse or midwife registered or enrolled under the Nurses and Midwives Act or any other person as the Minister may by statutory instrument prescribe." *Id.*

³⁹ *Id.* § 42.

⁴⁰ A currency point is equal to twenty thousand shillings. HIV and AIDS Act, note 28 (First Schedule).

⁴¹ *Id.*

⁴² *Id.* § 31.

⁴³ *Id.* § 13; *see also* § 18(6) (creating ambiguity about whether the partner of a pregnant woman may refuse to be tested).

⁴⁴ *Id.* § 14.

⁴⁵ *Id.* § 16.

⁴⁶ HIV and AIDS Act, *supra* note 28, § 12.

⁴⁷ *Id.* § 1.

⁴⁸ The Penal Code Act, 1950 § 129 (Uganda).

⁴⁹ Jeffrey Gettleman, *Uganda Anti-Gay Law Struck Down by Court*, NEW YORK TIMES (Aug. 1, 2014), http://www.nytimes.com/2014/08/02/world/africa/uganda-anti-gay-law-struck-down-by-court.html?_r=0.

⁵⁰ Anti-Homosexuality Act, 2014 § 3 (Uganda).

⁵¹ HIV and AIDS Act, *supra* note 28, § 41.

⁵² *Id.* § 43.

⁵³ OFFICE OF THE U.N. HIGH COMMISSIONER FOR HUMAN RIGHTS, UNAIDS, INTERNATIONAL GUIDELINES ON HIV/AIDS AND HUMAN RIGHTS, 29 (2006), *available at*

<http://www.ohchr.org/Documents/Publications/HIVAIDSGuidelinesen.pdf>.

⁵⁴ *Id.* at 37.

⁵⁵ [Health Service Commission Act 2001](#) § 30(5) (Uganda).

⁵⁶ *Id.* § 2 (internal citations omitted).

⁵⁷ *Id.* § 3.

⁵⁸ "Health worker" means "a health professional, administrative, scientific and support staff employed in the health service, and designated by the Commission in consultation with the Public Service Commission." *Id.* § 2.

⁵⁹ *Id.* § 30(5) (emphasis added).

⁶⁰ The Access to Information Act, 2005 §21 (Uganda).

⁶¹ *Id.* § 4.

⁶² *Id.* § 28(a); *see also Id.* §21.

⁶³ *Id.* § 4.

⁶⁴ *Id.*

⁶⁵ *Id.* § 28.

⁶⁶ Access to Information Act, *supra* note 60, § 28(1)(b).

⁶⁷ *Id.* § 28(2).

⁶⁸ UGANDAN MINISTRY OF HEALTH, DEPARTMENT OF QUALITY ASSURANCE, PATIENTS' CHARTER, Foreword (2009).

⁶⁹ *Id.* § 15.

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.* § 16.

⁷³ *Id.* § 19.

⁷⁴ PATIENTS' CHARTER, *supra* note 67, § 25.

⁷⁵ ADOPTING NATIONAL HEALTH IDENTIFIERS, *supra* note 5, at 51–52.

⁷⁶ *Id.* at 51.

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ See, e.g., *Notice of Privacy Practices for Protected Health Information*, HHS.GOV, <http://www.hhs.gov/ocr/privacy/hipaa/understanding/coveredentities/notice.html> (last accessed August 9, 2015).

⁸¹ ADOPTING NATIONAL HEALTH IDENTIFIERS, *supra* note 5, at 51.

⁸² *Id.*

⁸³ HIV and AIDS Act, *supra* note 27, § 20.

⁸⁴ ADOPTING NATIONAL HEALTH IDENTIFIERS, *supra* note 5, at 51–52.

⁸⁵ *Id.* at 52.

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.* at 51.