AIDS Law Project gets state to update jobs policy to protect people with HIV

The AIDS Law Project of Pennsylvania has persuaded the state to revise regulations on occupational and professional licensing to protect workers and job applicants with HIV. Harnessing the support of then-Governor Ed Rendell, the AIDS Law Project was able to get a decades-old policy statement updated in January to specifically exclude HIV as a disease that would bar people from being employed or accepted for job training.

Nearly 30 state licensing boards had been bound by language that could create roadblocks for people with “infectious,” “contagious” and “communicable” diseases.

“The state regulations were using those terms interchangeably, without definition and without recognizing that HIV is not transmitted in a workplace,” said Executive Director Ronda B. Goldfein, Esq. “The new statement clarifies that those terms are not to be applied to people with HIV, thereby protecting them from job discrimination.”

The licensing policy covers dozens of jobs and professions in Pennsylvania, including barbers, cosmetologists, pharmacists, nurses, nursing assistants, physical therapists, podiatrists and optometrists.

A recent case in which a nursing assistant faced a similar roadblock prompted the AIDS Law Project to push to clarify the state’s umbrella policy governing all licensing boards. Rendell supported the policy update after Goldfein conferred with then-Commonwealth Secretary Basil Merenda in a meeting arranged by Michael Marsico, then-deputy director of the governor’s office. Former AIDS Law Project staffer Patrick J. Egan, now assistant professor of politics and public policy at New York University, served as an adviser to Goldfein during the process.

“The new policy makes Pennsylvania consistent with federal law,” said Merenda. “Now, people who have an HIV disability can pursue the professions they want to work in, that they have the experience and qualifications to be licensed in. They can be productive members of society and help people, as well as achieve their own dreams.”

The new policy statement posted on the website of the state’s Bureau of Professional and Occupational Affairs now spells out that “the Bureau, in accordance with the ADA and guidance from the United States Department of Justice, has determined that, for the purposes of administering the professional and occupational licensing laws over which it or any of its 29 licensing Boards have jurisdiction, the terms ‘infectious disease,’ ‘communicable disease’ or ‘contagious disease’ do not include diseases, such as HIV, that are not transmitted through casual contact or through the usual practice of the profession or occupation for which a license is required.”


Text of the update

The new policy statement posted on the website of the state’s Bureau of Professional and Occupational Affairs now spells out that “the Bureau, in accordance with the ADA and guidance from the United States Department of Justice, has determined that, for the purposes of administering the professional and occupational licensing laws over which it or any of its 29 licensing Boards have jurisdiction, the terms ‘infectious disease,’ ‘communicable disease’ or ‘contagious disease’ do not include diseases, such as HIV, that are not transmitted through casual contact or through the usual practice of the profession or occupation for which a license is required.”

MESSAGE FROM THE EXECUTIVE DIRECTOR

Dear Friends:

It took years to write this issue’s cover story. Allow me to explain:

For some jobs, Pennsylvania and other states have licensing requirements that exclude people with a communicable, contagious or infectious disease. These occupations include cosmetologists, barbers and nursing assistants. Usually a doctor’s certificate is required to show that a prospective worker is free of disease.

For years, the AIDS Law Project of Pennsylvania interpreted the regulations as consistent with anti-discrimination laws: An applicant must be free of any disease that affects his or her ability to do a specific job. We advised doctors treating people with HIV/AIDS to write their certifications accordingly. In 2006, we prodded the Pennsylvania Board of Cosmetology to issue a statement that some provisions of cosmetology law wouldn’t be enforced because they conflicted with anti-discrimination laws.

Still, people with HIV/AIDS told us that they were being shut out from certain occupations. Well-intentioned health-care providers remained uncomfortable certifying that a patient with HIV didn’t have a contagious, infectious or communicable disease. Folks remained confused about the rules and didn’t apply for jobs for which they were otherwise qualified.

We knew that we had to resolve the confusion. This January, at our urging and with the support of former Governor Ed Rendell, the Pennsylvania Department of State issued a policy statement specifically excluding HIV as a disease that would bar people from being employed or accepted for job training.

This is a victory for all Pennsylvanians, and it was a long time coming. If we hear of no further occupational-licensing complaints, we’ll know that the policy statement is working.

Here’s to a quiet summer.

Ronda
SLEUTHING THIS FOOD-STAMP CUT HAD A DOUBLY SATISFYING OUTCOME

Notices from the Department of Public Welfare (DPW) sometimes offer little if any guidance about the reason changes are being made to a person’s benefits package. Details are often missing or confusing, which Drexel law student/Public Benefits Intern Tanesha Readom learned when her client’s food stamps (now called SNAP benefits) were cut nearly in half without clear explanation.

Prior to contacting us, Tanesha’s client visited her local welfare office to inquire about the change, but was offered little assistance. With her questions still unanswered, she turned to the AIDS Law Project for help. Tanesha compiled a list of the client’s expenses and plugged them into our SNAP benefits calculator, confirming that DPW’s new benefit amount was correct. The result was always the same — $122 (the new disbursement amount) was the correct monthly allotment, rather than the $200 the client initially received.

Tanesha then reviewed the documents DPW provided when it originally approved the client’s benefits. She realized that DPW initially failed to take into account the client’s housing subsidy, resulting in an overcalculation of the household expenses. Once DPW discovered the miscalculation, the client’s SNAP benefits were reduced accordingly. The mystery had been solved.

“It’s always amazing, in the Public Benefits arena, how happy you can make a client if you can just explain the why,” Tanesha recalls.

But that wasn’t the end of the story. Her client was relieved to receive an explanation, but then she was elated — because Tanesha managed to have her food stamps increased. Tanesha’s careful review of the client’s expenses revealed that she had been paying for a prescription medication out-of-pocket. The expenditure had not been listed among the client’s monthly expenses. Tanesha corrected the paperwork and DPW determined that the client was entitled to an additional $40 per month.

Tanesha’s persistence resulted in two levels of satisfaction for her client. The client would have been pleased with solely the simple explanation, but she also was able to take comfort in the much-needed bump of her food-stamp allotment.

LOST IN TRANSLATION

“George,” an immigrant who speaks little English, managed to file his 2009 taxes in the winter of 2010 with the help of a tax-preparation service.

A struggling low-wage worker with a teenage son, he was delighted to learn that he was entitled to a refund of more than $5,000. But several weeks later he received word that there was a problem with his return. The AIDS Law Project had assisted him in the past, so he turned to us again when he began receiving IRS notices he couldn’t understand.

Deputy Managing Attorney Cathryn Miller-Wilson contacted the IRS. Apparently, George had been audited and the IRS determined that he was not entitled to the dependent-care credit that led to the refund. According to the IRS, not only was George not getting a refund, but he also owed money.

Cathy tried to obtain from George the documents she needed to disprove the auditors, but the language barriers presented real challenges. Ultimately, Cathy obtained the original records. Using that information, she was able to obtain a copy of the court order awarding George custody of his son, as well as the school records verifying that his son lived with him.

The documents proved that George was entitled to the tax deductions and the original refund. Cathy promptly forwarded the paperwork to the IRS and in March 2011 received the good news: The IRS reversed its decision and George is scheduled to receive the much-anticipated refund within weeks.

"George," an immigrant who speaks little English, managed to file his 2009 taxes in the winter of 2010 with the help of a tax-preparation service.

A struggling low-wage worker with a teenage son, he was delighted to learn that he was entitled to a refund of more than $5,000. But several weeks later he received word that there was a problem with his return. The AIDS Law Project had assisted him in the past, so he turned to us again when he began receiving IRS notices he couldn’t understand.

Deputy Managing Attorney Cathryn Miller-Wilson contacted the IRS. Apparently, George had been audited and the IRS determined that he was not entitled to the dependent-care credit that led to the refund. According to the IRS, not only was George not getting a refund, but he also owed money.

Cathy tried to obtain from George the documents she needed to disprove the auditors, but the language barriers presented real challenges. Ultimately, Cathy obtained the original records. Using that information, she was able to obtain a copy of the court order awarding George custody of his son, as well as the school records verifying that his son lived with him.

The documents proved that George was entitled to the tax deductions and the original refund. Cathy promptly forwarded the paperwork to the IRS and in March 2011 received the good news: The IRS reversed its decision and George is scheduled to receive the much-anticipated refund within weeks.

LOSING A ROOF OVER YOUR HEAD

When “Gary” fell ill in 2009, his health woes resulted in debt woes he could no longer manage. At the end of his rope, he contacted the AIDS Law Project for a referral to a bankruptcy attorney and in December 2009 filed for Chapter 7 bankruptcy. By the following April, Gary’s debts had been discharged.

In December 2010, Gary received a notice from the IRS indicating that he owed more than $200 for the 2009 tax year. The notice claimed that Gary owed taxes on one of the credit card debts that had been forgiven during the bankruptcy. According to the tax code, the cancellation of a debt triggers an obligation to pay taxes, and this meant that Gary owed the IRS money.

After receiving Gary’s case, Drexel Law Fellow Meryl C. Katz, Esq., researched the IRS Code for answers. She discovered a regulation excluding canceled debts as gross income if the taxpayer’s obligations exceed his resources at the time the debt is forgiven.

Using Gary’s 2009 bankruptcy petition, Meryl was able to prove that Gary was indeed insolvent at the time the credit card company forgave the debt. Thereafter, the IRS agreed to accept Gary’s original tax return — a huge relief to his client, as he no longer had to worry about owing the IRS.

“I see any amount of debt as a hardship to our clients,” Meryl said. “For a majority of them, $200 can mean the difference between paying for heat or paying for rent.”
FOR SOME, A CAT’S LOVE IS THE BEST MEDICINE

When Drexel Certified Legal Intern Yuan Tang was contacted by a renter whose property manager was attempting to enforce the building’s one-pet policy, Yuan wasn’t sure anything could be done. The client shared his apartment with three cats he rescued from different locations in Philadelphia and the landlord argued that harboring them was a breach of the client’s rental agreement.

A closer look revealed that for many years, the client suffered from HIV-related depression. The cats were not simply companions, they were, in fact, therapeutic. Yuan researched laws concerning reasonable accommodations for people with disabilities. She then contacted the landlord, advocating for her client's right to the reasonable accommodation of having three cats under applicable laws.

The paperwork formally requesting the reasonable accommodation persuaded the landlord and the client was allowed to keep all three cats, which continue to provide the emotional support and therapeutic value he has come to rely on. For the client, it was the purr-fect outcome.

When North Philly resident “Karen” contacted the AIDS Law Project in the fall of 2010, she was in distress. Her ongoing battle with pancreatitis led to routine stays in the hospital, she was being forced out of her home and in danger of losing the housing subsidy she relied on to pay rent.

Two weeks prior, Karen’s landlord moved to evict her from her Germantown Avenue apartment, and when she failed to appear in court on the day of the hearing, having just been released from the hospital, the landlord won by default. Karen was given 30 days to vacate her residence. To make matters worse, the termination of her lease would result in the termination of her housing subsidy, making it nearly impossible for her to find alternative housing. Sick and facing homelessness, Karen turned to us.

Supervised by Housing Attorney Rafiah S. Davis, Drexel Certified Legal Intern Anette Thomas drafted a petition on Karen’s behalf asking the Court to open the default judgment. Not only was Karen physically unable to attend the court hearing, but the landlord’s reasons for evicting her were without merit. The property manager had been improperly citing Karen for failure to comply with the building’s rules and regulations, wrongly blaming her for the disruptive behavior of a group of kids who continually entered the building.

To add insult to injury, the nearly $500 in back rent the landlord claimed he was owed turned out to be legal fees he incurred while pursuing the eviction. Karen’s rent payments had been up-to-date.

Persuaded by Anette’s petition, the court granted Karen a new eviction hearing and a new opportunity to defend against the landlord’s effort to evict her. The new hearing also afforded Karen the breathing room she needed, as she was able to remain in the apartment until the newly scheduled hearing.

When Rafiah and Anette accompanied their client to the court this past February, the landlord agreed to withdraw the case. Karen can now stay in her apartment. “She was really relieved,” Anette recalls. “With the housing subsidy in place, she was paying $28 a month so she had no real options for moving.”

For the client, it was the purr-fect outcome.
Legal Services in 2010
We helped 1,577 people with 2,131 legal matters. 94 percent of requests came from people with HIV/AIDS, while 6 percent were from case managers and other AIDS-service professionals, attorneys, healthcare workers, students, employers and others. 73 percent of all clients lived in Philadelphia County. Many clients sought assistance with multiple issues.
AIDS Law Project documentary is online

Justice Being Done, the first documentary about the AIDS Law Project of Pennsylvania, is now widely available for viewing — on the Web.

The 7-minute film, produced by filmmakers Anisha Payne and Ashley Akunna, was first screened at our DECADES 20th-anniversary observance in 2008. It was praised there by AIDS Law Project friend and supporter Jonathan Demme, the Academy Award-winning director of Philadelphia, Silence of the Lambs and many other films.

Goldfein & Acosta on Top 100 list

AIDS Law Project of Pennsylvania Executive Director Ronda B. Goldfein, Esq., and former AIDS Law Project board president David Acosta were named to the 2010 list of the POZ 100, recognizing the top HIV/AIDS activists in the country. POZ is a magazine and website for people living with and affected by HIV/AIDS.

Those who viewed the film at DECADES already have heard the inspirational message of what the AIDS Law Project means to its clients. We urge you to take another look at the film and to post the link on whatever social networking sites you use.

The more who hear this remarkable story, the better. Justice Being Done can be viewed at the AIDS Law Project’s channel on the Vimeo website, at http://vimeo.com/12866001.

website gets a facelift

We are delighted to announce the relaunch of the AIDS Law Project’s website, www.aidslawpa.org, which has undergone a major transformation. The new site is more user-friendly and content-rich with loads of useful information for people with HIV/AIDS and the professionals who serve them. The website gives information to help prevent illegal actions against people with HIV, providing clear explanations of their rights and the state’s HIV-related policies.

Hot off the presses: AIDS and the Law handbook

It’s back! The 2011 edition of our eagerly anticipated handbook, AIDS and the Law: Your Rights in Pennsylvania, is now available. The 85-page guide answers questions spanning each of our practice areas. Commonly asked questions concerning everything from discrimination and health insurance issues to public benefits and child-custody planning are included. To purchase the 2011 AIDS and the Law handbook, which costs $25, log on to our website at www.aidslawpa.org or call us at 215-587-9377.


With the release of 2011’s Federal Poverty Income Guidelines, remember that copies of the newest edition of the AIDS Law Project of Pennsylvania’s Public Benefits Advocacy Manual are still available. The manual is a comprehensive and easy-to-use guide on eligibility for public benefits in Pennsylvania. Each chapter provides detailed descriptions, flow charts, tips and examples for advocates to ensure prompt approval of public benefits applications. To purchase a copy, which costs $75, call us at 215-587-9377 or visit our website at www.aidslawpa.org.

* 12 individuals identified themselves as clients. Among the training attendees are others who choose not to publicly identify themselves as AIDS Law Project clients or as living with HIV.
Changes...

Welcome new board member

We welcome to our board Myra Brown of Intercultural Family Services Inc., where she is deputy executive director. She oversees 18 programs staffed by almost 200 employees at three sites throughout greater Philadelphia. Myra is directly involved in providing services to Intercultural’s clients in a variety of programs, including family stabilization, parenting-skills enhancement, housing, and music and mentorship. She also has extensive human-resources and training experience and has expertise in research on cultural competency and diversity-related issues. She earned her M.B.A. from Temple University and was a journalist earlier in her career.

Welcome new staffers

The AIDS Law Project welcomed two new paralegals in October 2010: Kevin Bentley and Julia Heald.

Kevin is our new housing paralegal, representing clients in a variety of housing issues, mainly landlord-tenant disputes and against utility companies. He is a Baltimore native who graduated from Swarthmore College, where he majored in political science and double-minored in Spanish and black studies. Coming from a tennis family, Kevin spends much of his free time playing tennis with family and friends.

Julia works with clients on getting public benefits, resolving criminal records and obtaining birth certificates and other types of identification. She graduated from Haverford College where she majored in political science with an emphasis on government entitlement programs, and minored in mathematics. Julia, who hails from Alexandria, Va., enjoys cooking, baking and “change ringing” — the art of ringing a set of tuned bells in a series of patterns.

Congratulations

• Welcome back and congratulations to Meryl C. Katz, Esq., who has been awarded an Earle Mack School of Law Public Service Fellowship for 2010-11. The fellowship program provides recent law school graduates with part-time, paid, six-month legal positions at a qualifying public interest organization. Meryl is serving her fellowship here at the AIDS Law Project of Pennsylvania through May.

• The AIDS Law Project congratulates our former interns Juan Baez, Marissa Barriere and Diane DeGroat and our current fellow Emily Vener-Giszer on passing the Pennsylvania Bar in February 2011. We also congratulate former intern Charles Bruce, who passed the California Bar in July 2010.

• Earle Mack School of Law student Yuan Tang, a member of the school’s 2010-11 Civil Litigation Field Clinic at the AIDS Law Project, was honored by the Public Interest Section of Philadelphia Bar Association at the annual awards ceremony on Dec. 9, 2010. The award recognized Yuan’s commitment to providing equal access to the law.

As a story on the Drexel Law website explained, Yuan spent seven weeks in Cambodia seeking to protect families from forced evictions and assisting an organization that offers vocational training to adolescent girls. She also has participated in the school’s Marshall-Brennan Constitutional Literacy Project, going to Philadelphia high schools to teach teens about the U.S. Constitution and its relevance in their lives. Yuan founded and is president of the Asian Pacific American Law Student Association and The Just Society.

• We salute former paralegal Carlos Munoz for two superb milestones — his recent marriage to Caleb Arnold and the arrival of their first child, Calder Snow Munoz Arnold. Calder came into the world on Jan. 12, 2011, at a healthy 7 pounds 13 ounces. We congratulate the newlyweds on their recent nuptials and new arrival.

• Congratulations to our Drexel Legal Intern Wayne Nguyen on his March 12, 2011, marriage to Haesook Hong, at the Church of the Messiah in Lower Gwynedd.

... and bid farewell

After 10 extraordinary years of service at the AIDS Law Project, Administrative Assistant Sue Goodwin will be moving on. Luckily, her new endeavor will only take her a few short blocks away. Sue has signed on to work with our friends at the Senior Law Center.
THANKS TO OUR FUNDERS AND DONORS

Gifts received October 1, 2010, through March 31, 2011

Major Funders, Grants and Contracts
AIDS Activities Coordinating Office (AACO)
AIDS Fund
Broadway Care/Equity Fights AIDS
City of Philadelphia Dept. of Public Health
Claneil Foundation
Earle Mack School of Law at Drexel University
Health Federal of Philadelphia
Independence Foundation
MAC AIDS Fund
Patricia Kind Family Foundation
Pennsylvania Interest on Lawyers’ Trust Accounts (IOLTA)
Philadelphia Bar Foundation
Philadelphia FIGHT
The Pew Charitable Trusts
Tonamora Foundation

Gifts of $10,000 or more
Kline & Specter

Gifts of $5,000 or more
Avi Eden
Klehr Harrison Harvey Branzell LLP

Gifts of $1,000 or more
John G. Barth
Marshall, Dennehey, Warner, Coleman & Goggin
Bryn & Jeffrey Michaels
Joseph Montella, MD & James Dean, MD
Jamie O’Neill & David Rubin
Penn Virginia Corporation
Estate of Peter L. Reitsma
Harris & Bonnie Sklar

Gifts of $500 to $999
Edward T. Ciolklo
David M. Fedor
Michael Ippoliti
Joan Letyczynsky
Frank McClellan & Phoebe Haddon
Philadelphia Contributionship
Sarah Schuman-Bergen

Gifts of $250 to $499
Susan Carberwood

Gifts of $100 to $249
Gabe Zashin & Mihoko Samejima

Gifts to $49
Judy Borgman, MD
Fred J. Bostwick
Kevin J. Burns
Henry G. Garfield
William L. Glosser
Goodsearch
Lisa Hancock

Thanks to Lundy, Flitter, Beldecos & Berger, P.C., for recommending that the AIDS Law Project receive more than $16,000 in cy pres funds. At the conclusion of a class action lawsuit, funds often remain because distribution to all class members is not always possible. The parties may recommend that the Court direct any remaining funds to a group that has similar interests to the original class.