Despite the fact that we are more than 35 years into the AIDS epidemic, irrational fear of people with HIV and AIDS remains widespread. We see it at the AIDS Law Project of Pennsylvania every day.

You would think that one of the last places discrimination would surface is in the health care industry, where people should understand the modern reality of HIV and AIDS. Sadly, that’s not the case.

HIV DISCRIMINATION: A CHRONIC HEALTH PROBLEM

At the AIDS Law Project, we recently completed a survey of a decade’s worth of our cases involving public accommodations, which are defined as public and private entities that provide services to the general public.

The survey revealed that health care is overwhelmingly the service most likely to be illegally denied to people with HIV and AIDS. Of all our public accommodations cases, 76 percent are health care denials.

Since the founding of the AIDS Law Project 27 years ago, we have repeatedly taken on doctors, emergency medical workers, dentists, hospitals, nursing homes and rehabilitation centers on behalf of our clients.

And the cases keep coming.

Two recent victories illustrate the barriers people with HIV and AIDS face to getting health care.

In October, a Montgomery County hospital agreed to pay $25,000 to settle a claim brought by the AIDS Law Project on behalf of a woman who said she was denied a surgical assessment because she is HIV positive.

Continued on Page 6

Giving recovering addicts a chance to succeed

Overcoming heroin addiction can seem like an insurmountable undertaking in and of itself.

On top of that, many recovering addicts face other challenges that can undermine their efforts and draw them back into the hopeless cycle of addiction they are trying to escape.

The AIDS Law Project of Pennsylvania, in cooperation with Prevention Point Philadelphia, a nonprofit public-health organization based in the city’s Kensington neighborhood, is reinvigorating a program to help clients overcome those obstacles.

Since Nov. 3, AIDS Law Project Staff Attorney Jacob E. Eden and Paralegal Jade McKnight have held twice-weekly office hours at Prevention Point, where clients can get free legal help with HIV criminalization, HIV confidentiality, health insurance, immigration, landlord-tenant issues and the full range of other services the AIDS Law Project offers in its Center City office.

Those clients, as well as people at-risk for HIV, can also get help resolving outstanding warrants and obtaining identification documents.

Continued on Page 6

At Boo! at bahdeebahdu

See the fun on pages 4-5!

John Jarboe of The Bearded Ladies performing at Boo! Photo: Bob Smith
MESSAGE FROM THE EXECUTIVE DIRECTOR

Dear Friends,

The headline of this issue of Good Counsel could have easily been written when the AIDS Law Project of Pennsylvania was founded in 1988. After all, sadly, HIV discrimination is nothing new.

In our 27 years, we have represented lawyers, doctors, truck drivers, clergy, barbers, executives, food-service workers and even a gymnastics instructor in employment discrimination cases. Clients have been denied services by dentists, surgeons, bikini-waxers, tattoo parlors, funeral homes, fertility clinics, and adoption agencies. They have been excluded from high school football teams, personal-care homes, health clubs, cosmetology classes, medical-assistance training programs, and private boarding schools.

The AIDS Law Project twice sued Philadelphia’s fire department because emergency medical technicians refused to treat patients with HIV. The settlement agreement in both cases required that all EMTs be trained on infection control—a benefit to anyone who ever called 911.

Cases involving health care providers, like those in our cover story, are particularly troubling because we count on people who are medically trained to know better.

Until we can clearly get the message across that people with HIV are not a threat, the AIDS Law Project will continue to pursue these discrimination claims.

Challenging HIV discrimination is good for the public health. We all need to distinguish unsubstantiated fears from actual risk. We all need to understand the basic concepts of infection control and personal responsibility. Until we make progress on these issues, we will be stuck in time.

But the AIDS Law Project and our brave clients who stand up to injustice can’t do all the work. We all need to spread the word. If you are lucky enough to spend this holiday season with your friends and family, ask if they would be afraid if a person with HIV was at the dinner table or cooking the food or washing the dishes afterwards. I bet the conversation will be enlightening for all.

Have a healthy and happy holiday. – Ronda

Remember us at workplace giving time.

When you donor-designate in your workplace giving campaign, remember your neighbors served by the AIDS Law Project of Pennsylvania.

United Way of SE PA Specific Care Option #09067 Combined Federal Campaign Donor Option #36027
PUBLIC BENEFITS AND IMMIGRATION: A COMPLEX MIX

The 60-year-old East Asian immigrant came to the AIDS Law Project seeking help in getting ongoing health care, something essential to a person with HIV.

Because of his immigration status, he had not been eligible for regular Medical Assistance, and instead had Emergency Medical Assistance which is limited to coverage for a specific medical emergency. The assistance is terminated when that specific medical issue is resolved. The client’s emergency was resolved by the time he came to us, so his Emergency Medical Assistance was ending.

During the period he was using Emergency Medical Assistance, the client became a legal permanent resident (LPR), making him eligible for the more comprehensive Medical Assistance program.

Staff Attorney Adrian M. Lowe appealed the termination of Emergency Medical Assistance, but his goal was to get his client on regular Medical Assistance, something the man’s caseworker had unsuccessfully tried to do.

The state Department of Human Services, which administers the Medical Assistance program, would not approve him for expanded benefits, despite the fact that his new immigration status made him eligible.

Both Adrian and his client repeatedly tried to explain the situation.

“They weren’t listening to him,” Adrian said. “They were barely listening to me.”

Even after DHS noted the client’s changed immigration status, they incorrectly denied his benefits. As an LPR, the client should have been approved for benefits.

The rules around immigrants and public benefits are complicated, and Adrian recognized the value of making sure that DHS understood them for this client and those to come. He made more than a dozen calls to officials in a two-week period.

Finally, Adrian’s hard work paid off and his client got Medical Assistance.

A YEAR LATER, A MESS UNTANGLED

It was already a difficult time in the man’s life.

A long-time employee of a major department store, he was about to retire because of his deteriorating health. Despite his employment, he was receiving Social Security disability benefits through a Social Security Administration work incentive program.

But as he was preparing to leave his job, his disability income was cut off because he had exhausted his eligibility, although he still received Medicare.

He also was now eligible for Medicaid, as well as a program where the state pays part of his Medicare premiums.

But it is in these situations – where a person’s circumstances and benefits change and income is lost – that problems can occur, said Staff Attorney Jacob M. Eden.

“This should have been a matter of a simple expedited reinstatement of income, but because of bureaucratic mishaps, the entire thing became a yearlong ordeal,” Jacob said.

Jacob helped the man apply for renewed disability income benefits, making sure that the man received provisional payments while Social Security considered his application. After months of review, Social Security approved the man’s claim.

So everything is fine, right? Not so much.

First, when the state sent the money for the Medicare premiums to Social Security, the payments were inexplicably sent back to the state. Social Security then billed the client for the premiums. Jacob sorted out that mess and made sure Social Security accepted the premium payment.

Second, when it came time for the man to transition from provisional payments to regular payments, no check came. Jacob immediately contacted Social Security and had them issue emergency payments. For months, the man did not receive his regular payment. Each month Jacob had to request an emergency payment be made.

While this was going on, Jacob worked to figure out why the man was not in regular pay status. In numerous contacts with the Social Security Administration, Jacob worked his way through the field office hierarchy, then the regional office, where a Social Security employee figured out that the correct paper work had not been shared among all the offices.

“A year after contacting our office, our client finally received all the benefits that he was entitled to without any problems,” Jacob said. “He said he would have given up without our help.”

FACING OFF A RELENTLESS LANDLORD

The young mother of three children was distraught when she came to the AIDS Law Project’s office in April. She was unemployed, sick, all her utilities had been shut off for nonpayment and her family was being evicted from their home.

Housing Paralegal Jade McKnight took on one problem at a time – each made worse by an aggressive landlord.

Jade started by getting an order restoring her utilities because of her medical needs. But that wasn’t enough. The landlord, who had illegally shut off the water, refused to give utility company workers access to the basement to turn on the electricity and gas.

Jade contacted the police, who informed the landlord he had to turn the water back on and let the utility companies restore services.

In the meantime, Housing Attorney Jenna Collins represented the woman in a Municipal Court landlord-tenant hearing. She negotiated a payment plan for back rent and got some time for the family to move to a new place.

But it wasn’t over yet.

The landlord then tried to garnish her bank account for back rent. Jade fought that off, but then the landlord sought to take her personal property as payment of her debt.

“This landlord was truly relentless,” Jade said. “There were several tear-filled meetings in my office.”

Although the stress of the situation was taking a toll on the woman’s health, she persevered with Jade’s help. At a final court hearing, a judge prevented the landlord from taking her property.

“Now, the woman and her family have moved to a new home and are safe from the former landlord,” Jade said. “It was an uphill battle, but she was happy by the end of it.”

NAVIGATING THE SYSTEM
Boo!
at bahdeebahdu
OCTOBER 29, 2015

For more photos, visit us on Facebook at AIDS Law Project of Pennsylvania
From left, Flannery Farrell, Cara McClellan, Molly Ashodian, Rachel Eisenberg, Stevie Pearlman, Kaetochi Okembgo and Isaiah DeLeon-Mares.

Photo: Bob Smith

Kate Mallow
Photo: Anne Saint Peter

Julie Foster and Jean Brolilat IV, Tired Hands Brewing Company
Photo: Kartik Zutshi

Alyana Potts and Evan Thornburg
Photo: Kartik Zutshi

Kevin Castañeda and RJ Thornburg, event co-host
Photo: Anne Saint Peter

Ronda Goldstein of the AIDS Law Project, Isaiah Zaggar, Warren Muller, event co-host, and Adrian Lowe of the AIDS Law Project.
Photo: Pebbles McWhorter

Michael Johnson
Photo: Joey Romano
Discrimination continued from cover
On the recommendation of her primary care
doctor, the woman had sought bariatric
surgery. She showed up for her first appoint-
ment at a practice owned by Mercy Suburban
Hospital, filled out paper work, and waited to
be assessed by a surgeon.
She was stunned when an office worker came in
and told her the doctor would not see her
or do the surgery, which she claimed had never
been done before on a person with HIV.

The AIDS Law Project filed a complaint with
the U.S. Department of Justice alleging that
the hospital violated the Americans with
Disabilities Act, which prohibits discrimina-
tion based on disability.

The Department of Justice pursued the
complaint and on Oct. 5 announced that
the hospital had agreed to pay the woman
$20,000 in damages as well as a $5,000
civil penalty to the United States. Mercy also
agreed to implement a non-discrimination
policy, advertise the policy and train employ-
ees and contractors to abide by it. Although
Mercy settled the complaint, it denied liability.

AIDS Law Project Executive Director Ronda
B. Goldfein and Staff Attorney Adrian M.
Lowe represented the woman. Assistant
United States Attorney Jacqueline C. Romero
investigated the case.

“We pursue these discrimination cases for
many reasons,” Ronda said. “Not only do we
want to compensate the clients for their harm,
but we want to educate the public on the ac-
tual risk of HIV transmission and that people
with HIV are not a threat.”

In another recently settled case handled by
Ronda and Adrian, a woman who had been
receiving twice-weekly paraffin wax treat-
ments at a Montgomery County rehabilitation
center sought the help of the AIDS Law Project.

After receiving treatments for about six
months, the center found out she had HIV.
When it came time for her next treatment,
a physical therapist produced blue medical
gloves for her to wear, explaining that it was
a matter of policy because she had HIV. The
therapist said the gloves were to protect
other patients.

The woman immediately left the center.
“She was deeply humiliated,” Adrian said.
The incident struck a painful chord for the
woman. She had emigrated to the U.S. from
the Caribbean, where stigma and misin-
formation about HIV transmission can be
widespread. Part of her early struggle with the
disease was to learn the facts about HIV and
overcome her own internalized stigma.

After investigating her claim, the AIDS Law
Project threatened to sue the rehabilitation
center under both the federal Americans with
Disabilities Act and the Pennsylvania Human
Relations Act. The center agreed to pay the
woman an $8,500 settlement, but it was only
a partial victory.

The center now requires everyone who uses the
paraffin bath to wear medical gloves.

“In this case, we were disappointed that we
only accomplished half of our goal,” Ronda
said. “The rehab’s new policy to require
all patients to wear gloves shows that they
still don’t understand HIV transmission. We
recognize that there is still plenty of work for
the AIDS Law Project to do. *

Prevention Point continued from cover
Although the program originally started in
2003, it was eventually suspended because of
budget constraints.

Jose Benitez, Prevention Point’s executive
director, said he was thrilled the program is
back, especially since many of the organiza-
tion’s clients are disconnected from the social
services network and are initially skeptical of
going to Center City to seek help.

“This builds a bridge,” Jose said. “People get
to meet the AIDS Law Project staff and get
to know them.”

Addicts who are trying to focus on their
recovery also can find themselves haunted
by past legal troubles. Unresolved arrest
warrants for drug possession and other
charges, probation violations and failure to
appear in court can create barriers to moving
on to a new life.

A fundamental fear is that trying to resolve
outstanding cases without help will lead to
serving time in prison.

Some people are so fearful of outstanding
warrants that they feel simply walking around
in public is a risk.

The AIDS Law Project does not practice
criminal law, but can research legal prob-
lems clients are facing – such as outstand-
ing warrants – and connect them to criminal
defense lawyers.

Even something as basic as not having legal
identification can stymie an addict’s recover.
Whether trying to get into a rehabilitation
program or get public benefits, one of the first
questions often is, “Do you have ID?”

“Things like that tend to get lost in the fray,”
Jade said. “Getting those documents is impor-
tant for people to be able to rebuild their lives.”
Initiative empowers healthcare consumers, fights discrimination

Thanks to a project currently underway, people with HIV and AIDS will soon have a new tool to assess what health insurance plans work best for them.

The project also will help determine if insurance companies or regulators are discriminating against people with HIV and AIDS.

Harvard Law School’s Center for Health Law and Policy Innovation is spearheading the 2016 Qualified Health Plan Assessment Initiative, conducted in collaboration with many state and national partners. The AIDS Law Project was selected to be Pennsylvania’s community lead for the project.

In early November, Staff Attorney Jacob M. Eden, along with two trained volunteers, gathered information and analyzed all health care Marketplace Silver insurance plans available in Pennsylvania.

The plan called for the results to be sent to Harvard, which provided local training and technical support, to be compiled into a concise and useful report.

The work was done on a tight deadline. Open enrollment began Nov. 1 and ends Jan. 31. In order to be covered by Jan. 1, plans must be selected by Dec. 15.

Jacob said the information will help people with HIV and AIDS make an educated decision on what plan to choose.

“We want to help people make the best decisions so they receive the most bang for their buck,” he said.

The Harvard team and the AIDS Law Project also will use the results to hold insurance companies, regulators and state and federal officials accountable for making sure the Affordable Care Act works for the people we serve.

“The policy goal is to make sure companies aren’t discriminating against people with HIV by discouraging them from selecting their plans,” Jacob said.

If there are problems, Harvard and the AIDS Law Project will work to rectify them, including potentially filing lawsuits.

A link to the new consumer tool was not available at press time. Please visit www.aidslawpa.org for more information.

South Jersey office provides vital services

Just nine months after the AIDS Law Project of Pennsylvania expanded to South Jersey, people with HIV and AIDS in the region are reaping the benefits of the initiative.

The AIDS Law Project stepped up in March when the organization that had been providing free legal services was at risk of closing. The revamped AIDS Law Project of Southern New Jersey serves people in Camden, Gloucester, Burlington and Salem counties, as well as other areas of South Jersey, out of offices in Voorhees and Camden.

Charlotte Hollander, senior staff attorney in South Jersey, has encountered a wide variety of legal issues. Charlotte has helped clients complete Chapter 7 bankruptcies in order to discharge debts, giving them a fresh start. She also assisted with Social Security cases, helping clients restore and maintain their benefits. In one of these cases, her client was granted full disability benefits retroactive to 2011.

“Here in New Jersey the social services network is severely fraying,” Charlotte said. “It’s extremely important to have these free services available to people.”

One of the advantages of the new arrangement is that the South Jersey program can benefit from the expertise of the AIDS Law Project of Pennsylvania. In July, Executive Director Ronda B. Goldfein and Deputy Managing Attorney Juan M. Baez met with law school professors and local legal service providers at Rutgers University - Camden to assess the availability of free legal services. The two also met in July with case managers and approximately 20 people living with HIV, patients of the

Congratulations

Arlene Vasquez, the AIDS Law Project’s receptionist, adopted two boys in October that she has nurtured for four years in foster care. Leon Fernandez, 8, and his brother Jonathon Fernandez, 4, join Arlene and her daughter, Ginger Vera, 21.

Lydia Gottesfeld and Jacob M. Eden were married Sept. 6 in Philadelphia. Jacob is a staff attorney at the AIDS Law Project and Lydia is an Independence Foundation Fellow at Community Legal Services. They met while students at American University Washington College of Law.

Kate Reilly and Andrew Teheran were married on Oct. 10. Kate was a summer associate with the AIDS Law Project in 2010 and graduated from the Rutgers School of Law.

Sarah R. Schalman-Bergen, AIDS Law Project’s of counsel, and Courtenay Dunn, a former board member, have been named by The Legal Intelligencers as 2015 Lawyers on the Fast Track. Sarah is a Shareholder at Berger & Montague and Courtenay is Litigation Counsel for MERSCORP Holdings, Inc. and a Commissioner on the American Bar Association’s Commission on Sexual Orientation and Gender Identity.

Thank you

The AIDS Law Project would like to thank the following interns for their invaluable assistance.

Victoria Ruby, a second-year student at Temple University Beasley School of Law, interned over the summer and assisted with housing, public benefits and intake.

Andrew Newstein, a second-year student at Temple University Beasley School of Law, interned over the summer and returned to the office to assist with intake and public benefits.

Brent Jacobs, a student at Swarthmore College, interned over the summer and assisted with development and the planning of our annual Summer Movie Party.

Marc Mounzer, a student at Moorestown High School, interned over the summer and assisted with data gathering and administrative projects.

Simon Caskey, a high school senior at Julia Reynolds Masterman School, created a set of graphs that track the number and type of AIDS discrimination we have handled over the last decade.

Cooper University Health Care infectious diseases program in Camden, to assess their legal needs.

To raise awareness about its services and meet members of the community, staff and board members from the AIDS Law Project had a booth at Southern New Jersey LGBTQA Pride at Cooper River Park in Pennsauken in September.

“It’s great to have other lawyers to talk to about issues and cases,” Charlotte said. “It’s a really good team.”
**Thanks to our funders and donors**

Gifts received April 1, 2015, through September 30, 2015

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*The AIDS Law Project is the convener of the HIV Policy Collaborative of Pennsylvania, a consortium of AIDS service organizations active in dozens of counties across the Commonwealth. Collaborative members work together to develop and recommend medically sound and legally equitable policies for the management of the HIV/AIDS epidemic and the treatment of people with HIV/AIDS.