N E W S L E T T E R O F T H E
A I D S L A W P R O J E C T O F
PENNSYLVANIA F A L L 2 0 0 9

G O Counsel

Pennsylvania syringe sales now Rx free

In a significant public health development aimed at reducing the spread of HIV/AIDS and hepatitis C virus among injection-drug users, Pennsylvania now allows over-the-counter pharmacy sales of hypodermic needles and syringes. The new regulation changes the former rule that allowed pharmacists to sell syringes only on presentation of a physician's prescription. Now pharmacists are free to sell syringes without limitation. The change took effect when it was announced in mid-September.

Making new syringes and needles more readily available discourages the use of shared or previously used devices that may be contaminated and spread the diseases.

"This is a chance for every pharmacy to become part of HIV prevention in Pennsylvania," said **Scott Burris**, professor at Temple University's Beasley School of Law and a national authority on syringe regulation and HIV prevention. "The pharmacy board has taken an important step forward for evidence-based policy."

The change in state pharmacy regulations comes after more than a decade of effort by a broad coalition of pharmacists and other health-

care providers, HIV/AIDS service organizations, public health professionals, legislators, lawyers and individual HIV- prevention activists.

The AIDS Law Project of Pennsylvania was a vigorous participant in the process, offering testimony before the regulatory review board, submitting comments on the draft and final regulations, and coordinating comments by other agencies around the state.

Said Executive Director **Ronda B. Goldfein**: "After the change, I got calls from people as far away as Erie County, saying, 'You don't know what this'll mean to us. It's really important to us for cutting HIV infection."

In 2007, in response to the concerns about infection control, the state Pharmacy Board began the process to amend its syringe regulation. In July 2009, the Pennsylvania Independent Regulatory Review Commission approved the final regulation, which took effect upon its publication in the Pennsylvania Bulletin on Sept. 12.

The change in the law reflects well-established evidence that increased access to clean needles and syringes is essential to reducing

SYRINGES, continued on Page 6



CBS commentator Nancy Giles portrayed the forewoman of a mock-trial jury during our DECADES 2009 benefit in November. More photos on Page 5.

AIDS Law Project educates a landlord

A single room in a boarding house is not everyone's idea of living large, but for Mr. B. it was heaven. What made the room in question so attractive was that it was not a cubicle in a homeless shelter.

The upgrade was coming about because of Mr. B.'s case manager, who had gotten him a rent subsidy. With those few dollars a month, Mr. B. was finally able to have some privacy while also living in the same neighborhood as his mother and girlfriend. Being in his own community was important to Mr. B. because, in addition to having HIV, Mr. B. is legally blind. His mother and girlfriend help him with many aspects of daily life.

While making arrangements to see the room, the property owner asked Mr. B. how

he would pay the rent. Mr. B. said his case manager would take care of it.

The property owner asked, "Why do you have a case manager?" and was shocked to learn that Mr. B. had HIV. Immediately, the whole tone of this standard business transaction changed. "I can't rent you this room," the landlord told Mr. B., "because you will endanger my other tenants."

The property owner then offered Mr. B. a different room, in an otherwise vacant building, that cost more and was far less convenient. Crestfallen, Mr. B. rejected that offer and continued his search for accommodations.

Mr. B. did find another room with another landlord, but it was more expensive and not

RENT, continued on Page 6

NEWSLETTER OF THE AIDS LAW PROJECT OF PENNSYLVANIA

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Good Counsel is published semiannually by the AIDS Law Project of Pennsylvania for our friends, volunteers and colleagues committed to protecting the rights of people with HIV/AIDS.

The AIDS Law Project of Pennsylvania works on 2,100 legal matters a year, nearly all from people with HIV/AIDS, many of whom have nowhere else to turn for help. We help people navigate the legal system, the welfare system, the housing system and the worlds of public and private insurance.

We also provide education and training to thousands of professionals who work with people with HIV/AIDS.

MESSAGE FROM THE EXECUTIVE DIRECTOR



Friends,

As this year comes to an end, I offer a holiday gift of the triumph of science over fear in the development of public policy. This triumph comes in the form of two important changes in the state and federal laws that affect people with HIV/AIDS.

You can read about both changes in this edition of Good Counsel.

In Pennsylvania, as of Sept. 12, hypodermic needles and syringes may now be legally sold over-the-counter in pharmacies. Previously, syringes could only be sold with a physician's prescription. This change is the result of extensive evidence demonstrating that increased access to clean needles and syringes is essential in reducing the spread of HIV and hepatitis C virus and that such a change will not result in increased drug use.

On the national front, the 22-year-old federal ban prohibiting people with HIV from visiting or immigrating to the United States has finally been lifted. On Oct. 30, President Obama announced that medical screening for HIV will no longer be required for people applying for green cards or travel visas. The decision goes into full effect on Jan. 4, 2010. The ban originated in 1987, when scientists, unsure of how HIV was transmitted, encouraged U.S. health officials to add HIV/AIDS to the list of communicable diseases that disqualify a person from entering the United States. The decision to repeal comes after years of lobbying by HIV and AIDS activists and public-health leaders who have argued that the ban has no scientific basis.

Both of these changes have broad public policy implications. Increasing access to syringes is an important and easily achievable piece of HIV prevention. Removing the ban on HIV-positive travelers and immigrants goes a long way toward reducing the stigma against people with HIV. These initiatives clearly demonstrate that evidence-based policy decisions are the best approach to tackling AIDS.

Here's to a New Year of more triumphs.

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

A STORY OF FAMILY ASYLUM, EIGHT YEARS IN THE MAKING

Civil war rips up not just countries but families. That was what happened to an HIV-positive man from Liberia who came to the AIDS Law Project of Pennsylvania in 2001 asking about applying for asylum in America.

Assigned to Managing Attorney **Yolanda French Lollis**, the client told a tragic tale of not only having to flee his home but also of a missing wife and family. Yolanda gave him a sympathetic ear and the benefit of her experience as she assisted with his application, and asylum was granted in January 2002. That first good fortune led to more, and eventually the client located his family intact and living in a refugee camp in a neighboring country.

In June 2003, Yolanda filed another asylum application, this time on behalf of the client's wife and three children. That petition was approved in December 2004, and in December 2007 the family joined her client in the United States.

While her client was waiting to be reunited with his family, Yolanda applied for the client's green card and HIV waiver. With a waiver, the green card was approved in October 2007. In December 2008, she applied for green cards for each member of the client's family.

On July 1, 2009, just in time to celebrate the birth of the country that was embracing this beleaguered family, the "Welcome to America" notices announcing that the additional green cards were on their way arrived at the AIDS Law Project of Pennsylvania.

The success of the asylum and green-card applications is a tribute to the persistence of the Liberian family, as well as an example of how AIDS Law Project assistance has a ripple effect that extends far beyond a single individual. It also shows that helping people can take a long time – in this case, eight years from start to finish – and the value of having an advocate willing to hang in for the long haul.

HIV TRAVEL BAN LIFTED

On Oct. 30, President Obama announced that the federal government would remove HIV as a condition prohibiting someone from becoming a permanent resident of the United States.

This means medical screening for HIV will no longer be required for people who apply to get green cards. The decision goes into effect in January 2010.

In 1987, the federal government banned HIV-positive people from immigrating to or even visiting the United States. At the time, little was known about the virus that causes AIDS, and officials decided HIV was a "communicable disease of public health significance."

The Centers for Disease Control and Prevention explained the latest thinking: "Immigrants and refugees with HIV infection do not pose a risk to the public's health by entering the United States because HIV is preventable and is not spread through casual contact."

OLD WARRANT WARRANTS A TIMELY APPEAL

Ms. M.'s Social Security benefits were suspended in November 2008 because of an outstanding Florida warrant. By February, she found her way to the AIDS Law Project of Pennsylvania, which assigned Criminal Records Resolution Paralegal **Rochie Johnson** to the case.

Rochie's first move was contacting the Florida authorities. The authorities, however, demanded that Ms. M. return to Florida and appear before a judge to resolve the warrant. As that option was prohibitively expensive and imprudent given Ms. M.'s health, Rochie started looking for another solution.

Rochie began looking into filing an appeal with the Social Security

Administration (SSA). He requested official copies of the warrant from Florida to document the claim, and when the paperwork came in it revealed that the warrant was not for a felony, but a misdemeanor. That distinction meant that Ms. M.'s benefits should never have been suspended at all. Armed with the facts, Rochie wrote to the SSA in June drawing the error to its attention and asking for a review of Ms. M's claim and reinstatement of her benefits.

By now, Ms. M. had been living without income since November and had severely depleted her resources. She owed back rent and faced possible eviction.

However, just as she was getting desperate, the SSA agreed to reinstate her monthly benefits and reimburse her in two lump-sum checks for all the months for which payment had been withheld. In September, Ms. M. got a check for \$2,000, and the SSA promised that the remainder would be sent to her in six months.

But the SSA's confusion did not end there. After her first regular check came in, Ms. M. called Rochie to say that now the SSA was deducting \$20 from every check to compensate for prior "overpayments."

In response, Rochie got on the phone with the SSA to argue that overpayment recovery should stop because Ms. M. was, in fact, originally eligible and therefore was not overpaid. In August, the SSA reviewers agreed with Rochie's contention and reinstated Ms. M.'s full payments.

Her Social Security tangle was resolved - something she hadn't been able to do without the help of the AIDS Law Project.



How we hit the start button on tax-free deed transfers

More than a decade ago the city of Philadelphia began wrestling with the issue of giving domestic partners the right to transfer property to each other without having to pay the usual 3 percent city tax on the transfer — same as married couples — but ran into legal roadblocks. Finally, in 2007, the city found a way to accomplish that goal with an ordinance adopting the concept of "financially interdependent persons" — FIPs.

FIPs were defined as "persons who live together as a single household and who, for at least six months, have agreed to share the common necessities of life and be responsible for each other's common welfare." Under this approach, the sex of the people involved in the transfer was not an issue.

But more than a year after the measure took effect, no one had ever applied for the tax-free transfer under the revised realty-transfer law — until, that is, the AIDS Law Project of Pennsylvania was approached by a client who wanted to transfer the deed to a three-story Victorian home in East Oak Lane to his partner of 17 years.

The home's value was at least \$250,000, so bypassing the city's tax on the transfer would save at least \$7,500. But when Housing Paralegal **Samarjeet Wable** went to file the deed at the Recorder of Deeds, the staff was stumped. Although the law was in place, nobody had ever asked for a tax-free transfer based on being an FIP, and no regulations for filing the FIP transfer had been developed.

After almost six months of back-and-forth — and 19 months after the ordinance was passed — interim regulations were developed and the AIDS Law Project filed Philadelphia's first FIP tax-exempt deed. The recorded copy arrived in the AIDS Law Project office in September.

"While tax-exempt property transfers may not be a high priority given the city's current financial crisis, the fundamental fairness of offering the same benefit to all committed households should always be in style," said AIDS Law Project Executive Director Ronda B. Goldfein.

She also noted that in taking this case to a successful property transfer, the AIDS Law Project cleared the path for other FIPs to take advantage of the law, regardless of whether they are clients.

TRAINING AT A GLANCE

In the second and third quarters of 2009, the AIDS Law Project of Pennsylvania offered 31 opportunities to learn about AIDS law, including the monthly in-house seminars on Leaving Your Job, Back to Work, and Housing: Tenants' Rights and Responsibilities. Here's a snapshot view of the programs:

TRAINEE DEMOGRAPHICS April - September 2009

Who attended

125 case managers

68 clients

105 undergraduate students

Off-site locations

New Cumberland, Pa.

Danville, Pa.

Cranberry, Pa.

Philadelphia

Drexel University College of Medicine

Siloam (an AIDS service organization that provides a broad range of integrative mind/body/spirit services)

University of the Arts

Prevention Point Philadelphia (Philadelphia's only sterile syringe exchange)

Pennsylvania Convention Center

Most requested topics

AIDS and the Law Back-to-Work

Sponsors

Philadelphia FIGHT (a comprehensive AIDS service organization providing primary care, consumer education, advocacy and research on potential treatments and vaccines)

University of the Arts

Philadelphia Department of Health, AIDS Activity Coordinating Office

Health Federation of Philadelphia (a network of the community health centers in Southeastern Pennsylvania)



Photo by Donald D. Groft

MOVIE PARTY: Yolanda French Lollis (left) and Tiffany Hair welcome guests checking in for the AIDS Law Project of Pennsylvania's annual summer fundraiser, held in June at the new offices of our generous supporter, Digitas Health, located in the ornate and historic Wanamaker Building. "Born Reckless," a 1958 Western romance, was presented by Jay Schwartz of Secret Cinema.

The FIP designation defines families broadly. "This is a private transfer among people who are financially committed to one another," Goldfein said. But she noted that the tax exemption is not automatically applied. "If you are an FIP, talk to the Recorder of Deeds Office and ask."

While the city forgoes its cut, FIP transfers remain subject to the state's 1 percent transfer tax.

Collaborative sets priorities

Pennsylvania's HIV Policy Collaborative held its second annual meeting on Sept. 21 to discuss recent successes and plan its priority projects for the coming year. The meeting, convened in York by the AIDS Law Project of Pennsylvania, brought together representatives of several AIDS service organizations.

At the top of the agenda, the group discussed the recently amended state regulation authorizing over-the-counter sales of syringes in Pennsylvania. (*See cover story.*) The Collaborative plans to publicize the significance of syringe access as a public health issue through news media coverage, newspaper op-ed articles and letters to the editor. In addition, outreach to and training of pharmacists will be key to making the amended regulation effective. The Collaborative plans

to coordinate efforts with the Pharmacy Board and monitor pharmacy compliance.

Another priority issue discussed was HIV testing and pending Act 148-related legislation. Act 148, formally known as the Confidentiality of HIV-related Information Act, prohibits health-care providers and social service providers from disclosing HIV-related information without the permission of the subject, except in certain limited instances.

The Collaborative plans to prepare and distribute an Act 148 compliance guide, setting forth the clear requirements of Act 148. Members felt that some of the resistance to Act 148 may be caused by misinterpretations or misunderstandings about its requirements. The goal of the publication would be to explain how HIV testing with informed consent may be mainstreamed into routine health, while still complying with Act 148.

In collaboration with the Juvenile Law Center, the HIV Policy Collaborative will continue its work on the development and implementation of policies on the handling of confidential information by county children and youth agencies.

The priorities discussion ended with plans to work on public school compliance with HIV-education requirements. This project involves enhanced compliance with the mandatory HIV-education requirement for all Pennsylvania public schools.

The Collaborative will identify model HIV/AIDS-education policies. It will also work on identifying barriers to compliance, and ensuring that compliance means effective education, not perfunctory inclusion of HIV-education components. This project will be coordinated with efforts by Pennsylvanians for Responsible Sex Education.



DECADES

The AIDS Law Project of Pennsylvania held its DECADES 2009 benefit on Nov. 5 at the Park Hyatt at the Bellevue, where 175 supporters watched a mock trial with a message. Former state Supreme Court Justice Sandra Schultz Newman officiated, attorneys Thomas R. Kline (at left) and William L. Banton Jr. (bottom, left) argued the case of a prep chef with AIDS who was wrongly fired after she cut her hand in the kitchen, Dr. Robert M. Swenson (below) testified as the infectious-disease expert he is, and CBS commentator Nancy Giles served as jury forewoman. Joliet F. Harris (seated with Banton) portrayed the defendant, a sandwich shop owner. Rounding out the evening's docket was a silent auction. All together, \$65,000 was raised.





Photos by Donald D. Groff

TAKE A SEMINAR, TAKE CONTROL

Life can be a little easier with the right information at your fingertips. Our AIDS and the Law experts give you the lowdown on how to leave your job, go back to work or handle your landlord. These free seminars are held at our offices at 1211 Chestnut St., Suite 600, just a short walk from the Broad Street and Market/Frankford SEPTA lines, Market East trains and many bus lines.

Back to Work

Your medications are working and you're ready to get a job. This seminar covers the rules of returning to work so you won't lose your benefits that got you healthier in the first place. You'll also learn how to improve your credit rating with your new income.

Second Tuesday of the month, noon-2 p.m.

Jan. 12 Feb. 9 March 9 April 12 May 11 June 8

Leaving Your Job

Making a smooth transition from the working world onto disability takes planning. This seminar lays out a step-by-step timeline so you know what to expect when it's time to make the move. You'll also learn how to avoid some of the common debt pitfalls leaving a job can entail and how to handle the debt you may take with you into retirement.

Second Wednesday of the month, noon-2 p.m.

Jan. 13 Feb. 10 March 10 April 14 May 12 June 9

Housing: Tenants' Rights and Responsibilities

Before you sign a lease or make a security deposit, learn what to expect of your landlord and what your landlord can legally expect of you. This program covers protecting and retrieving your deposits, record keeping, qualifying for subsidies, dealing with utilities, and all aspects of the landlord/tenant court process.

Second Thursday of the month, noon-2 p.m.

Jan. 14 Feb. 11 March 11 April 8 May 13 June 10

SYRINGES, continued from cover

the spread of hepatitis C virus and HIV and that such a change will not result in increased drug use. Only two states — New Jersey and Delaware — continue to require prescriptions for pharmacy sales.

"This change is particularly important in Pennsylvania because we have only two locations —Philadelphia and Pittsburgh — in which legally authorized syringe exchange programs operate," said **David W. Webber**, founder of the AIDS Law Project of Pennsylvania who is now *of counsel* to the firm. "These two programs alone are simply not adequate to address this problem across the entire state, but syringe-exchange programs continue to be crucial in providing sterile syringes as well as access to drug treatment and health care for injection drug users." Based on national estimates of the number of injection drug users, experts estimate that there are 9,000 to 13,000 such drug users in Philadelphia alone.

The full text of the amended Pharmacy Board regulation is available at: http://bit.ly/6BeZKv (Pa. Bulletin, Sept. 12, 2009).

RENT, continued from cover

as convenient as the room he had been denied. Moreover, the unfairness of the property owner's contention deeply troubled and saddened Mr. B.

Knowing how HIV is transmitted, Mr. B. also knew that shared accommodations are not a risk factor. The feeling that he had been a victim of illegal discrimination brought Mr. B. to the AIDS Law Project of Pennsylvania.

Summer Certified Housing Legal Intern **Diane DeGroat** was given Mr. B.'s case. DeGroat met with Mr. B. and confirmed that HIV housing discrimination was illegal. She also wrote a letter to the property owner explaining the law and advising that Mr. B. was entitled to various remedies, including compensatory damages.



Shanay Ball

Diane DeGroat

In response, the property owner's attorneys wrote back, denying Mr. B.'s version of the story. That letter arrived at the office in September, after DeGroat had returned to school. Certified Legal Intern **Shanay Ball**, a member of Drexel's Field Clinic at the AIDS Law Project, picked up where Diane left off.

Ball wrote and sent a second letter on Mr. B.'s behalf to the property owner's lawyers. In it, she explained that one of the usual penalties for rental-housing discrimination was that the offending party pays the difference in rent between the cheaper original accommodation and the more expensive lodging eventually taken.

In October, the property owner's lawyer contacted the AIDS Law Project to discuss a settlement. Executive Director Ronda Goldfein negotiated a settlement in which the property owner paid Mr. B. an amount that will allow him to maintain the more expensive apartment for the next few years.

Mr. B. felt vindicated, the landlord got an education in AIDS and the law, and the AIDS Law Project once again proved that giving a client a legal voice is a key to leveling the playing field when discrimination rears its head.

Changes...

Welcome new board member



Waheedah Shabazz-El received her HIV diagnosis in 2003 while serving time for a drugs charge. Since then, she has overcome the hurdles of stigma, drug addiction and incarceration to become an outspoken advocate for people with HIV/AIDS and prisoners everywhere. Waheedah works for Philadelphia FIGHT as an HIV counselor and

tester, and for the Community HIV/AIDS Mobilization Project as a national community organizer. She is a leader in ACT-UP Philadelphia, Project TEACH, the United States Positive Women's Network, the University of Pennsylvania Center for AIDS Research, the HIV Prevention Trials Network and the Prison Health Care Re-Entry Network. Her work has been featured in POZ magazine, and Women's Way honored her last spring with its Powerful Voice award.

Welcome new faces

The academic year is underway at the AIDS Law Project of Pennsylvania Field Clinic, and this year's student clinicians from Earle Mack School of Law at Drexel University, with their areas of specialty, are:

- Housing: Juan Baez and Shanay Ball
- Public benefits: Charles Bruce and Gabbie Nirenburg
- Consumer, discrimination and confidentiality issues:
 Kailee Farrell, Marisa Barriere and Deborah Richman.
- Social Security and immigration: Earthen Johnson

All the students are in their third and final year of law school and are certified to advise and represent clients.

In addition to the law students, graduate student **Jacob Eden** has joined our intake staff for the year.

Welcome, all, to the AIDS Law Project team.

Thanks

Once again, the AIDS Law Project of Pennsylvania is pleased to extend its gratitude to a dedicated group of summer interns who kept the wheels of justice turning through Philadelphia's hottest months.

They are:

- Daniel Baltuch, of the University of Pennsylvania Law School, who held a summer fellowship through Equal Justice America; and J. Nicole Martin, of the Earle Mack School of Law at Drexel University who handled Public Benefits matters.
- **Diane DeGroat**, of American University Washington College of Law, worked on Housing and came to us through VISTA.
- Jane Nylund, of Villanova Law School, and Vinh Su, of Drake University School of Law, worked on Consumer/ Discrimination/Confidentiality cases.

In addition, **Andrew Kupchik**, of the University of Pennsylvania Law School, spent a month in our offices doing research and writing assignments, courtesy of Morgan Lewis.

Congratulations

On Oct. 8, the AIDS Law Project of Pennsylvania welcomed a new baby into its extended family of supporters. Best wishes to Board Secretary **Bryn Michaels** and her husband, **Jeff**, who recently brought **Sloane Isabel** home to meet older sister **Chloe**.

Congratulations are also in order for **Phoebe A. Haddon** upon her appointment as dean of the University of Maryland School of Law. Like her husband, Board Member **Frank McClellan**, Phoebe has spent many years teaching at Temple University's Beasley School of Law. Best of luck in your new position, Phoebe.

Finally, the AIDS Law Project salutes two of our friends and colleagues, **Jane Shull** of Philadelphia FIGHT and **Chris Bartlett** of ActionAIDS, who are among the 2009 Red Ribbon honorees of the Community Advisory Board of the Penn Center for AIDS Research. The board describes the award as its "highest recognition for policy makers, researchers, and community leaders who have made significant contributions to the fight against AIDS and to the health of citizens in our community."

In memoriam

It is with great sadness that the AIDS Law Project of Pennsylvania notes the passing of two prominent supporters. **Bruce Flannery** died on Aug. 14 at age 54, and **Larry Frankel**, also 54, died on Aug. 28.

Bruce, our friend and former board member, was involved with a host of AIDS service organizations in addition to the AIDS Law Project, including serving as president of the Pennsylvania Coalition of AIDS Service Organizations, the predecessor to the HIV Policy Collaborative. In that role, he is remembered for convincing legislators and policymakers to direct more than \$20 million of state funding toward better medical care of HIV/AIDS patients, expanding more than tenfold the number of medications made available through the state Department of Public Welfare to those who couldn't afford lifesaving drugs, and for lobbying to make Pennsylvania the first state to add new therapies to its list of medications offered to HIV/AIDS patients.

Gov. Tom Ridge named him to the Inter-Governmental Council on Long-Term Care, and Gov. Edward Rendell appointed him to the Department of Health Transition Team. He also was named to the state's HIV Planning Council, on which he served as co-chairman for six years.

Bruce was a technical adviser on the 1993 film "Philadelphia" and helped develop and produce HIV/AIDS segments for CBS News, "NBC Nightly News with Tom Brokaw," the "Today" show and "CBS Sunday Morning," as well as for international broadcasters.

Larry Frankel was also was a good friend to the AIDS Law Project and actively involved in our formation. Larry served as legislative director of the American Civil Liberties Union of Pennsylvania from 1992 through 2008 and as executive director from 1996 to 2001. At the time of his death, Larry was the state legislative counsel for the American Civil Liberties Union in its Washington legislative office.

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