

HIV DISCRIMINATION: A CHRONIC HEALTH PROBLEM

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.

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.

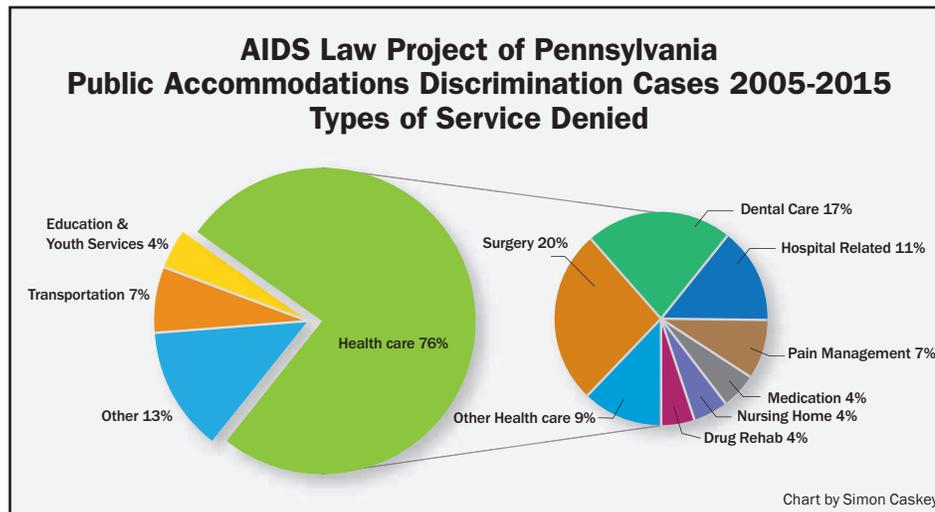
Since the founding of the AIDS Law Project 27 years ago, we have repeatedly taken on doctors, emergency medical workers, dentists, hospitals, nursing homes and rehabilitation centers on behalf of our clients.

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 reinvig-

orating 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



Boo!
at bahdeebahdu
See the fun on pages 4-5!

John Jarboe of The Bearded Ladies performing at Boo! Photo: Bob Smith

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. Last year, we worked on more than 1,707 legal matters, nearly all from people with HIV/AIDS. We help people navigate the legal system, the welfare system, the housing system and the worlds of public and private insurance. We provide education and training to thousands of professionals who work with people with HIV/AIDS.

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 has to call 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.



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

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."

NAVIGATING THE SYSTEM

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."

Boo!

at bahdeebahdu

OCTOBER 29, 2015

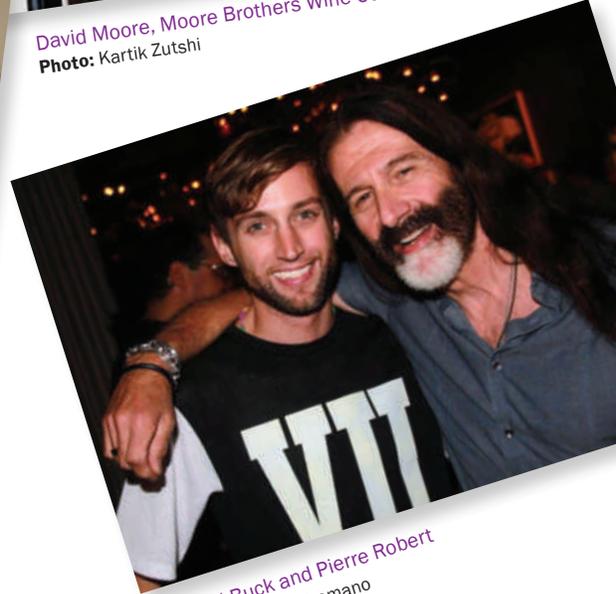
For more photos, visit us on Facebook at AIDS Law Project of Pennsylvania



David Moore, Moore Brothers Wine Company
Photo: Kartik Zutshi



Messapotamia Lefae, of the AIDS Law Project, performs at Boo!
Photo: Joey Romano



Ed Buck and Pierre Robert
Photo: Joey Romano



Patricia White and Cynthia Schneider
Photo: Anne Saint Peter



Kim Silverman, AIDS Law Project board member, Patrick Egan and Yolanda French Lollis, of the AIDS Law Project
Photo: Kartik Zutshi



Lester Lledo and Joe Vena
Photo: Bob Smith



Marvin Rocha, Francisco Sanchez, and caterer David Hall of Joshua's Catering
Photo: Anne Saint Peter



Kate Mallow
Photo: Anne Saint Peter



From left, Flannery Farrell, Cara McClellan, Molly Ashodian, Rachel Eisenberg, Stevie Pearlman, Kaetochi Okembgo and Isaiah DeLeon-Mares.
Photo: Bob Smith



Julie Foster and Jean Broillet 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 Goldfein of the AIDS Law Project,
Isaiah Zagar, 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 appointment 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 he 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 discrimination 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 employees 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 actual 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 treatments 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 misinformation 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 organization’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 problems clients are facing – such as outstanding 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 important for people to be able to rebuild their lives.”

TAKE A SEMINAR, TAKE CONTROL

Life can be a little easier with the right information at your fingertips. Our 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.

MARRIAGE AND PUBLIC BENEFITS: A BUYER’S GUIDE

With the arrival of marriage equality in Pennsylvania, people on public benefits need to be informed about the impact getting married could have on them.

Every Friday of the month, 9:30 a.m.-1 p.m.

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 the 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.

LEAVING YOUR JOB

Making a smooth transition from the working world onto disability benefits 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.

HOUSING: TENANTS’ RIGHTS AND RESPONSIBILITIES

Before you sign a lease or offer 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.

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 Intelligencer* 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.



Friends, volunteers and staff members represented the AIDS Law Project of Pennsylvania as Team 8 at the 29th annual AIDS Walk/Run Philly 5K on Oct. 18. From left, Housing Attorney Jenna Collins, Paralegal Jade McKnight, Executive Director Ronda B. Goldfein and Staff Attorney Jacob M. Eden sweating after the run.

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."

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**The AIDS Law Project is the convenor 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.*

To join, visit our website at:
<http://aidslawpa.org/get-help/legal-information/collaborative>.