

CHOOSING BETWEEN PRIVACY AND HEALTHCARE

The doctor walked into the hospital room with good news for the patient, who was recovering from a medical procedure.

“It was a success,” the doctor said. “Keep taking your HIV meds and you’ll be fine.”

The patient was mortified. His HIV status had just been disclosed – against his wishes – to a friend who had come to visit.

“The visitor got up and left, never to be seen again,” said **Adrian M. Lowe**, a staff attorney for the AIDS Law Project of Pennsylvania.

It could be a simple slip of the tongue at the wrong moment. Or maybe it happens in the bustle of a harried workday at a hospital. Or it could be a casual disregard for fundamental health care policies and procedures. Sometimes, but rarely, it is intentional.

In the blink of an eye, a patient’s privacy can be shattered as highly personal medical information is revealed to those who were never intended to be privy to it.

The AIDS Law Project has repeatedly come to the aid of individuals whose status was

disclosed without permission by health care workers to family, friends or strangers. The experience has left them feeling vulnerable, depressed and even reluctant to seek medical care.

“You shouldn’t have to choose between privacy and health care,” said **Ronda B. Goldfein**, executive director of the AIDS Law Project.

In the last five years, the AIDS Law Project has won about \$75,000 in claims for clients whose confidentiality was violated in health care settings. Settlements also include guarantees that better policies and procedures are instituted and appropriate training be provided to health care workers, from doctors to records clerks.

A CASUAL SLIP

Ironically, in many of the cases we handle, the root cause is what is otherwise a positive development. HIV and AIDS stigma once made it difficult, sometimes impossible, for people to get appropriate care. While stigma still exists, HIV and AIDS treatment has increasingly been “mainstreamed” in the health care community.

The flip side to that is the potential for a lax attitude about confidentiality.

Another client was happy to get a visit in hospital from a long lost cousin. As they were taking the tentative steps in catching up, a social worker walked into her room and announced, “I found AIDS housing for you.”

While with patients, Ronda said, health care workers must be mindful that “the people visiting patients are not necessarily their best and dearest.”

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Boo! at bahdeebahdu



SEE PHOTOS OF ALL OF THE FUN
ON PAGES 4 AND 5.

After discrimination, a life back on track

The man loved his work. His job was his identity.

At age 39, he was proud of the fact that he had worked steadily since he was 14. For those in his immediate circles, work was often intermittent and hard to come by. He was always “that guy who works.”

Furthermore, he believed his work at a residential facility for troubled youth was providing an invaluable service.

“He believed in work,” said **Adrian M. Lowe**, a staff attorney for the AIDS Law Project of Pennsylvania. “He liked helping young people get back on track.”

His life nose-dived the moment his employer found out he had HIV. First he was suspended. Then he was fired.

“They said, ‘We’re sorry to see you go, but state law says you can’t work here because you have an infectious disease,’” Adrian said.

“He kind of fell apart,” recalled **Ronda B. Goldfein**, executive director of the AIDS Law Project. “His work gave him meaning. It gave him context to his life. All of a sudden he feels he has no life and no future.”

The man knew about the AIDS Law Project from his social work, so he gave us a call.

Unfortunately, it is a battle we have had to fight many times during the years. About 30 state licensing boards require workers to be free of infectious, contagious or communicable diseases. Some employers assumed that applied to HIV, which simply was not the case because it is not transmitted through casual contact in the workplace.

The AIDS Law Project led an initiative to clarify the law, and in 2011 the state issued new guidelines explicitly excluding diseases such as HIV.

By firing the man, the employer wound up on the wrong side of federal and state anti-discrimination law.

Part of our mission is to educate people, including employers, on all aspects of the law regarding HIV and AIDS. Our efforts appear to be bearing fruit.

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NEWSLETTER OF THE
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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 2,500 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,

Viruses, from HIV to the common cold, are random. People don't feel shame for catching a cold, and they shouldn't be embarrassed about being diagnosed with HIV.

The AIDS Law Project is vigilant about protecting against unauthorized disclosures about HIV status. One of the cover stories in this newsletter involves cases in which health-care providers impermissibly disclosed a client's HIV status.

So why are we sending a mixed message? Why are we saying there's no shame in having a virus, but don't let anyone know you have it?

Because HIV discrimination still exists, as detailed in the other cover story: A man was fired from a job he loved after his employers found out he has a virus, HIV.

In fact, three to five times a week, the AIDS Law Project gets calls from people who have been treated differently simply because they have HIV.

We routinely advise people that the best way to avoid HIV-based employment discrimination is to keep quiet about your status. Yet we encourage people to be open about their HIV status when seeking health care, even though that openness may result in denial of care.

For decades, newspaper obituaries would not identify cancer as a cause of death because it carried a stigma. Cancer awareness and sensitivity have made this an unnecessary and outdated standard.

But despite advances in science and medicine since Pennsylvania's HIV-confidentiality law was enacted more than 25 years ago, the need for privacy remains. I look forward to the day when this is no longer true.

Until then, people with HIV remain vulnerable when their private health information is shared beyond their control. And the AIDS Law Project remains vigilant about protecting them.

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 SAFE HOME AT LAST

It was clear from the beginning there were serious problems with the new apartment.

The 52-year-old woman was scheduled to move in March 1, but the apartment was full of trash and unlivable.

She finally moved in March 10, only to find a host of other problems. The apartment was infested with ants, roaches and bed bugs. There was mold in the bathroom, the bathroom and kitchen sinks flooded and the toilet often backed up.

Those conditions would have been tough for anyone to tolerate, but the woman also had an anxiety disorder, which made her situation unbearable, said **Jennifer Collins**, the housing attorney for the AIDS Law Project.

"To have this chaos where she lived, it was incredibly stressful," Jennifer said. "There were lots of tears."

The woman had gone to a meeting of a tenant's rights non-profit, where she was advised to write to the landlord and threaten to withhold the rent. When the problem weren't fixed she started putting her rent in escrow, so she could prove later she intended to pay it.

That was the right thing to do, but by the time she came to the AIDS Law Project the situation had spiraled beyond her control and understanding.

The woman received a housing subsidy for people with AIDS that is administered by a local non-profit agency. The landlord told the agency the woman had stopped paying rent – without mentioning the letter she had sent. The agency, believing she had violated the terms of the subsidy, terminated it. Without the subsidy, the woman, whose sole income was \$750 a month in Social Security, could not afford the apartment.

The landlord also filed an eviction action in Municipal Court demanding \$3,293 in back rent.

Our housing paralegal **Michael Gluk**, supervised by Jennifer, began working on the case.

"Every time she called she was very distressed," Michael said. "She would often call in tears."

Michael reassured her that he would help her through the complicated process.

Michael appealed the housing subsidy loss with the city's Office of Housing and Community Development (OHCD). He worked with the non-profit agency to resolve the conflict. The OHCD ordered the agency to continue the subsidy until the appeal hearing.

Michael advised his client to contact the city's Licenses and Inspections department and request that they visit the apartment to document the conditions. Armed with the L & I report, Jennifer successfully represented the client at the eviction hearing. The eviction was denied and the landlord agreed to fix all the problems with the apartment.

With the denial of the eviction complaint to bolster him, Michael successfully represented the woman at his first OHCD hearing. Her housing subsidy was restored, giving the woman a sense of security and a safe, clean home.

"It felt good to be able to help her," Michael said.



NAVIGATING THE SYSTEM

SEEKING A NEW LIFE - AND HEALTH CARE

Many migrants who come to the United States from Mexico are seeking economic opportunities and a better way of life.

Some have additional reasons, such as a man **Yolanda French Lollis**, the AIDS Law Project's managing attorney, has represented periodically for about 15 years.

"He wanted a better life for himself as a gay man," Yolanda said. "It was difficult being openly gay in Mexico."

He came to this country in the 1990s on a tourist visa, eventually staying in a Pennsylvania city. One night in 1996 he was walking down the street when he was jumped by a stranger, dragged into a building and raped.

"He was traumatized and humiliated by the experience," Yolanda said. "He had anxiety, despair, he couldn't trust anybody."

It got even worse.

After the violent assault he was diagnosed with HIV. Despite fearing homophobia in Mexico, he returned to his country because his tourist visa was expiring.

Going back also put his health at risk. His doctor said the HIV treatment he was getting here was probably unavailable in Mexico.

"Borders determine a lot of things," Yolanda said. "People on one side of the border get health care. People on the other side don't."

He was able to get another temporary visa in 2000. The AIDS Law Project helped him get that visa extended, but eventually he returned to Mexico as that visa was expiring.

Unable to get a new visa in Mexico, the man made the decision in 2005 to undertake the dangerous journey to cross the border into the US.

He came to us again in 2011, seeking to stay in the country with appropriate documentation. As he had been the victim of a rape in the US, Yolanda knew he could be eligible for a U Visa, a nonimmigrant visa for people who have been the victims of crime, suffered substantial physical or mental abuse and are willing to help law enforcement in the investigation of the crime.

Although the man met those criteria, he had another tough hurdle to clear.

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A NEW NAME; A NEW LIFE

It had been a long and often painful journey for the woman who fled her abusive husband in the 1990s.

The final straw was when he cut her with a knife and threatened her baby.

Mother and child moved into a shelter, and then began rebuilding their lives. They overcame struggles to get health care and housing.

Now her 18-year-old son, on the brink of going to college, wanted to make a change in his own life. All these years he had carried his abusive father's last name. Now he wanted to be rid of it. He wanted a new last name.

The AIDS Law Project had represented the family numerous times in the past, so the son turned to us for help.

At 18, it was easier for him to change his name than when he was a minor. For one, he didn't need parental permission. He had no contact with his father and didn't want any.

"He wanted peace of mind and closure," said **Malissa L. Durham**, staff attorney, an Equal Justice Works Fellow, sponsored by the Norflet Progress Fund. "His legal name tied him to his father."

Legally changing your name is a relatively simple procedure, but the circumstances of the case required additional precautions that Malissa and Staff Attorney **Juan Baez**, needed to address.

The trauma of domestic violence had created a fear that remained with the family.

"He didn't want his father, or anyone in his father's family, to find out where he lived," Juan said.

Along with the name change, Juan and Malissa secured a waiver of publication of the decision and got the record sealed.

Not long after our client turned 18, he got his new name.

"Severing ties with his father was the best birthday present he could get," Juan said.

Boo!

at bahdeebahdu

OCTOBER 30, 2014

Even by AIDS Law Project standards, Boo! at bahdeebahdu was a crazy night. The performers, the costumes, the food, the drinks!



photo: Arlene Vasquez
Greg Moore of Moore Brothers Wine Company



photo: Kass Mencher
Headliner Miss Finesse Ross performing as Grace Jones.



Juan Baez, of the AIDS Law Project, and Sean Doan, volunteer



photo: Kass Mencher
Masters of Ceremonies Warren Muller and RJ Thornburg of bahdeebahdu.



photo: Kass Mencher
Performer Jimmy Two Fingas (kneeling on left) and revelers.



photo: Kass Mencher
Pierre Robert and Buck Klupp as Pierre Robert



photo: Kass Mencher
Cindy Moya, volunteer greeter.

Thanks to all who made the event a success and make our work possible.



photo: Arlene Vasquez
Frank M. McClellan, AIDS Law Project board member



photo: Arlene Vasquez
Jay Oatis and Adrian M. Lowe, AIDS Law Project



photo: Kass Mencher
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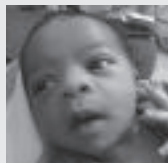


photo: Kass Mencher
Pippi Longstocking

The next generation

It has been a joyous time as five of our colleagues, past and present, have welcomed new members into their families.

Here are the first of what we hope is a steady stream of updates and photos of the next generation.



Gavin Hollis Gilliam

Gavin was born Nov. 4 to **Rafiah Gilliam** and **Hollis Gilliam**. Rafiah is a former staff attorney with us.



Chase Hill

Chase was born July 22 to **Marisa** and **Chip Hill**. Marisa worked with us as part of the Drexel Civil Litigation Clinic.



Wyatt Brendan McCastle Jr.

Wyatt was born Aug. 11 to **Shanay** and **Wyatt McCastle**. Shanay worked with us as part of the Drexel Civil Litigation Clinic.



Sivan Catherine S-B McKenna

Sivan was born Oct. 17 to **Sarah Schalman-Bergen** and **Maura McKenna**. Sarah is our *Of Counsel*.



Nicolas Patrick Rosica

Nicolas was born Sept. 16 to **Jim** and **Erin Rosica**. Jim is our former part-time development associate.

CHANGES TO MEDICAID WILL AFFECT PEOPLE WITH HIV

Changes coming to Medicaid effective Jan. 1 will affect all recipients. Three new benefit packages are being created and people with HIV must make certain they receive the appropriate package.

The problem is that even at this late date a lot of details have yet to be released, said **Jacob M. Edén**, a staff attorney with the AIDS Law Project.

"So much is up in the air and unknown," Jacob said.

Adults on Medicaid with HIV/AIDS should be assigned to receive the Healthy Plus package for the best coverage. If a recipient has been given another package, it should be corrected immediately.

For assistance in changing coverage or other questions, visit our website at www.aidslawpa.org or call us at **215-587-9377**.

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.

NEW! 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. Call us for more information, **215-587-9377**.

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.



The LGBT community and the entire city of Philadelphia lost a great leader and shining light with the death of Gloria Casarez, the city's first director of the Mayor's Office of Lesbian, Gay, Bisexual and Transgender Affairs.

Gloria, 42, died Oct. 20 after a five-year battle with breast cancer.

Her incalculable contributions to her community will live on.

continued from cover

When we contacted the employer's lawyers, they quickly acknowledged that our client had been fired based on faulty advice about the law.

Our client, who had been out of work for about 26 weeks, got his job back in October, as well as back pay and compensatory damages.

And his identity and dignity were restored. He's glad to be reclaiming who he was, He's back on track.



The AIDS Law Project's Team 8 once again had a strong showing at AIDS Walk Philly on Oct. 19. The annual event raises much needed money for our organization and others that serve people with HIV and AIDS. In addition to the usual suspects, we were honored to be joined by Dr. Dale Erskine (first row, third from left), chair of the biology department at Lebanon Valley College, in Annville, PA, and a group of his students.

Changes...

Board of Directors

Courtenay R. Dunn, Esq., left our board in order to spend more time with her family. A stalwart of the board, her ideas and energy will be greatly missed. We will keep Courtenay and her family in our hearts.

We enthusiastically welcome three new board members.

Kenny Jung-Taek Oh, Esq., previously served as a board observer under a program sponsored by the Philadelphia Bar Association. Kenny worked as a judicial law clerk for the First Judicial District of Pennsylvania and now is a student at Temple University School of Medicine in the Doctor of Medicine and Master of Public Health programs.

Finesse Ross, an entertainer, has been a long-time volunteer with us, as well as other nonprofit groups that support LGBT youth. She performed as Grace Jones at this year's gala, Boo! at bahdeebahdu.

Kim Silverman, a businesswoman, has had a long career in many aspects of the food business. She is a long-time volunteer and helped organize many of our fundraisers.

Staff

Rebecca Richman, our intake paralegal since July 2012, has left us to attend law school. Rebecca had a wide range of interests, including LGBT elder issues. We wish her the best of luck in her new endeavor.

Malissa L. Durham, Esq., has joined us as an *Equal Justice Works Fellow* sponsored by the *Norflot Progress Fund*. Malissa, a 2014 graduate of University of Michigan Law School, will specialize in family law litigation. She was a summer legal intern with us in 2013.

Jacob M. Eden, Esq., has joined us as an *American University Distinguished Fellow*, specializing in public benefits work. Before attending law school, Jacob worked with us as an intake volunteer and then as a public benefits paralegal.

Thank you

Kimberly Hollenback, a second year student at Drexel University's Thomas R. Kline School of Law, was a great asset to us as a summer intern.

Dawna M. Coffey, a second year student at Drexel University's Thomas R. Kline School of Law, was a summer intern. We are thrilled she returned to us in the fall as an *Equal Justice Works AmeriCorp* intern.

We are grateful for the help during the summer of volunteer paralegals **Alan Cohen** and **Katie Hughes**.

Volunteer interns **Louis Cohn** and **Sarah Mounzer** were a great help to us during the summer.

Congratulations

We're so proud of colleagues and friends who recently passed the Pennsylvania bar, including our new lawyers, **Malissa L. Durham** and **Jacob M. Eden**, our former intern **Aarthi Manohor** and Jacob's fiancée **Lydia Gottesfeld**.

continued from cover

There are many settings in which health care workers must be vigilant about protecting confidentiality.

We had a client who had entered an in-patient drug rehabilitation facility. The facility kept a list of HIV positive patients, but failed to keep the list secure and word got out about his status. As a result, when it came time for the group serenity prayer, where patients would embrace, no one would hug the man with HIV.

INTENTIONAL DISCLOSURE

Unfortunately, some of the cases we handle have a more disturbing origin.

We were contacted by a 45-year-old Philadelphia man with HIV who felt the confidentiality of his medical information had been flagrantly violated.

A health care worker visited his home to perform wound care. During the visit the worker told the man's uncle to keep the children in the household away from him because he had HIV.

The warning about casual contact demonstrated a disturbing lack of accurate information about HIV transmission. It also clearly violated state and federal confidentiality laws.

Thankfully, the company accepted responsibility. Among other things, the company agreed to implement HIV transmission and confidentiality training for its staff and financially compensate our client.

REALITY CHECK

The mainstreaming of HIV and AIDS is a positive trend that we hope will continue. But every day we are reminded by the clients we serve that there is still a long way to go. We continue to hear from too many people whose privacy was violated. "In all the cases, the patient has completely lost the ability to decide how -- and with whom -- to share their private medical information," Adrian said.

And because of stigma and discrimination, the consequences of that violation remain more acute for people with HIV and AIDS.

"As we're marching toward mainstreaming HIV," Ronda said, "let's not forget what's going on in the real world."

continued from page 3

Although the man met those criteria, he had another tough hurdle to clear.

Because he entered the U.S. without permission, he was ineligible for the U visa without a waiver. Yolanda successfully argued that he deserved a waiver because of his personal circumstances and his many contributions to his community.

Although many undocumented immigrants live in the shadows, the man was immersed in community life. He was an activist, focusing on health care, civil rights and immigrant issues. Among other things, he had spoken to medical students about Latino cultural differences and worked with the local police on racial profiling issues.

"The list goes on and on." Yolanda said. "It's just incredible."

Our case file for him is thick with letters of support from community members describing the contributions he has made.

In 2013, we were notified that our client was eligible for a U Visa, but that wasn't the end of it. There is a limit on the number of U Visas that can be issued in a year and the cap had been reached for 2013.

Finally, in October he was granted his U Visa. In three years he can apply for a permanent resident visa, or green card.

"He is a great advocate for himself and other people," Yolanda said. "For him, it's all about health care."

THANKS TO OUR FUNDERS AND DONORS

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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-
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