

LIVING WITH HIV

A NOTE ABOUT AIDSLaw OF LOUISIANA, INC.

AIDSLaw of Louisiana, Inc. is a not-for-profit organization of attorneys and other legal professionals. We are dedicated to helping people with HIV-related legal problems and needs, as well as advocating for public policies that both protect the rights of the HIV-affected and safeguard the public health. We are also committed to educating the HIV community, the legal community, and the public about the legal issues surrounding HIV and AIDS. Our information and referral line (568-1631 in New Orleans, and 1-800-375-5035 statewide) is open from 9 a.m. to 5 p.m., Mondays through Fridays, to answer any questions you might have on the legal aspects of HIV/AIDS. You may also write to us at: P.O. Box 30203, New Orleans, LA 70190. If you have an HIV-related legal problem and cannot afford an attorney, we can provide you with services free of charge. For those who can afford an attorney, we provide referrals to qualified attorneys who are experienced in HIV-related legal matters.

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INTRODUCTION

Sadly, people with HIV/AIDS not only have to deal with a serious medical condition, but also very often face discrimination, financial hardship, and a loss of control over personal decisions. The aim of this booklet is threefold: first, to help you minimize or prevent these problems; secondly, to inform you of the rights and remedies you have if you encounter discrimination; and finally, to let you know of the benefits and services that are available to people disabled by HIV/AIDS.

This booklet is intended to provide you with practical information on how to avoid problems and obtain benefits. However, if you encounter a problem, this booklet is not a substitute for consulting an attorney. There are also instances in which you may want to consult an attorney before you have a problem, such as when you are reviewing your insurance coverage or when you are deciding whether the time has come to file an insurance claim or apply for disability benefits. While this booklet gives some general rules for these instances, every individual's situation is unique and an attorney can help you decide what is the best course of action in your case.

Finally, although you need to maintain confidentiality, you should not let this prevent you from seeking help. As mentioned above, there are many instances in which you should consult an HIV knowledgeable attorney. Additionally, you should tell a doctor about your HIV-status as soon as you discover it. However, this doctor should be

both knowledgeable about HIV-treatment and aware of the need for strict confidentiality. These are qualifications that your usual or family physician may not have. We hope this booklet is useful to you. If you have questions or suggestions, please give us a call.

PART I PREVENTING PROBLEMS COMBATING DISCRIMINATION: CONFIDENTIALITY VS. DISCLOSURE

HIV-related discrimination remains a very real problem. Many people, possibly including your employer, co-workers, landlord, neighbors, teachers, or healthcare providers are irrationally afraid of even casual contact with someone who has HIV. Their fear can cause you and those close to you to be denied a wide range of opportunities and services.

Although much of this discrimination is illegal, the law does not always offer effective protection. Lawsuits take time, money, and require that you prove discriminatory intent, which is often impossible. Additionally, some HIV related discrimination is not illegal. For example, small employers, small landlords, and religious organizations are often not covered by antidiscrimination laws. Also, health, life, and disability insurers can legally refuse you new coverage if you are HIV-infected and may sometimes be able to reduce or eliminate your coverage. However, under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) there is greater availability of insurance coverage than was previously available, subject to certain restrictions.

Many people with HIV/AIDS are choosing to combat this discrimination, and its underlying stereotypes and fears, by "going public" about their condition. By showing the public that people with HIV are ordinary people, they have greatly changed general attitudes. As more people with HIV are open about their condition, the better the situation will become.

However, before you make a disclosure to anyone, you must carefully examine the possible consequences. You should determine what types of discrimination you may face and the likelihood that this will occur. If you are unsure of what could happen, consult AIDS Law or your local AIDS service organization. You should also consider that even a "confidential" disclosure to a close friend or family member might be passed on to others.

For some, there will be few or no adverse consequences to disclosing. Others may find yourselves in the front lines of this battle. If you are unable or unwilling to deal with the discrimination you may face, you need to maintain the confidentiality of your HIV status. In this situation the simple rule is: DO NOT TELL ANYONE unless there is a strong reason why that person needs to know and unless you are sure the information will go no further.

Medical Records and Testing

Protecting the confidentiality of your medical records poses special problems. Many people have access to these records: the entire staff at your doctor's office; literally dozens of hospital staff whenever you are hospitalized; if your employer is involved in processing your medical claims, then several of your co-employees. (Your employer is also entitled to see your medical records for workers' compensation purposes.) If one of these people gossips, the information in your medical records could become widely known at your job or in your community.

Additionally, whenever you apply for new insurance coverage or file a claim on an existing policy, the insurance company may seek to review your medical records. If you refuse to sign the consent request, your application or claim will be denied. You should also be aware that many insurance companies share information with each other: if one insurance company learns that you have a medical problem, many other insurers may have access to this information through an organization called the Medical Information Bureau (MIB). Insurance companies may also share information on your health and lifestyle with consumer credit reporting agencies that, in turn, may sell this information to employers, landlords, lenders, etc.

Other organizations may similarly ask for a "consent" that for all practical purposes you are required to give. For example, schools may require access to your medical records before admitting you and lenders may require such access before making a loan.

Finally, medical and social service providers must report all cases of AIDS, including the patient's name, to the Louisiana Office of Public Health. HIV infection must also be reported, though the provider can omit the patient's name. Cases reported to local and state authorities are also reported to the federal Centers for Disease Control (CDC). While Louisiana health authorities have, to date, maintained the confidentiality of this list of names, the state legislature could make this list available to other agencies. For example, the State of Illinois compares its list of HIV-infected persons with a list of all health care workers and limits the practice of infected health care workers.

For these reasons, we suggest you keep your HIV-status out of your medical records, at least until you begin receiving treatment for HIV. Until recently, treatment for HIV-infection was not started until the virus had begun to seriously compromise the immune system, which usually does not happen until several years after infection. However, with recent improvements in anti-HIV medications, many doctors now believe in starting treatment as soon after infection as possible. To keep mention of HIV out of your medical records, take the following steps:

- If you believe you may be HIV-infected, but have not yet been tested, be tested anonymously. A so-called "confidential" test result may be available to all the groups and individuals mentioned above. Contact your local AIDS service

organization to see where anonymous testing is available in your area. If there are no anonymous test sites available to you, go to a doctor or clinic where you are not known and use an assumed name. Do not submit an insurance claim for an HIV test.

- If you test positive, you will need periodic medical tests to monitor your immune system and thus determine when you should begin treatment. Check with your local AIDS service organization to see if this monitoring is available anonymously in your area. At some point you will need treatment and your doctor will keep records of your condition and treatment. The following precautions will minimize unnecessary disclosures of those records:
- When you see a doctor, whether for testing, monitoring or treatment, first ask how and where your HIV-related medical information will be recorded and who might eventually have access to this information. Some physicians will keep HIV information in a separate file or omit it entirely if it will pose problems for insurance coverage, employment, etc. Again, discuss these matters with your doctor before you receive HIV-related treatment and certainly before you file any insurance claim, even if that claim is unrelated to HIV.
- To treat you for HIV, your doctor only needs to know that you are infected. He or she does not need to know when you first tested positive and this information definitely does not need to be in your medical records.
- If you decide to pay a doctor out-of-pocket and will not be filing an insurance claim, do not provide that doctor with insurance information. Simply tell him or her that you will be paying directly.
- If you must consent to the release of medical information, restrict the release to specified records to specified persons for a stated purpose and a limited time. Whenever possible, alter blanket release forms by writing in these specifications. Also, ask your physician to restrict the type of information revealed for a particular purpose. For example, to substantiate an insurance claim, your physician should release only the portion of your record that is directly relevant to the claim. He or she should not release your whole file, even if the insurance company asks for it.
- Medical records, particularly when circulated to insurers, employers, and government agencies, can collect a surprising amount of erroneous information that is easily misinterpreted. Review the contents of your medical records and try to correct errors. (You can request a copy of your Medical Information Bureau file by writing to The Medical Information Bureau (MIB), P.O. Box 105, Essex Station, Boston, MA 02112; or by calling (617) 426-3660. MIB procedures allow you to challenge incorrect information.)
- Finally, if you are seeing a doctor for a condition that has no connection to your HIV-status, such as accident related injuries, etc., there is no need for you to mention your HIV-status to that doctor. (You should, however, make sure all your health care providers are following proper infection control practices, also known as "universal precautions.")

PREVENTING FINANCIAL PROBLEMS: GETTING & KEEPING INSURANCE

The Need for Insurance Coverage

Many people with HIV will eventually become unable to work. This loss of income, especially when coupled with the high costs of medical care and the loss of job-related benefits, can rapidly deplete anyone's resources. Although public benefits are available to people disabled by HIV/AIDS, these benefits usually include very limited options for medical care and may only allow for a fairly low standard of living.

Thus, good insurance coverage is extremely important to someone with HIV. Disability insurance will provide you with an income if you become unable to work. Disability insurance often can also be purchased to cover a particular loan, such as a mortgage or credit card account, and will make your payments in the event you become disabled. Good health insurance will allow you a choice among medical providers and will protect your savings, home, etc. from medical creditors. Life insurance is useful not only to help your dependents after you are gone, but can often be sold for a significant amount of cash while you are living.

If you are HIV-infected, or suspect that you may be, you should carefully review your health, life, and disability insurance to make sure that you have sufficient coverage should you become ill. (Note - Insurance policies are notoriously difficult to read. If you have trouble understanding yours, consult a financial planner or an attorney.) If you have no insurance or if the insurance you have will be insufficient to meet your needs, you should try to obtain additional coverage.

Obtaining New Coverage

The fact that you have HIV may make it difficult for you to obtain new coverage. Under Louisiana law, insurers can, and in most situations will, refuse to issue new individual coverage to anyone with HIV. Applications for individual policies ask specifically about HIV and AIDS. Some insurers may even require that you submit to an HIV test before they will issue you a policy, especially if you appear to be a member of a "high risk" group, such as a male who has sex with males, IV drug users or commercial sex workers. Despite this, you may be able to get valid insurance under the following circumstances:

- Through employment. Under a recently passed federal law, The Health Insurance Portability and Accountability Act (HIPAA), all employers who offer group health insurance must offer it on an open enrollment basis. "Open enrollment" means that you will not be disqualified because of any existing or potential medical problem. Although not required by law, many large

employers also offer open enrollment disability and life insurance. Large employers are a better choice for people with HIV for an additional reason: the larger the employer, the less likely it is to reduce benefit levels once you make a claim.

- By joining a large professional or trade association. Although it is becoming rarer for them to do so, these organizations may also offer open-enrollment group insurance.
- By marrying someone whose current insurance plan allows a spouse to join on an "open enrollment" basis.
- By purchasing a policy through the Louisiana Health Insurance Association (LHIA) High Risk Pool. The coverage under this open enrollment policy is not as extensive as that in the typical large employer's group policy. Also, the number of policies available under this plan is limited by the level of state funding. For more information on obtaining an LHIA policy, call (504) 926-6245.
- Some states require insurers to offer open enrollment health coverage to the general public. If you can claim to be a resident of another state, you should check to see what health coverage is available in that state.
- If you become medically disabled, you may be eligible for Medicaid or Medicare. See the Public Benefits section of this booklet for more information on these programs.
- Some insurers offer "no questions asked" life insurance to the public. These policies have low maximums, usually \$10,000. Also, if the insured dies within two years of having purchased the policy, there is no death benefit, although the premiums are refunded. Contact an insurance broker to find out more about such policies.

If you have misstated or omitted your HIV-status in obtaining an individual policy, the insurer may later try to "rescind" that policy and refuse to pay benefits, even though it had initially accepted your application. ("Rescission" means a policy is treated as though it never existed: your premiums are returned to you and you have no coverage.) Insurers rarely inspect your medical records at the time of your application. Rather, they wait until you file a claim for benefits. If your insurer then finds any evidence of a material error on your application, e.g., that you knew you had HIV when you applied, it will have grounds to rescind the policy.

An insurance company cannot unilaterally rescind a policy. You must agree to the rescission or the insurer must obtain a court order allowing it. (Often, however, it is the policy holder who must initiate a lawsuit for payment, since the insurer may just do nothing.) If you are considering contesting a rescission, do not cash the insurer's check returning your premium payments and do not sign any documents suggesting that you accept in any way the company's action. If the matter goes to court, the insurer must prove that there was a material error in your application. This requires that there be something in your medical records which contradicts the information you gave on the insurance application.

There are also time limits on an insurer's right to rescind a policy. Under Louisiana law, a life insurance policy may only be rescinded during the first two years it is in effect. The time limit on rescinding other types of insurance, such as a health or disability policy is usually three years. However, such a policy may be rescinded at any time if, in addition to proving a material error, the insurer can prove that you deliberately misled it in your application. The time limits for rescission may be shorter under the terms of your particular policy than those allowed by law.

Another pitfall to avoid is purchasing additional insurance that will not provide you with additional coverage. Many policies, particularly disability and health policies, limit the total amount of benefits you may receive under all policies. If your existing policy will already pay to that limit, the additional policy is a waste of your money. Again, if you are unsure of when and how much a policy will pay, consult an attorney or an insurance expert.

Maintaining Coverage

Because of the difficulty you may have in obtaining valid new coverage, maintaining your existing coverage is extremely important. Even if you believe you can replace it with a better policy, double check with an insurance expert or an attorney before you let a policy lapse.

Also check with an attorney before you file your first HIV-related claim. Proper timing of your first claim can protect you against premium increases and minimize the chance that the insurer will attempt to rescind your policy. Although it is legal to deny you new coverage, it is very often illegal for your existing coverage to be eliminated or reduced. Whether a particular change is legal depends on a complex mix of state and federal regulations, the language of your policy, whether your employer is self-insured, and even the motivation of the insurer or employer in changing the plan. You should immediately consult an attorney if your employer or insurer tries to reduce or eliminate your coverage.

Employee Group Coverage

If your insurance coverage is a fringe benefit of your job, changing or leaving employment poses special problems for maintaining coverage. Always carefully review the consequences to your coverage before changing jobs. If a new job is better in other respects but offers poorer insurance coverage, you should reconsider the change.

Until recently, "pre-existing condition limitations" provisions, which are contained in almost all health plans, posed a major problem for people who wished to change employers. A pre-existing condition is generally any medical condition that you have at the time you join a health plan. The limitation provision means that the plan will not pay for treatment of the pre-existing condition for a certain period of time - usually

one year, but possibly much longer if the employer is self-insured. However, the recently enacted federal Health Insurance Portability and Accountability Act (HIPAA) largely eliminates this problem. Under HIPAA, the pre-existing limitation period in an employer provided health plan cannot exceed one year. Moreover, in applying the pre-existing condition limitation, the plan must give you credit for the amount of time you were covered under prior health insurance, as long as there has not been more than a 63 day gap between the time your prior coverage ended and the time you joined the new plan. Thus, if you are currently insured and have been insured for at least a year, you cannot be subject to any pre-existing condition limitation period when joining a new employer's plan.

If you intend to leave a job, first find out if you have the right to "continue" or "convert" any of the insurance coverage you have at that job. These rights should be spelled out in your employee benefit booklet or plan summary.

Most employees have some right to continue their health coverage. Under a federal law commonly called "COBRA," if you work for an employer with 20 or more employees, you are allowed to continue as a member of an employee group health plan for up to 18 months after you leave your job, or until you are covered by another group policy and have fulfilled the waiting period for coverage of pre-existing conditions under the new policy. If you are disabled at or within two months of the time you leave a job, you can continue coverage for a total of 29 months. (At the end of 29 months, you should be eligible for Medicare if you have been receiving Social Security Disability.) A similar Louisiana law mandates continuation coverage for most employers with three or more employees, but the maximum period of coverage is 12 months.

Under both COBRA and the state statute, you will likely have to pay the entire premium for this continuation coverage, even though your employer may have paid all or part of the premium while you were working. COBRA also allows your employer to add a monthly administrative surcharge to your premium. This can be up to 2% during the first 18 months and up to 50% after that.

The federal statute requires that you receive notice of your right to continued coverage on two different occasions. The first is when you become eligible to participate under the plan, typically when you are hired. This first notice is usually contained in an employee benefit booklet or plan summary. You should also receive notice of your COBRA rights within 14 days of the date you leave employment. To obtain ("elect") COBRA continuation coverage, you must notify your employer or plan administrator, in writing, within 60 days of the date you receive this notice. You must then make your first monthly premium payment within 45 days of your election. Additionally, if you are disabled and wish to keep your health coverage for more than 18 months, you must provide your employer with a copy of your Social Security disability determination letter within 60 days of the date you receive it.

Your employee benefit booklet and COBRA election notice should contain these deadlines, along with information on how to make payments. If they do not, or if you cannot decipher them, ask your personnel manager. If he or she is not helpful, contact an attorney.

You may also have rights to continued health care coverage under the federal Family and Medical Leave Act (FMLA). If you are covered, this law allows you up to 12 weeks of sick leave per year. Your health insurance must be continued during the leave and your employer must continue to pay any portion of the premium which it was paying while you were working. Coverage under the FMLA is much narrower than under COBRA. In addition to some other requirements, your employer must have at least 50 employees and you must have worked for that employer for at least a year in order for you to be covered by this law.

Under recent changes to federal and Louisiana law, virtually everyone losing employee group coverage, including those whose COBRA coverage is expiring, may purchase individual coverage through the Louisiana Health Insurance Association (LHIA). LHIA coverage is similar to that offered by private insurance companies to people who do not have health problems. However, the cost can be up to twice what a healthy person would pay. You can obtain an application by calling LHIA at (504) 926-6245. Note that LHIA coverage is not available to people who are eligible for Medicaid or Medicare.

Additionally, you may have the right under the terms of your employer group plan to purchase a "conversion policy" when your group coverage ends. However, the conversion policy will usually cost more and provide less coverage than the group plan. Also, the benefits in the conversion policy may be further reduced or may end entirely when you become eligible for Medicare.

Unlike COBRA continuation coverage, there is usually no time limit on how long you can keep an individual or converted policy. If your spouse and/or dependent children were covered under your group policy, they will also have health insurance continuation rights that may extend past your death.

Health insurance coverage, whether through COBRA or a converted or private policy, can be difficult to afford, especially if you are no longer working. Therefore, you may want to start setting aside some savings specifically for this purpose. Also note that the Health Insurance Continuation Program, run by the Louisiana HIV Program Office, will pay up to \$500 per month of the private health insurance premiums and \$50 per month of the dental insurance premiums of people disabled by AIDS. To qualify for this program, your household income must be below 300% of the federal poverty level. This is currently about \$22,500 for a single person household.

With respect to disability and life insurance, federal and Louisiana law mandate virtually no conversion or continuation rights. (A Louisiana statute requires an insurer,

in some instances, to offer an individual life policy to someone leaving a group life plan. However, the face value of such a policy does not have to exceed \$1,000.) Nonetheless, your particular plan may have substantial conversion rights and you should check your employee benefit booklet

Cashing in Your Life Insurance

If you have a life insurance policy, you may be able to convert it to a significant amount of cash while you are living. There are several different ways of doing this:

(1) Advance or "Living" Benefits. The company which issued your policy may be willing to pay part of the death benefit to you before your death. Many recent policies contain an explicit provision for advance benefits. Even if a policy does not have such a provision, many insurers are willing to pay an advance benefit.

The typical advance benefit provision requires that you have a life expectancy of a year or less. You are paid a certain percentage (usually 25% but some companies may pay as much as 100%) of the death benefit. The remainder is paid to your beneficiary upon your death. The amount paid to you is not taxable. Your beneficiary will also owe no taxes on the amount paid to him after your death. (However, the amount paid to a beneficiary may increase the taxes your estate will pay if the total value of your estate, including life insurance, exceeds \$625,000.)

(2) "Paid-Up" Value. If you have a "whole life" policy, the issuer will give you its paid-up value in exchange for your surrendering the policy. The insurer may also allow you to borrow against the policy up to its paid-up value. The paid-up value will be listed in the policy and increases yearly. However, unless the policy has been in effect for many years, the paid-up value will usually be only a small fraction of the death benefit. Therefore, it is usually not advisable for a person with HIV to surrender a policy for its paid-up value. On the other hand, a loan against the paid-up value will leave the death benefit, less the amount of the loan, for your beneficiary.

(3) Private Loans. If you have a friend or family member who is fairly wealthy and is willing to do so, you should consider borrowing from that person and naming him or her as your beneficiary. In this way, the life insurance proceeds will pay back the loan. The advantage to this approach is that it allows you to avoid or minimize taxes. A loan is not considered income, so you are not taxed when you receive it. Your lender/beneficiary should also have no tax liability, regardless of how much profit is made, because the life insurance proceeds paid in the event of your death are exempt from taxation.

(4) Viatical Settlements. There are now a number of companies that will buy life insurance policies from people with terminal illnesses, paying a percentage of the death benefit. We advise against making a viatical settlement if other options are available to you. This is because the purchaser will make a substantial profit, money

which could have gone to you or your beneficiaries under one of the other approaches. Additionally, the amount you receive may be taxable. A recent change to the federal tax code makes some viatical settlements tax exempt. (The requirements for the tax exemption are that (1) a doctor certifies your life expectancy is less than 2 years and (2) the viatical settlement company be licensed in the state where you reside.)

The sole advantage of a viatical settlement is that it may be available when the other options are not. For example, although insurance companies require a life expectancy of a year or less before they will pay an advance benefit, some viatical settlement companies will purchase policies from people with up to a five-year life expectancy. If you decide to sell your policy, you should keep the following in mind:

- Your policy must be incontestable, that is, it must be over two years old or it must be from an insurer that did not ask you any medical questions when you obtained it.
- The purchase price depends on your life expectancy:
- You should apply to several companies and let each company know you are applying to the others. This will cause the companies to bid against each other and increase the amount offered for your policy. You should also consider making a counter-offer in an attempt to raise the sale price.
- If you need money for your own expenses, but also wish to leave some money to a friend or dependent upon your death, you should sell just a portion of the policy and designate that person as the beneficiary of the remainder. This will cut down on the taxes that both you and your beneficiary will have to pay.

The following is a partial list of Approved Viatical Settlement Brokers:

VSS Corp. Shelby L. Watson
1844 Ryder Drive 307 Tupelo Drive
Baton Rouge, La 70808 West Monroe, La 71291
504-796-5300 318-329-1108

Byron J. Moeller Peggy S. Wallace
1520 Hickory Ave. dba Affirmative Lifestyles, Inc.
Harahan, La 70129 San Antonio, Tx 78216
800-876-2991

Harold Joseph Shea, Jr. Individual Benefits, Inc.
122 Lisa Lane 7-A Terrace Way
Mandeville, La 70448 Greensboro, NC 27403
504-626-3161 910-299-5100

Louisiana Viatical Services, Inc. All American Health & Life
700 North 10th Street Suite 240 Insurance Co.

Baton Rouge, La 70802 3231 N. I-10 Service Road
Metairie, La 70002
504-834-8040

Louisiana Department Of Insurance: 1-800-259-5301

Regardless of which option you choose, if you are on any asset-based public benefit programs, such as Medicaid, you will likely lose your eligibility for those benefits. If this concerns you, you should consult an attorney with expertise in Medicaid planning and trusts to see what alternatives are available to you.

PROTECTING FAMILY RELATIONSHIPS: WILLS AND OTHER LEGAL DOCUMENTS

The Need for Endstage Documents

Everyone, especially people affected by HIV/AIDS, should execute some basic legal documents, both to keep control over their own lives and to protect their loved ones. With the properly executed legal documents, you can retain control over many important decisions, even if you later become incapacitated. These decisions include:

- Who will take care of your affairs if you are unable to?
- Who will make decisions about your medical care?
- What limits, if any, do you want placed on the type and extent of your medical treatment?
- Who can use your property while you are living and who will inherit it when you die?
- If you have young children, who will take care of them if you cannot?
- What type of funeral do you want and who will be in charge of the arrangements?

If you do not put your instructions in writing, your next-of-kin has the right to make many of these decisions and will inherit all of your property. For example, if you are legally single with no children, your parents have the right to make all medical decisions for you if you become incompetent. This includes whether or not to place you on life-support. Absent a power-of-attorney or other written instructions from you, no one could take care of your financial affairs, including simple things such as depositing your checks and paying your monthly bills. Upon your death, your property would go first to your parents and then to your siblings or their descendants.

As Louisiana law does not recognize ties of affection, a close friend or longtime partner could be completely cut off from you and would have no right to continue using any of your property if you became incompetent. He or she would be entitled to nothing upon your death, not even personal effects of a sentimental value. More importantly, your partner or close friend might lose the home and all the household

furnishings that he or she shared with you. At a minimum, he or she might be faced with a fight with your parents or other relatives. A good rule is: hope for the best but prepare for the worst.

There are several reasons why you should execute these documents as soon as possible. Most people are more comfortable making these decisions and executing the documents while they are healthy. Moreover, a person with HIV may unexpectedly develop mental problems that may make execution of these documents difficult or impossible. Finally, if you put it off until you are ill, your relatives will have an easier time challenging the validity of the documents.

With one exception, adoption, you can change your mind about any of these decisions at any time.

General Powers-of-Attorney

In a document called a "power-of-attorney" you can authorize a trusted friend or family member to take care of your personal and financial affairs. The authority granted in the power-of-attorney can be as broad or as narrow as you want it to be. The document can authorize such things as banking, paying bills, opening and answering mail, taking care of property, and dealing with insurance companies. By signing a power-of-attorney you do not lose the right to do any of these things for yourself: you are merely authorizing the other person to act as your agent. You may revoke the power-of-attorney at any time.

In your power-of-attorney, you may also wish to nominate a curator. In the event that you become mentally incapacitated, a court could place a curator in charge of your affairs. If you have nominated a curator ahead of time, the court will almost certainly appoint that person. While a sufficiently broad power-of-attorney should make it unnecessary for a court to appoint a curator, nominating a curator will help assure that a person of your choosing will be in charge of your affairs if you become incompetent.

Although you do not have to sign a power-of-attorney in the presence of a lawyer, there are several reasons to seek a lawyer's help when preparing this document. A lawyer can assist in drafting the power-of-attorney so that it is as broad or as narrow as you want it to be. The lawyer can also explain the risks and limitations of the document as applied to your situation. Finally, a document that has been notarized is much more likely to be accepted by banks and other third parties.

Even if you do not want to appoint an attorney-in-fact, you may allow a friend or partner to sign checks drawn on your account. If your bank account is titled in your name AND you partner's name both people must be present whenever any transactions are made. A power of attorney will be required for one of the account holders to transact business in the absence of the other. If the account

is titled in your name OR your partner's, each person may transact business without the other being present. Your bank can provide the appropriate form to sign.

Advance Medical Directives

Under Louisiana law, you have the right to control your medical care. However, in the later stages of HIV-infection, you may become unable to make decisions or communicate those decisions to your health care providers. By putting your wishes in writing ahead of time, you can maintain control over your medical care in the event you later become incapacitated. Louisiana recognizes two types of Advance Medical Directives: Medical Powers-of-Attorney and Living Wills.

Medical Powers-of-Attorney. A medical power-of-attorney grants authority to the person of your choice to make treatment decisions for you if you cannot make them for yourself. This person will generally not have the right to withhold or withdraw life support (see Living Wills, below), but will have the right to make all other medical decisions. You can also give to your "attorney-in-fact" the first right to see you in a hospital if you cannot express a preference. If you want someone other than a family member to make important medical decisions for you and to be with you when you are ill, you should execute this document. You should give copies of this document to any physician who treats you and to any hospital to which you are admitted. The person named in your medical power-of-attorney should also retain a copy. Although you do not need a lawyer to execute this document, a lawyer can advise you and make sure that the document expresses your intentions.

Living Wills. In this document you can spell out any limitations you wish placed on your medical treatment at the end-stage of a fatal illness. A Living Will becomes effective when the following conditions are met:

- (1) You have an incurable illness that is likely to cause death in the near future regardless of the medical treatment you receive;
- (2) Without life-sustaining treatment, your death is imminent; and
- (3) The life-sustaining treatment will not improve your condition, but will only prolong the dying process.

In the Living Will you may specify which medical procedures you want withheld or provided or you may simply state you want no medical care other than that necessary to make you comfortable. You also have the option of designating another person to make these decisions for you.

A Living Will can be executed in the presence of two witnesses, without a lawyer. A notary is not required. Since Louisiana law provides a suggested form, however, you may want to consult a lawyer if you decide to write your own Living Will.

You should give a copy of your Living Will to each of your physicians and to any hospital to which you are admitted. You should also discuss your decisions with close relatives and anyone whom you have named in a Medical Power-of-Attorney, as well as give these persons a copy of the document and ask them to see that your physicians respect your wishes.

Arrangements for Care of Children

If you have minor children, you should think about who is going to raise them if you become too ill to do so or if you pass away. Naturally, if the other parent is living and is interested in the children, he or she will have primary responsibility. If the other parent is deceased, not interested in the children, or if you believe he or she is unfit to raise the children, you need to take steps to give legal authority over your children to someone who is both willing and able to care for them.

In a special power-of-attorney, called a Provisional Custody by Mandate, you can give someone else the right to take care of your children while you are still living. This will allow that person to do such things as consent to medical care for the children, enroll them in school, etc. The mandate does not affect your ability to make decisions regarding your children: the named person is acting only as your agent and you can overrule his or her decisions at any time. This document is only effective for a year, so you will need to re-sign it annually. Also, it has no effect after your death.

Therefore, in addition to a Provisional Custody by Mandate, you should appoint a "tutor" or guardian. This is the person who will be responsible for your children after your death. You should do this in your Will and in a separate document. Your choice of a guardian is only advisory: a court will appoint a guardian based on what it believes to be best for the children. However, the wishes of the parents are always treated with respect and almost always followed. If you die without designating a guardian for your children, a nonrelative will have a very difficult time being appointed as guardian, even if that person has had a close and loving relationship with those children.

If you anticipate there may be a dispute over the children, if, for example, you do not want the other parent to have custody or you want someone other than a relative to have custody, you should consider transferring custody while you are living, rather than merely nominating a tutor. This will require a court proceeding in which you can tell the court why you believe your choice is in the best interest of the children. You can do this either through an Adoption or a Voluntary Transfer of Custody. In an adoption, you surrender all rights to the children and the other person becomes the permanent, legal parent. A voluntary transfer of custody allows for more flexible arrangements under which you may retain some rights over the children during your lifetime.

A Last Will & Testament

This document controls who receives your property once you are gone. If you have children under the age of 24 or who are incapacitated, a certain percentage of your property must go to them. Otherwise, there are no restrictions on to whom you may leave your property. Even if you have little or no money, a will can settle many personal matters that are important to the people you care about most.

A will can also establish a trust for any assets that you leave to your children. Without a will, children automatically inherit property from a parent and acquire full control of that property when they turn eighteen. Through a will, you can make sure that your children do not have control of their inheritance before they are mature enough to manage it.

Louisiana recognizes two different types of wills. Handwritten wills, called *olographic* wills, are valid as to form if they are written entirely in the hand of the person making the will and are dated and signed on each page. There are several drawbacks to an olographic will. First, olographic wills are usually drafted without advice from an attorney. As a result they often attempt to give away property in ways that the law forbids, contain language that is ambiguous, or do not provide for contingencies. Olographic wills are also more easily challenged than wills drafted by an attorney. Finally, since the making of an olographic will requires no witnesses, no one can testify that the person making the will intended to dispose of property and was mentally capable of doing so at the time the will was written.

Unlike the olographic will, the notarial testament is drafted by an attorney and signed before a notary and two witnesses. The law requires that certain formalities be followed, making a court challenge less likely than in the case of an olographic will. To avoid the complications of a contested will on the grounds that you were too ill to make a rational decision, you should make a will as soon as possible.

Estate Planning

Anyone facing a serious illness should undertake estate planning, even if the estate is very small. Designating beneficiaries of life insurance, pension, and profit-sharing plans can protect relatives, friends, and partners. You should periodically check whom you have listed as the beneficiaries for these types of plans. If the person you have designated has died or if you have designated your estate as the beneficiary, you should immediately ask for, execute and return a "change of beneficiary" form. There are several reasons for this: if the proceeds are paid to your estate, they will be tied up in probate until the estate is settled; they will be subject to inheritance tax; and they will have to be used to pay off your debts. Your heirs or the people named in your Will only receive what is left over. If you have a named beneficiary, the money goes directly to that person.

You may also give away your property during your lifetime. Most personal property can simply be physically given to another person, but you should consult an attorney if you want to make a gift of automobiles, real estate, or of financial papers, such as

shares of stock. Merely adding another person's name to your bank account or to the title of your property does not make that person an owner and does not guarantee access to that property after your death.

Funeral Arrangements

It is not a good idea to leave instructions for funeral arrangements in a will. A will is often not looked at until after the funeral. Additionally, a court must find the will is authentic before its provisions are legally enforceable. This authentication procedure ("probating the will") can take several weeks. As a result, the wishes of the family concerning burial rituals often prevail, even if those preferences conflict with those of the deceased.

Some people also believe that they can give burial instructions in a power-of-attorney. This is ineffective because your power-of-attorney is not valid after your death.

A specific declaration of your wishes, however, made before a notary, is enforceable under Louisiana Revised Statute 8:655, Right of Disposing of Remains. In addition, the declaration can provide strong moral pressure for your relatives to follow the wishes that you expressed in the declaration. Such a declaration can include, among other things, your designation of a person to make arrangements and your wishes concerning burial, memorial or funeral services, and obituary notices. The person whom you designate to make funeral and burial arrangements should have the original or a certified true copy of your declaration.

PREVENTING TRANSMISSION LIABILITY

DO NOT EXPOSE ANYONE ELSE TO THE VIRUS. If you do so, you could face severe criminal and civil penalties. Louisiana Revised Statute 14:43.5 specifically outlaws intentionally exposing another person to HIV without the informed consent of that person. The penalty for violating this law is up to ten years at hard labor. Other criminal statutes, including attempted murder, aggravated battery, and negligent injuring might also be applied when someone has exposed another to HIV, whether sexually or through other means. Informed consent is not a defense to all of these crimes, nor is the fact that the other person was not infected.

Additionally, if you do expose someone, they may be able to sue you for money damages, to compensate for the injury suffered. Some Louisiana courts have allowed lawsuits even where the exposed persons did not become infected, to compensate for the anxiety they suffered while waiting to learn their HIV status.

The law has yet to clearly define what constitutes "exposure" to HIV. However, to protect yourself from this charge, you should, at a minimum, inform partners of your status and strictly follow safer-sex guidelines. If you are unsure of the guidelines or

feel uncomfortable broaching the subject with sexual partners, contact your local AIDS services organization for instruction and counseling.

Transmission, or at least "exposure," is also possible during certain types of medical procedures. If you decide not to inform a medical care provider of your HIV-status, you should inquire and observe whether he or she is following infection control procedures known as "universal precautions." You need not feel uncomfortable doing this: these procedures are designed to protect you from being infected by the medical provider, as well as vice versa. If you believe the provider is not following universal precautions, seek care elsewhere. These steps should minimize the possibility of a lawsuit by your medical providers.

PART II RIGHTS & BENEFITS

Federal, state and local laws broadly prohibit discrimination against the disabled in employment, housing and public accommodations. AIDS, asymptomatic HIV-infection and even the perception that one has HIV are disabilities for the purposes of these anti-discrimination statutes. However, these are issues currently under review by the Supreme Court.

Additionally, people "disabled" by HIV/AIDS may be entitled to assistance and services under numerous federal, state, local and private programs. However, the standard of disability used in determining eligibility for these benefit programs is often much stricter than that in the anti-discrimination laws. Usually, you must have a physical or medical impairment, not just HIVinfection. Often, you must also show a financial need.

This section covers the rights of and the benefits available to people with HIV/AIDS in several different areas.

EMPLOYMENT

(Note - Health care providers and members of the Armed Services face special problems with regard to employment. These are discussed in separate sections of this booklet.)

Discrimination

All private employers with 15 or more employees (except certain private clubs), all private employers who receive government funds, and all state and municipal employers are covered by state and/or federal anti-discrimination statutes. Labor unions and employment agencies are also covered by these statutes.

As long as your condition does not interfere with your ability to perform your "essential job functions," these laws protect you against discrimination in any of the terms or conditions of employment. Even if your condition does interfere with your ability to do your job, the law may require your employer to make "reasonable" accommodations within your job environment or duties if these will enable you to do the job. This might mean adjusting your hours or work assignments if these adjustments do not "unduly burden" the employer. You may also have the right to take a certain amount of time off from work for medical care under the Family and Medical Leave Act. (Your employer can, of course, let you go if you become too sick to do your job, but even then it must offer you the same benefits it offers other medically discharged employees.)

The anti-discrimination laws mean that an employer may not discriminate against you even if co-employees refuse to work with you or if customers refuse to patronize the business because of your condition. If you are harassed by your co-employees and your employer does not attempt to stop it, you may have the basis for a lawsuit against the employer. Additionally, the federal Employment Retirement Income Security Act (ERISA) prohibits employers from discharging you to prevent you from claiming employee benefits such as health care or disability pay.

However, there are some real and practical limits to these laws. As mentioned above, not all employers are covered. If an employer is covered, it can often find a pretext for firing you other than HIV/AIDS. Your employer may feel it has no option but to ignore the law if, for example, you are a cook and no one will patronize the restaurant because of your HIV status. Finally, the law is not self-enforcing: you will need to bring a lawsuit, you will need to convince a judge or jury that you have been discriminated against and, even if you succeed, you will probably have to wait several years before you are compensated. Thus, as spelled out in the first section of this booklet, your best protection against discrimination is maintaining the confidentiality of your HIV status.

While keeping your HIV infection a secret is your best defense against discrimination while you are asymptomatic, you will have to tell your employer something if you need to take time off for illness or treatment. At some point you may need to inform your employer of your condition to qualify for sick leave or disability pay, in order to have your medical expenses covered, or to qualify for protection under the anti-discrimination statutes. You should consult with an attorney in deciding how much to reveal to your employer and when.

If you do encounter discrimination, you should seek legal help. In order to bring a lawsuit based on federal anti-discrimination laws, you must file a complaint with the Louisiana Human Rights Commission (LHRC) and then with the federal Equal Employment Opportunity Commission (EEOC.) within 90 days. Some circuits have held that filing a complaint with the LHRC is no longer a preliminary step to filing a complaint with the EEOC. If you choose to file a complaint with the LHRC, you must do so in a timely fashion or your claim will lapse. The time limit for filing a complaint

with the LHRC is within 180 days of the action upon which the complaint is based. The time limit for filing with the EEOC is within 300 days of the action upon which the complaint is based. These agencies will investigate your complaint, attempt to resolve the dispute, and the EEOC may take legal action on your behalf. Although you do not need an attorney at this stage, one may be able to speed up the process and obtain a more favorable result. If the EEOC cannot achieve a settlement and does not sue on your behalf, it will issue you a "right to sue letter." At this point you will need an attorney to help you file a lawsuit within 90 days.

You need not file an administrative complaint prior to bringing a lawsuit based on state anti-discrimination law, although the LHRC will investigate and attempt to resolve violations of state law as well. Regardless of whether you file a complaint based on state law, you must file a complaint to preserve your rights under federal law.

You may call or write these organizations at the following addresses:

Equal Employment Opportunity Commission (EEOC)
701 Loyola Avenue, Suite 600
New Orleans, LA 70113-9963
Tel. No. (800) 669-4000

Louisiana Human Rights Commission (LHRC)
P.O. Box 94004
Baton Rouge, LA 70804
Tel. No. (504) 342-6969

Additionally, if you are covered by a collective bargaining agreement, whether or not you are a union member, you should file a grievance with the union.

Employment-Related Medical Examinations

Employers covered by the Americans with Disabilities Act (ADA) have no right to ask whether you have any disability until after they have made a conditional offer of employment. Thus, apart from screening for illicit drugs, you should not have to undergo any medical exam as part of your job application process. If you have to take a pre-employment drug test and are asked if you are on any prescription medication, give the full chemical name of any HIV-related drugs, not a commonly recognized name such as AZT.

After you have been offered employment, but before you begin working, you may have to submit to a medical exam - but only if it is required of all other incoming employees. The ADA places no restrictions on these post-offer, preemployment medical exams. After you have begun working, your employer can require medical information or exams only to assess your ability to do your job.

The doctor and other medical personnel performing these exams work for your employer and will report the results of the exam to your employer without your permission. However, asking about or testing for HIV is rarely a part of these exams because few employers have any legitimate need for this information. If an employer demands an HIV test, takes action against you for refusing an HIV test or takes action against you after learning the results of an HIV test, you should immediately contact an attorney.

An employer may also want a report from your private, treating physician if you have been out sick. If you are planning on returning to work, speak to your doctor about omitting any mention of HIV or AIDS from the report. Your doctor can simply report the particular illness you were suffering from, without reporting that it is secondary to HIV-infection. If the particular illness is closely associated with HIV/AIDS, your doctor can usually describe the illness more generally. For example, the doctor can state you had pneumonia rather than PCP. If your employer is involved in processing your health insurance claims you should ask your doctor to take similar measures on these forms as well.

As stated above, however, there may come a time when you will need to provide your employer with more information. If your illness will permanently prevent you from returning to work, it is usually wise to let your employer know that you have HIV/AIDS. At that point, you should no longer have to worry about job discrimination and informing your employer of your condition may protect your rights to disability income and health insurance. Again, however, consult with an attorney before making this disclosure.

HEALTH CARE

Discrimination

Virtually all health care providers (physicians, nurses, hospitals, nursing homes, ambulance services, etc.) are now covered by laws prohibiting discrimination against people with HIV/AIDS. These laws prohibit a health care provider from refusing you treatment or services, as well as from treating you differently or charging you more, based solely on your HIV-status.

There are two limitations on this protection. First, a health care provider does not have to treat you if your condition requires specialized skills or knowledge that he or she does not have. In this case, the provider need only refer you to an appropriate specialist.

Secondly, a health care provider may not have to treat you if there is a significant risk that he or she will become infected. Many health care providers, especially dentists and osteopathic surgeons, continue to refuse to treat people with HIV, citing the risk of transmission. On a related point, some health care providers insist on an HIV test before they will treat anyone they suspect might have

HIV. However, despite widespread conjecture that transmission may be possible in a limited number of surgical procedures, there is no evidence that any medical procedure, when performed with adherence to universal precautions, poses any risk of HIV-transmission. Moreover, health care providers are obliged to follow the same infection control procedures regardless of a patient's HIV-status.

For these reasons, the courts should find that a health care provider has no right to refuse treatment or to insist on an HIV test. The few courts cases that have addressed these issues have so found. However, it will probably be several years before there is a definitive answer to these questions. Until then, you may still encounter health care providers who will refuse to treat you or who insist on testing.

To minimize the risk of such discrimination, you can refrain from informing a health care provider of your HIV-infection or that you are a member of a "high risk" group when this information is unrelated to the treatment you are seeking. For example, you need not tell your dentist that you are HIV-positive or gay when you are seeking a routine check-up or cleaning. However, you should always determine whether your health care providers are following infection control procedures known as "universal precautions." Such procedures include wearing gloves and a mask and sterilizing equipment between patients. If a health care provider does not follow these procedures, take your business elsewhere.

Various agencies are charged with investigating and prosecuting violations of the anti-discrimination laws. If you have been denied medical services or otherwise discriminated against by a health care provider, report it to:

Public Access Section
Civil Rights Division
U.S. Justice Department
P.O. Box 66738
Washington, D.C. 20035-6738

Office for Civil Rights
U.S. Department of Health and Human Services
1169 Young Street
Dallas, TX 75202
1-800-368-1019
214-767-4056

Louisiana Human Rights Commission
P.O. Box 94004
Baton Rouge, LA 70804
Tel. No. (504) 342-6969

If your health worsens because of such discrimination, you may have the basis for a lawsuit for money damages and you should consult a lawyer.

Treatment for Those Unable to Pay

Treatment for HIV can be extremely expensive. For the most part, private physicians and hospitals are under no obligation to treat you if you cannot pay. The only way to guarantee access to medical care is to be extremely wealthy or to have adequate health insurance. (See the Insurance Section of this booklet.)

There are some limited circumstances under which a private doctor or hospital must provide you with medical care, regardless of your ability to pay.

- **Emergency Care** - If you need emergency medical care, hospitals which have emergency rooms or which customarily provide emergency services may not refuse to treat you because of your inability to pay. A hospital can transfer you to another facility but only if the transfer will not worsen your condition and if the hospital to which you will be sent agrees in advance to accept you.
- **Long-term Care** - Hospitals that receive federal grants under the Hill-Burton Act must provide a certain quantity of free services to people who cannot afford to pay. Services available must be posted in the hospital's admission room. If you are in need of the specific services provided at no cost, you may apply for free care. The hospital must decide on your eligibility within two days. For more information on hospitals in Louisiana that are obligated to provide free services, call 1-800-638-0742.
- **Physicians** - A physician who has begun treating you for a particular illness cannot discontinue treatment without giving you advance notice. If you are critically ill, your doctor must make provisions for your future care, even if you cannot afford to pay for these services. A physician or dentist may specifically limit the types of services performed, but only after giving you notice or by special agreement. If your doctor does so, he or she is not obligated to perform services not so designated.

There are, however, several institutions throughout Louisiana which provide treatment for HIV to those unable to afford health care. Many of these have clinics specifically for HIV disease. (Most of the institutions listed below are state hospitals.)

The Medical Center of Louisiana, a.k.a. the Charity Hospital system (Inpatient and out-patient HIV programs, HIV prescription medications. Fees are on a sliding scale. Services are free for households with income up to 300% of the federal poverty level. If your household income is over this amount, you can be charged up to 20% of the excess. Thus, if you are a single person household and your annual income is \$15,000 or less, there is no charge. Specific locations throughout the state are listed below.)

New Orleans: Medical Center of Louisiana/Charity Hospital, HIV
Outpatient Program (504) 568-5304
Baton Rouge: Earl K. Long Med. Center (504) 358-3927

Shreveport: L.S.U. Medical Center, Outpatient Clinic
(318) 676-5060
Monroe: E.A. Conway Hospital AIDS Coordinator
(318) 330-7159

Lafayette: University Medical Center (318) 261-6785
Alexandria: Huey P. Long Hospital (318) 473-6311
Lake Charles: Moss Regional Hospital Comprehensive Care
Clinic (318) 475-8100

Houma: Southern Louisiana Medical Center (504) 873-
1106 (504) 873-1112 AIDS Coordinator (504)
873-2451

Bogaloussa: Washington/St. Tammany Medical Center (504) 735-1322
Independence: Lallie Kemp Medical Center (504)878-1944
(504) 878-1389

AIDS Drug Assistance Program (ADAP). Financial assistance with HIVrelated medications for people without insurance whose household income is at or below 200% of the federal poverty level. Application should be made to the HIV Program Office (504) 568-7474.

Veterans Affairs Medical Center in New Orleans. In-patient and out-patient HIV care for veterans. (504) 568-0811

University Hospice. Part of the state hospital system. Home hospice care in the New Orleans area. (504) 588-3138

AIDS Clinical Trials Unit. Free medications and care for people taking part in experimental drug studies. (504) 584-3605

Louisiana Community AIDS Research Program. Free medications and care for people taking part in experimental drug studies. (504) 584-1971

HOUSING

Discrimination

Both the federal and the Louisiana fair housing laws prohibit discrimination based on disability in the rental and purchase of housing. Federal law does not apply, however, to the rental of rooms or apartments in owner-occupied buildings with four or fewer units. The Louisiana law does not contain this exception.

If you are denied housing because you have HIV, you may either file a complaint with the Department of Housing and Urban Development (HUD) or you may file a lawsuit. The HUD field offices for Louisiana are located at:

Fisk Federal Building, 1661 Canal Street, New Orleans, LA 70112-2887, (504) 589-7219

New Federal Building, 500 Fannin Street, Shreveport, LA 71101-3077, (318) 676-3385

Affording Housing

If your income falls within a range established by federal guidelines, you may qualify for rental assistance under Section 8 of the Fair Housing Act. Individuals receiving Supplemental Security Income or disability payments qualify. Under this program, up to 70% of your rent could be paid through a rent subsidy program. Unfortunately, the waiting period is often long.

Communities with a high incidence of AIDS are eligible for federal funds under the AIDS Housing Opportunities Act (AHOA). The locality is given discretion in using these funds for shelters, permanent housing or rental assistance to people with AIDS. Even if your community is not receiving AHOA funds, it may have housing or rental assistance available for people with HIV/AIDS. Contact your local AIDS service organization or social worker to see what is available in your area.

Public housing is another option. To apply in New Orleans, you select a particular development and make application at that development on Tuesdays or Thursdays between 9:00 a.m. and 3:00 p.m. You must be able to prove how much income you have. Verification can consist of tax forms or evidence of employment, unemployment compensation, or child support. You must also take rent and utility receipts for the previous two months. If you are on food stamps, take the food stamp printout and your Louisiana Purchase card. You will be asked about the family relationships of those who will live in the apartment. You must have a birth certificate and social security card for each of those persons and a picture ID for each one over 18 years old. The waiting period for public housing varies. The rent is based on income and averages \$50.00 per month.

Eviction

You have no right to remain in your apartment if you cannot pay your rent. Although you can only be legally evicted through a formal eviction proceeding, the process moves very quickly and your landlord could have you removed from your apartment in as little as ten days from the date your rent was due. The process begins with the posting of "Notice to Vacate." If you have not vacated the apartment within five days of the posting of this notice, your landlord must then have you served with a

summons to appear in court. The hearing will usually be three days after you receive the summons.

If you have no legitimate defense to not having paid your rent (having no money is not a legitimate defense), the court will order you to vacate the apartment, usually within 48 hours. Some judges, though not many in Orleans Parish, may give you a few extra days if you have made some definite arrangements to move elsewhere. If you are not out at the end of the time allowed, the sheriff will remove you. About the only way to stop an eviction for non-payment is to pay the rent before the hearing.

You may also be evicted by the same procedure if you breach certain other provisions of your lease. If you have no lease or have a month-to-month lease, your landlord may evict you for no reason whatsoever. However, in this case the landlord must give you written notice to vacate at least ten days before the end of the month (or monthly rental period). If you are not then out at the end of the month, he or she must have you served with a summons and follow the other steps listed above. If your landlord's real motivation in evicting you is your HIV-status **and** if you can convince the court of this, the judge should allow you to stay. However, motivation is very difficult to prove so you may have a hard time winning on this issue.

OTHER PUBLIC BENEFITS

Disability Income

The federal government, through the Social Security Administration, has two programs that provide income to people who are disabled: Social Security Disability Insurance Benefits and Supplemental Security Income. Both use the same standard of disability: the inability to engage in any substantial, gainful activity due to a medically determinable physical or mental condition that is expected to last for at least twelve months or result in death.

Any of several of the opportunistic infections associated with AIDS, for example, pneumocystis carinii pneumonia (PCP) or toxoplasmosis, will automatically lead to a determination that you are disabled. Any of several other infections, if coupled with a doctor's statement that you are impaired in certain functions essential to daily living and to working, will also lead to a determination of disability. For people who have symptomatic HIV-disease, but not one of the conditions listed in the Social Security guidelines, a determination of disability is made on a case-by-case basis.

Although a determination that you are not disabled can be appealed, appeals will take months. Therefore it is very important to have your medical condition fully documented and to make sure that all your medical evidence is submitted when you first apply.

Social Security Disability Insurance (SSDI)

To be eligible for SSD, you must be (1) disabled, as defined above, and (2) have been paying the "FICA" payroll deduction tax for a certain length of time, usually at least five out of the last ten years. The amount of your Social Security Disability benefit will depend on your past earnings and on how long you have been paying into the system. The typical recipient gets about 50% of what he or she had been earning. If you have a dependent spouse, child, or parent, they may be eligible for additional, "dependants'" benefits while you are living and "survivors'" benefits if you pass away. There is a five-month waiting period for SSD. That is, you are not entitled to benefits for the first five months after the onset of your disability. Your local AIDS service organization may offer assistance in applying for Social Security. If not, you should take the following to the local Social Security office:

1. A signed letter from the physician stating the diagnosis and the date of diagnosis.
2. Your Social Security number and card, and any other Social Security numbers through which benefits were ever received (i.e., parents', spouse's).
3. A certified copy of your birth certificate.
4. Your W-2 forms for the previous two years or names and addresses of your employers during the last two years.
5. If currently or previously married, the name of your spouse, dates of marriage, and your spouse's Social Security number.
6. A list of all doctors, hospitals, and clinics you have visited and dates and types of treatment you have received. A list of all medications you are taking. A list of restrictions of activity imposed by your physician. A list of all physical and emotional aspects of the condition that prevent you from working.

An individual cannot receive both Social Security Disability benefits and unemployment benefits, because to receive unemployment, you must certify you can work.

Supplemental Security Income (SSI)

SSI is available to individuals who are disabled and who meet a financial need test. To qualify, your income must be under \$478.00 a month and your assets can be no more than \$2000 (not including a house and a car). The maximum SSI benefit is currently \$458 a month, but is reduced by any income you are receiving from other sources (including non-monetary support such as room and board). The first \$20.00 of the other income is ignored when calculating the SSI benefit. This means your total income from all sources, including SSI, can not exceed \$478.00 per month.

The income and asset guidelines are somewhat higher if you are married. However, the Social Security Administration will include the income and assets of your spouse in determining your eligibility. Thus it is usually impossible to qualify for SSI if your spouse is working. SSI is available to those who have not paid into Social Security or who have not paid enough into the system. There is no waiting period for benefits. When awarded, payments are retroactive to the date of application or date of onset

of disability, whichever is later. However, there are no dependent's or survivor's benefits for family members.

Individuals who are in the five-month waiting period for SSD are eligible for benefits under SSI if they meet the income and asset guidelines.

To apply for SSI, you will need the following:

1. The documents listed in the SSD section, above.
2. Proof of any current or expected income, including the claim number under which any benefits are received (i.e., V.A. number, welfare number, etc.).
3. Bank statements for the last two months.
4. Car registration, life insurance policies, stocks, etc., if any.
5. Proof of rent payment. Proof of household expenses.

Health Insurance

Medicaid and Medicare

Medicaid and Medicare are health insurance programs run by the federal government and may afford the option of private medical care. If you are disabled and receiving Social Security benefits, you may be eligible for one or the other of these programs. (See section on Social Security for information on Social Security eligibility requirements.) You may also qualify for Medicaid if your medical expenses are very high.

Medicaid - If you receive SSI and do not have private health insurance, you will automatically be enrolled in the Medicaid insurance program at no cost to yourself. Medicaid insurance is accepted by most hospitals in Louisiana. Unfortunately, few of the private physicians specializing in HIV will accept a patient whose only insurance is Medicaid. Check with your local AIDS service organization or with a local doctor referral service to see if any HIV-specialists in your area accept Medicaid.

Medicare - Medicare insurance is available to anyone who has been receiving Social Security Disability benefits for 29 months. It costs approximately \$42.00 per month, though the premium may be paid for you if your income (single person household) is no more than \$601 per month. The coverage is identical to the program for the elderly and is not need-based. You are eligible for the program twenty-nine months (i.e., five months waiting period to get SSD, two more years to get Medicare) after you become disabled. Medicare is accepted by nearly all physicians and hospitals.

Health Insurance Continuation Program

The State of Louisiana will pay your health insurance premiums, up to \$500 a month (and an additional \$50 per month for dental coverage), if you are disabled by HIV/AIDS and your household income is below 300% of the federal poverty level (about \$1875 per month for a single person household.) Acceptance into the program is limited by the availability of funding. Application must be made through a case manager. If you do not have a case manager, contact your local AIDS service organization or the social work department at the hospital where you have been receiving treatment.

Food Stamps

Food stamps are a need-based program. For a single person household, your net income cannot be more than approximately \$550 per month. The amount of food stamps which you receive will depend on your net income and the size of your household.

Applications for food stamps are made to the Office of Family Security (the state welfare office) in the parish where you live. To apply, you will need:

1. Proof of household income;
2. Rent receipt or mortgage payment receipt;
3. Proof of resources, such as your bank book or checking account statement; and
4. Social Security cards for all members of your household.

Other Help in Your Community

There may also be organizations in your community that will help you with transportation, meals, and other special needs and daily tasks. Contact your local AIDS service organization to learn what assistance is available.

DEALING WITH DEBTS AND BILL COLLECTORS

Many people disabled by HIV/AIDS have trouble making ends meet. Payments from Social Security or even private disability insurance are often drastically less than what you had been earning. Your monthly bills, such as rent, utilities and food, continue to come in. You may now also have to pay your health insurance premiums, something that your employer had done while you were working. Medical expenses may be piling up. (Even with health insurance, you could be responsible for hundreds or thousands of dollars worth of "deductibles" and "co-payments.") Credit card and loan payments, which were manageable with your former salary, can be impossible if you are not working or are working only part time.

This situation can become a nightmare: constant phone calls and letters from bill collectors threatening you with horrible consequences if you do not pay immediately.

If you know your rights, however, you can manage this situation. Some bills can be safely ignored, and some others postponed. Bill collectors will usually back off, if you explain your situation and are firm with them.

First, find out if any of your debts have disability insurance attached to them. When you obtained your credit card, mortgage, or other loan, you may also have purchased an insurance policy designed to make your payments in the event you became disabled. Check your loan documents to see if you have this coverage. Also check with your lender - it may have purchased such coverage on its own. Similarly, your health and life insurance may contain a "disability waiver," meaning you do not have to make premium payments while you are disabled. Again, check your policy.

Deciding which bills to pay

Before deciding which bills to pay and which to ignore, you need to know the consequences. The four types of debts listed below could have immediate, harmful consequences if you do not pay them.

Court-ordered payments, such as alimony or child-support, must be paid on time or you could find yourself in jail for contempt of court. If you are unable to pay, do not simply ignore it. Ask the court to modify the payment order. A court will usually lower or eliminate your payments to meet your new financial condition. (Additionally, if you are on S.S.D., your children should be eligible for "dependants' benefits" which may entirely pay your support obligations. Check with your local Social Security office.)

Ongoing services, such as utilities, telephone service, or health insurance coverage, must be paid for or you will lose future service or coverage. Similarly, a medical provider can refuse you future treatment if you do not pay your medical bills. (However, most providers will continue your care as long as your insurance continues to pay most of your bills, even though you are unable to make the co-payments.) If you do not pay your **rent**, you can be evicted. Although it requires a court proceeding, an eviction can happen very quickly - in as little as ten days from the date the rent was due.

Items purchased on credit or pledged as security on a loan can usually be taken from you if you can no longer make the payments. Under Louisiana law, a lender cannot unilaterally seize your property: it must obtain a court judgment and an order instructing the sheriff to seize the property. Despite the need to follow this procedure, seizures can happen quickly and often without prior notice to you. However, a lender is unlikely to seek the return of any property unless you have missed a few payments and are uncooperative. If you need extra time, contact the lender in advance. If you cannot afford to keep an item you should attempt to return it to the lender.

But be aware: even after a creditor has taken one of the above steps, it may still have the right to recover money from you. For example, although a bank has repossessed

your car, if its resale value is less than what you owe, you may be liable for the difference.

However, whether you have to pay on these or any other debt depends on how old the debt is and on the type and amount of your assets and income.

Time Limits (Prescription)

There is a limit on the time in which a creditor can sue to collect a debt. In Louisiana, the limit varies with the type of debt. For credit card debts, back rent and utilities, and other "open accounts," the time limit is three years. If you have signed a loan agreement or "promissory note" with the creditor, then the limit is five years. The time starts to run on the date payment was due. On installment debts, such as student loans, the time limit applies to each installment separately.

Even if the time limit has passed, a creditor has the right to collect if you "acknowledged" the debt. This will cause the time limit to start again.

Exempt Property

Under federal and Louisiana law there are certain things that cannot be taken from you, regardless of how much you owe and regardless of whether you declare bankruptcy. The most important of these are:

Social Security payments, annuity income (this should cover private disability insurance payments), pension income, workers' compensation and unemployment compensation (There are some exceptions for child support, alimony, and taxes);

- Up to \$15,000 equity in your home;
- The proceeds and avails from a life insurance policy.
- Necessary household appliances and furnishings;
- Necessary personal items and clothing;
- Necessary medical equipment; and
- If you are working, any tools you need for your job, and an automobile if it is necessary for your job (merely going back and forth to work does not qualify).

If all of your property and income are exempt, you should notify your creditors. Once they know you have nothing they can take, they will usually write off the debt or at least stop collection activity. You can send a letter, like the one below, to do this. Be sure to send the letter to the creditor's **correspondence address**; this is usually different from the address to which you sent payments. If you do not inform your creditors of your financial status, but simply ignore the bills and phone calls, you will eventually be sued.

(Name & Address of Creditor or Collection Agency)

Re: (Your Name and Account No.)

Dear (Name Creditor or Collection Agency):

This letter is to advise you that due to serious medical problems and my inability to continue regular employment, I am unable to continue to make payments on my account. I have been diagnosed with a life-threatening illness (Mention AIDS if you feel comfortable) and cannot work sufficient hours to meet my current expenses (State your reduced hours and sources of income).

I am familiar with Louisiana law and know that I am "judgment proof." If I file for bankruptcy I will claim all my property as exempt and if you sue me and obtain a judgment, you will not be able to collect any of my property to satisfy the judgment.

Please cease all collection activities you have taken or are considering taking. While I will provide you with reasonable financial and medical information, I must avoid stress. This includes high pressure collection activities and lawsuits. If my current situation improves and I am able to resume payments, I will tell you. In the meantime, I am returning my credit card (or please cancel my credit card privileges).

Thank you for your assistance and understanding.

Very truly yours,

(Your Name and Address)

Even if you have a small amount of property that is not exempt, it is, as a practical matter, usually safe from your creditors. Before a creditor can receive any value from your property it must: (1) sue you and prove in court that you owe it the money; (2) get a court order instructing the sheriff to seize and sell your non-exempt property; and (3) hold the sale. This can be a fairly expensive procedure. Unless your property sells for at least as much as the court costs, attorney's fees and sale costs, your creditor will have lost money in its collection efforts. Thus, if your non-exempt property consists of an old car and an average television and stereo, your creditors are extremely unlikely to try to take them.

Dealing with Harassment

Most bill collectors will leave you alone once you have documented your financial and medical condition. However, there may be some who will try to intimidate you into paying, even though they know you are judgment proof and even though they have no intention of taking legal action. One common tactic is for a creditor or bill collector to call you frequently or send many letters. To stop this, you should send, by certified or registered mail, a letter along the lines of the following:

(Name and Address of Collection Agency or Creditor)

Re: (Your Name and Account Number)

Dear (Name of the Collection Agency or Creditor):

I have received numerous phone calls and several letters from you concerning bills I haven't paid. As I have informed you, I cannot pay. Accordingly, under 15 U.S.C. 1692c and Louisiana Revised Statute 9:3562, this is my formal notice to you to cease all further communication with me except for the reasons specifically set forth in the law.

Very truly yours,

(Your name and address)

The statutes mentioned in this letter basically tell creditors to sue you or leave you alone, although a limited number of contacts are allowed in some instances. If a creditor or bill collector continues to contact you after having received this letter, you may have the basis of a lawsuit against it. You may also have the basis for a lawsuit if a creditor or bill collector informs your relatives and acquaintances of the debt or if it threatens you with actions that it does not intend to take or that are illegal. If any of these things happens you should contact a lawyer.

Bankruptcy

In a simple or "Chapter 7" bankruptcy, you keep your exempt property, all your non-exempt property is divided among your creditors, and most types of debts are erased. In a wage-earner debt adjustment or "Chapter 13" bankruptcy, you may keep your non-exempt property but part of your monthly income for the next three to five years is divided among your creditors. Even if a creditor receives little or nothing, it has no right to collect later on the erased debt.

- Debts not erased in a Chapter 7 bankruptcy are:
- Back alimony and child-support.
- Back taxes;
- Court judgments arising from intoxicated driving;
- Credit purchases over \$500 for luxuries bought within 40 days of filing;
- Debts involving fraud or theft;
- Debts from willful or malicious acts;
- Fines and penalties;
- Loans or advances of \$1,000 or more made within 20 days of filing for bankruptcy; and
- Government guaranteed student loans due fewer than five years ago.

For most disabled people the only advantage in declaring bankruptcy is psychological: knowing that creditors are now legally barred from suing or otherwise attempting to collect a debt. As a practical matter, there is little advantage: as long as your creditors know you are judgment proof, they are very unlikely to continue collection activity even if you don't declare bankruptcy. Moreover, declaring bankruptcy may be disadvantageous: in addition to paying court costs and attorneys' fees, you may have to surrender non-exempt property that your creditors would not have gone after on their own.

However, there are four situations in which bankruptcy is advisable:

1. **If you have a significant amount of exempt property.** Your exemptions expire when you die. Thus, you may want to declare bankruptcy to guarantee that your property will go to your friends and family when you are gone and not to your creditors. (There is usually no need to do this if all you own is household furnishings and personal possessions of average value. Most creditors simply do not go after property of this sort.)
2. **If you are likely to inherit a significant amount of property.** Inheritances are generally not exempt from seizures by creditors. Thus you should try to get your debts erased before you inherit. This, however, requires some foresight: an inheritance received within six months of the date you declare bankruptcy can be taken by the bankruptcy trustee to pay your creditors.
3. **If you are working and your wages have been or are likely to be garnished.** Up to 25% of your net earnings can be garnished by a creditor. Filing for bankruptcy automatically stops the garnishment. If you do have income which could be garnished, but all your property is exempt, the threat that you will declare bankruptcy is usually enough to deter a garnishment.
4. **If you are facing foreclosure on your home or car.** If you have fallen behind in your payments, a Chapter 13 bankruptcy may give you time to make up the past due amount. However, you must be able to make all current payments as they become due.

PART III SPECIAL GROUPS HEALTH CARE WORKERS

Practice Restrictions

Public hysteria surrounding AIDS has nowhere been greater than on the issue of HIV-infected health care workers (HCWs). In Louisiana, as in most other states, this has led to reporting requirements and practice restrictions.

Pursuant to Louisiana Revised Statute 37:1747, the various state health care licensing boards (the Boards of Medical Examiners, Dentistry, Chiropractic

Examiners, Nursing, and Practical Nurse Examiners) have each issued regulations governing HIV-infected members of those professions. These regulations are, by law, based on guidelines issued by the federal Centers for Disease Control (CDC). Some differences exist between the regulations of the different boards. However, all except the Board of Chiropractic Examiners currently require that HIV-infected members who perform or may perform "exposure-prone" procedures to report themselves to their respective boards.

Additionally, the Boards either forbid an HIV-infected HCW from performing or directly participating in an "exposure-prone" procedure or require the HCW to inform patients of his or her HIV-infection before doing so.

The CDC's definition of exposure-prone, which follows, includes almost all of dentistry and surgery:

Characteristics of exposure-prone procedures include digital palpitation of a needle tip in a body cavity or the simultaneous presence of the HCW's fingers and a needle or other sharp instrument or object in a poorly visualized or highly confined anatomic site.

Most of the Boards have added another clause to this definition: "or any other invasive procedure in which there is a significant risk of contact between the blood or bodily fluids of the HCW and the blood or bodily fluids of the patient." Given this vague standard, it is very difficult to know whether many procedures are "exposure prone."

HCWs not involved in exposure-prone procedures do not need to report themselves and they do not face any practice restrictions under these regulations.

The regulations currently do not require that HCWs be tested for HIV. However, failure to report oneself or failure to abstain from exposure-prone procedures could cause an infected HCW's license to be suspended or revoked. At this time, it does not appear that the HCW licensing boards are actively searching out infected HCWs. If you are investigated by your licensing board, you should immediately contact an attorney.

These regulations are the subject of considerable controversy. The CDC guidelines were strongly criticized when they were published, in July of 1991. The CDC had initially planned to supplement these guidelines with a list of "exposure prone" procedures, but it abandoned this idea when all major national medical organizations refused to participate, pointing out that there is no evidence that any procedure is "exposure-prone." In an about-face, the CDC then all but publicly announced its intention to revise its guidelines, eliminating restrictions on HIV-infected workers and instead mandating universal precautions. It was prevented from doing this by political pressure from within the Bush Administration. It did, however, announce that states

which did not limit the practice of HIV-infected workers, but mandated universal precautions instead, would be deemed to have met the guidelines.

The CDC is currently revising these guidelines. The changes are likely to suggest fewer restrictions on HIV-infected HCWs. This would bring into question whether the state Boards' current regulations are "based on" the CDC guidelines.

It has been argued that practice restrictions are an unreasonable restriction on a disabled person's right to work, and thus violates the Americans with Disabilities Act and similar state statutes. However, to date courts have found otherwise, ruling for example that a hospital can deny privileges to an HIV infected surgeon or fire an HIV-infected surgical assistant. Given the exaggerated fear of HIV transmission that still exists in medical settings, this is unlikely to change any time soon.

Mandatory Testing of Health Care Workers

The federal appeals court for the region that includes Louisiana has ruled that a hospital can insist its employees submit to an HIV test. This is so even if there is no risk of body fluid contact between the HCW and a patient. The court reasoned that anyone with HIV could rapidly become physically or mentally impaired and thus needed to be closely monitored to assure that he or she was providing proper patient care. Few area hospitals have followed the court's invitation to widespread mandatory testing.

Workers' Compensation

If you could be exposed to HIV on your job, your employer may want to know your HIV-status before you begin work. This is to protect the employer from unfounded workers' compensation claims. Some employers, aware of the concerns surrounding confidentiality, do not initially ask for an HIV test, but will want one immediately after you suffer a needle-stick or other possible exposure. In this situation, the only consequences of refusing to submit to a test should be a bar to a workers' compensation claim.

IMMIGRANTS & FOREIGN VISITORS

You can be denied admission to the United States if you have a communicable disease of public health significance. HIV is currently listed as such a disease.

Visitors (such as tourists, students and business travelers) are not routinely asked about HIV. However, if you are visibly ill or have medication in your luggage, you may be asked about HIV and possibly denied entry into the United States. If your HIV-status is discovered, you may be admitted under a waiver.

Applicants for permanent residence in the U.S. will be tested for HIV antibodies and, if positive, will have their applications denied unless they are eligible for a waiver. You may get a waiver if a member of your immediate family is a U.S. citizen or permanent resident or if you have been granted asylum or have other legal status. If you are undocumented you will not qualify for public benefits, such as SSI and Medicaid, should you become too ill to work.

If you do receive public benefits within five years of entry to the U.S. for causes which did not arise since the entry, you may be found deportable. You may also be denied admission to the country if it is determined that you are likely to become unable to support yourself and to require government assistance.

If you do find yourself in deportation proceedings, there are forms of relief available to eligible persons. If you have been in the U.S. for at least seven years, you may have your deportation suspended if you can show that you are receiving medical treatment which is not available in your country of origin. If you are granted voluntary departure and commanded to leave the country by a certain date, you may seek extension of that date from the Immigration and Naturalization Service (INS) based on your medical situation. When dealing with INS in any way, it is important that you consult with an attorney experienced in immigration law, as you may make a mistake which can result in your being forced to leave the United States.

PRISONERS

Prisoners may not be tested for HIV unless they have given their consent. If you have reason to believe you are HIV-infected and need treatment, you may wish to inform the medical staff and request to be tested. If you are infected, you can get early treatment to delay the progression of the disease. However, be aware that prisons are notorious for leaking HIV test results. Not only the medical staff, but very likely the entire prison staff and population, will soon learn that you are infected. This may subject you to segregation from other prisoners and/or mistreatment from others.

If you feel there have been breaches of your confidentiality or your right to privacy, or if you are mistreated because you have or may have HIV disease, use the prison's grievance procedure. You may also contact a lawyer or a concerned friend who can report violations to the Department of Public Safety and Corrections and seek some relief. Relief from the courts will be granted for only the most serious of violations from within the prison system.

Prisoners have a right to adequate medical care. If you are sick, the prison must treat you. HIV-positive inmates should receive standard treatment, which includes having their blood values monitored and being put on anti-retroviral medication if their immune systems are impaired. However, there is no requirement that prisons provide the best care available. You will not be given reduced work detail or special care just

because you are HIV-infected, nor does the prison have to provide you with any experimental treatments. If you feel that you are not receiving the proper care for your condition, talk to the medical staff, a prison social worker, or a lawyer. Again, complaints about the medical care you are receiving will not get you relief from the courts unless they rise to the level of very serious violations.

Medical furloughs are available to prisoners who are terminally ill, permanently incapacitated and pose no threat to society. You must be extremely ill to be granted a medical furlough. A furlough would permit your release to the home of a family member or some other residence. The recommendation must originate with the medical director of the prison and must be approved by the Secretary of the Department of Public Safety and Corrections.

Condoms and clean needles will significantly reduce the risk of HIV transmission. You should take these precautions in order to avoid exposing other inmates and to protect yourself from being reinfected with the virus. If you are having sex without a condom, ask if you are allowed to receive them. Have a friend supply you with some. If you are using I.V. drugs, ask for household bleach and disinfect needles after every use.

MILITARY PERSONNEL

If you are HIV-infected, you will not be allowed to join any branch of the armed forces. All new recruits are required to submit to an HIV test.

If you are already in the military, you may have to submit to periodic HIV testing. You will not be dismissed merely for being HIV-infected: Congress has enacted laws that prohibit the use of HIV tests results for adverse personnel action. However, homosexual activity and I.V. drug use are still grounds for disciplinary action and for discharge. (Although the armed services have stopped routinely asking new recruits about sexual orientation, this policy does not apply when there is "cause" to believe someone is homosexual, and being HIV-infected may constitute such cause.) Since you cannot get a disability retirement if you have a disciplinary charge against you, be cautious of making admissions about homosexual behavior or I.V. drug use.

Additionally, if you have any symptoms, the military may attempt to exaggerate the severity of your condition and give you a disability discharge, even though you are well enough to perform your duties.

If you believe that your HIV-status has resulted in adverse personnel action, consult a lawyer.

Contributions to AIDS Law of Louisiana, Inc., brings you our newsletter and invitations to events. All contributions are tax deductible to the extent allowed by law. Please make checks payable to AIDS Law of Louisiana, Inc.

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AIDS Law SERVICES

AIDS Law of Louisiana, Inc. provides free assistance with HIV-related legal problems.

This brochure is designed to provide general information. Although this brochure is prepared by professionals, it should not be used as a substitute for professional services. If legal or other professional advice is required, the services of a professional should be sought. AIDS Law can provide legal assistance or referrals to persons needing services.

In addition to the issue of child custody discussed in this booklet, HIV-infection makes it important for you to think about several other issues, such as confidentiality and discrimination, estate planning, and insurance and financial planning.

The AIDS Law staff can provide you with additional information on these subjects and, when necessary, refer you to an HIV-sensitive and experienced attorney. If you are unable to afford an attorney, we will arrange for you to see one on a reduced or no cost basis.