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# INTRODUCTION

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The purpose of the ALRP AIDS Law Manual is to provide specific legal education regarding HIV/AIDS law to our volunteer attorneys. The Manual is the result of tireless efforts by numerous individuals representing various organizations striving for greater advocacy on behalf of the HIV/AIDS community in the San Francisco Bay Area. Specifically, we hope to increase the skill and capacity of the legal community to handle the intricacies of HIV/AIDS-related law and representation.

The last edition of the Manual was edited in 1995 by ALRP's former Client Services Director Betsey Johnsen. Since then the HIV/AIDS community has undergone tremendous changes and faced daunting challenges. HIV/AIDS has increasingly spread into demographic groups beyond the LGBT community, particularly among women, minorities, and intravenous drug users.

The disturbing rise of infection rates among young adults has also brought tremendous frustration to those battling so hard to contain HIV/AIDS. The surveillance report for the quarter ending March 31, 2004, released by the San Francisco Department of Public Health, indicated that in San Francisco alone nearly 9,470 individuals have a fully-diagnosed case of AIDS. It is estimated that nearly three times that figure are living with HIV throughout the Bay Area. In California, there are more than 55,000 people living with AIDS.

When ALRP was first created in 1983, the overwhelming majority of the casework involved immediate needs for wills, durable powers of attorney and legal issues related to death and dying. Two decades later, these cases constitute less than one-tenth of our cases. Improvements in drug therapy and other advances in treatment options have led to increased life expectancies. This in turn has vastly expanded the nature of legal matters affecting persons with HIV/AIDS. Typically, we now address issues involving confidentiality of HIV/AIDS status, discrimination in employment, housing difficulties, and public accommodations of those living with the disease. In addition, many now living with the disease have struggled with an array of financial matters that were brought on in the wake of life-extending treatment options not previously available.

Despite these evolving complexities, ALRP's focus has remained constant since its inception. ALRP continues to be the *only* institution in the Bay Area whose sole mission is dedicated to providing free legal assistance on virtually any civil matter to persons living with HIV/AIDS. Between 1985 and 2004, ALRP has assisted clients in over 40,000 legal matters, either through direct advocacy or by placement with our 600 panel attorneys. In 2003 alone, ALRP successfully leveraged nearly \$1 million in donated legal services and provided training for nearly fifty attorneys. In addition, ALRP handled over 1,500 individuals with HIV/AIDS. Of those individuals served, three-quarters are placed squarely within the parameters of poverty guidelines for low and very-low income persons. A third of our clients in the last year were from

communities of color, one in ten clients was a woman or transgendered person, and nearly 20% of all clients were from outside San Francisco County.

Because the pandemic will continue to evolve and will change the nature of advocacy and legal matters, ALRP is committed to keeping pace with these changes and to train and expand the capacity of the legal community to respond accordingly. The AIDS Law Manual is a core-step in ensuring that those structural changes in resources and capacity are met.

## **How to Use This Manual**

The AIDS Law Manual has expanded from nine chapters – Testamentary Documents, Employment Discrimination, Public Access, Insurance and Employee Benefits, Creditors and Bankruptcy, Family Law, Immigration and Confidentiality issues – in its previous edition in 1995 to its updated collection of 14 chapters. Specifically, the following areas of law have been added: Fair Housing, HIV Consumer Rights, Criminal Issues, Prisoners’ Rights, and Transgender Law. The new chapters reflect the growing complexity of legal issues facing ALRP’s clients today, and the ever-increasing challenges our volunteer attorneys face in representing them. And, of course, the carryover chapters have been updated to address the current state of the law.

While these chapters are certainly not intended to form an exhaustive treatise of any particular area, they do provide a comprehensive overview for any lawyer. As such, ALRP attorneys using this manual should be able to provide helpful and even critical advice to clients concerning most legal issues. Indeed, clients will frequently need help with multiple problems, and this expanded edition is designed to accommodate such need.

Despite the AIDS Law Manual’s multi-faceted problem-solving approach, lawyers will nevertheless encounter clients whose issues cannot be adequately addressed herein. However, ALRP’s extensive network of resources should at the very least provide proper direction to those seeking more particularized advice. But regardless of the complexity involving these areas of law, similar problems will arise time and time again. Frequent utilization of this manual will provide particularly invaluable assistance for such recurring needs.

## **Special Features of this Edition**

Several new topics in this edition merit special consideration. For example, although ALRP attorneys do not represent clients facing prosecution, the chapter covering Criminal Issues such as medical marijuana, intention transmission, and viatical complications will at least provide clients with the current state of the law in these areas. Medi-Cal AIDS Law and Special Needs Trusts are also introduced for the first time in this edition, both added to the Public Benefits chapter.

In addition, the Transgender chapter also addresses rapidly evolving law, particularly in relation to state and federal protections against discrimination. While such issues are in relative infancy, transgender law will undoubtedly evolve dramatically in the future as society attempts to cope with the growing struggle for civil rights in this community. The addition of the

Consumer Rights section will help clients understand what services and rights they are entitled to when seeking HIV services.

The chapter on Insurance has been broadened considerably, particularly in its inclusion of a section on long-term disability. Indeed, perhaps one of the most striking developments in this edition concerns the discussion of numerous benefit options now available to the HIV/AIDS community.

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