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Fighting the changing face —of AIDS discrimination—

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It has become a convention to say that AIDS is a modern-day plague, killing all it touches and isolating its victims from their friends and families.

But in a modern society of civil liberties, the isolation of people with AIDS is no longer merely a tragedy, it is a crime.

The New York State law on human rights protects people with records of a disability, those working for someone with a disability, and those perceived to have a disability, according to Sallie Perryman, special assistant to the director of policy of the AIDS Institute in the New York State Department of Health.

While the New York State Human Rights Law provides for the protection of individuals with disabilities, federal law is more lenient in its view of discrimination; the Armed Forces, immigration policy, and the Job Corps, a federal work-training program, all discriminate against people with AIDS, although Congress negotiators approved a bill Thursday which would permit immigration for people with

AIDS.

AIDS discrimination has grown steadily since 1983, when AIDS first became widely recognized as a public health hazard in the United States. That same year, the AIDS Discrimination Division of the New York City Commission on Human Rights, in its first year

AIDS discrimination; in 1989, it received 610.

There are various reasons for such a dramatic increase. The number of HIV-infected individuals has greatly risen, increasing possible targets for discrimination. Also, HIV-infected people have become more aware of human rights laws and what constitutes discrimination. Finally, society is more aware and more fearful of the dangers that surround AIDS, making discrimination against HIV-positive people more likely.

Although efforts to stop AIDS discrimination have proven effective in some areas, they have not achieved universal success; as soon as one issue has been solved in the courts, it resurfaces in some other area, according to Gillian Stern, special assistant to the director of policy of AIDS Institute in the New York State Department of Health.

“Each time one issue becomes codified, it ripples out and becomes another one,” Stern said.

Also, institutions often implement procedures to conform with recent court decisions, which results in more subtle forms of discrimination, according to Sandy Low, staff attorney for the Lambda Legal Defense and

attorney for the Lambda Legal Defense and Education Fund.

Issues of AIDS discrimination also per-

vade the lives of those who do not have the disease, but who may be perceived as having AIDS.

For example, a man living with another man in Greenwich Village may not receive medical insurance. Or, a person with a record of intravenous drug use may be denied job.

Attacks on gays or lesbians, which are often targeted at people who look weak or sick, are frequently accompanied by the words "AIDS faggot," according to Bea Hanson, HIV-related Violence Project coordinator for the Gay-Lesbian Task Force.

Furthermore, because AIDS has been found predominantly among the most vulnerable and, in some ways, most visible, members of society, such as gays, blacks, Latinos, discrimination against HIV-infected people is more virulent than it would be if middle-class, straight, males were infected, according to Liz Cooper, staff counsel for the American Civil Liberties Union AIDS Project.

"I think a lot of the discrimination issues have come up because of the people who are most likely to be infected with the AIDS virus," Cooper said.

AIDS discrimination complaints are most commonly employment-related, according to statistics from the New York City Commission on Human Rights AIDS Discrimination Division. Twenty-eight percent of all com-

division. Twenty-eight percent of all complaints to the New York City Commission on Human Rights AIDS Discrimination Division from September, 1989 to March, 1990 were made in the area of employment.

Though employers discriminate against people with AIDS either by not hiring them or by firing them, they also discriminate in more subtle ways. They stop HIV-infected employees from using the copier machine or the telephone, they move their offices to isolated places, or they stop workers with AIDS from speaking with clients or customers, according to Keith O'Connor, director of the AIDS Discrimination Division of the New York City Human Rights Commission.

Even so, the percentage of employment-related complaints has been decreasing recently, according to Mitchell Netburn, director of the office of AIDS discrimination issues of the New York State Division of Human Rights.

Cases against large employers have recently decreased because companies have been educated about AIDS and discrimination, Netburn said.

"We've seen a slight decrease in cases against large employers due to increased awareness that discrimination in employment is unlawful," Netburn said.

Much of the discrimination now seen in employment is related to economics, instead of to a fear of casual transmission, according to Mark Barnes, director of AIDS policy for the New York State Department of Health.

the New York State Department of Health, who said employers' insurance rates increase if employees are HIV-positive.

"Discrimination has changed from discrimination based on fear to discrimination based on cost," Barnes said.

Barnes said health insurance costs have increased because health care has improved and HIV-infected individuals are now living longer, while fear of casual transmission in the workplace has lessened.

"[Employers say] 'We know you're not going to transmit AIDS, but you're going to cost us a lot of money in the future,'" Barnes said.

O'Connor and Netburn said economic causes for discrimination are becoming more prominent in some employment discrimination cases, but fear is still an important factor, especially in discrimination against health care workers and food workers, which has increased recently, according to Netburn.

Although medical experts say HIV cannot be transmitted through the normal employment of health care or food workers, hospitals, clinics, restaurants, and hotels are still wary of the disease, Netburn said.

O'Connor gave an example of an operating room nurse who was removed from her duty after testing positive for HIV in the hospital, even though she was assured the hospital test was confidential.

Discrimination in health care does not only affect health care workers; hospitals and cli-

...nics routinely discriminate against AIDS patients who, ironically, need good health care more than anything else.

Health care discrimination is divided about evenly between private doctors' offices and public hospitals and clinics, according to Netburn.

Health related discrimination complaints have grown from being five percent of complaints received in 1986 by the Office of AIDS Discrimination issues of the New York State Division of Human Rights to being 39 percent of complaints in 1989, Netburn said.

"It's a fairly dramatic increase from year to year," he said.

Discrimination against AIDS patients is most commonly found in a seemingly innocuous facet of health care. AIDS patients'

food trays are placed outside their doors, or on another side of their rooms. Blind patients are not fed sometimes because they do not realize their food has been served, O'Connor said.

Some AIDS patients have simply been left in their rooms for long periods of time without being cleaned or changed, he said.

HIV-infected individuals also frequently have difficulty getting dental care, getting surgery performed, or having dialysis in major New York City hospitals, O'Connor said. Some hospitals actually refuse to treat HIV-infected patients, he said.

Health care complaints are contained within the larger issue of public accommoda-

tions, according to Netburn. Public accommodations refer to anything in society that any member should be able to use, such as a taxi, a movie theater, or a hospital, O'Connor said.

Housing is considered a public accommodation, and it is a major area of complaint for HIV-infected individuals. Housing discrimination does not usually mean eviction, according to O'Connor. Instead, HIV-individuals are not allowed to use public facilities such as the swimming pool, the backyard, or the laundry room, he said.

In addition, as soon as it is widely known that individuals have AIDS, their neighbors can become abusive, harassing them both verbally and physically, O'Connor said.

"Once word gets out it's very difficult," he said.

Health costs for individuals with AIDS rise to astronomical numbers, making it essential for AIDS patients to receive adequate health insurance. Yet it is virtually impossible for HIV-positive individuals to receive health insurance at reasonable rates, according to Sandy Low, a staff attorney at Lambda Legal Defense and Education Fund.

Insurance companies cannot usually be charged with discrimination for not giving HIV-positive people health insurance because it is based on risk, and the risk of insuring an AIDS patient is prohibitively high, Low said.

"The reality is that all insurance is based on risk. . .and if something is too risky, they don't have to cover it," she said.

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The issue of insurance is a controversial one because it is not included in the New York State human rights law, although there have been several recent attempts to change that status, according to Perriman.

If it cannot be proven that an insurance company is discriminating against a specific individual, and is making its decision based on standards used for anyone who applies for insurance, then the company cannot be charged with discrimination.

People only suspected of having AIDS can file charges against an insurance company that denies them insurance if they can prove that is the reason for the company's decision, Low said.

As AIDS goes beyond the confines of the male homosexual population into the general population, discrimination based on perception is beginning to spread beyond gay males, according to Netburn.

More women are being discriminated against because they are perceived to have AIDS, whereas several years ago, women were only discriminated against if it was known they had AIDS or were related to someone who did, Netburn said.

"Now those bells are going off in people's minds," he said.

In addition, the spread of the AIDS epidemic to other populations has led to a new controversy concerning Social Security discrimination against women, children, blacks,

Latinos, intravenous drug users, and poor people with AIDS.

Social security benefits are now given based on a list of HIV-related opportunistic diseases considered symptoms of HIV, according to Low.

However, these diseases, which are listed by the federal Center for Disease Control (CDC), are basically representative of symptoms of gay, middle-class men, Low said.

Women's symptoms not listed include chronic pelvic inflammatory disease and cervical cancer. Poor people can have kidney failure, heart infection, or tuberculosis, all of which are not listed by the CDC. Children's symptoms can include thrush and diarrhea, Low said.

Because the Division of Health and Human Services uses only the CDC's list to give out benefits, people with AIDS often cannot receive disability benefits from Social Security, Low said.

MFY legal services, an all-purpose legal service, in conjunction with Lambda, filed a complaint against the Division of Health and Human Services on Oct. 1, Low said.

The AIDS Discrimination Division of the New York City Commission on Human Rights, in its first year of existence, received four complaints of AIDS discrimination; in 1989, it received 610.

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fear to discrimination based on cost...Employers say 'We know you're not going to transmit AIDS, but you're going to cost us a lot of money in the future.' ''

Secondary illnesses called opportunistic infections, such as pneumocystis carinii pneumonia (PCP) and Kaposi's sarcoma (KS), are usually the cause of death for people with AIDS.

The World Health Organization estimates that five million people worldwide are HIV-positive, according to the Essential AIDS Facts Book, and as of June 1989, it estimated there are 375,000 people with AIDS around the world.

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SPECTATOR/TIM KAO

Students protested anti-gay discrimination after a bias attack against four people leaving a Lesbian, Bisexual, Gay Coalition dance earlier this month.

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