



## Duke Law School Program Addresses Changing Needs of HIV-Positive People

[by Erica Winter]

Many political, social, and legal issues converge to engulf the lives of people with AIDS—even more so when those people are poor. And as the medical landscape for people with AIDS and those infected with HIV has changed dramatically in the last 10 years, their need for legal help has remained constant.

Students working with Duke Law School's AIDS Legal Assistance Project in Durham, NC, seek to provide legal assistance for local, low-income people with AIDS or infected with HIV. The project, a law school clinic that gives academic credit, started in 1996. It accepts 10 students per semester and hires summer interns as well.

The project asks students for a large time commitment, requiring 100 hours of direct client representation over the course of one semester, in addition to a two-hour class that meets once a week, says Professor Carolyn McAllister, Clinical Professor of Law and director of the project. Professor Allison Rice also supervises the clinic.

"The law students do everything" for the project's clients, says McAllister, from doing the intake interviews to drafting documents to representing clients in hearings. North Carolina, like many states, has a third-year practice rule, so those in their third years can go to court and represent clients under the supervision of a licensed attorney.

Third-year Duke Law student Stacy Hauf represented a client at a hearing before an Administrative Law Judge (ALJ) a few weeks ago in an appeal of a Social Security disability benefits denial. The first step in these cases is to "make sure to have as much information as possible" about the project client's medical history, to demonstrate disability, says Hauf. Clients often see applications denied because of incomplete documentation.

If, after the full slate of medical documen-

tation is provided, the application is still denied, then there can be a hearing before an ALJ. Last semester, project law students asked the ALJ to decide on the case record with no hearing, but the ALJ declined.

Hauf then primed herself for the hearing—building on the work of other students in the previous semester, getting updated affidavits from physicians, and prepping to examine a vocational expert and a third-party witness. It was her first hearing, and Hauf says it went well. "I'm pleased. I think we were well prepared."

In some cases, McAllister has secured permission for students to represent project clients in federal courtrooms, she says. One such case involved discrimination of a client who was being denied access to certain hospital services because of the client's HIV-positive status.

Other discrimination cases the project sees involve employment or housing issues, says McAllister. More often, the project's law students will work with clients on trying to get Social Security disability benefits or on establishing living wills, advanced directives, or health care power of attorney.

"We have a lot of single parents," says McAllister, so making provisions for children is also a top priority. In North Carolina law, there is a provision for establishment of standby guardianship. This allows a guardian to be appointed for a child while his/her parent is still living. If the parent dies, then the guardian is legally able to take responsibility

immediately so the kids are never "in legal limbo."

Some legal issues for people infected with HIV have changed over the past 10 years with the advent of new medications. With fewer clients dying from AIDS, says McAllister, the project is seeing fewer requests for viatical settlements—where terminally ill people sell their life insurance policies before their deaths to use the money to pay for medical treatments. "We haven't had a case of that in four years," says McAllister.

Living longer with HIV infection raises more legal issues. Clients are on disability insurance for longer periods of time, and some people who are on disability want to return to work on a limited basis.

In addition, living longer has brought more credit card debt to the project's clients. Some people with HIV who were no longer able to work and with little money would live on their credit cards, expecting death soon. But longer life also brought more debt and problems with repayment. New federal laws in the works limiting the ability of people to declare bankruptcy will complicate things further.

Ironically, too, some of the treatments keeping HIV-infected people alive also cause side effects that create disability where the infection might not. Medications for HIV sometimes make cholesterol levels increase, says McAllister, leading to heart attacks and the need for heart bypass surgery among people infected with HIV. Trading one health



problem for another is "a real balancing act" for the project's clients, she says.

Most of the Duke Law students who have worked in the AIDS Assistance Legal Project go on to work in large law firms after graduation, says McAllister, but their reasons for doing the project in the first place "varies. We get everybody," she says. Some students are looking for experience in wills and estates, others want introductions to public interest law, and some have relatives with AIDS. Most tell her they want to do this work to help people, says McAllister. "We tend to get very active students."