HIV Employment Discrimination Still an Issue in US, UK

July 24, 2012 By Cristina Gonzalez

Employment law and licensing practices in the United States and the United Kingdom are making it increasingly difficult for people living with HIV to enter the workforce, further increasing stigma and discrimination, according to two studies presented Tuesday, July 34, at the XIX International AIDS Conference (AIDS 2012) in Washington, DC.

The first study, presented by Alison Yager, JD, of the HIV Law Project in New York, focused on professional licensing practices within the United States and how broad language can often lead to unlawful denial of licenses.

Under the American with Disabilities Act, an individual with disabilities can be denied a license if he or she poses a direct threat to the health of others and this threat can't be reasonably eliminated. After several instances in which people living with HIV were denied by licensing bodies, the U.S. Department of Justice sent a letter to the Attorneys General of all 50 states asking them to review licensing criteria and revisit language to avoid violating the ADA and the rights of HIV-positive people.

The analysis conducted by the HIV Law Project and reported by Yager found that more than 20 states have requirements for one or more occupations that prohibit granting or renewing a license for people with "infectious," "communicable," or "contagious" diseases, which Yager explained can be interpreted to include HIV by licensing bodies.

In addition to licensing criteria that discriminate against people living with HIV being against the law, Yager said, they ignore science-based data and promoting stigma, not to mention deny large populations employment opportunities.

According to Yager, the solution is simple: states should clarify laws so it's clear that the terms "infectious," "contagious," or "communicable" exclude HIV, a disease that can't be transmitted through casual contact and can be prevented by taking universal precautions. Secondly, it's important for lawmakers to consider the quality and importance of licensing restrictions and remove them when possible.

A similar trend emerged in the United Kingdom, where the job and benefit system was being reformed in order to encourage people with health conditions to re-enter the workforce. As in the

U.S., HIV is classified as a qualification for disability.

However, research showed that job applicants were often asked about their health in pre-employment health questionnaires or before an offer was extended, according to Laura Dunkeyson, a policy officer at the National AIDS Trust, and this led to the exclusion of persons from the workforce.

In fact, Dunkeyson and her colleagues reported that when a non-disabled person and a disabled person (who disclosed) applied for the same job, the non-disabled person was invited to twice as many interviews.

Research also shows that less than 50 percent of people living with HIV in the U.K. are employed, partly due to the fear of discrimination.

NAT was able to leverage this research to start a campaign to prohibit the use of health questionnaires in all instances. After considering scientific-based evidence, the U.K. government signed a law that makes it unlawful for employers to ask health-related questions before a job offer.

According to both Yager and Dunkeyson, it’s clear that intervention is needed in employment practices in order to eradicate stigma and stop discrimination and provide people living with HIV with equal employment opportunities.

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