

# Treat Us Right

How are LGBT patients and patients living with HIV treated in health care settings? Nearly 5,000 responded to Lambda Legal's nationwide survey. The results are not just a wake-up call. They're a demand for action.

By Zahara Raine



Hospital staffers kept Janice Langbehn, pictured with her children, from seeing her partner Lisa Pond after Pond collapsed and fell into a coma. In September 2009, a federal district court dismissed her lawsuit, led by Lambda Legal, against Jackson Memorial Hospital in Miami. At Take the Power!, a life-planning seminar cosponsored by Lambda Legal in November, several nurses at the hospital apologized to Langbehn. She still seeks a formal apology from hospital management.

In 2006 while attending graduate school in Boston, Torrey Giaquinta visited her school's health clinic for a gynecological exam. Giaquinta was impressed that the health-history form listed "male," "female," and "both" under sexual partners.

But once in the exam room, the environment changed.

The nurse practitioner asked Giaquinta if she was on birth control. Giaquinta said no. She asked if Giaquinta used condoms. Again, no. Trying not to seem shocked or judgmental, the nurse then asked how Giaquinta was preventing unplanned pregnancies.

"I responded that I was sleeping with a female," Giaquinta recalls. "After that, the whole exam was awkward. She had me do my own breast exam, which has never happened to me before. It felt like she was not willing to touch me."

## A Sadly Common Story

Giaquinta's experience is not an isolated one. Other LGBT people and people with HIV have similar, if not worse tales to share about health-care settings. Lambda Legal, which has led numerous lawsuits to redress unjust and discriminatory treatment by health care professionals, launched a two-year national campaign for health care fairness in the spring of 2009.

As part of this campaign, we developed and distributed a national, first-of-its-kind survey. The objective was to document anti-LGBT and HIV discrimination in health care settings.

With the collaboration of over 125 partner organizations, the survey was distributed nationwide via email, links on web and social-networking sites and paper surveys. The survey was also promoted and made available in Spanish.

## The Survey Results

In the end, nearly 5,000 people

responded. Among the eye-opening findings:

- **More than one in four transgender respondents and almost one in five respondents living with HIV reported being denied care.**
- **A staggering 35 percent of respondents living with HIV reported that health care professionals refused to touch them** or used excessive precautions while caring for them, while over 25 percent were blamed for their own health status.
- **Nearly 21 percent of transgender respondents reported being subjected to harsh or abusive language** from a health care professional and over 20 percent of them reported being blamed for their own health status. In almost every category measured in this survey, transgender respondents reported experiencing the highest rates of discrimination in care and barriers to care. *(continued on page 13)*

# Fair Care Checklist

Lambda Legal recommends that we all take steps to improve health care access, treatment and outcomes for LGBT patients and people living with HIV.

## Health care institutions should:

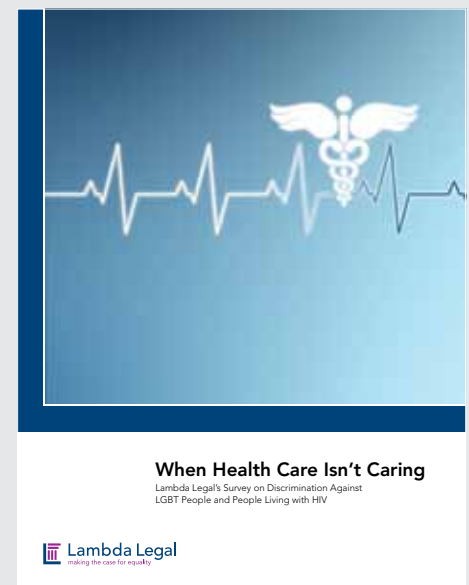
- Establish nondiscrimination, fair visitation and other policies that prohibit bias and discrimination based on sexual orientation, gender identity and expression and HIV status, recognize families of LGBT people and their wishes; and provide a process for reporting and redressing discrimination if it occurs.
- Develop and implement goals, policies and plans to ensure that LGBT people and people living with HIV are treated fairly.
- Require health profession students and health professionals to undergo significant cultural competency training about sexual orientation, gender identity and expression and HIV status.
- Include training about the specific ways LGBT people and people living with HIV who are also people of color, low-income, seniors or members of other underserved populations may experience discrimination in health care settings and establish policies to prevent them.
- Advocate for laws and accreditation standards that require all providers to deliver to LGBT people and people living with HIV the same level of high-quality care afforded others.

## Our federal, state and local governments should:

- Include coverage of LGBT people and those living with HIV in all antidiscrimination and equal opportunity mandates.
- Require all health care facilities and education programs that receive government funding to develop and implement goals, policies and plans to ensure that LGBT people and people living with HIV are treated fairly, and provide ongoing cultural competency training for all health care profession students and staff.
- Change laws to require recognition of the families of LGBT people, including those who live within less common family structures, and require health care providers to do the same.
- Eliminate overly broad religious exemptions that purport to exempt medical care from nondiscrimination laws.
- Prohibit discriminatory practices by insurance providers that deny or limit coverage for needed care by LGBT people and people living with HIV.
- Ensure that government-funded health research and surveys include sexual orientation and gender identity issues and demographic analysis so that more can be known about the health care discrimination experienced by our communities as well as about our communities' health care needs.

## Individuals and organizations should:

- Educate themselves, each other and, when possible, health care providers about the rights and needs of LGBT patients and those living with HIV.
- Advocate for improved laws and policies.
- Use existing mechanisms that are appropriate—such as medical powers of attorney and other legal documents as well as formal legal relationships where that is a couple's choice—to create as much protection as possible for themselves and their loved ones.
- Fight back when discrimination occurs, including reporting discriminatory practices, sharing stories and contacting Lambda Legal and other advocacy organizations and/or attorneys.



To see more on the National Health Care Fairness Survey, visit [www.lambdalegal.org/health-care-report](http://www.lambdalegal.org/health-care-report)

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- **There are not enough medical personnel who are properly trained** to care for us, say nearly half of lesbian, gay and bisexual (LGB) respondents, respondents living with HIV and almost 90 percent of transgender respondents.
- **A higher proportion of people of color and low-income respondents report discriminatory and substandard care.** Fourteen percent of lesbian, gay and bisexual (LGB) respondents of color and almost 17 percent of low-income LGB respondents reported experiencing harsh language compared to almost 11 percent of LGB respondents overall.

### A Call to Action

Many of us feel vulnerable when we're ill or seeking health care services. For LGBT people and those living with HIV, as Lambda Legal's Health Care Fairness Survey shows, that vulnerability is often exacerbated by disrespectful attitudes, discriminatory treatment, inflexible or prejudicial policies and even refusals of essential care. These barriers can result in poorer health outcomes, and often have serious and even catastrophic consequences.

With the nation in the midst of a vigorous debate about reforming the way health care is delivered, we at Lambda Legal and our partners want to ensure that the needs of LGBT people and those living with HIV are integral to the discussion. Chronicling care barriers faced by our communities is vital to addressing our needs.

"We hope that individuals and groups will take information from this survey and share it with community members, health care providers, institutions and legislators," says Lambda Legal Director of Community Education and Advocacy Beverly Tillery. "We want the survey report to become a part of the tools they use to fight for better health-care laws and policies for LGBT people and people living with HIV." **L**



## A CLOSER LOOK:

### AFFILIATED ATTORNEY DESMUND WU

Through Lambda Legal's affiliated attorney program, associates at some law firms can practice public interest law for a year. Lambda Legal staff member Brandon Aultman speaks to one participant in the Western Regional Office.

### Describe your role as an affiliated attorney at Lambda Legal.

For the next year that I will be here, I will be working on our impact litigation in the Western Region. If one of our senior staff attorneys is writing a legal brief for one of those cases and raises a concern, I'll help out by doing research and writing a memo that addresses the issue. If a new law gets passed, or a case gets decided that clarifies a new law, I'll help to educate the public about their rights through outreach.

Before I went to UCLA School of Law, I worked as an assistant at UCLA's Williams Institute for Sexual Orientation Law and Policy. Seeing the kind of work that lawyers did in the LGBT movement made me think, "Hey, I want to do that, too!" So I applied to law school. I wanted to work with Lambda Legal, because the work we do has a big, discernable impact on the LGBT community.

### What kinds of interesting work have you been doing lately?

I testified before the Los Angeles Police Commission to urge the commission to end its relationship with youth programs run by the Boy Scouts of America, because of the Boy Scouts' discriminatory policies against LGBT people. The commission eventually did sever

the relationship. It was exhilarating, testifying before the Police Commission. The Boy Scouts had once fought to the Supreme Court to defend its "right" to discriminate against LGBT people—and I reminded the Police Commission of that.

### What is on the front burner for Western Regional Office?

One of our top cases is *Collins v. Brewer*, which challenges a mean-spirited Arizona law that strips lesbian and gay state employees of domestic partner benefits (see feature article on page 9). We've just begun the litigation process, but it's especially important to me that I'll help make arguments for the equal treatment of lesbians and gays in employment

### On a personal note, is there any Desmond Wu trivia that Lambda Legal colleagues and readers might be surprised to learn about you?

Well, I used to teach swing dancing in college, and I won some swing competitions a long time ago. I know how to salsa, do the Argentine Tango—even did some ballroom competitions. I've also played piano since I was four. I played in chamber ensembles in and after graduate school. **L**