

# **TAKING CONTROL<sup>©</sup>**

*A Legal Guide to Health Care and  
Related Services*

*for*

*Individuals Living With HIV Disease  
In Maryland*



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## ***Introduction***

If you have been diagnosed with Human Immunodeficiency Virus (HIV) or Acquired Immune Deficiency Syndrome (AIDS), you need to make certain health care decisions. The purpose of this publication is to assist you in making those decisions and to address your concerns regarding access to health care, medical record confidentiality and privacy issues, HIV testing and reporting, paying for health care, and taking legal control over future decisions that affect your life and the lives of your loved ones.

*Taking Control* is written for people in Maryland and relies on this State's laws, as they exist on the date of publication. However, these laws often change so it is important for you to contact an attorney if you have a specific legal problem.

## ***Acknowledgements***

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# Table of Contents

	Page
<b>Obtaining Health Care .....</b>	<b>1</b>
Finding a Health Care Provider .....	1
Your Right to Health Care .....	3
Health Care Discrimination and Appropriate Remedies .....	8
<b>Testing for HIV Antibodies.....</b>	<b>11</b>
Anonymous Testing .....	11
Confidential Testing.....	11
<b>Confidentiality of HIV Status .....</b>	<b>13</b>
Reporting Requirements .....	13
Informing Your Partners .....	13
<b>Paying for Health Care.....</b>	<b>14</b>
Private Health Insurance .....	14
Medicaid .....	16
Maryland Pharmacy Assistance and Pharmacy Discount Programs .....	17
Maryland AIDS Drug Assistance Program.....	19
Medical Trials and Studies.....	20
<b>Maintaining Control .....</b>	<b>20</b>
Advance Medical Directives.....	21
General and Limited Powers of Attorney .....	23
Last Will and Testament .....	24
Guardianship Issues .....	26
<b>Other Legal Issues and Related Services .....</b>	<b>26</b>
<b>Resources .....</b>	<b>28</b>

## ***OBTAINING HEALTH CARE SERVICES***

### **Finding a Health Care Provider**

HIV is a chronic illness that requires early detection and competent health care. It is very important to find health care providers who are knowledgeable about the disease, are aware of current treatment plans, and who are sensitive to your special needs and your concerns.

Referral services are available to assist you in selecting a primary care physician or an HIV experienced practitioner, a dentist, a mental health care counselor, a nutritionist, or any other related health care professional.

One agency that is can assist you in finding appropriate and competent health care is the Health Education Resource Organization (HERO). HERO is a non-profit community organization that provides HIV services to all Marylanders who are affected by HIV/AIDS. Among the services offered by HERO are medical services through its primary medical care clinic, testing and counseling services, case management services, housing assistance services, mental health treatment services, legal assistance, prevention and education services, support group services, and a resource center for homeless clients. HERO is located at 1734 Maryland Avenue, Baltimore, MD 21201 and can be contacted at 410-685-1180 Monday through Friday between 9 a.m. and 5 p.m, You may also contact the Statewide AIDS Information and Referral Services Hotline at 1-800-638-6252 or 1-800-553-3140 (Spanish).

Another agency that can provide HIV services including assistance in finding competent health care is the Whitman-Walker Clinic. The Whitman-Walker Clinic has

locations in Washington, D.C., Northern Virginia and Hyattsville, Maryland. Among the services provided by the Whitman-Walker Clinic are counseling and testing, primary medical care, mental health and addiction treatment, AIDS education and prevention, case management, legal services, and referrals for medical care. The Whitman-Walker Clinic of Suburban Maryland can be reached at 301-408-5000 or 301-408-5040. The Whitman-Walker Clinic in Washington D.C. can be contacted at 202-939-7660 or through the AIDS Information Line at 202-939-7829. The Whitman-Walker Clinic of Northern Virginia can be contacted at 703-237-4900.

You may also contact the Associated Black Charities of Maryland. The Associated Black Charities of Maryland manages the Ryan White Title 1 Services Programs that provide outpatient health care and support services including case management, home health, hospice care, housing, transportation, and nutrition for persons with HIV or AIDS. You may contact the Associated Black Charities of Maryland at 410-659-0000.

Resource guides are also available through the AIDS Action Baltimore (AAB) 410-837-AIDS. AAB provides publications that contain essential information on social services, medical care, and the latest research developments to assist persons with AIDS, their families, friends, and care providers. In addition to their publications, AAB also manages two of the metropolitan area's major patient assistance programs that provide educational, financial, and emotional support for people with AIDS. These programs provide financial assistance for housing, utilities, medicine, and medical bills.

The Maryland AIDS Administration Resource Center has compiled a vast collection of materials related to

all aspects of HIV/AIDS including surveillance statistics; information pertaining to the prevention, treatment and care of HIV/AIDS; counseling and testing information; program development and evaluation data; and social, psychological, and cultural materials related to HIV/AIDS. Conference information and grant funding opportunities are also maintained by the Resource Center. The Resource Center is located at 500 North Calvert Street, 5th Floor, Baltimore, Maryland 21202. Hours are Monday through Friday, 9 a.m. to 5 p.m. Two University of Maryland library school graduate students staff the Resource Center. A librarian is typically available four days a week. Prior to visiting, you should contact the Resource Center at 410-767-5775 to find out whether a librarian will be on duty.

Numerous on-line resources are available to help people living with AIDS and HIV. One very good source of on-line information is the HIV/AIDS Resources and Information for Maryland website at: <http://members.aol.com/egeratylsw/aids.html>.

## **Your Right to Health Care**

**Hospitals and Health Care Providers:** The American Medical Association strongly encourages physicians to treat all individuals, regardless of their HIV status. If you have HIV/AIDS, you are protected under state and federal laws which prohibit discrimination on the basis of an individual's physical or mental disability. While most health care facilities are sensitive to the needs of persons with HIV, you may, nevertheless, experience some form of discrimination. In the past, there have been isolated incidents where patients have been unnecessarily isolated or the hospital staff has refused to serve meals or provide baths or other personal hygienic services. Such acts violate Maryland law.

A public or private hospital that receives money from any federal source is not permitted to discriminate against you on the basis of HIV. This includes virtually every hospital in Maryland. As with other health care providers, however, a hospital may refuse to treat you for reasons that are unrelated to your HIV status. For example, if you are unable to pay for hospital care, a hospital is permitted to demand a deposit or require other proof of your financial resources before admitting you on a non-emergency basis.

In an emergency, however, no hospital may refuse to treat you for any reason. Once admitted, the hospital may not discharge or transfer you to another health care facility until it is deemed to be medically safe to do so.

If you have been denied medical treatment because of your HIV status or because you have AIDS, you may have a legal remedy. If you have been discriminated against or have been refused treatment because of your HIV/AIDS status, you should contact the Maryland Commission on Human Relations or an attorney.

The following is a partial list of hospitals and clinics that are available to serve your special needs. Please be advised that this list of providers and contact information may not be complete or up to date. Other providers may exist and contact information may have changed since the information was compiled. You should contact your local City or County Health Department or the AIDS Administration Resource Center for updated information or the location of additional hospitals and clinics that provide HIV testing and treatment services.

### **Chase-Brexton Health Services**

1001 Cathedral St.  
Baltimore, MD 21201  
410-837-2050

(Anonymous testing and counseling, HIV Clinic, STD Clinic, Women's Clinic, Protocol Clinic, Aerosolized Pentamidine Clinic, Intravenous Infusions/Transfusions HIV Case Management, and Psychotherapy Services.)

### **Druid STD Clinic**

1515 W. North Avenue  
Baltimore, MD 21217  
410-396-0176

(Free confidential testing and counseling, ongoing HIV-related medical and social services.)

### **Eastern STD Clinic**

620 North Caroline Street  
Baltimore, MD 21205  
410-396-9410

(Free confidential testing and counseling. Ongoing HIV-related medical and social services.)

### **Harford County Health Clinics**

119 Hays Street  
Bel Air, MD 21014  
410-838-1500; 410-879-8322

(Free confidential testing, support group for HIV+/AIDS case management and counseling.)

### **Healthcare for the Homeless**

111 Park Ave.  
Baltimore, MD 21201  
410-837-5533

### **Health Education Resource Center**

1734 Maryland Avenue  
Baltimore, MD 21201  
410-685-1180

(Primary medical care clinic, testing and counseling, case management, housing assistance services, mental health treatment services, legal assistance, prevention and education services, support group services, and resource center for homeless clients.)

### **Impact Sinai Hospital**

Belvedere & Greenspring Aves.  
Baltimore, MD 21215  
410-578-5533

(Coordinated inpatient and outpatient HIVD rehabilitation services.)

### **Johns Hopkins Bayview Medical Center**

4940 Eastern Avenue  
Baltimore, MD 21224  
410-550-0100

### **Johns Hopkins Hospital**

600 North Wolfe Street  
Baltimore, MD 21205  
410-955-1754 (AIDS Services)

### **Park West Medical Center**

3319 W. Belvedere Avenue  
Baltimore, MD 21215  
410-542-7800

### **Saint Agnes Hospital**

Hemophiliac Treatment Center  
Caton and Wilkens Avenues  
Baltimore, MD 21229  
410-368-6000

**Sinai Hospital**  
**Ambulatory Medicine Program**  
Hoffberger Building  
Belvedere at Greenspring Ave.  
Baltimore, MD 21215  
410-578-5851

**South Baltimore Family Health Center**  
631 Cherry Hill Road  
Baltimore, MD 21225  
410-354-2000

**Total Health Care**  
Family Outreach  
1501 W. Saratoga Street  
Baltimore, MD 21217  
410-383-1400

**University Of Maryland Medical Center**  
22 South Greene Street  
Baltimore MD 21201  
410-328-8667

**Veterans Administration Medical Center**  
**Infectious Diseases Clinic**  
10 N. Greene St.  
Baltimore, MD 21201  
410-605-7000

**The Whitman-Walker Clinic**  
1407 S Street, N.W.  
Washington, D.C. 20009  
202-939-7660

**The Whitman-Walker Clinic  
of Northern Virginia**

5232 Lee Highway  
Arlington, VA 22207-1621  
301-237-4900

**The Whitman-Walker Clinic  
of Suburban Maryland**

7676 New Hampshire Avenue, Suite 411A  
Takoma Park, MD 20912  
301-408-5000

**Long-Term Care Facilities:** Nursing homes, hospices, and other long-term residential health care facilities that receive federal funds may not discriminate against persons with HIV. However, a nursing home is permitted to deny you admission if there are no beds available or if it cannot provide you with the level of care you require. Nursing homes are under no obligation to accept Medicaid patients and may refuse admission on that basis as well.

Both HERO and AIDS Action Baltimore can provide you with a current listing of nursing homes able to care for people with HIV.

**Health Care Discrimination and Appropriate Remedies**

If you are in the hospital and experience discrimination, you or your caregiver should contact the hospital's patient representative or hospital administrator and inform them of your situation. If the situation is not remedied, you may consider contacting an attorney to assist you in resolving the matter. Alternatively, you or your attorney may file a complaint with the appropriate state

professional licensing board which may then take action to revoke or suspend the provider's license.

Another option available to you is to file a complaint with the State of Maryland Commission on Human Relations at 410-767-8600. Although it is not necessary that you have an attorney when filing such a complaint, you may find such assistance useful.

**Note: You must file your complaint within six months of the date of the discriminatory actions.**

Upon notice, the Commission will investigate the alleged discrimination while protecting your identity from the general public. You should be aware, however, that your identity will be revealed to the individual health care provider(s) against whom you have filed the complaint.

If the Commission finds that discrimination did occur, it may require the health care provider or facility to correct the problem, provide non-discriminatory medical services to you and to cease all future forms of discrimination. The Commission will attempt to settle the case through mediation. However, if mediation is not successful, the Commission will issue a right to sue letter to you which will allow you to seek resolution through litigation, if you so desire.

In addition, local Cities or Counties may have their own human relations procedures or requirements related to discrimination. You should contact your local City or County Department of Human Relations for more information.

**Additional Resources:** If you encounter any form of health care related discrimination, there are other

resources available to you including, but not limited to, the U.S. Department of Health and Human Services, the U.S. Office of Civil Rights, the Maryland Department of Health and Mental Hygiene, the Maryland Department of Licensing and Certification, and the Nursing Home Association of Maryland. The Maryland AIDS Administration Office can provide you with contact information for these agencies.

**Legal Assistance:** As previously advised, if you encounter discrimination, you may wish to seek the advice of an attorney. In addition to assisting you in filing a complaint with the Human Relations Commission or the Office of Civil Rights, an attorney may be able to help you and the individual provider or facility work through the problem and come to an agreement without resorting to costly litigation.

Both HERO and AIDS Action Baltimore have attorneys who are familiar with HIV-related legal issues and who will represent you free of charge, provided you meet their eligibility standards. In addition, you may contact the Maryland Legal Aid Bureau at 410-951-7777; Maryland Volunteer Lawyers Service at 410-547-6537; or the Maryland Disability Law Center at 410-727-6352 for legal assistance.

An online resource available to assist you is Peoples Law.Org. Peoples Law.Org provides legal and self-help information on state and federal laws that affect low and moderate-income individuals and their families throughout Maryland. To access the online resource go to: <http://www.peoples-law.org>.

The American Civil Liberties Union of Maryland (ACLU) is also a source of legal services. The ACLU can be reached at 410-889-8555.

## ***TESTING FOR HIV ANTIBODIES***

### **Anonymous Testing**

Anonymous HIV testing may help prevent discrimination or alleviate your fears of discrimination. There are many sites in Maryland that will administer an HIV test *without taking your name* or any other identifying information. Both Chase-Brexton Health Services in Baltimore and HERO provide free anonymous testing at certain times during the week.

You can locate other anonymous testing sites by calling the local AIDS hotline in Maryland at 1-800-638-6252. You may also contact your local City or County Health Department. Information is also available through the Testing Center of the State AIDS Administration at 410-767-5227 or at 1-800-358-9001.

### **Confidential Testing**

Some people may choose to be tested for the HIV antibodies by their own physician or while seeking other medical treatment. Obviously, if you have become ill with an infection or other illness which may be related to HIV, it may be necessary for your health care provider to test you in order to provide appropriate medical care and treatment. Unlike anonymous testing, “confidential testing,” means that under limited circumstances your name will be taken and your HIV status may be disclosed to others. (See “Confidentiality of Your HIV Status” below.)

Before being tested, Maryland law requires that you receive pre-test counseling. Pre-test counseling must include education about HIV infection and the methods of preventing its transmission, information about the limited circumstances under which a physician may warn your sexual or needle sharing partners, and information about how you can obtain health care should you test positive for the HIV antibodies. If you do test positive, by law, you are required to be provided with additional counseling and a list of available resources.

If you refuse to consent to HIV testing, a hospital, nursing home, HMO, physician's office, or other health care facility cannot use your refusal to deny services to you. With very few exceptions, testing in Maryland requires your written, voluntary, informed consent. *You have the right to refuse HIV testing unless it is court ordered.*

There are many locations across Maryland where you may go to be tested for the HIV antibodies, free of charge. Chase-Brexton Health Services Clinic provides an example of an organization which offers free HIV testing. For over 15 years, Chase-Brexton has offered HIV counseling and testing services through its dedicated, compassionate staff. Chase-Brexton's clinic provides anonymous or confidential testing free of charge. Chase-Brexton's counselors help people who test positive in planning their approach to health care. As an added service, Chase-Brexton's counseling and testing team regularly conducts off-site testing at local universities, health fairs and various other venues. For more information, contact Chase-Brexton at 410-837-2050.

Other organizations that offer free HIV testing or which provide information on where you can go to be tested include HERO, the AIDS Hotline, The American Red Cross and AIDS Information. The contact information for each of these organizations can be found at the end of this booklet in the section entitled *Resources*.

## ***CONFIDENTIALITY OF YOUR HIV STATUS***

### **Reporting Requirements**

The State of Maryland requires that health care providers report all confirmed cases of AIDS, by name, to the local health department in the jurisdiction where care was provided. The local health department must then forward this information on to the State AIDS Administration. Only laboratories report HIV positive, non-AIDS defined cases. Maryland law prohibits the reporting of the patient's name for HIV positive, non-AIDS defined cases. Therefore, laboratories do not use an individual's name in reporting such cases. Instead, laboratories use the patient's unique identifier in its reporting. A unique identifier is a 14-digit number consisting of the last four digits of the patient's social security number, the patient's date of birth, one digit for the patient's race, and one digit for the patient's gender. All reports maintained by the State AIDS Administration are kept strictly confidential and are safeguarded from public scrutiny.

The purpose of reporting is to track the course of the epidemic and provide useful data planning prevention programs and health services for patients with HIV/AIDS.

### **Informing Your Partners**

Your HIV status may affect other people with whom you have been sexually intimate or with whom you

have shared needles. Your physician will encourage you to inform your past or present partners that they may be at risk for HIV so that they may also be tested and allow them the opportunity to take appropriate precautions. Your physician should be willing and able to assist you in providing appropriate information to your partners.

Your physician has been given the legal authority to warn your partners without your consent under very limited circumstances. Maryland law (as well as the American Medical Association) provides guidance to physicians in these circumstances, including instructing them to provide such warnings only when they reasonably conclude that you have put your partner at risk, that you will not change your risky behavior and that you will not warn your partner yourself.

## ***PAYING FOR YOUR HEALTH CARE***

There are numerous programs and services available to individuals with HIV/AIDS to help enable them to pay for their health care and treatment. However, almost all of the so-called "entitlement" programs set income level limits on eligibility for benefits. Before seeking treatment or other services, you are advised to telephone the providers to determine whether you qualify for their program.

### **Private Health Insurance**

If you have either group or individual health insurance, it cannot be cancelled merely because you test positive for the HIV antibodies or you are diagnosed with AIDS. If you work for an employer who is self-insured, your employer is permitted to change the extent of

coverage it makes available to all employees without the prior approval of the Maryland Insurance Commissioner. In such a case, your employer must change the coverage for all employees and may not single you out for different treatment.

If you become ill and are unable to work and have health insurance through your employer, you may be able to have insurance coverage continued for a period of 29 months after you stop working. In order to qualify for this extended coverage, however, your employer must have at least 20 employees enrolled in the group health plan and you must pay your share of the group rate.

Regardless of the size of your employer's enrolled work force, you may be entitled to "convert" your group coverage to an individual policy when you become unemployed. This option, however, will be more expensive than remaining in a group plan and the coverage provided under the individual policy may be less than you had in the group plan. It is critical that you read the terms and conditions of your insurance policy or health plan regarding conversion. Most certainly, there will be a deadline before which you must act to convert your policy. If you miss that deadline, you will not be permitted to change your policy from group to individual coverage.

Regardless of the type of health plan in which you are enrolled, it is equally important that you continue to pay your premiums when they become due and that you comply with any other requirements set forth in your policy. *Your failure to do so could result in the cancellation of your policy.* If you are unable to pay your health insurance premiums and your monthly income is less than \$1,047 (\$1,404 for a couple), you may be entitled to financial assistance in making your payments. To determine if you

are eligible for this assistance, telephone the Maryland AIDS Insurance Assistance Pilot Program in Baltimore at 410-767-5013.

If you enter a group health plan or obtain private health insurance after you have tested positive, your coverage might be limited for a specific period of time due to pre-existing condition policy limitations or, worse, denied altogether for HIV-related health care. While such limitations may be legal according to the terms of your particular policy, you should consult with an attorney if your insurance company refuses to cover your medical expenses for this reason. Maintaining your health insurance is critical; therefore, it is wise to consult with an attorney if you plan to change jobs or health insurance plans after you have tested positive for HIV.

If you have been the victim of discrimination in insurance coverage because of your HIV/AIDS status, you should seek legal advice or call the Maryland Insurance Commission at 410-468-2000. Personnel at the Commission will not take complaints over the phone. They will, however, instruct you on the proper methods for filing a written complaint in person.

### **Medicaid**

The Medical Assistance Program of Maryland (Medicaid) provides health care for persons living below a certain income level. If you are on Supplemental Security Income (SSI) or Temporary Emergency Housing and Medical Assistance (TEHMA), you are automatically eligible for Medicaid. The application process for TEHMA is much quicker than for SSI. Therefore, you will get Medicaid faster by applying for TEHMA than you would by applying for SSI. To continue receiving TEMHA you

must provide the Department of Social Services with documentation that you have an active SSI or Social Security Disability claim pending. Otherwise, you must satisfy the Medicaid program that your income is below established levels. If you owe money for unpaid medical bills, you may be able to do a “spend-down” to qualify for Medical Assistance. To determine whether you are eligible for Medicaid and related programs, you should contact the Maryland Department of Social Services, Medical Assistance Program at 410-361-4600.

Medicaid patients are entitled to a broad range of health care benefits including free medical and mental health care provided by health care workers. Medicaid will also pay for your prescription drugs, such as antiretroviral therapy, and some over-the-counter medications.

Since physicians and other health care workers are not required to render care to Medicaid patients in non-emergency situations and since Medicaid pays providers at rates lower than other insurance plans, you may find that some providers may refuse to accept you as a patient if you are covered by Medicaid.

### **Maryland Pharmacy Assistance and Pharmacy Discount Programs**

The Maryland Pharmacy Program (MPP) has two components: the Maryland Pharmacy Assistance Program (MPAP) and the Maryland Pharmacy Discount Program.

**Pharmacy Assistance Program:** The Maryland Pharmacy Assistance Program is a federally approved Medicaid waiver program that helps low-income Maryland residents who are not eligible for full Medicaid benefits to pay for their prescriptions. This program is not limited to

the elderly or the disabled. To be eligible for MPAP, an individual must have an income level at or below 116% of the federal poverty level (currently \$900 per month for a single person with assets at or below \$4,000). The income level for couples and larger households is 100% of the poverty level.

Under the program, enrollees pay a \$2.50 co-pay for each prescription filled for all generics and brand-name drugs on the Department of Health and Mental Hygiene's preferred drug list, and \$7.50 for those brand-name drugs not on the Department's preferred drug list.

**Pharmacy Discount Program:** The Maryland Pharmacy Discount Program, which began July 1, 2003, allows individuals with incomes between 116% and 175% of the federal poverty level (currently \$1,358 per month for a single person) to purchase Medicaid formulary drugs at 65% of the Medicaid payment level. Program enrollees are also responsible for a \$1 processing fee.

Both the Pharmacy Assistance and Pharmacy Discount Programs use the same one-page, two-sided, mail-in application. The completed mail-in application requires documentation of income, assets and certain other information. To request an application or additional information regarding these programs call 1-800-226-2142 or, for Maryland Relay Service, call 1-800-735-2258.

Should you experience problems in obtaining needed medications or encounter other pharmacy-related issues or problems contact the Maryland Pharmacy Access Hotline at 410-767-8800 or call 1-800-492-5231 and, when prompted, select Option 3.

Please note that the income requirements and costs associated with the Pharmacy Assistance Program and the Pharmacy Discount Program are subject to change. You should contact the Programs for up-to-date information.

### **Maryland AIDS Drug Assistance Program**

The Maryland AIDS Drug Assistance Program (“MADAP”) has been established by the State to assist people of low and moderate income to pay for antiretroviral therapy and other HIV related medications. You are eligible to receive assistance under this program if you can demonstrate HIV positive status, document that you are a US citizen and a resident of Maryland, and can establish that your annual income is at or below 400% of the current Federal Poverty Level (annual income of less than \$26,400). Income eligibility is determined based on a sliding scale which takes into account the number of dependents you have, your annual cost of living and the estimated sum of your annual medical bills.

For further information about this program, contact the AIDS Drug Assistance Program at 410-225-6804. You can also receive information and assistance in applying for any of these benefit programs through AIDS Action Baltimore, Chase-Brexton Health Services Clinic and HERO. Information is also available through the AIDS Administration Office of the Department of Health and Mental Hygiene at 410-767-5227.

Again, the income requirements and costs associated with this Program are subject to change. You should contact the Program directly for current information.

## **Medical Trials and Studies**

In addition to benefits programs, it is often possible to receive free limited medical services related to HIV/AIDS by enrolling in medical studies or in clinical drug trials conducted in the area by medical institutions or pharmaceutical companies. Eligibility for these studies and trials is based solely on your health status, not on your ability to pay.

Medical trials and studies are often federally funded and may provide you with access to a variety of new and standard treatment drugs for antiretroviral therapy and the treatment of opportunistic infections and cancer. In addition, enrollment in studies sponsored by medical institutions may also provide you with limited medical care that may assist your primary medical provider in diagnosing and treating your medical problems.

To determine what studies or trials are available nationwide, call the National Institute of Allergies and Infectious Disease at 1-800-TRIALSA or Project Information in San Francisco at 1-800-822-7422. AIDS Action Baltimore can provide you with information concerning trials and studies that are being conducted in this area.

## ***MAINTAINING CONTROL***

If you have HIV/AIDS, you may be concerned that should you become seriously ill, your views concerning extraordinary life sustaining measures may not be honored. Alternatively, you may be concerned that your loved ones might not be appropriately provided for should you die. There are legal documents such as Advance Medical

Directives, General or Limited Powers of Attorney, Living Wills, Last Wills and Testaments and Guardianship Proceedings which can help to protect your own interests and those of your loved ones.

### **Advance Medical Directives**

An Advance Medical Directive allows you to state your views about artificial life sustaining treatment if you are terminally ill and your death is imminent, if you are in a persistent vegetative state or if you have an end-stage condition. (An end-stage condition is an injury, disease, or illness that has caused incompetence and complete physical dependence and for which no cure is known. An example of an end-stage condition is advanced Alzheimer's disease.) You can also use an Advance Medical Directive to give another person (called your "agent" or "attorney-in-fact") the power to make medical decisions on your behalf that you would otherwise be entitled to make but for your condition. Your agent's power to make those decisions would be exercisable only in the event that you become ill and unable to express your own wishes. You have the discretion to determine the extent of the power granted to your agent. You can give your agent very broad powers or you can be very specific as to the decisions that you want your agent to make.

Any person who is 18 years of age or older and who is considered legally competent to understand the nature of the document he or she is signing may execute an Advance Medical Directive. An Advance Medical Directive must be witnessed by two adult individual, at least one of whom should be "financially disinterested" in your estate. That means that one witness should not stand to inherit from your death anything or otherwise gain financially (such as from an insurance policy or a will). The individual

designated as the person's agent should not serve as a witness to the Advance Medical Directive.

The language contained in the Advance Medical Directive must be very specific. For example, you must clearly express your decision for or against the use of intravenous feeding tubes or water, should they become necessary to sustain your life. Physicians will be reluctant to stop such treatment unless they are certain that this is what the patient truly wants. Even then, some physicians may refuse to withhold treatment on moral or ethical grounds. It is, therefore, recommended that, in addition to executing an Advance Medical Directive, you discuss your wishes with your primary caregiver and your physician so that your precise wishes can be fulfilled. By law, a physician is required to respect and follow your wishes or to transfer your care to another physician who will respect them.

It is important to understand that, while you may use a Living Will to state your views concerning artificial life support measures, Living Wills are only effective if you are terminally ill (and your death is imminent) or you are in a persistent vegetative state. A Living Will cannot be used to express your views concerning artificial life support if you have an end-stage condition. In addition, Living Wills do not provide for the appointment of an agent to make other health care decisions for you, should such become necessary.

It is suggested that you execute three copies of your Advance Medical Directive (or Living Will) so you can keep one original for yourself, give one original to your primary caregiver and give the third original to your doctor or hospital to be placed among your medical records. It would also be prudent to renew your Advance Medical

Directive or Living Will every few years to ensure that it reflects your current wishes. If a change in your health status creates a need to change the terms of your Advance Medical Directive, you may do so by stating in writing that you wish to revoke the old Advance Medical Directive, by destroying the old document and by making a new one. Be sure to communicate these changes to your caregivers and your health care providers.

An Advance Medical Directive (and, to a lesser extent, a Living Will) provides you with an opportunity to control your medical treatment in the event of a debilitating or terminal illness. Such treatment decisions can be sobering and should be discussed with your attorney, your health care providers, and with any other caregivers, counselors or family members whom you feel can provide you with valuable advice. Once executed, both documents may be revoked or changed by you, as long as you are able to understand the significance of your decisions. Only you, or someone you specifically instruct, may make these changes.

Oral directives can be valid, if made in the presence of your doctor and one other witness. Your oral directive, once expressed, must be signed and dated by your doctor and the witness and then made part of your medical record.

### **General and Limited Powers of Attorney**

Unlike the Advance Medical Directive and Living Will, General and Limited Powers of Attorney deal with your financial or business affairs. By executing a General Power of Attorney, you can give your agent broad powers to do anything with your assets that you legally have the power to do. However, there may be situations where you might want to execute a document known as a Limited

Power of Attorney. A Limited Power of Attorney empowers your agent to perform only those specific tasks you indicate such as cashing checks or selling your car. A Limited Power of Attorney may also grant an individual's attorney-in-fact to act on behalf of the individual in making decisions concerning the welfare of minor children. Your Limited Power of Attorney should clearly state the task(s) that you authorize your agent to perform.

Both the General and Limited Powers of Attorney must be executed by you, must be witnessed by two other persons and must be notarized (the notary may also serve as the witness). Since your agent can use your Power of Attorney only when he or she is in actual possession of the document, it is recommended that you keep the executed Power of Attorney in your possession, to be given to your agent only when necessary to do so. It is also recommended that you make additional copies of your Power of Attorney so that, if needed, your agent can deal with multiple assets.

Under current Maryland Law, General and Limited Powers of Attorney continue to be valid even in the event that you become unconscious or unable to make or communicate decisions. It would be prudent, nonetheless, to state such information in the document.

### **Last Will and Testament**

All of us, regardless of our health status, are reluctant to plan for our deaths. Yet such planning is often crucial, particularly if an individual is in a relationship that is not legally recognized and the individual wishes to provide for his or her loved ones. A Will allows you to specify how you want the property that you own in your name only to be distributed among your friends and loved ones upon your death, no matter what their relationship to

you. It is important to recognize, however, that your Will only controls the disposition of assets that are titled in your name only. If you own an asset jointly with rights of survivorship with someone else, upon your death, that asset will pass automatically to the surviving joint owner. Your Will cannot control the disposition of the jointly titled asset. Assets that incorporate beneficiary designations such as life insurance policies and IRAs will automatically pass to whomever you have designated as your beneficiary. Therefore, it is important that you know exactly how all of your assets are titled to ensure that their disposition reflects your general plan.

If you have minor children, you may also express your wishes concerning their future care in your Will. However, a court may later decide differently, based on the best interest of the children at that time. Many people also express the type of funeral they want and other related arrangements in their Will. Before doing this, however, you should bear in mind that in some cases the person's survivors may not read their Will until well after the funeral has taken place. It is, therefore, suggested that you clearly make your funeral wishes known to those closest to you so that your wishes can be carried out. Alternatively, you can make and pay for your funeral arrangements prior to your death.

Since Maryland law does not recognize gay and lesbian relationships or common law marriages, a gay or lesbian partner or a common law spouse may not win should a disagreement arise between that person and traditional family members. It is, therefore, important for persons in such relationships to express their wishes in their last will and testament.

To be valid, your Will must be witnessed by two adult individuals, both of whom are present when you sign the document. A Will does not need to be notarized, nor does it need to be registered with the Court to be valid; although you may want to register your Will with the Court for safekeeping. Contact the Orphans' Court in your County for information on how to register your Will.

### **Guardianship Issues**

Guardianship is the process by which a petitioner asks the court to find that another person is unable to effectively manage his or her own affairs because of a disability. The petitioner seeks the appointment of a guardian to control the personal and/or the financial affairs of the disabled person. The court may appoint a guardian of an adult disabled person, a guardian of the individual's property, or both, as well as a guardian for a minor child. The Circuit Court has exclusive jurisdiction over guardianship proceedings of adult persons with disabilities but has concurrent jurisdiction with the Orphans Court over guardianships of minor persons and protective proceedings for minors. Contact the Family Division of your local Circuit Court or an attorney for further information concerning guardianship proceedings.

## ***OTHER LEGAL ISSUES AND RELATED SERVICES***

In addition to the many health-related legal issues previously discussed, your HIV/AIDS status may impact other areas of your life. Some individuals find that their HIV/AIDS status affects their rights to proper housing. Other individuals may find themselves unemployed or unable to work due to their HIV/AIDS status. These issues,

coupled with mounting debt, may result in the need to apply for Social Security benefits or to file for bankruptcy. Those HIV/AIDS individuals who are married or have children may become involved in child custody matters or face the possibility of divorce. If you face one or more of these situations, you should consider contacting an attorney through one of the recommended agencies listed in this brochure. You may also choose to represent yourself (*pro se*). If so, you should contact your local court for information.

## **RESOURCES**

### **Finding a Health Care Provider/General Information**

AIDS Action Baltimore.....	410-837-2437
Associated Black Charities of Maryland.....	410-659-0000
Chase-Brexton Health Services.....	410-837-2050
Health Education Resources Organization (HERO) .....	410-685-1180
	(Spanish) 1-800-553-3140
AIDS Information and Referral Services Hotline .....	1-800-638-6252
Maryland AIDS Administration Resource Center.....	410-767-5775
Maryland State AIDS Administration .....	410-727-5227
	1-800-358-9001
National AIDS Hotline .....	1-800-342-AIDS
	(TTY) 1-800-243-7889
	Spanish 1-800-344-7432
The Whitman-Walker Clinic of Washington D.C.....	202-939-7660
The Whitman-Walker Clinic of Suburban Maryland .....	301-408-5000
	301-408-5040
The Whitman-Walker Clinic of Northern Virginia .....	301-237-4900

### **Reporting Discrimination**

Maryland Commission on Human Relations.....	410-767-8600
	1-800-637-6247
	(TTY) 410-333-1737
Office of Civil Rights, AIDS Project Coordinator .....	(215) 861-4441
U.S. Dept. of Health & Human Services.....	(202) 619-0257

### **Testing for HIV antibodies**

AIDS Administration.....	410-767-5227
	1-800-358-9001
AIDS Hotline.....	1-800-638-6252
Chase-Brexton Clinic .....	410-837-2050
HERO .....	410-685-1180
Testing Center of the State AIDS Administration.....	410-767-5227
	1-800-358-9001
The American Red Cross.....	410-764-7000

**Medical Trials**

AIDS Action Baltimore..... 410-837-AIDS  
National Institute for Allergies &  
Infectious Disease..... 1-800-TRIALS-A  
Project Inform, San Francisco ..... 1-800-822-7422

**Paying for Your Health Care**

AIDS Drug Assistance Program..... 410-767-6535  
AIDS Insurance Assistance Pilot Program..... 410-767-5013  
Maryland Insurance Commission..... 410-468-2000  
Maryland Medical Assistance Program..... 410-361-4600  
Maryland Pharmacy Assistance Program..... 1-800-226-2142

**Obtaining Legal Assistance**

Health Education Resource Organization (HERO)..... 410-685-1180  
Legal Aid Bureau ..... 410-951-7777  
Maryland Disability Law Center ..... 410-727-6352  
1-800-233-7201  
Maryland Volunteer Lawyer Services..... 410-547-6537

## NOTES

The Bar Association of Baltimore City  
111 N. Calvert Street, Suite 627  
Baltimore, MD 21202  
410-539-5936 Fax 410-685-3420

[info@baltimorebar.org](mailto:info@baltimorebar.org)  
[www.baltimorebar.org](http://www.baltimorebar.org)