Another Keystone State First: LGBTQ Aging Summit

By Martricia O’Donnell McLaughlin, Esq.

The culmination of almost a full year of planning, the first Commonwealth of Pennsylvania LGBTQ Aging Summit was held in Harrisburg on Oct. 10-11, 2018. The theme was “Connecting Communities and Inspiring Change.”

The conference’s stated purpose was to “enhance … knowledge of Pennsylvania’s LGBTQ senior landscape and serve as a catalyst for change … (and to) ensure that all older Pennsylvanians can live and age well in their communities with the dignity and respect they deserve.”

Representatives of many county Area Agencies on Aging (AAA) organizations were present, as well as individuals representing the planning and sponsoring organizations, including AARP-Pennsylvania, UPMC, TransCentral PA, Williamway, LGBT Elder Initiative, CARIE, SEIU and Sage. The well-attended meeting included individuals from throughout the commonwealth who, on the last day, gathered by region to engage in goal-setting and regional plans.

The key speakers set the tone and purpose of the summit. Teresa Osborne, secretary, Pennsylvania Department of Aging, was an engaged force at the summit. She spoke impressively of the resources that Pennsylvania has cultivated, including the new state LGBTQ Governor’s Commission. She openly acknowledged that much work remains to be done to improve the quality, quantity and reach of services for the mature LGBTQ population.

Kathy Greenlee, vice-president of Aging and Health Policy, Center for Practical Bioethics, delivered the opening keynote address, discussing barriers to care experienced by LGBTQ elders. She also emphasized the need for LGBTQ-friendly provider networks. Dr. Rachael Levine, Secretary of Health for the Commonwealth, gave the welcoming remarks on the second day, addressing strategies to create fair and inclusive healthcare for seniors. The dynamic and engaging luncheon speaker, Dr. Nil-Quartile Quartey, a senior advisor and national LGBT liaison at AARP, highlighted the challenges and opportunities presented by intersectionality. Quartey specifically addressed the fact that many seniors are socially impacted simultaneously with coexisting social barriers. An LGBTQ Muslim woman of color living on a marginal income in a gentrifying area of the city might also be struggling with chronic disease and mobility issues. Social justice and access to quality medical and social services demand that providers address the many factors that could result in this woman’s just empowerment in addition to her LGBTQ identity.

“Connecting Communities and Inspiring Change”

The summit was a valuable beginning to highlight the needs of the aging LGBTQ population in Pennsylvania.

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The summit featured several panel discussions from experts in the fields of LGBTQ healthcare, aging and diversity, including Dr. Imani Woody, the founding director and CEO of Mary’s House for Older Adults. The stated vision of Mary’s House is to create affordable, independent, communal housing for older adults “specifically for LGBTQ/SGL (http://www.maryshousedc.org/p/our-mission.html?m=1) in an environment that celebrates and honors the whole person as they age, no matter who they are.” Woody also discussed the importance of “telling the stories” of elders. Through the Mary’s House Grown Folks Speak Out Project, she is involved in the collecting of stories of the lived experiences of elders of color, particularly black people. The Dickinson College LGBT Oral History project was also in attendance encouraging contributions of stories from symposium participants. The collection of “stories” of ordinary people, as told by themselves, is increasingly the focus of individuals and organizations attempting to understand LGBTQ culture and to find solutions – community-based, legislative or otherwise – to identified needs.

Doreen Hespell, director, Montgomery County Area Agency on Aging, along with Sherrill Wayland, managing director of National Projects, SAGE’s National Project Resource Center on LGBT Aging, spoke of SAGE accreditation. SAGE, a national aging and LGBTQ advocacy organization (https://www.sageusa.org/), is a resource for achieving cultural competency for LGBTQ seniors. Featuring SAGE was itself educational: the organization provides cultural competency training and certification. In addition, its SAGE Table program is an interesting model for connecting various community members of diverse backgrounds to build communities supportive of LGBTQ elders. The Table program combats loneliness and isolation through the hosting of intergenerational and multicultural meals where diners from different communities, races, religions, economic backgrounds and ages connect in the spirit of community building. The need for LGBTQ welcoming services and health access, beginning with affirmative cultural competency, was identified, as well as strategies for its accomplishment.

The community gathered at the summit emphasized the need to ensure that care providers respect their clients. This was not limited to LGBTQ identity issues, but to the entire culture of care for seniors. A recurring theme was seeing elders as vessels of valuable knowledge and experience and valuable members of our larger communities – more than any potential illness.

The summit repeatedly highlighted intersectionality in the provision of care and in the culture of care: caregivers must also provide respectful care that addresses and values the whole person, not just the particular medical or other care need.

The summit was a valuable beginning to highlight the needs of the aging LGBTQ population in Pennsylvania. Although caregiving and other social needs are, of course, a concern for many elders – too many – they can be greater concerns for LGBTQ elders who, partially due to historic discrimination, are more likely not to have children and to live in single-person households, hence not as likely to have the traditional sources of care and support from a spouse, partner, children and their children’s families. The energetic gathering voiced not just troublesome issues, but the will to develop strategies that are inclusive and diverse, with specifics and action plans, to address the needs of LGBTQ elders in Pennsylvania. (Note: for more information on the summit, see https://www.aging.pa.gov/Pages/LGBTQ-Aging-Summit.aspx)
Chair’s Corner

Each day brings a new barrier to equality. The government, and specifically the Trump administration, is seriously considering a definition of sex that would remove transgender as a sex classification. Under the proposal, the definition of gender would be immutable and solely based upon the genitalia one has at birth. The definition of gender had been loosened under the Obama administration and a series of sex-based discrimination claims rendered by the EEOC and other jurisdictions may be the reason for the proposed definition of gender. The misplaced gender limitation by definition is lead by the Department of Health and Human Services. A change such as this will essentially eliminate the 1.4 million Americans who have identified as a gender other than that assigned at birth. It also flies in the face of increasing acceptance of all sex classes, specifically the states that now permit parents not to identify the gender of a child on the birth certificate. We must all be cognizant of the these proposals in the event there is any movement forward for these discriminatory practices, although it is hoped that checks and balances will prevail given the new make up of Congress and provided such a change would require Congressional approval.

On a better note, we are gearing up for 2019 and the GLBT Rights Committee Transgender Name Change Task Force has been doing terrific work. A great report was presented at Committee Section Day by Maria Nucci. It is anticipated that the Task Force will issue a report, perhaps with proposed rules and/or legislation, within the year.

In other good news, our state will be hosting the Lavender Law Conference in 2019, which is presented by the National LGBT Bar Association. The conference will take place in Philadelphia from Aug. 6-9. Mark your calendars as this will be great exposure for our committee. The conference is taking ideas for suggested programs, so if you have an interest in submitting a proposed program, go to https://lgbtbar.org/annual/program/complete-program/. The proposed program must be fully developed, including a listing of proposed faculty. Our committee is also exploring how we can be more involved at this conference. If you have any suggestions, please let me know.

Wishing you all a very happy holiday season and a peaceful and happy new year.

GLBT Rights Committee

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Committee History:
The committee was formed in 2005. The committee’s mission is to study matters pertaining to the recognition and protection of the legal rights of the gay, lesbian, bisexual and transgender (GLBT) community. The committee monitors and makes recommendations on issues and developments in the law impacting GLBT people in the public and the legal profession.

Committee Membership:
The committee is open to GLBT lawyers and allies. The committee welcomes all members who are interested in promoting equal rights for the GLBT lawyers and the GLBT community at large.
Hear Ye! Hear Ye!

This new feature provides up-to-date information that might be relevant to readers’ lives or practices and LGBTQ issues in general, in short form rather than full-length articles. Contributions from committee members and allies are welcome! Send the editors an item or an alert to the item.

New PHRC Sex Discrimination Guidelines

As the Trump Administration acts to circumscribe the civil rights of LGBTQ+ persons, the Pennsylvania Human Relations Commission (PHRC) announced in August new guidelines for evaluating actions which might constitute sex discrimination in employment, public accommodations, housing and commercial property. In addition, the PHRC announced guidelines for interpreting “sex discrimination” under the Pennsylvania Fair Educational Opportunities Act (PFEOA). Both sets of guidelines state that the sex discrimination prohibitions contained in the Pennsylvania Human Relations Act (PHRA) and the PFEOA include discrimination on the basis of sex assigned at birth, sexual orientation, transgender identity, gender transition, gender identity and gender expression.

More information about the guidelines is available on the PHRC website.

The guidelines state that the PHRC “intends to exercise its administrative discretion in accepting complaints, investigations and adjudicating cases.” The PHRC states that it renders its adjudicative determinations on a case-by-case basis, after consideration of all evidence of record. The guidelines apply to actions such as accepting complaints, conducting investigations and adjudicating cases, unless the PHRC is convinced otherwise during the course of a specific proceeding.

The guidelines follow the evolution of the understanding that discrimination “because of sex” is frequently born of stereotypical and/or traditional concepts of gender and expectations of what it means to be a man or a woman. The PHRC’s new guidelines, defining sex discrimination to include sex, sexual orientation, gender transition, transgender identity and/or gender expression, brings Pennsylvania into the forefront of the effort to protect the civil and human rights of all workers, students, tenants, consumers and others as a matter of justice.

C.G. v. J.H.

Pennsylvania’s Supreme Court upheld the decision of the Common Pleas and Superior Courts that a former, same-sex partner did not have in loco parentis standing to seek shared legal and partial physical custody of a child born by J.H. The court engaged in an extensive analysis of: (1) 23 Pa.C.S. §5324, regarding standing as a parent, a person in loco parentis or a grandparent; and (2) caselaw, including cases involving surrogacy and artificial insemination and cases from other states. The court recognized that concepts of parentage and family are changing, especially regarding same-sex couples. Although upholding the ruling against the non-biological mother, the court cited cases where standing in similar cases was found: T.B. v. L.R.M., 567 Pa. 222, 786 A.2d 913 (2001), and J.A.L. v. E.P.H., 453 Pa.Super. 78, 682 A.2d 1314 (1996). In concluding, it observed that “[i]n loco parentis analyses are necessarily fact-intensive and case-specific ...” (Slip op. at 32). Although the result was unfortunate for the petitioning, non-biological mother, C.G. and the decisions it cites indicate that the courts will find standing for nonbiological, same-sex parent on sufficiently created and well-presented records.


Nuñez Martinez v. Doll

Jose “Ivan” Nuñez Martinez came to the United States from Mexico without inspection in 2001. He married a U.S. citizen but was arrested and held in York County Prison since January 2018. He petitioned for habeas corpus, alleging that his continued detention pending an immigration removal hearing was illegal, where there was no finding of his dangerousness nor that his actual removal was reasonably foreseeable. He alleged that he left Mexico and feared return because of violence and threats against gay men, including threats against him after his affectionate behavior

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toward another man at a party was observed and the killing of a gay friend after the friend was seen engaging in similar behavior. The magistrate recommended granting Nuñez Martinez’ petition, and the Middle District ordered that a bond hearing be held by Oct. 31. On Oct. 24, he was freed on bond pending the removal proceeding. The case merits following to see if Nuñez Martinez’ evidence of threats and danger will result in a favorable order against his removal.

His petition is available at: https://www.aclupa.org/files/2715/2889/8472/Nunez_Martinez_Habeas_Petition_court_stamped_May_22_18.pdf

The court’s order is available at: https://www.courtlistener.com/recap/gov.uscourts.pamd.116566/gov.uscourts.pamd.116566.24.0.pdf

“Walking While Trans: Profiling of Transgender Women by Law Enforcement, and the Problem of Proof”

A research paper, “Walking While Trans: Profiling of Transgender Women by Law Enforcement, and the Problem of Proof,” by Leonore Carpenter and R. Barrett Marshall, discusses law enforcement profiling of transgender women as sex workers, a phenomenon so pervasive that it has earned its own nickname, “walking while trans.”


HIV & Aging in San Francisco

A consortium of government, social, nonprofit and faith-based agencies in the San Francisco Bay Area completed a study of the challenges facing older gay men living with HIV, many of whom contracted the virus in the 1980s, including rights and access to insurance coverage and medical and social services.

The report is available at: http://gmhc.org/files/ROAH_2.0_San%20Francisco_A-RIA_HIV_Aging_White_Paper_FINAL.PDF


New Pennsylvania LGBTQ Commission

By Todd C. Snovel

In August, Gov. Tom Wolf signed an executive order creating the Pennsylvania Commission on LGBTQ Affairs, the first of its kind in the nation. The commission, made up of 41 individuals from across the commonwealth, was established to advocate on behalf of LGBTQ Pennsylvanians and help remove any obstacles or barriers people are facing due to their gender identity, expression or sexual orientation. Gov. Wolf named Todd C. Snovel as the Executive Director.

One of the commission’s main objectives will be working with the legislature to understand the importance of passing the Pennsylvania Fairness Act, which would widen Pennsylvania’s non-discrimination laws to include preventing discrimination based on sexuality, gender identity and gender expression. Currently, Pennsylvania remains the only state in the northeast lacking these important protections for the LGBTQ communities.

Additionally, the commission will be forming working groups to address specific needs for population within our communities. These working groups will include education, health care, aging and more. The commission welcomes additional volunteers with interests to serve on working groups.

Anyone interested in learning more or getting involved in the commission can contact Todd C. Snovel at tsnovel@pa.gov.

Todd C. Snovel is the Executive Director of the Pennsylvania Commission on LGBTQ Affairs, Office of Governor Tom Wolf. He previously served as associate dean for engagement and inclusion at Lebanon Valley College, where he initiated campus-wide efforts in equity, diversity and inclusion. Todd also teaches college-level courses on the topics of genders, sexualities and identities.
Rainbeaux Arts and Culture

This new section adds a touch of the humanities because the humanities civilize and show how culture reflects and provides opportunities for the LGBTQ community. Contributions from committee members and allies are welcome! Send the editors an item or an alert to the news item.

Film

Oct. 24-30 saw the 30th NewFest Film Festival in New York City, expanded to a full seven days in light of the milestone anniversary! The New York Lesbian, Gay, Bisexual, & Transgender Film Festival, first held in 1988 in New York City, features a variety of films concerned with LGBTQ communities around the world. The festival is one of the most comprehensive forums of national and international LGBT film/video in the world. The film festival, sponsored by HBO, is “dedicated to bringing together filmmakers and audiences to build a community that passionately supports giving voice and visibility to the full spectrum of the LGBT experience.” NewFest states: “We are committed to nurturing emerging LGBT and allied filmmakers. We support those artists who are willing to take risks in telling the stories that fully reflect the diversity and complexity of our lives.”

The films screened at NewFest included “Rafiki,” highly celebrated at Cannes this year. The film, which portrays a romance between two young women in Kenya, has been described as “a global call to action that proves a work of art does not have to be explicit in order to stir resistance in the face of oppression.” The film was presented at the festival in partnership with the Human Rights Campaign and was banned in Kenya. “Dykes, Camera, Action” is a documentary presented in partnership with NY Women in Film & Television, Lesbian Herstory Archives, SVA Theatre and Women Make Movies examines the expression of queer identity through film. “Mapplethorpe” is an “unflinching” view of the life of Robert Mapplethorpe. “Making Montgomery Clift” provides a fresh portrait of one of the filmmaker’s uncle as an actor. In the film, Clift is comfortable with his sexuality and identity in the Hollywood system he is courageous enough to challenge. The film raises questions about why society needed to portray Clift as a gay man with a tragic life, giving rise to important questions such as “Who do we trust to write our history?”

In addition to these films and many others celebrating a U.S. premiere, important films of the past were brought back to the screen, such as “The Kids Are Alright” and “Milk.”

The NewFest Film Festival is an annual event. The organization presents events throughout the year. The website is www.newfest.org.

“Boy Erased” is a new film based on Garrard Conley’s memoir of the same title (Riverhead Books, 2016). The son of a Baptist minister, Conley was involuntarily outed, but then voluntarily entered Love In Action, a Christian fundamentalist “gay conversion therapy” program, modeled after 12-step recovery programs, which Conley eventually left. He was a co-writer of the film script. “Cameron Post” is based on the young-adult novel by Emily M. Danforth (HarperCollins, 2012). Cameron is a teenage girl who discovers her sexual identity. Shortly thereafter, her parents die in an automobile accident, and she moves in with her conservative aunt, who enrolls her in a conversion program. The film won the 2018 Sundance Grand Jury Prize.

Television

GLADD’s “Where We Are on TV” report, (www.glaad.org/whereweareontv18) was released on Oct. 25, 2018. While many LGBT stories depicted in film have been criticized as presenting gay life with bleak and dark stories containing little joy (see, Benjamin Lee, LGBT cinema needs more happy endings, Guardian, Oct. 31, 2018), television is

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presenting LGBTQ characters in greater numbers, stronger roles and as individuals achieving fulfillment.

GLADD reports on LGBTQ characters on networks, as well as streaming services. This year's report found that 8.8 percent of primetime characters expected to appear in primetime scripted programs were LGBTQ, the highest percentage GLADD has counted in any year. LGBTQ characters of color outnumbered LGBTQ white characters, and there is gender parity among characters, according to the GLADD report.

Sarah Kate Ellis, GLADD President and CEO articulated the importance of LGBTQ characters on television:

With anti-LGBTQ policies being debated here and abroad, the stories and characters on television are more critical than ever before to build understanding and acceptance of LGBTQ people. ... Not only do stories that explore the rich lives and identities of LGBTQ people move the needle forward culturally, but they pay off in ratings – shows like “Will & Grace,” “Supergirl,” “Empire” and “How to Get Away with Murder” all attract millions of viewers weekly and demonstrate that audiences are hungry for new stories and perspectives.

The report also noted that the number of bisexual+ characters increased this year across broadcast media. However, bisexual+ characters are still underrepresented in relation to the number of bisexual+ individuals in our communities.

Art

The Philadelphia Art Museum is showing “Haute” through March 3, 2019. The museum invites visitors to “experience the drama and glamour of some of the most creative feminine fashions ever ... from ballgowns to audacious contemporary ensembles ...” from Dior’s New Look to the present.

Books

As the winter holidays near, for those who enjoy a British winter tale, complete with a country house and family drama/trauma, “Winter,” by Ali Smith, is recommended. Smith, a Scottish born writer, lives in Cambridge with her partner. She has created an impressive body of work at age 56 and has been dubbed “Scotland’s Nobel laureate in waiting.”

“Winter” is the second of a seasonal series. Praised for working on a narrative level as an “insubordinate folktale,” as well as on a deeper allegorical and “fantastical” level, the novel has been praised for incorporating the essence of Dickens and Shakespeare. The Irish Independent praised the novel as “a subtle meditation on loneliness, loss and aging in uncertain times.”

Live Performance

On Oct. 26, the San Francisco Gay Men’s Chorus performed, upon invitation, at St. Ignatius Catholic Church as part of the chorus’ 40th anniversary celebration. This was more than 37 years after former Archbishop John Quinn cancelled a scheduled performance at St. Ignatius, leading to legal action. Father Greg Bonfiglio, St. Ignatius’ pastor, described the invitation as bridge-building in a “hyperpolarized” world. The chorus has also performed at Most Holy Redeemer Catholic Church, which cultivates an inclusive ministry.


On Saturday, Dec. 8, 2018, Pittsburgh will host John Waters at 8 p.m. at Carnegie Lecture Hall, sponsored by The Warhol and the Carnegie Museum of Art. “Back by popular demand” John Waters (“Hairspray,” “Cry Baby”) brings his one man show, “A John Waters Christmas.” With his legendary humor and satirical invective, Waters takes on topics such as capitalism and anarchy with “is Prancer the only gay reindeer?” and what “Christmas crazy” looks like. Parts of the program are not suitable for all audiences.

Waters has been on tour with this show for many years. Those who appreciate Waters’ humor find a unique pleasure in his show filled with comical takes on the current state of the world. Waters’ comic style involving irreverence toward social norms is an unacquired taste for some.

Co-editor Mária Zulick Nucci graduated from Temple University School of Law. She is a contract attorney with Allerton Bell PC in Wyomissing and is experienced in appellate litigation and aviation law, with an interest in animal law. Her private and public sector experience has covered a range of civil law areas. She may be reached at MJNucci58@gmail.com.