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KRISTINE M. GEBBIE
Candidate for AIDS Czar

I. Introduction

Kristine M. Gebbie was Secretary of the Washington State Department of Health from 1989 until the spring of 1993, when she was replaced by incoming Democratic Governor Mike Lowry. She has also been a Clinical Associate Professor at the University of Washington School of Nursing since 1990 and an Adjunct Associate Professor at the Oregon Health Science University School of Nursing since 1980.

II. Biographical Information and Professional Record

Ms. Gebbie received her B.S. in Nursing from St. Olaf College in Minnesota in 1965 and her M.S. in Nursing from the University of California at Los Angeles (UCLA) in 1968. She is currently a Ph.D. candidate in Health Policy at the University of Michigan School of Public Health.

After graduation in 1968, Ms. Gebbie began a teaching career as an instructor and lecturer at UCLA's School of Nursing. She left in 1972 to become an Assistant Professor of Nursing, and later an Associate Clinical Professor, at St. Louis University in Missouri. During that time, Ms. Gebbie was also directing a program to prepare nurses for practice in varying environments that was funded by a United States Public Health Service Training Grant. In 1974, Ms. Gebbie undertook the added responsibility of coordinating the operation of all outpatient clinics for St. Louis University Hospital. Two years later, she was promoted to Assistant Director of the hospital, where she remained until 1978.

From 1978 to 1989, Ms. Gebbie served the State of Oregon first as Assistant Director for Health and then as Administrator of the Oregon Health Division. In 1989, she was appointed by Democratic Governor Booth Gardner to serve as Secretary of the Washington State Department of Health.

Ms. Gebbie has been active in a number of professional organizations, including the American Public Health Association and the Association of State and Territorial Health Officials (ASTHO). She was President of ASTHO in 1984 and 1985 and Chair of its HIV Committee from 1985 to 1988. Ms. Gebbie is currently the Chair of the Centers for Disease Control's Advisory Committee on the Prevention of the HIV Infection and a member of the editorial board of the Journal of Public Health Policy. From 1987 to 1990, she was on the AIDS Oversight Committee at the Institute of Medicine. In 1988, President Reagan appointed Ms. Gebbie to serve on

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the Presidential Commission on the HIV Epidemic, under the direction of Admiral James Watkins.

III. Views and Philosophy

Ms. Gebbie has been a prolific speaker and writer about HIV and AIDS since the early days of the disease. The public record indicates that Ms. Gebbie is primarily concerned with promoting education to stop the spread of HIV and ending discrimination against those who have the disease.

While most of her views can be considered in the mainstream of public health professionals, Ms. Gebbie has offered some provocative ideas and suggestions. In a 1988 lecture at the University of Missouri Law School at Kansas City entitled "AIDS and Government: Regulation of Sexual Behavior", she said "we must find a way to support sustained changes in behavior in an intimate, private, essential part of life, and do so without irreparably violating social norms." Ms. Gebbie advocated a greater commitment of resources to study sexual behavior, particularly among homosexuals, so that AIDS education strategies can be better targeted. She also stated that societal inhibitions need to be overcome in order to develop effective educational tools.

As part of her recommendations, Ms. Gebbie endorsed the use of specifically erotic video tape materials as "helpful in teaching safer sex practices in some detail to gay men." She admitted that "this material would be labeled pornographic by many in our social system and a few politicians have made a great deal of political hay out of assuring us that our tax dollars are not 'misspent' in this terrible way." Nevertheless, Ms. Gebbie concluded that "to stop HIV we must be able to speak explicitly to all groups of sexually active individuals and to do so in a language that will be effective." She asked rhetorically of her critics, "Is this a flouting of our basic values or is it an acknowledgement of the value of all life?"

Ms. Gebbie has been on the leading edge of many issues surrounding HIV. She faults government officials in general for the promotion of research and treatment over education, arguing that the latter is "less specific than buying or building a piece of equipment, and it's hard to quantify." According to a 1986 report in The Los Angeles Times, Ms. Gebbie headed a ASTHO committee report that recommended collecting the names of individuals infected with HIV and notifying their sexual contacts. The recommendation was attacked by the National Gay Task Force and the American Association of Physicians for Human Rights as potentially having "seriously damaging consequences." Ms. Gebbie responded by saying opponents were "overreacting" and had failed to realize that the proposals were only "a framework [and] a suggestion" and "not radical new things." She also emphasized the public health community's "long-time history" of keeping records confidential to prevent

discrimination. In a subsequent article entitled "Guide to Public Health Practice: AIDS Confidentiality and Anti-Discrimination Principles," Ms. Gebbie wrote that "ensuring the confidentiality of HIV-related information is critical to maintaining and promoting public confidence in the public health system." She also called for penalties for any "unauthorized disclosure of HIV-related information" by public or private organizations.

As early as 1987, as Oregon Health Administrator, Ms. Gebbie actively promoted the use of condom advertising on radio and television as a way to stem the spread of HIV. In 1989, the Oregon Health Division developed an advertising campaign aimed at bringing anti-AIDS messages to four high-risk groups. According to a report by United Press International, members of the AIDS Coalition to Unleash Power (ACT-UP) were "upset that none of the material specifically use[d] the word 'gay.'" Ms. Gebbie responded that the use of the word "would alienate men who have sex with other men on occasion but who do not identify themselves as homosexuals." "Gay" remained out of the campaign because those men were specifically targets for the messages. In the late 1980s, Ms. Gebbie also supported the development of a poster for education in the gay community that showed two nicely dressed men with their arms around each other and the slogan "We Can Live Together--The Best Weapon We Have Against AIDS Is Ourselves." The transit advertising company in Oregon pulled the poster because of purported outcry over public display of homosexuality.

In 1987, Ms. Gebbie was appointed by President Reagan to the Presidential Commission on the HIV Epidemic (the AIDS Commission). She filled one of two vacancies created by the resignation of the original chairman and vice chairman, who cited a lack of administration support for the commission as the reason for leaving. The Los Angeles Times reported that "gay rights spokesmen and others...were pleasantly surprised" by Ms. Gebbie's appointment. The article stated that Ms. Gebbie was "a strong proponent of education and prevention to curtail the epidemic, and she advocates voluntary--rather than mandatory--testing for AIDS infection." A spokesman for the National Gay and Lesbian Task Force said that Ms. Gebbie would "add a voice of reason to what is otherwise an unreasonable group of people." Representative Henry Waxman (D-CA) called her "a thoughtful and diligent advisor on AIDS policy." Ms. Gebbie was appointed even after attacking then-Secretary of Education William Bennett for entering the debate on proper AIDS education. "I think Secretary Bennett should stick to education and leave public health to Surgeon General (C. Everett) Koop," United Press International quoted her as saying.

Ms. Gebbie suggested that the AIDS Commission adopt recommendations calling for legislation that would enable the Surgeon General to request the President to declare public health emergencies and, upon such a declaration, would require the Secretary of the Department of Health and Human Services to designate a "special

assistant Secretary of Health" for a term of one year. The proposal was not adopted. Ms. Gebbie was a strong proponent of the AIDS Commission's recommendation for legislation to prohibit discrimination against HIV-infected people and was a vocal critic of President Reagan's dismissal of the Commission's findings. A 1988 article in The Washington Post quoted her as saying the Reagan Administration's response sounded "like somebody missed the point we were trying to make...It may be that we'll have to wait for a new administration."

In 1989, Ms. Gebbie published an article entitled "The President's Commission on AIDS: What Did It Do?" in which she concluded that it "did not do much, if anything, to bring [President Reagan] into the HIV response, possibly because he is so shielded by the conservative voice." She was proud, however, that the AIDS Commission "may have taken some of the wind out of the sails of extremists in Congress by failing to give them any additional weapons." Ms. Gebbie also credited the AIDS Commission for helping to "translate the epidemic into language which is accessible for many citizens" and for reinforcing the central role the public health system should play in the debate. She detailed a number of specific criticisms of the Reagan Administration's approach, including the "failure to offer each child born a comprehensive health and health education program...and [the] failure to really understand the dangers of creating a permanent underclass." Concerning funding for HIV research and programs, Ms. Gebbie concluded that "it is probably not that HIV gets too much, but that other [health] issues get too little." "On balance," she concluded, "I think this Commission did an incredible job."

Ms. Gebbie has also taken strong positions with respect to a woman's right to choose to terminate a pregnancy. In 1991, after the U.S. Supreme Court upheld the constitutionality of a federal regulation prohibiting family planning agencies that accept federal funding from informing women about abortion, Ms. Gebbie wrote an op-ed piece in The Seattle Times denouncing the decision. "Every woman has the right to choose which courses of action fit her life the best," she wrote. In 1992, Ms. Gebbie announced that the Washington State Department of Health would circumvent the regulation by ensuring that the determination of pregnancy and any subsequent counseling in local family planning programs was state funded, not federally funded. "It [will be] business as usual," a published news release quoted Ms. Gebbie as saying. "We cannot let...the 'gag rule' prevent pregnant women from having complete information on their options." Ms. Gebbie took a similar step in Oregon in 1983 when the U.S. Department of Health and Human Services established regulations requiring parental notification if minor children received certain federally financed family planning services. An Associated Press report said the state would provide birth control services to girls under 18 in order "to preserve teen-agers' confidentiality."

IV. Noteworthy Events

There are a few reports in the public record of events that occurred during Ms. Gebbie's service in Oregon and Washington that are noteworthy.

In 1985, as Oregon Health Division Administrator, Ms. Gebbie fired State Medical Examiner Dr. William Brady for selling skin samples and organs from cadavers to pay for office parties and furniture and for performing private autopsies using public facilities. Dr. Brady denied any wrongdoing, repaid the state \$17,000, and was eventually cleared by the State Board of Medical Examiners. He sued Ms. Gebbie for defamation of character and wrongful discharge and requested \$2.5 million in damages. A 1986 United Press International article reported that Dr. Brady said he "was denied a fair hearing...[and that Ms.] Gebbie's actions held him up to ridicule and forced him to seek psychiatric care for depression." Another UPI article reported that Ms. Gebbie did allow Dr. Brady and his chief deputy, Dr. Larry Lewman, to present "compelling evidence" in their favor before making a final decision. After the hearing, Dr. Brady was fired, but Dr. Lewman was not.

The case went to trial and, as the Associated Press reported, the jury "ruled that [Ms.] Gebbie deprived [Dr.] Brady of his constitutionally protected liberty interests without due process of law" when she fired him. In 1989, the U.S. Supreme Court let stand the Court of Appeals ruling upholding the award. Ms. Gebbie had appealed on the grounds that the Appeals Court ruling put government employers in an "untenable position" and, further, that she was entitled to qualified immunity and acted in good faith. There is no indication in the public record about any post-judgment negotiations or payment.

There is also one report from The Business Journal of Portland that indicated that in 1987 Ms. Gebbie withdrew herself from the selection of a Portland hospital to house a new state trauma center because of "a possible conflict of interest." There is no further elaboration in the public record. Also while in Oregon, Ms. Gebbie in 1986 sent a bill for \$73,060 to then-Soviet Union President Mikhail Gorbachev for monitoring fallout from the nuclear accident at Chernobyl. Nothing in the public record suggests that there was ever a response.

V. Summary and Analysis

The public record portrays Kristine Gebbie as a highly qualified public health expert who has been a leader in the fight against HIV and AIDS during her years in public service. Her views generally appear to be within the mainstream of the public health community, but her advocacy of educational tools such as sexually explicit video tapes and research of intimate homosexual behavior could be considered provocative and controversial. Some of her other views, such as increased

advertising for the use of condoms, might be attacked by conservative groups. In addition, some of her actions as Oregon Health Division Administrator could be used by some groups to oppose her nomination.

A review of the available public record reveals no additional information that may reflect negatively on Ms. Gebbie's nomination as AIDS Czar.

June 24, 1993

AIDS AND GOVERNMENT: REGULATION OF SEXUAL BEHAVIOR*

Kristine M. Gebbie**

The epidemic of infection by the human immunodeficiency virus ("HIV"), commonly called the AIDS epidemic, has frightened and challenged us, made us aware of our vulnerability, and pushed our capacity to manage threats to our well-being. It also has raised many important issues in American life: What is the role of the federal government in financing and solving health-related emergencies? Should we fight drug abuse with treatment or imprisonment? What is the best method of paying for illness treatment? Tonight I am going to focus on one area: the role of government in influencing sexual behavior. It is my contention that "influencing" is a more appropriate term than "regulating," but there are still many questions. Is it appropriate for the apparatus of government to intrude into one of the most intimate areas of human life and, if so, in what way? Are all choices about sexual behavior strictly private, and to be based on privately acquired information or not?

I will speak of "government" generically—state, local, federal; executive and legislative; and occasionally a specific agency or activity.

People expect public health agencies to stop epidemics. Some people who do not know much about public health have been somewhat surprised that there are government agencies available to respond to the HIV epidemic. The circumstances in the early years of this outbreak, in fact, resemble those at the turn of the century when many public health laws were enacted, though the diseases then were smallpox and cholera.

Some have been very critical that public health officials did not respond rapidly enough. There is some validity to this, but I believe one reason for the slower response is that the methods of stopping this epidemic are not technological. If what were needed were clinics where a "magic bullet" could be handed out, the entire social apparatus would respond readily; it fits our bias that shiny things fix problems. In the AIDS situation, however, we must find a way to support sustained changes in behavior in an intimate, private, essential part of life, and do so without irreparably violating social norms.

Let me be clear that I will not be talking about government's role in using existing law to deal with such things as child sexual abuse, nor do I have any clear view of how to deal with prostitution. I am concerned about what govern-

* The 1988 John B. Gage Lecture, University of Missouri - Kansas City School of Law, September 29, 1988.

** Administrator, Oregon Health Division; member, Presidential Commission on the Human Immunodeficiency Virus Epidemic; B.S.N., 1965, St. Olaf College; M.N., 1968, U.C.L.A.

ment should do to reduce the "common, ordinary spread" of this disease.

The HIV is a retrovirus which is spread from an infected person to another uninfected individual through some direct contact which allows infected blood or other infected cells to be passed from the infected individual to the uninfected individual. That this was a virus, and a sexually transmitted one, was suspected early and fairly quickly confirmed.

Careful analysis of the over 70,000 cases of AIDS which have occurred in the United States thus far has shown that the routes of transmission are sexual activity with the exchange of semen and those activities in which blood is transferred from one individual to another, such as the sharing of "works" for the illicit injection of drugs or the transfusion of blood products. Studies of those infected but not yet ill (estimated at one million persons nationwide) confirm these findings. (The virus can be isolated from other body fluids, at low concentrations, and there are scattered reports of other transmissions such as mother to infant by breast milk.)

The blood products-associated transmission of HIV has been almost entirely eliminated by the screening of donated blood and the heat treatment of products used for hemophilia. The spread of HIV infection through drug use practices is not as easily stopped, but will not be the subject of this discussion.

I will be focusing on sexually transmitted HIV infection. I want to underscore that I mean both heterosexual and homosexual transmission. It is an historical quirk that the gay community was affected first so severely, because of the rapid spread of disease among that portion of the gay community in which multiple, anonymous sex partners were common. (This spread has been well documented in works such as *And the Band Played On*.)

This presentation is not an overview of the life-cycle of the retrovirus or of the symptomatology associated with clinical HIV infection or AIDS. As a responsible public health official, I have as my goal the end of transmission of HIV from the currently infected to the currently uninfected. Once the virus is transmitted, prevention has failed. The very important issues of providing adequate support, counseling, and eventual medical treatment are of broad societal concern, but will not be discussed here.

To stop sexual transmission, *all* persons capable of sexual activity must either:

1. Reach a decision to abstain entirely from physical sexual acts,
2. Enter into (or remain in) a mutually binding lifetime monogamous relationship, or
3. Have a limited number of partners, engage in sexual acts in which the likelihood of transmission of virus is low, including acts such as "petting" or mutual masturbation, or use condoms.

There are two distinct groups that need to consider and make the behavioral choices I have outlined:

1. Those persons already sexually active who need to shift to or be sustained in wise (or wiser) choices about number of partners or choice of pleasurable acts, and

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2. Those persons not yet sexually active who are about to become so, generally thought of as teenagers or pre-teens who are being educated and socialized about appropriate choices.

Most of the issues I will raise apply to both groups, albeit a bit differently to each.

As a general rule, sex is viewed as a private matter. In the late twentieth century, the United States still carries a large burden of attitudes toward sexual behavior carried over from the Victorian era (for example, ruling out any open talk of sexual topics). Many of today's adults grew up in a world in which even accurate discussion of basic sexual anatomy was difficult.

We have learned something about the positive potential of more open discussion. We have seen the reduction in teenage pregnancy and delay in sexual activity when there is open access to accurate information for teens and preteens, and the plummeting rates of syphilis and gonorrhea in gay communities where safer sex is a socially acceptable topic. We are not yet comfortable translating this knowledge to wide-spread policy, however.

On the other hand, we live in a world in which sex readily is exploited for commercial reasons, in which sex is used to sell almost any kind of product, and in which entertainment of all kinds frequently depicts sexual activity as pleasant, appropriate, and rewarding for people of all ages, and under all sorts of circumstances, with very little acknowledgment of the consequences of multiple sexual partners, sex without protective steps such as the use of condoms, and sex prior to adulthood.

As a public health official, I am responsible to the citizens of my state to preserve, protect, and promote their health. Because that includes stopping HIV infection, I must work with citizens to change sexual practices. That means understanding better how our society views the appropriate role of government in discussing sexual activity, in exploring choices about the sexual side of human nature, and in sustaining practices which reduce the likelihood of disease transmission. Note I said "reduce": we have yet to eliminate any sexually transmitted diseases, even those for which there is a cure, and I do not imagine we will stop completely HIV transmission in my lifetime.

While I represent the public health sector, it is important to understand that other public agencies are involved. The principal agency available in the community for education, particularly of the young, is the public school. Most public health departments have working relationships with schools, and where the target audience is youngsters, the schools often are involved. For example, having reached the public policy decision that all children should be immunized, the school becomes the point of control by verifying that children are fully immunized before being permitted to enter the school situation. Many of us are concerned about the burdens placed on schools today and have listened to or even participated in conversations about allowing schools to get on with their role of teaching the basics well rather than burdening them with other tasks. It is my perception that schools exist to serve the function of providing society with well-prepared

adults, that is, prepared to take their places in society as effective community members. That means more than education in the basic skills of reading, writing, and arithmetic. It includes training in the skills necessary for a full and active participation in society. Protection of the health of one's body seems to me to fit that definition of a necessary skill and, therefore, something that should be supported as a role of the schools. In fact, the Presidential Commission on the HIV Epidemic took a very strong stand in declaring that a full program of health education should be available for all children from their earliest entry into an organized education system at preschool or kindergarten through their completion of high school or college.

Not all citizens agree with that view or with the view that there is a governmental role in changing the sexual practices of adults. I have been asked often, "Hasn't every adult learned from the evening news what is needed to stop this epidemic?" And the answer is "no": more than "the news" is required to teach us to eat properly, stop smoking, buckle our seat belts, and stop putting waste chemicals into our water. Nor are "those at risk" a self-contained community apart from "us" who could be allowed to meet their fate without bothering the rest of "us." We are a society of the whole and must respond to all. The Presidential Commission was very clear that government has an active role in supporting adult sexual behavior change, without the convenience of a universal adult school system through which we all pass.

There are many important questions in setting out our public policy in this area. I will discuss three of them tonight.

First, *What do we know about the sexual behavior of our citizens?* Each of us knows what our own sexual behavior is and at least some, if not all, of the sexual behavior of our partner or partners. We may know something about the information concerning sex provided to our own children, or provided to us by our own parents. We may know something about the sex lives of our nearest friends. But what we know about the range of human sexual behavior is extremely limited.

The major study on which we draw to define the presence of homosexuality, bisexuality, or heterosexuality is the Kinsey Report, which is forty years old and was flawed procedurally when it was done. There is such a fascination with the technological research necessary to understand HIV and its effects on the body in order to find medical treatments that the funding for additional social research on sexual practices and on our ability to influence changes in sexual practices has been woefully inadequate.

In fact, those in our society who make a career of studying sexuality often have been the butt of jokes. From the testimony of Masters and Johnson in front of the Presidential Commission, I deduce that at least one reason for their failure to submit their findings to peer-reviewed journals was their experience of being attacked and criticized for their research. Research about sexual choices may sound like voyeurism to some and may verge on the kind of research that has won Senator Proxmire's Golden Fleece Award in Congress. We see social

and behavioral sciences as "soft" and do not honor them as we do biology or chemistry.

If we are to accomplish the task of appropriate education about both the physical side of sex and the psychological and sociological information that will allow our citizens to make wise choices for a lifetime, we must have a better understanding of the subgroups of our population, as divided by differences in sexual activity, choice of sexual partners, and the like. Beyond the facts of how many people currently do what, we must have a sound research base on whether the use of audiovisual materials, speakers, demonstrations, in-home education, at-work education, et cetera, are the ways to foster healthier behavior choices. This research will mean increasing the expenditure of research money, and the source of most research money today is our government.

There is limited support to spend more money on understanding the what, how, and why of sexual choices, though the National Academy of Sciences, among others, does support such an investment. For example, collectively we have only a dim understanding of the existence of homosexuality, and many persons continue to see it as an explicitly chosen deviance which can be avoided or abandoned. There is only limited understanding of same sex partner attraction as something which simply is a fact for some proportion (perhaps ten percent) of the human species. One of the least understood areas is homosexuality in adolescence, a critical period in shaping lifetime sexual activity decisions.

The second question: *How do we talk about sex?* Some citizens seem to want public health protection only in the form of locking up "them," the infected. There is a place for quarantine, more properly called a restrictive public health order, but it is limited and for rare events. But most people seem to want information about how they can protect themselves. However, they do not always like it very well when those messages are embarrassing or distressing. A number of us who speak a lot about this epidemic have identified what we call the "AIDS Twitch." It may already have happened here, tonight. It generally occurs either the first time homosexuality is openly acknowledged as a part of society which must be taken into account in dealing with this epidemic, or the first time words such as "semen," "masturbation," "condom," "vaginal secretions" are used. It involves being mildly embarrassed for the speaker who stupidly has violated a social norm, and looking around to see who else is getting red in the face.

Because of our societal inhibitions, the early explanations about transmission of HIV were couched in general language; "body fluid exchange" is a good example. The use of this phrase led to the early perception that anything damp coming from a human body was capable of transmitting the disease, and a good deal of energy has been expended clarifying the fact that only two bodily fluids, blood and semen, contain sufficient concentrations of the virus to be effective transmitters of the disease.

As a second example, the terms "safe sex" or "safer sex" were used to describe sex in which "body fluids" are not exchanged. The general phrase is

ineffective in conveying the information that intimacy is possible between two people, but that very specific precautions need to be taken against the transmission of semen or blood. Those precautions include the use of condoms and the avoidance of activities that might lead to bleeding.

The phrase "Just Say 'No'" has been joked about a great deal. The phrase has some validity for a small child learning that touching of the body by a stranger is something to which one should say "no," and learning that exploration of physical intimacy with another person is something that should be avoided until an older age. But "Just Say 'No'" unsupported by adequate information about the forces that operate physiologically and sociologically on adolescents in our society is inappropriate.

On the other hand, most of us do not want to turn on the evening news and get a detailed visual anatomy lesson. In fact, television news may not be the best place to convey appropriate sexual information. Contrary to some popular opinion, not all Americans rely on the six o'clock news for all required facts about a subject. Nor do we want detailed information on topics such as mutual masturbation taught in grade school.

Education must occur in many places. The school *can* teach basic biology, in appropriate language for various levels of development. Schools also can help teach some of the psychology and sociology of human interaction associated with beginning to understand oneself as a sexual being. But what goes on in the school must be supported by what goes on in the home, what goes on in the church, what goes on in the social club, and what is portrayed on television and in the movies. These re-enforcers go far beyond what government ever can and should do to shape behavior.

Almost more complex than the issue of how to teach young people is the challenge of informing those who already have begun sexual activity. Here it might be helpful to reflect on how difficult it is to change behavior that is associated with any deep human drive. My favorite example, because it is socially acceptable to discuss it, is my own personal attempts to change my eating habits over time. Some of you may have made attempts to break a smoking addiction or control a drinking problem. In all cases, very open explorations of the patterns of behavior involved and of the driving and supporting forces are necessary before one can begin to learn new patterns of food intake, relief of tension, or interaction with other human beings. The safer sex message for sexually active adults has to come at times and places and in language that will be useful for individuals who are trying, not always eagerly, to change a very basic behavior pattern. Research is beginning, such as that by the Gay Men's Health Crisis in New York, which shows that specifically erotic video tape materials are very helpful in teaching safer sex practices in some detail to gay men whose practices have been risky. This material would be labeled pornographic by many in our social system and a few politicians have made a great deal of political hay out of assuring us that our tax dollars are not "misspent" in this terrible way.

intimacy is possible between two people. It can be taken against the transmission of the use of condoms and the use of lubrication.

It is about a great deal. The phrase "touching of the body by a person" and learning that exploration of something that should be avoided is supported by adequate information and sociologically on adolescents in the United States.

It is not to turn on the evening news, television news may not be the best. Contrary to some popular opinion, lock news for all required facts and information on topics such as mutual masturbation.

School can teach basic biology, development. Schools also can help with human interaction associated with sexual behavior. But what goes on in the home, what goes on in the community is portrayed on television and what government ever can and cannot do.

How to teach young people is the question. It has begun sexual activity. Here it is to change behavior that is the example, because it is socially acceptable to change my eating habits, to break a smoking addiction, to open explorations of the patterns of supporting forces are necessary for food intake, relief of tension, or a sex message for sexually active people. A language that will be useful for people to change a very basic behavior. The Gay Men's Health Crisis in video tape materials are very helpful to gay men whose practices are pornographic by many in our society. A great deal of political hay has been cut in this terrible way.

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How can government, in pursuit of keeping all persons healthy, adequately provide the level of information needed by these various subgroups in our society without violating the norms of others? Can government only support messages that are so acceptable that they are too bland and vague to be useful? I do not think that is effective. Many of us have found that working carefully with local groups sometimes can yield citizen support for appropriately specific material targeted at the subgroups. But the process is not simple.

The third question: *Whose values shape the material?* I have talked mostly about the anatomical facts involved and the difficulties in choosing language appropriate to them. A second major area of concern is that of values associated with sexual behavior as it is and as it might become. Many of us were raised in a world which assumed that the ideal person was one who remained a virgin until marriage at which time he or she entered into a lifetime heterosexual contract with a single partner who likewise assumed monogamy as a way of life. We know that millions of people in this country have more than one sex partner, are sexually active before marriage or never marry, and have partners of the same sex in addition to or instead of partners of the opposite sex. We may accept these variations as normal or as less than ideal options exercised from time to time. While those choices might not be appropriate for all, some of them may be the preferred or only options for some others.

Many of the arguments about appropriate government involvement in education to prevent further transmission of HIV have concerned whether the only way education can be provided is to wrap it carefully in a package of exclusive support for adult, lifetime, monogamous, legally recognized heterosexual relationships. While there may be several positive results of such a relationship (no sexually transmitted diseases, no teen pregnancy, no unmarried mothers or fathers), and that option certainly has been sustained as a pattern in our society for a long time, it is clearly not the life choice for all individuals in this country today. By becoming too committed to that single message we may exclude from our audience persons who, for a variety of reasons, have made other choices. A message laden with unacceptable values may be a message totally ignored. And it is possible to reduce the spread of HIV without that single option being forced on everyone. It also is important to remember that there are not two mutually exclusive groups—a "we" who are pure, to be protected, and a "they" who deserve their fate if they will not accept our values. How can we support wise, or wiser, choices in those who are not in lifetime heterosexual monogamous relationships? Do we, by acknowledging the existence of serial monogamy or homosexual activity, "promote" either? As pointed out earlier, the continual use of sexual imagery in the media seems to say that our society tolerates a good deal of openness on a variety of sexual activities as long as one does not talk about them explicitly. To stop HIV we must be able to speak explicitly to all groups of sexually active individuals and to do so in a language that will be effective. Is this a flouting of our basic values or is it an acknowledgment of the value of all life?

While a state may demonstrate an openness to multiple values in acting to protect life, there still are potential problems. A state school board may require AIDS prevention education in every district at every grade level, or a legislature may fund "outreach education for groups at high risk." Someone will have to translate those decisions into lesson plans acceptable in each classroom, or decide what form of media to use in outreach. For example, Oregon has funding for education in the gay community, and in consultation with gay leaders has funded a poster design contest to identify a message that would foster mutual support among gay men. The winning design, "We Can Live Together—The Best Weapon We Have Against AIDS Is Ourselves," shows two nicely dressed young men in a park, one with his arm flung across the other's sweated shoulder. The transit advertising company pulled the poster because of public outcry at this "flaunting" of homosexuality. Yet a Sunday paper, in the same week, ran multiple advertisements for shirts, soda pop, beer, et cetera, showing men in positions at least as intimate. The reference to AIDS made sex too explicit for some individual values.

I hope that all of this discussion has raised more questions than it has provided answers. That is my intent. Government in this country is, I am happy to say, a function of the people. Government activity, including research on sex or education about AIDS, requires money. The expenditure of tax money follows the enactment of law. In my experience as a public official, law follows, rather than leads, practice. Once the general populace decides to accomplish something, the law will follow, as opposed to a few people deciding what is needed and then using the law to coerce everyone else. That means if we want public agencies to be fully and adequately funded to provide the education needed to support changed sexual behavior over time, citizens must change their understanding of sexual behavior in our society and support an active public involvement in helping each other make wise sexual choices. Therefore, it is necessary that you understand these issues and your own value choices, that you believe that appropriate education is needed, that you want to know, and that you want support in making wise changes before the government can take appropriate action, whatever that may be.

As a public health official, I only can hope that this happens relatively quickly. As I said earlier, we already have over 70,000 persons diagnosed with the disease AIDS, and our best calculation is that a million people are infected with the virus. There is no way I can snap my fingers and have the infection confined to those million people. Out of those million, at least one, as I speak, is engaged in a sexual act which will transmit the virus to another individual. That infected individual, who will not know he or she is infected, will go on to infect yet another or others. The chain will continue until we can get adequate information to every single citizen, young or old, straight or gay. And not "just the facts," but a message of understanding about being sexual creatures with choices to make.

As a surrogate for my job only with you honest, that I will be a groups to present information and bad choices current information randomly, it available in a way of their own behavior, those changes over time the sexual behavior of

If we can find a also find that we have society today. It is no become partners in the private choices which

Thank you.

ness to multiple values in acting is. A state school board may require at every grade level, or a legislature at high risk." Someone will have to be acceptable in each classroom, or decide, for example, Oregon has funding for consultation with gay leaders has funded one that would foster mutual support. "Live Together—The Best Weapon" shows two nicely dressed young men in a sweatered shoulder. The transcript of public outcry at this "flaunting" the same week, ran multiple advertisements, showing men in positions at least as explicit for some individual

raised more questions than it has. In this country is, I am happy to see activity, including research on sexual expenditure of tax money follows. A public official, law follows, rather than decides to accomplish something, people deciding what is needed and what means if we want public agencies to have the education needed to support must change their understanding of active public involvement in helping. It is necessary that you understand what you believe that appropriate is, and that you want support in to take appropriate action, whatever

hope that this happens relatively over 70,000 persons diagnosed with that a million people are infected on my fingers and have the infection. A million, at least one, as I speak, to the virus to another individual. If he or she is infected, will go on to continue until we can get adequate help, straight or gay. And not "just about being sexual creatures with

As a surrogate for all public health officials, I can assure you that I can do my job only with your help, with your expectation that I will be frank and honest, that I will be able to work with schools, with businesses, and with civic groups to present information acknowledging society's rich diversity and the good and bad choices currently being made by people. Assaulting individuals with information randomly, wildly, or intrusively will be ineffective. We must make it available in a way that catches people's attention, engages their consideration of their own behavior, and encourages them to make wise choices and to sustain those changes over time. Government has this role in influencing, not regulating, the sexual behavior of citizens.

If we can find a way to do that successfully with this epidemic, we may also find that we have made a dent in several other persistent problems in our society today. It is not a technological fix, nor an easy one. I invite you to become partners in the process of using our public resources wisely to support private choices which lead to health.

Thank you.

Brady
in
~~Brady~~
Set

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LEVEL 1 - 105 OF 299 STORIES

The Associated Press

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March 27, 1989, Monday, PM cycle

SECTION: Washington Dateline

LENGTH: 373 words

HEADLINE: Justices Let Stand Damage Award to Former Oregon Medical Examiner

DATELINE: WASHINGTON

KEYWORD: Scotus-Gebbie

BODY:

The Supreme Court today let stand a \$300,000 award won by Oregon's former chief medical examiner from the woman who fired him following news reports that he had sold body parts to finance parties in the morgue.

The justices, without comment, refused to hear arguments by Kristine Gebbie, administrator of the State Health Division, aimed at overturning the award won by William J. Brady.

A federal jury ruled that Gebbie deprived Brady of his constitutionally protected liberty interests without due process of law when she fired him in 1985.

Brady had maintained a bank account, in his name but with the knowledge of everyone in his office, for money paid for pituitary glands and other body parts removed during autopsies in the state coroner's office.

The money was used for various amenities in the medical examiner's office.

When Gebbie announced Brady's firing on Oct. 3, 1985, she issued a press release in which she said Brady had "knowingly violated public trust and confidence" through his "systematic 16-year diversion of public funds."

In upholding the jury verdict last Oct. 31, the 9th U.S. Circuit Court of Appeals said Brady presented undisputed evidence that Gebbie charged him with:

-Violating the public trust.

-Diverting state funds for his own use.

-Establishing a "slush fund."

-Causing the state to be billed for toxicological reports made in connection with private autopsies he performed.

The appeals court added, "There was sufficient evidence presented from which a jury could reasonably infer that the charges were both contested and false."

The Associated Press, March 27, 1989

In the appeal acted on today, Oregon Solicitor General Virginia Linder argued for Gebbie that the appeals court ruling places government employers in an "untenable position."

The appeal said the 9th Circuit court's ruling gives no clear guidelines for "government's responsiveness to the performance of its high-level officials and its ability to speak to the public it serves."

The appeal also contended that Gebbie was entitled to qualified immunity from Brady's lawsuit because "she acted in unquestioned good faith and the law concerning liberty interests and name-clearing hearings is far from settled."

The case is Gebbie vs. Brady, 88-1299.

1ST CASE of Level 1 printed in FULL format.

WILLIAM J. BRADY, M.D., Plaintiff-Appellee, Cross-Appellant,
v. KRISTINE M. GEBBIE, Director, Human Resources,
Administrator, Health Division of the State of Oregon,
Defendant-Appellant, Cross-Appellee

Nos. 87-3839, 87-3877

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

859 F.2d 1543; 1988 U.S. App. LEXIS 14623

July 11, 1988, Argued and Submitted
October 31, 1988, Filed

PRIOR HISTORY:

[**1]

Appeal from the United States District Court for the District of Oregon, D.C.
No. CV-86-862-DA, William M. Dale, Jr., Magistrate, Presiding.

COUNSEL: Michael D. Reynolds, Assistant Attorney General, Salem, Oregon, for the
defendant-appellant/cross-appellee.

Bernard Jolles, Jolles, Sokol & Bernstein, Portland, Oregon, for the
plaintiff-appellee/cross-appellant.

JUDGES: Alfred T. Goodwin, Chief Judge, Arthur L. Alarcon and Warren J.
Ferguson, Circuit Judge.

OPINIONBY: FERGUSON

GPINION: [*1545]

OPINION

Warren J. FERGUSON, Circuit Judge:

Kristine M. Gebbie ("Gebbie") appeals from the district court order denying her motions for directed verdict and JNOV as to the liberty interest claim of William J. Brady, M.D. ("Brady"). Gebbie argues that the undisputed evidence shows that 1) Gebbie did not deprive Brady of a constitutionally protected liberty interest; 2) Brady received all the process he was due; and 3) Gebbie was protected by qualified immunity. Gebbie also appeals the denial of her motion for a new trial or remittitur on the grounds that the jury's award of damages was not supported by the evidence and was excessive and grossly disproportionate.

Brady cross-appeals from the district court's grant of a directed verdict
[**2] for Gebbie on Brady's property interest claim. Brady argues that he had a constitutionally protected property interest in both his unclassified position as State Medical Examiner and his alleged right to return to classified service after termination of his unclassified job. He also appeals the district court's grant of partial summary judgment for Gebbie on the issue of his right to

reinstatement. We affirm the decision of the district court on all of the issues.

I.

Brady, a board-certified hospital, clinical and forensic pathologist, was hired as Deputy Medical Examiner for the State of Oregon on January 1, 1969. In May, 1969, he became the State Medical Examiner. At that time, the position of State Medical Examiner was in the classified civil service. In January, 1977, the position was taken out of classified service and placed in management service; in September, 1977, the position was moved to the unclassified service.

From 1969 until January, 1979, Dr. Edward Press was Brady's supervisor. Dr. Press was succeeded by Gebbie, who remained Brady's supervisor until his discharge in October, 1985. At all times during his employment as State Medical Examiner, Brady received satisfactory [**3] or better evaluations from his supervisors. In addition to performing his official duties, Brady maintained a private practice, taught, and testified as an expert witness on numerous occasions.

On June 20, 1985, Brady was interviewed by a newspaper reporter who told him that she had information that he was selling body parts to finance parties in the morgue. After the interview, Brady called Gebbie and arranged to meet with her at her home that evening. At that meeting, Brady informed Gebbie about the interview. He also told her about a bank account which he had started while a county coroner and continued to keep after becoming State Medical Examiner. The unsolicited funds for the account apparently came primarily from small amounts of money forwarded to the coroner's office by the [*1546] National Pituitary Foundation. n1 Though the funds were deposited into an account in Brady's name, they were used for various amenities for the Medical Examiner's Office. The account was openly kept; all of the employees in the office knew about it. Gebbie refused Brady's offer to resign at that time, but agreed to meet with him after she met with the State Attorney General the next day.

- - - - -Footnotes- - - - -

n1 The money was intended as reimbursement for the costs involved in shipping pituitary glands that had been removed during autopsies and donated to the foundation.

- - - - -End Footnotes- - - - -

[**4]

On June 21, 1985, Gebbie learned from the Attorney General that there was a pending criminal investigation against Dr. Brady. One area of the investigation concerned the account Brady had discussed with Gebbie. Gebbie met with Brady later that day and again refused his offer to resign. She then gave him a letter of suspension and informed him that he was suspended without pay pending an investigation into charges of misuse of public funds. Gebbie also issued a press release in which she stated that 1) Brady had been suspended

"pending a Department of Justice investigation into allegations that miscellaneous fees coming to the Medical Examiner's office were put into a special account, apparently for the purchase of office amenities"; 2) Brady

had reported to Gebbie that the fund was set up to help with office extras and had been in existence for years; and 3) the Department of Justice was conducting an impartial investigation into the matter.

After the suspension, Brady was the subject of extensive -- and often unfavorable -- press coverage. On September 17, 1985, the Attorney General issued a report which concluded that criminal sanctions against Brady were not warranted. On September [**5] 25, 1985, Brady, his attorneys Ronald Hoevet and Judy Snyder, and Dr. Homer Harris, the former Chairman of the State Medical Advisory Board, met with Gebbie. After Brady refused to resign, Gebbie handed him a letter of proposed termination.

The letter charged Brady with violating various state and departmental policies and accounting procedures by 1) using the proceeds given in reimbursement for specimens and autopsy report transcriptions to establish and maintain a "slush fund" for office parties and amenities; 2) using state and county facilities to conduct private autopsies for personal gain and in violation of conflict of interest policies; and 3) causing the state to be billed and to pay for toxicological reports made in connection with private autopsies which Brady performed. The letter also stated that on October 2, 1985, Brady would have the opportunity to come to Gebbie's office with his attorney to respond to the charges, and present mitigating or rebuttal information. Gebbie then issued a press release about the proposed termination. n2

- - - - -Footnotes- - - - -

n2 Gebbie also included information about the concurrent proposed discharge for related charges of a colleague of Brady's, Dr. Larry Lewman. Dr. Lewman was retained, however, after he met with Gebbie.

- - - - -End Footnotes- - - - -

[**6]

Brady's attorney subsequently asked Herb Hirst, a Health Division employee, for a continuance of the forthcoming meeting. Hirst responded that the meeting was being held as a courtesy and indicated that Brady would not be allowed to summon or subpoena witnesses.

The meeting was held in Gebbie's office on October 2, 1985 and was attended by Gebbie, Brady, Brady's attorneys, Dr. Harris, and Brady's wife. Gebbie asked Brady for specific information regarding whether he had used particular stateowned equipment when he performed private autopsies. Brady stated that in order to answer her questions he needed time to check his records. He asked for a continuance to gather the necessary information to outline his response to the charges. Gebbie denied the request. She also denied Brady's request for a fair and public hearing.

The next day, October 3, 1985, Gebbie discharged Brady. The letter of discharge stated as the reasons for Brady's termination the same charges as were contained in the earlier letter of suspension. Gebbie also issued a press release in which she [*1547] stated, inter alia, that Brady, "through his systematic 16-year diversion of public funds" had "knowingly violated public [**7] trust and confidence." She further stated that "[t]rust and confidence in Oregon State Government cannot be restored if Dr. Brady continues to work."

Gebbie's press release also stated that the findings of a comprehensive investigation by the Attorney General revealed four major areas of violations that led to Brady's dismissal. Those areas were identified as: 1) establishing a private autopsy business that Brady conducted from the State Medical Examiner's Office -- using state employees working at the state's expense -- and depositing the payments received into his personal and private bank accounts; 2) collecting and depositing into his private bank accounts payments received from the federal government for private autopsies which Brady had performed for federal agencies, when such services should have been done by the state and at state expense; 3) diverting and placing into a private bank account \$ 16,000 of the state's money and using it for "lunches, staff parties, coffee, and other items not authorized by state government regulations"; and 4) using state contracted laboratory services for Brady's private autopsy business while charging the state for them.

On October 4, 1985, [**8] Brady's attorney delivered to Gebbie a seven-page letter which detailed Brady's response to the charges. On October 21, 1985, Gebbie informed Brady's attorney by letter that her decision to terminate Brady was unchanged.

Brady subsequently filed suit in the United States District Court for the District of Oregon, pursuant to 42 U.S.C. § 1983, for monetary damages and reinstatement. Brady contended that in discharging him from public employment, Gebbie deprived him of his constitutionally protected property and liberty interests without due process of law. On November 4, 1986, the district court granted Gebbie's motion for partial summary judgment on the issue of reinstatement.

At the close of evidence, the court granted Gebbie's motion for a directed verdict on the property interest claims. The liberty interest claim was submitted to the jury, which returned a verdict in favor of Brady for \$ 300,000. The court denied Gebbie's motions for JNOV, new trial, and remittitur. Gebbie timely appealed and Brady timely cross-appealed. We have jurisdiction pursuant to 28 U.S.C. § 1291.

II.

Brady contends that the district court erred in directing a verdict for Gebbie on his property interest [**9] claim. He argues that, based on a mutual understanding or implied contract, he had a constitutionally protected property interest in his unclassified position as State Medical Examiner. He also argues that he had a statutorily created right to return to classified service after his discharge from unclassified service. We find Brady's arguments unpersuasive.

A.

In determining the propriety of a directed verdict, this court has the same role as the court below. *Peterson v. Kennedy*, 771 F.2d 1244, 1256 (9th Cir. 1985), cert. denied 475 U.S. 1122, 90 L. Ed. 2d 187, 106 S. Ct. 1642 (1986). A directed verdict is proper if, believing the evidence of the non-movant and drawing all justifiable inferences in his favor, there is only one reasonable conclusion as to the verdict. *Anderson v. Liberty Lobby, Inc.* 477 U.S. 242, 251-52, 91 L. Ed. 2d 202, 106 S. Ct. 2505 (1986); *Peterson*, 771 F.2d at 1256. A district court's conclusions regarding state or federal law are reviewed de novo. In *Re McLinn*, 739 F.2d 1395, 1397 (9th Cir. 1984) (en banc).

B.

The Fourteenth Amendment protects against the deprivation of property or liberty without procedural due process. *Carey v. Phipps*, 435 U.S. 247, 259, 55 L. Ed. 2d 252, 98 S. Ct. 1042 (1978). Brady only has a constitutionally protected [**10] property interest in continued employment, however, if he has a reasonable expectation [*1548] or a "legitimate claim of entitlement" to it, rather than a mere "unilateral expectation." *Board of Regents v. Roth*, 408 U.S. 564, 577, 33 L. Ed. 2d 548, 92 S. Ct. 2701 (1972). A legitimate claim of entitlement arises if it is created by "existing rules or understandings that stem from an independent source such as state law." *Id.* Thus "[s]tate law defines what is and what is not property" that is subject to the due process clause of the Fourteenth Amendment. n3 *Dorr v. County of Butte*, 795 F.2d 875, 876 (9th Cir. 1986) (citing *Roth*, 408 U.S. at 577). Brady therefore could only have a property interest in his job as State Medical Examiner if Oregon law created such a right.

- - - - -Footnotes- - - - -

n3 Though state law creates a property interest, not all state-created rights rise to the level of a constitutionally protected interest. See *Memphis Light, Gas & Water Div. v. Craft*, 436 U.S. 1, 9, 56 L. Ed. 2d 30, 98 S. Ct. 1554 (1978) ("Although the underlying substantive right is created by 'an independent source such as state law,' federal constitutional law determines whether that interest rises to the level of a 'legitimate claim of entitlement' protected by the Due Process Clause.") (quoting *Roth*, 408 U.S. at 577; *Perry v. Sindermann*, 408 U.S. 593, 602, 33 L. Ed. 2d 570, 92 S. Ct. 2694 (1972)).

- - - - -End Footnotes- - - - -

[**11]

A state law which limits the grounds upon which an employee may be discharged, such as conditioning dismissal on a finding of cause, creates a reasonable expectation of continued employment, and thus a protected property right. *Dorr*, 795 F.2d at 878. Where state employees serve at the will of the appointing authority, however, there is no such reasonable expectation of continued employment, and thus no property right. *Id.*

In Oregon, the statutory scheme divides state employees into two major categories of service: **classified and unclassified**. n4 See Or. Rev. Stat. §§ 240.195-240.210; *Papadopoulos v. Oregon State Bd. of Higher Educ.*, 14 Ore. App. 130, 157, 511 P.2d 854, 867 (Or. App. 1973), cert. denied, 417 U.S. 919, 94 S. Ct. 2626, 41 L. Ed. 2d 224 (1974). Employees who have successfully completed a statutory probationary period to become permanent or "regular" employees in classified service can only be fired for cause. Or. Rev. Stat. § 240.560(4); *Papadopoulos*, 14 Or. App. at 157, 511 P.2d at 867. State employees in unclassified service are "probationary" n5 or untenured, and thus have no job security. *Papadopoulos*, 14 Or. App. 157-58, 511 P.2d at 866-67. There is no statutory provision that [**12] employees in unclassified service can be fired only for cause. In fact, Or. Rev. Stat. § 240.240(1) provides that, with the exception of laws, rules and policies concerning salary and leave with pay, the provisions of Chapter 240 of Oregon Laws--which include statutes mandating discharge for cause only as well as a right to a hearing--do not extend to employees in unclassified service. n6

-----Footnotes-----

n4 The two other classifications are exempt and management service. See O.R.S. 240.200 and O.R.S. 240.212. We do not discuss either here since they are not at issue in Brady's case.

n5 As used by the court in Papadopoulos, the term "probationary" employees includes both temporary probationary employees, i.e., employees who filled a classified position but had not yet successfully completed the statutory probationary period, and permanent probationary employees, i.e., "public employees [who] are in positions for which no provision has been made for ever acquiring permanent job security." 14 Or. App. at 167-68, 511 P.2d at 871. Unclassified employees such as Brady fall within the latter category.

n6 Or. Rev. Stat. § 240.240(1) provides:

The unclassified service . . . shall not be subject to this chapter, except that employees and officers in the unclassified . . . service shall be subject to the laws, rules and policies pertaining to any type of leave with pay except as otherwise provided in subsections (4) and (5) of this section, and shall be subject to the laws, rules and policies pertaining to salary plans except as otherwise provided in subsections (3) and (4) of this section. As amended, 1985 Or. Laws, ch. 121 § 1.

-----End Footnotes-----

[**13]

Under this scheme, only regular employees in classified service have a property right to continued employment. Papadopoulos, 14 Or. App. at 157-58, 511 P.2d at 867; see also Simpson v. Western Graphics Corp., 53 Ore. App. 205, 210, 631 P.2d 805, 808 (1981), aff'd, 293 Ore. 96, 643 P.2d 1276 (1982) (property right is created by public employment when coupled with job protection). Employees in unclassified service can be discharged for any reason and have no right to a hearing. Papadopoulos, 14 Or. App. at 157-58, 167-68, [*1549] 511 P.2d at 866-67, 871-72. They "have no property interest" in continued employment. n7 Id. 14 Or. App. at 157-58, 511 P.2d at 871-72.

-----Footnotes-----

n7 An exception is made for employees who left classified service to take a job in the unclassified service and were subsequently discharged from their job in the unclassified service for reasons other than those set forth in Or. Rev. Stat. § 240.555. See Or. Rev. Stat. § 240.570 and discussion infra at II-C. Such employees have a right to return to classified service at the conclusion of their job in the unclassified service. Id. That right does not extend to employees such as Brady whose position has been moved from classified to unclassified service. Id.

-----End Footnotes-----

[**14]

Brady concedes that when he was discharged his position as State Medical Examiner was in the unclassified service. He admits that Or. Rev. Stat. § 240.240(1) -- which governs employees in unclassified positions -- does not contain language that such employees can be discharged either at will or only for cause. He argues, however, that the absence of these statutory provisions does not prohibit him from showing that he had a property interest created outside of the statute, i.e. by an implied contract or mutually explicit understanding that he would not be fired absent such cause. This argument lacks merit.

"[I]n Oregon, public employee tenure rights arise solely from statutes or . . . regulations adopted pursuant to a statutory delegation of authority." Papadopoulos, 14 Or. App. 168, 511 P.2d at 872 (emphasis added). The court in Papadopoulos held that it is these rights, based on statute or regulation, which create property interests. Id.

The court ruled out the possibility that property interests for public employees in Oregon could arise solely from an implied or express contract of employment absent some underlying statute or regulation. n8 Id. at 168-69, 511 P.2d at 872. Therefore, even if Brady could show an implied contract of employment that he could only be fired for cause, he could not assert a property right based on that contract unless the contract was made pursuant to a statute or authorizing regulation. See id. Moreover, though the court in Papadopoulos did not specifically address property rights arising from mutual understandings, the language of the opinion makes clear that Brady also could not show a property interest based on such a theory absent a showing of statutory authorization for Gebbie to enter into such an agreement.

- - - - -Footnotes- - - - -

n8 Brady relies upon Swanson v. Van Duyn Chocolate Shops, Inc., 282 Ore. 491, 579 P.2d 239 (1978) and Yartzoff v. Democrat-Herald Publishing Co., Inc., 281 Ore. 651, 576 P.2d 356 (1978) for support. These cases only addressed implied contracts in the context of private employment; neither involved a state or public employee whose employment was governed by statutes. The reasoning in those cases is therefore not applicable to the instant case.

- - - - -End Footnotes- - - - -

Brady does not point to any such authority. Instead he merely argues that the absence of "at will" or "only for cause" language in Or. Rev. Stat. § 240.240 allows Gebbie to create an implied contract or a mutually explicit understanding. The statute, however, cannot be interpreted in isolation. See Trivoli v. Multnomah County Rural Fire Protection Dist. No. 10, 74 Ore. App. 550, 555, 703 P.2d 285, 288 (1985) (refusing to interpret a statutory provision of state civil service code by reference to that section alone). Rather, it must be looked at with reference to the entire statutory scheme. See id. (reading provision concerning probationary employee in context with other provisions providing procedural protections to permanent employees).

It is clear from the entire statutory scheme governing Oregon state employees -- i.e., Chapter 240 -- that the state intended that employees in classified service could not be discharged absent cause while employees in unclassified service, such as Brady, could be discharged at will. The state could have

859 F.2d 1543, *1549; 1988 U.S. App. LEXIS 14623, **16

given unclassified employees such as Brady the same benefits as classified employees. See Papadopoulos, 14 Or. App. at 168, 511 P.2d at 872 n.10. With the exception of salary plans and leave with pay provisions, however, it has not done so. See Or. Rev. Stat. § 240.240(1). [**17] Brady's reasoning would render this statutory scheme -- and its distinctions between [**1550] classified and unclassified employees -- a nullity. Cf. Trivoli, 74 Or. App. at 554-55, 703 P.2d at 288 (in light of other statutory provisions, property interest in continued employment did not apply to probationary employee, despite statutory provision that appeared to hold otherwise).

Moreover, in 1977, the state moved the State Medical Examiner position from classified to unclassified service. In doing so it removed the protections associated with classified service, including the requirement that the state discharge employees holding positions in classified service only for cause. Allowing administrators such as Gebbie to make agreements with employees would defeat the state's reclassification of positions. It is not plausible that the state would give Gebbie implied power to enter into an understanding with Brady -- as he argues -- when the "understanding" would allow her to effectively overrule the legislature.

We therefore find that as a matter of Oregon law, Brady could not prevail on his claim of a property interest based on a mutual understanding or implied contract. n9

- - - - -Footnotes- - - - -

n9 Brady also argues that the district court erred in holding that a directed verdict was also proper since Brady did not present sufficient evidence of a mutual understanding. Because we hold that a mutual understanding claim was not available to Brady, we need not address this additional argument.

- - - - -End Footnotes- - - - -

[**18]

C.

We also find that Brady could not prevail on his contention that Or. Rev. Stat. § 240.570 gave him a property right to return to classified service after he was discharged from unclassified service.

At the time of Brady's discharge in 1985, Or. Rev. Stat. § 240.570 provided:

Positions in the unclassified . . . service[] may be filled by classified employees. After termination of unclassified . . . service, for reasons other than specified by ORS 240.555, an employee formerly in the classified service shall be restored to a position in the same agency and in the same class as the position last held in the classified service. As amended, 1985 Or. Laws, ch. 121 § 3.

As Gebbie concedes, this statute creates a property right to return to classified service. See *Alexander v. City of Menlo Park*, 787 F.2d 1371, 1374 (9th Cir. 1986), cert. denied, 479 U.S. 1032, 107 S. Ct. 879, 93 L. Ed. 2d 833 (1987) ("bumping" rights of employees are a constitutionally protected property interest). On its face, the statute applies to employees who have left a

position in classified service to fill an existing position in unclassified service.

Brady contends that under the plain language of the statute, it also applies to persons [**19] whose position has been reclassified, i.e. moved from classified to unclassified service. If anything, however, the statutory language that "positions in the unclassified service . . . may be filled by classified employees" appears to exclude employees like Brady, who filled a position the legislature has removed from classified and placed in unclassified service. Moreover, the legislative history of Or. Rev. Stat. § 240.570, when read in conjunction with another statute which was repealed in 1979 -- Or. Rev. Stat. § 240.572 -- supports this interpretation.

In 1977, the Oregon legislature moved a number of positions from classified to unclassified service. At the same time, the legislature enacted Or. Rev. Stat. § 240.572, which provided

An employee whose position is placed in the unclassified service pursuant to section 1 of this 1977 Act shall, after termination of service in the unclassified position, be restored to his or her status in the classified service in accordance with rules adopted by the division. 1977 Or. Laws, ch. 271 § 3.

At that time, Or. Rev. Stat. § 240.570 provided:

Positions in the unclassified . . . service may be filled by classified employees upon request [**20] of the appointing authority. Any classified employee so appointed shall, after termination of service in an unclassified or exempt position, be restored [*1551] to his status in the classified service. See 1955 Or. Laws, ch. 738 § 6.

Both Or. Rev. Stat. §§ 240.570 and 240.572 created a right to return to classified service for employees whose unclassified service was terminated. They applied, however, to different circumstances. Or. Rev. Stat. § 240.570 applied to employees who had left a position in classified service to fill an existing unclassified position, while Or. Rev. Stat. § 240.572 applied to employees whose position had been moved from the classified to the unclassified service. See *Fajer v. Dept. of Human Resources*, 51 Ore. App. 105, 110, 625 P.2d 140, 142-43, rev. denied, 291 Or. 151, 634 P.2d 1345 (1981) (noting differences between situations covered under Or. Rev. Stat. §§ 240.570 and 240.572). Thus, a state employee like Brady whose position had been moved from classified to unclassified service, fell within Or. Rev. Stat. § 240.572 and not § 240.570.

In 1979, the legislature repealed Or. Rev. Stat. § 240.572. See 1979 Or. Laws, ch. 468 § 1. It also amended Or. [**21] Rev. Stat. § 240.570. See 1979 Or. Laws, ch. 468 § 18. The amendment to Or. Rev. Stat. § 240.570, however, did not add any language similar to that contained in Or. Rev. Stat. § 240.572, but kept intact its former language that "positions in the unclassified . . . service may be filled by classified employees." Thus, even after the amendment, Or. Rev. Stat. § 240.570 still did not cover employees such as Brady whose position had been moved from classified to unclassified service, i.e. those employees in circumstances formally protected by Or. Rev. Stat. § 240.572. Since only Or. Rev. Stat. § 240.570 was in effect when Brady filed his lawsuit -- and since it did not apply to Brady -- his argument that he had a statutorily created property right to return to classified service after his discharge

from unclassified service is without merit.

D.

Thus, as a matter of Oregon law, Brady did not have a constitutionally protected property interest in his unclassified position as State Medical Examiner and did not have a statutorily created right to return to classified service after his discharge. The district court therefore did not err in directing a verdict for Gebbie on Brady's property [**22] interest claim.

III.

Brady also argues that the district court erred in granting Gebbie's motion for summary judgment on the issue of whether Brady was entitled to seek reinstatement. Brady does not argue that there were material issues of fact that should have gone to a jury on this issue. Rather, he contends that the district court erred in holding, as a matter of law, that reinstatement was not an appropriate remedy for a due process violation.

A.

A district court's grant of summary judgment is reviewed de novo. *San Bernardino Physicians' Services Medical Group, Inc. v. County of San Bernardino*, 825 F.2d 1404, 1407 (9th Cir. 1987). Summary judgment is proper if the record, viewed in the light most favorable to the non-moving party, shows that no genuine issues of material fact exist and that the moving party was entitled to judgment as a matter of law. *Id.* The district court's interpretation of state and federal law is also reviewed de novo. *Id.*

B.

This court and the Supreme Court have repeatedly held that the appropriate remedy for deprivation of a liberty and/or property interest without due process is to order the process that was due and any attendant damages which [**23] directly resulted from the failure to give the proper procedure. *Vanelli v. Reynolds School Dist. No. 7*, 667 F.2d 773, 778 n.8 (9th Cir. 1982); see also *Carey v. Piphus*, 435 U.S. at 259-64; *Codd v. Velger*, 429 U.S. 624, 627, 51 L. Ed. 2d 92, 97 S. Ct. 882 (1977) ("remedy mandated by the Due Process Clause of the Fourteenth Amendment" for claim based on stigmatization during discharge from employment [**1552] is a name-clearing hearing); *Roth*, 408 U.S. at 573. Brady contends, however, that this court has also found that in certain circumstances, reinstatement might be appropriate for deprivation of property without due process. He cites to *Burton v. Cascade School Dist. Union High School No. 5*, 512 F.2d 850 (9th Cir.), cert. denied, 423 U.S. 839, 96 S. Ct. 69, 46 L. Ed. 2d 59 (1975), and *Cain v. McQueen*, 580 F.2d 1001 (9th Cir. 1978), for support. His reliance on those cases, however, is misplaced.

Unlike Brady's case, both *Cain* and *Burton* involved an undercurrent of first amendment claims intertwined with a due process claim. See *Cain*, 580 F.2d at 1005 (plaintiff alleged that she had been fired in part for speaking out; thus, her claim was "strikingly similar" to cases involving First Amendment claims); *Burton*, 512 F.2d at 851 [**24] (statute under which a teacher was fired was held by the district court to be unconstitutionally vague). We agree with these cases that there may be a right to reinstatement when another substantive right coexists with the right to procedural due process. See *Burton*, 512 F.2d at 853

& n.3 (noting that the "extraordinary equitable remedy" of reinstatement has been imposed in situations involving the legal exercise of free expression or racial discrimination). Brady, however, has not alleged another such right, but solely alleged his right to due process. We refuse to adopt his argument that reinstatement is an available remedy in such a case. Burton and Cain do not require us to do otherwise. The district court therefore did not err in ruling that reinstatement was not an available remedy for his claims and granting partial summary judgment to Gebbie on this issue.

IV.

The district court did not state the grounds for its denial of Gebbie's motion for a directed verdict or JNOV on Brady's claim that Gebbie deprived him of liberty without due process. Gebbie argues that the district court erred in denying her motion because an at-will employee such as Brady cannot [**25] have a liberty interest implicated in the context of termination from employment. She also argues that, based on the evidence, Brady could not show that she deprived him of a liberty interest that was protected by the due process clause. In the alternative, Gebbie contends that she gave Brady all of the process that he was due. We do not find any of these arguments to be persuasive.

A.

A denial or grant of a motion for JNOV is reviewed under the same standard as a directed verdict, i.e. "whether the evidence, viewed in the light most favorable to the non-moving party, permits only one reasonable conclusion with respect to the verdict." *Locricchio v. Legal Services Corp.*, 833 F.2d 1352, 1356 (9th Cir. 1987). A directed verdict is not appropriate if there is substantial evidence to support a verdict for the non-moving party. *Peterson*, 771 F.2d at 1256.

B.

"[A] liberty interest is implicated in the employment termination context if the charge impairs a reputation for honesty or morality." *Matthews v. Harney County, Or., School Dist. No. 4*, 819 F.2d 889, 891 (9th Cir. 1987). In order to trigger the procedural protections of due process attendant to a properly presented liberty [**26] interest claim, a plaintiff must show that "1) the accuracy of the charge is contested; 2) there is some public disclosure of the charge; and 3) the charge is made in connection with termination of employment." *Id.* at 891-92; see also *Jones v. Los Angeles Community College Dist.*, 702 F.2d 203, 206 (9th Cir. 1983); *Vanelli*, 667 F.2d at 777-78. All of these elements were included in the instructions given to the jury in Brady's case. The jury also was told explicitly that it had to find that the charges against Brady were false.

Gebbie first contends that, since Dr. Brady's position was in the unclassified service, he was an at-will employee. She then argues that no liberty interest could be [*1553] implicated -- and no hearing is necessary -- when an at-will employee is stigmatized during the course of discharge from employment. Thus she argues that Brady has not been deprived of a liberty interest and is not entitled to due process even if he was stigmatized in the course of termination from his job as State Medical Examiner. This argument is without merit.

Gebbie relies on *Paul v. Davis*, 424 U.S. 693, 47 L. Ed. 2d 405, 96 S. Ct. 1155 (1976), for support. The Court in *Paul*, however, only held that reputation [**27] alone "apart from some more tangible interests such as employment" is not a liberty interest. *Id.* at 701. It never even discussed limits on the rights of an at-will employee to assert a liberty interest claim.

Moreover, subsequent cases from the Supreme Court and this circuit have held that a nontenured government employee has a liberty interest and is entitled to a name-clearing hearing "if the employer creates and disseminates a false and defamatory impression about the employee in connection with his termination." *Codd*, 429 U.S. at 628; see also *Fleisher v. City of Signal Hill*, 829 F.2d 1491, 1495 (9th Cir. 1987), cert. denied, 485 U.S. 961, 108 S. Ct. 1225, 99 L. Ed. 2d 425 (1988). Thus, while Brady's position in the unclassified service -- or his at-will employment -- bars his property claim, as discussed supra, it does not preclude his liberty claim. See *Loehr v. Ventura County Community College Dist.*, 743 F.2d 1310, 1317 (9th Cir. 1984) (failure to prevail on property claim will not preclude a properly asserted liberty claim).

Gebbie's other argument, i.e., that no reasonable jury could have found for Brady on the liberty interest issue, is equally without merit. Based on the evidence [**28] presented at trial, the jury could reasonably have found that Brady's discharge by Gebbie implicated a liberty interest, and that Brady was entitled to procedural due process.

Brady presented undisputed evidence that Gebbie charged him with 1) violating the public trust, 2) diverting state funds for his own use, 3) establishing a "slush fund", 4) causing the state to be billed for toxicological reports made in connection with private autopsies he performed, and 5) causing the federal government to be billed instead of the state government. These charges involved accusation of dishonesty which were sufficient to implicate a liberty interest. See *Orloff v. Cleland*, 708 F.2d 372, 378 (9th Cir. 1983) (charges that government physician received payment for services he did not render, made in connection with termination of employment, rise to level of implicating a liberty interest).

In addition, there was sufficient evidence presented from which a jury could reasonably infer that the charges were both contested and false. Brady testified that he contested the charges contained in his letter of termination. He also stated that the money in the so-called "slush fund" was used for state [**29] and not private purposes and the fund was openly kept. In addition, Brady testified that he instructed his secretaries to type up his autopsies on their own time, did not cause the state to be billed for toxicology reports performed in connection with his private autopsies, and billed the federal government for autopsies done on certain federal cases because they were done under the federal government's jurisdiction.

There also was testimony from Brady's colleague, Dr. Lewman, that he had also performed private autopsies, that no one had informed him -- nor was he aware -- that the practice would violate conflict of interest rules, and that the staff was instructed to writ up private autopsy reports on their own time. Dr. Lewman also testified that there was no advantage to billing toxicological reports from private autopsies to the state as it would ordinarily be billed to the party for whom the service was performed, and that Brady had never arranged for the state to be billed for such reports. Another arranged for the state to be billed for such reports. Another witness, Dr. Krasselt, testified that the toxicology

billings could have resulted from inadvertent error. Based on this [**30] evidence alone, a jury could rationally infer that at least some -- if not all -- of the charges against Brady were false.

[*1554] A jury could also reasonably find that the charges were published by Gebbie and made in the course of Brady's termination from employment. There was uncontroverted evidence that Gebbie made these charges against Brady in connection with his suspension without pay and his discharge, and that she included these charges in press releases and statements made to the press.

Thus, there was evidence from which a jury could reasonably infer that Gebbie 1) charged Brady with conduct that impaired his reputation for honesty; 2) publicly disclosed the charges; and 3) the charges were in connection with Brady's termination from employment. Matthews, 819 F.2d at 891-92. Since there was evidence presented from which a reasonable jury could find that Gebbie deprived him of a constitutionally protected liberty interest, and since Brady's status as an unclassified employee did not preclude his asserting a liberty claim, the district court did not err in denying Gebbie's motions for a directed verdict and JNOV on this issue.

C.

The district court also did not err in refusing [**31] to direct a verdict for Gebbie on her claim that even if she deprived Brady of a liberty interest, she gave him all the process that was due.

As Gebbie concedes, the fundamental requirement of due process is an opportunity to be heard at a meaningful time and in a meaningful manner. Mathews v. Eldridge, 424 U.S. 319, 333, 47 L. Ed. 2d 18, 96 S. Ct. 893 (1976). At a minimum, due process requires notice and a hearing where the individual has a meaningful opportunity to confront the evidence against him. Vanelli, 667 F.2d at 780. To determine what process is due in an individual case -- and if it is due before or after the deprivation of a constitutionally protected interest -- a court must apply the three-part test set out in Mathews v. Eldridge, 424 U.S. at 334-35. That test balances 1) the private interest that will be affected, 2) the risk of an erroneous deprivation of that interest through the procedures used, and 3) the additional cost and administrative burdens that additional procedures would entail. Id. Thus, although a hearing where the individual has an opportunity to rebut the charges against him is always required in due process cases, when the hearing must be held and what procedural [**32] protections must be given at the hearing are determined on a case-by-case basis.

Where a person has been deprived of a liberty interest without due process, the hearing required must provide the aggrieved party with an opportunity to clear his name. n10 Codd, 429 U.S. at 627. There was sufficient evidence presented in the instant case from which a jury could reasonably find that Gebbie did not give Brady even minimal due process, i.e. an opportunity to be heard in a meaningful manner or an opportunity to clear his name. A jury could reasonably infer that even if the October 2, 1985 meeting constituted a "hearing," it did not comport with due process.

-----Footnotes-----

n10 The jury in Brady's case was given instructions in accordance with all of these principles. It was instructed that Brady had to prove that he was in

fact denied an opportunity to clear his name through notice and a hearing. It was also instructed that:

Due process requires a fair hearing. The minimum, there must be an opportunity to be heard at a meaningful time and in a meaningful manner. There is no rigid requirements as to the type of hearing a person is entitled.

The nature of the hearing which must be provided depends upon the circumstances of the particular case. The factors to be considered include the private interest that will be affected -- that will be the interest of the plaintiff Brady, the risk of erroneous deprivation of that interest through the procedures used and the physical and administrative burdens that any additional procedure requirements would entail.

No objections were made to the instructions.

- - - - -End Footnotes- - - - -
[**33]

Brady testified that on September 21, 1985 -- prior to the time Gebbie handed him the letter of "proposed" discharge -- Gebbie told him "I don't know what in heaven's name you can tell me, Bill, that would make me change my mind." Dr. Harris, who was present at that meeting, also testified that Gebbie told him "I can't conceive [*1555] of what the reasons will be" in reference to Brady's possible response to the charges. Hoevet testified that he saw Gebbie on a television news program prior to the October 2, 1985 meeting, at which time Gebbie said she couldn't think of what would make her change her mind about terminating Brady. He also testified that prior to the October 2, 1985 meeting, Gebbie wrote a letter to another doctor in which she stated that she had fired Brady. A jury could reasonably infer from this evidence that Gebbie had made up her mind about Brady before the meeting and would have disregarded any evidence which Brady presented in mitigation or rebuttal.

Moreover, there was sufficient evidence presented from which a jury could reasonably infer that Gebbie did not allow Brady sufficient time to prepare for the meeting, and thus did not give him a "meaningful" opportunity to [*34] respond to the charges. Several witnesses testified regarding Gebbie's repeated refusal of requests for a continuance of the October 2, 1985 meeting. Hoevet testified that prior to the meeting he had asked Hirst for a continuance, and that the request was refused on September 30, 1985 by one of Gebbie's aides. Dr. Harris testified that he and a group of pathologists had tried to get both a hearing for Brady and a delay of the meeting. Snyder testified that on the day of the meeting she also requested a delay. In addition, both Harris and Snyder gave testimony that Gebbie had asked specific questions at the October 2, 1985 meeting as to whether Brady had used particular pieces of equipment for private autopsies, and that she had refused Brady's request for a continuance to have time to check his records. A jury could infer from this that the "hearing" was a mere formality and that Gebbie did not give Brady a "meaningful opportunity" to clear his name or be heard. See Matthews, 819 F.2d at 893-94 ("[d]ue process of law [is not present] where the state has gone through the mechanics of providing a hearing, but the hearing is totally devoid of a meaningful opportunity to be heard") [*35] (quoting Washington v. Kirksey, 811 F.2d 561, 564 (11th Cir. 1987)).

The jury could also reasonably infer from the scheduling of the meeting just one week after Brady received the letter of proposed termination, the lack of almost any formal procedures, the setting of the meeting (i.e. Gebbie's office), Hirst's comments regarding witnesses, and Gebbie's persistent refusal to grant a continuance or allow Brady sufficient time to gather evidence to refute the charges, "that the sequence of events rendered the [meeting] meaningless as a pretermination opportunity to respond." Matthews, 819 F.2d at 893. When coupled with the fact that this was the only hearing given to Brady -- i.e., he was given no post-termination procedures -- a jury could have reasonably concluded that Brady had no "opportunity to be heard at a meaningful time and in a meaningful manner" and thus was denied even minimal due process. Thus the district court did not err in denying Gebbie's motion for a directed verdict on this issue. n11

- - - - -Footnotes- - - - -

n11 There was also sufficient evidence from which a jury could reasonably infer that -- based on an application of the Mathews v. Eldridge factors, Brady was entitled to more than the minimum procedures. We need not address this issue, though, since we find Brady did not get even the minimum process required.

- - - - -End Footnotes- - - - -

[**36]

V.

Gebbie also argues that a directed verdict was appropriate on Brady's liberty interest claim since, even if Brady was entitled to more process than he was given, Gebbie is entitled to qualified immunity from Brady's lawsuit. Government officials who perform discretionary functions are generally given qualified immunity from civil damage suits so long as the conduct of the officials "does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." Harlow v. Fitzgerald, 457 U.S. 800, 818, 73 L. Ed. 2d 396, 102 S. Ct. 2727 (1982); Schwartzman v. Valenzuela, 846 F.2d 1209, 1211 (9th Cir. 1988); Ostlund v. Bobb, 825 F.2d 1371, 1374 (9th Cir. 1987), cert. denied, [*1556] 486 U.S. 1033, 108 S. Ct. 2016, 100 L. Ed. 2d 603 (1988).

In determining whether the law was clearly established, the contours of the right alleged to have been violated "must be sufficiently clear that a reasonable official would understand that what he is doing violates that right." Anderson v. Creighton, 483 U.S. 635, 107 S. Ct. 3034, 3039, 97 L. Ed. 2d 523 (1987); Schwartzman, 846 F.2d at 1211. This requires more than an alleged "violation of extremely abstract rights." Anderson, 107 S. Ct. at 3038-39; Schwartzman, 846 F.2d at 1211. The [**37] action in question, however, need not be previously held unlawful. Anderson, 107 S. Ct. at 3039; see also Ostlund, 825 F.2d at 1374 (specific binding precedent is not required to find that law is clearly established for purposes of qualified immunity analysis). Rather, the unlawfulness must be apparent in light of preexisting law. Anderson, 107 S. Ct. at 3039; Schwartzman, 846 F.2d at 1211.

Whether at the time of the challenged action the legal norm allegedly violated by an official was clearly established is a question of law. Mitchell

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v. Forsyth, 472 U.S. 511, 528, 86 L. Ed. 2d 411, 105 S. Ct. 2806 (1985). Whether a reasonable official would know that she is violating that clearly established law is a question for the jury. Schlegel v. Bebout, 841 F.2d 937, 945 (9th Cir. 1988); see also Bilbrey by Bilbrey v. Brown, 738 F.2d 1462, 1467 (9th Cir. 1984) (existence of a reasonable belief that official's act is lawful in light of clearly established law is a question for the trier of fact).

The district court did not state the grounds for its refusal to direct a verdict for Gebbie based on the defense of qualified immunity. By denying Gebbie's motion, however, the district court necessarily found [**38] that the legal rules were clearly established in this area and that the jury could reasonably find that a reasonable official in Gebbie's position would know that her conduct was in violation of Brady's clearly established constitutional rights.

Gebbie argues that it was error for the district court to deny her motion for a directed verdict on the issue of qualified immunity because the law was not clearly established that Brady had a right to a liberty interest hearing or that the procedures given to Brady did not meet the constitutional requirements of due process. n12

- - - - -Footnotes- - - - -

n12 Gebbie did object at trial to the instruction on qualified immunity which was given to the jury. She only objected, however, on the grounds that the judge should have told the jury that qualified immunity had both a subjective and objective component. Gebbie's objection was therefore based on an incorrect interpretation of the law, since Harlow only allows an objective test.

- - - - -End Footnotes- - - - -

At the time Gebbie acted in 1985 the law was clearly established that: 1) a liberty interest was implicated when an employee was stigmatized by charges of immoral or dishonest conduct made in the context of discharge from employment, [**39] see Jones, 702 F.2d at 206; Vanelli, 667 F.2d at 777; 2) the due process clause was triggered in such a case if the accuracy of the charge was disputed, the charge was publicly disclosed, and the charge was made in connection with termination of employment, see Jones, 702 F.2d at 206; Vanelli 667 F.2d at 777-78; 3) the fundamental requirement of due process was the opportunity to be heard at a meaningful time and in a meaningful manner, Mathews, 424 U.S. at 333; Orloff, 708 F.2d at 379; Vanelli, 667 F.2d at 779-80; and 4) the minimum process due for deprivation of a liberty interest involving stigmatization during termination of employment was a hearing where the employee has an opportunity to clear his name, Codd, 429 U.S. at 627. The law was also clearly established that what process is due in any case is determined by application of the three-pronged test in Mathews v. Eldridge, 424 U.S. at 335 (balancing the private interest that will be affected, the risk of an erroneous deprivation of that interest through the procedures used, and the additional cost and administrative burdens that additional procedures would entail); see also Orloff, [**40] 708 F.2d at 379.

[*1557] Gebbie argues that the law was not clearly established as to the exact procedures due in Brady's case. Specific binding precedent is not required to show that a right is clearly established for qualified immunity purposes. Ostlund, 825 F.2d at 1374. Based on the aforementioned preexisting law, the

unlawfulness of Gebbie's actions would have been apparent. See *id.* The district court thus did not err in its implicit conclusion that the law was clearly established for purposes of Gebbie's qualified immunity defense.

Gebbie also implies that her actions were reasonable in light of the established law. There was sufficient evidence presented, however, from which a jury could reasonably infer that a reasonable official would know that Brady had a liberty interest that triggered the due process clause and that Gebbie's conduct was violating Brady's constitutional right to the minimum process. See discussion, *supra*. The district court thus did not err in denying Gebbie's motion for a directed verdict based on her qualified immunity defense.

VI.

We decline to address Gebbie's contention that Brady was not deprived of a liberty interest because Gebbie's statements [**41] regarding him were all absolutely privileged. Gebbie first raised this issue on appeal at oral argument. n13

- - - - -Footnotes- - - - -

n13 At the time of oral argument, Gebbie also filed, pursuant to Fed. R. App. P. 28(j), a letter of "supplemental authorities" to support her absolute privilege argument. Rule 28(j), however, provides

When pertinent and significant authorities come to the attention of a party after the party's brief has been filed, or after oral argument but before decision, a party may promptly advise the clerk of the court . . . setting forth the citations.

Gebbie included the issue of absolute privilege in the pretrial order and argued it in her trial memorandum. That memorandum included citations to two of the four authorities that were listed in the letter of supplemental authorities. Thus, these authorities could hardly have first come to Gebbie's attention after her briefs were filed or after oral argument, as is required under Rule 28(j).

It thus appears that Gebbie either simply neglected to include her absolute immunity argument in her briefs or chose to exclude it. In either case, we will not sanction her using Rule 28(j) to alter the situation and raise an issue that has not been briefed -- especially when she was aware of the issue as early as the pretrial stage. We thus decline to consider these authorities.

- - - - -End Footnotes- - - - -

[**42]

Under Fed. R. App. P. 28(a)(4), the appellant's brief must contain "the contentions of the appellant with respect to the issues presented, and the reasons therefor, with citations to the authorities, statutes and parts of the record relied on." Gebbie did not even mention -- much less argue -- the issue of absolute privilege in either her opening or reply brief. n14 We therefore deem it waived. See *Northwest Acceptance v. Lynnwood Equipment*, 841 F.2d 918, 924 (9th Cir. 1988) (appellants' contention waived because of their failure to provide adequate argument in their opening brief).

- - - - -Footnotes- - - - -

n14 Moreover, though she discussed it in the pretrial order and her trial memorandum, Gebbie did not raise the issue of absolute privilege in her motions for a directed verdict, JNOV, or new trial.

- - - - -End Footnotes- - - - -

VII.

Gebbie lastly argues that the district court erred in not granting her motion for JNOV or remittitur on the damages issue. The purpose of awarding damages in a section 1983 case is to compensate the aggrieved party. *Carey*, 435 U.S. at 254-55. The compensable damages are those actually caused by the denial of procedural due process. *Chalmers v. City of Los Angeles*, 762 F.2d 753, 761 (9th Cir. 1985). These can include damages for mental and emotional distress. *Vanelli*, 667 F.2d at 781.

This court "will not disturb an award of damages on appeal unless it is clearly unsupported by the evidence." *Chalmers*, 762 F.2d at 760. "An otherwise supportable verdict must be affirmed unless it is 'grossly excessive' or 'monstrous' or 'shocking to the conscience.'" *Id.* (quoting *Fountila v. Carter*, 571 F.2d 487, 492 (9th Cir. 1978)). Thus, the jury's award of \$ 300,000 damages to Brady should not be overturned or decreased unless it is clearly [*1558] unsupported by the evidence or "shocks the conscience."

There was ample testimony by both Brady and his psychiatrist, Dr. Morgenstern, to show the emotional distress and psychological damages Brady suffered and the nexus between these injuries and the deprivation of due process. Dr. Morgenstern testified that Brady was completely preoccupied by his employment problems and anxious that he would not be able to tell his side of the story. He described a steady worsening of Brady's symptoms over the period from the time of Brady's suspension to several months before trial. Those symptoms included severe and malignant insomnia, anxiety, [*44] suicidal fantasies, quiet and severe depression and anxiety. Dr. Morgenstern also testified that Brady suffered from permanent psychological damage and would require treatment for several years. He stated that the failure to get a hearing and the conditions surrounding the termination were the cause of Brady's condition. In addition, Brady described sleeping difficulties, frustration, and emotional upset which resulted because nobody would hear his side of the story. This evidence is sufficient to show compensable psychological harm. Cf. *Chalmers*, 762 F.2d at 761 (court found plaintiffs testimony that she suffered humiliation, embarrassment and anxiety was by itself sufficient proof of compensable psychological harm to uphold damages award).

Brady also presented evidence that he lost employment opportunities as an expert witness. Numerous professionals in the legal, academic, and medical field testified that Brady's reputation was tarnished and his usefulness as an expert witness diminished due to his discharge. Two witnesses who had used Brady as an expert witness in the past -- a former U.S. Attorney in Washington and the Solicitor General in Idaho -- gave testimony that indicated [*45] they and the two government offices with which they were associated at the time Brady was discharged would be unlikely to use Brady again.

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Gebbie contends that the damages award was not supported by the evidence because only one of her published statements regarding Brady was "arguably inaccurate" and the harm Brady suffered was due to adverse publicity from other sources n15; Brady's psychiatric problems started before she made any statements; there was no nexus between her one "inaccurate" statement and Brady's psychiatric problems; and there was no showing of lost business opportunities or basis for lost future income. As discussed previously, there was evidence presented at trial to refute all of these contentions. Gebbie's argument thus boils down to a contention that the jury made an error when it weighed the evidence. "[W]e do not account for witness credibility, weigh evidence, or reach a different result simply because we feel it is more reasonable." Locricchio, 833 F.2d at 1356. The jury award in Brady's case was not clearly unsupported by the evidence or "shocking to the conscience." The district court was correct in denying Gebbie's motion for JNOV or remittitur.

-----Footnotes-----

n15 As discussed supra, Brady disputed all of the charges contained in his letter of termination and many statements in the the press releases. There was sufficient evidence from which a jury could infer some or all of the statements were false. Moreover, the jury was instructed that

[t]he publication of any stigmatizing matter which was not the result of defendant's conduct is not to be attributed to her.

In this regard evidence showing third parties published stigmatizing information cannot form the basis of liability against [Gebbie]

It is thus unlikely that the jury based its award on one "inaccurate" remark, or that it considered statements made by third parties in assessing the damages.

-----End Footnotes-----

[**46]

VIII.

We therefore affirm the decision of the district court on all of the issues.

LEVEL 1 - 108 OF 299 STORIES

Proprietary to the United Press International 1989

March 1, 1989, Wednesday, BC cycle

ADVANCED-DATE: February 28, 1989, Tuesday, BC cycle

SECTION: Regional News

DISTRIBUTION: Oregon

LENGTH: 313 words

HEADLINE: Anti-ads attacked by gay groups

DATELINE: PORTLAND, Ore.

KEYWORD: Aidsads

BODY:

The Oregon Health Division unveiled a new advertising campaign aimed at bringing anti-AIDS messages to four groups at high risk of contracting the deadly disease, but members of one target audience are unhappy with it.

The four target groups include men who have sex with other men, intravenous drug abusers, teenagers and minorities.

State Health Administrator Kristine Gebbie said Tuesday the new ad campaign sends a message that people must change their behavior if they are to remain free of acquired immune deficiency syndrome.

The effort contrasts with a state-sponsored AIDS education campaign last year that did not specifically target gays or needle-sharing drug abusers.

But the new campaign, which includes posters, newspaper and TV ads and other media, immediately came in for criticism from representatives of two gay groups.

During a news conference to announce the campaign, members of AIDS Coalition to Unleash Power, or ACT-UP, said they are upset that none of the material specifically uses the word "gay."

Organizer Michael Peterllis said the failure to mention gay men more forcefully in the campaign amounts to "genocide." About 80 percent of Oregon's AIDS cases are among gay and bisexual men.

Gebbie said campaign organizers were concerned that use of the word gay would alienate men who have sex with other men on occasion but who do not identify themselves as homosexuals. She said such men are particularly hard to reach with AIDS prevention messages and are a specific target of the new campaign.

Tom Koberstein, executive director of the Cascades AIDS Project, said he believes condoms should be a more integral part of the campaign. He said he is concerned that print ads are designed in a way that allows publishers to remove references to condoms, which medical experts consider an effective way to reduce the spread of the disease.

*Ad
campaign*

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LEVEL 1 - 112 OF 299 STORIES

Copyright (c) 1988 The Times Mirror Company;
Los Angeles Times

November 3, 1988, Thursday, Home Edition

SECTION: Part 1; Page 1; Column 4; Metro Desk

LENGTH: 1045 words

HEADLINE: KOOP ASSAILS KEY SECTIONS OF PROP. 102

BYLINE: By KEVIN RODERICK, Times Staff Writer

DATELINE: SACRAMENTO

BODY:

U.S. Surgeon General C. Everett Koop strongly criticized key parts of Proposition 102 Wednesday, joining national AIDS researchers and prominent California health officials in assailing the measure's approach to the epidemic as flawed.

Although he would not take a formal position on the initiative, Koop spoke about the issues raised by Proposition 102 in a telephone interview from Texas. Of the basic requirement in Proposition 102 that everyone who tests positive for the human immunodeficiency virus be reported to health authorities, Koop said: "I don't know anybody in the public health community who thinks that's a good idea."

Koop, the federal government's leading spokesman on AIDS, said any law that forces reporting of every person who tests positive for the virus will endanger research. The availability of anonymous testing, without fear of retribution, is essential to advancing science's knowledge of AIDS, he said.

Infected College Students

For example, the surgeon general said that new study results suggested this week that infection with the virus is more common among college students than first believed. "We couldn't have gotten that without anonymous testing," Koop said.

Another provision of Proposition 102 would require local health officials, when they get the name of someone who tests positive for exposure to the virus, to trace the person's sexual contacts, as is sometimes done for syphilis and other venereal diseases.

Koop agreed with California health officials that contact tracing can be helpful in some AIDS cases. But he said a rigid requirement that forces health officials to trace contacts in all cases -- which Proposition 102 would do -- would be wasteful, especially in California where more than 300,000 people are believed infected.

"Once we find them we have nothing to offer except counseling," and that can be done best through doctors and public education, Koop said. "We would spend a lot of money to no good end," he said.

(c) 1988 Los Angeles Times, November 3, 1988

Contact tracing is a key area of disagreement between Proposition 102 sponsors -- Rep. William Dannemeyer (R-Fullerton), activist Paul Gann and a group of dissident doctors -- and the opposition, which is led by the California Medical Assn. and virtually all major health organizations in the state. A number of university presidents, chancellors and medical school deans have also taken the unusual step of announcing their opposition.

Backers of Proposition 102 note that the American Medical Assn. endorsed contact tracing for AIDS this year. However, opponents counter that in many counties contact tracing has been suspended because a surge in new syphilis cases has swamped local officials.

L.A. County Costs

Los Angeles County health officials, in urging the Board of Supervisors to oppose Proposition 102, said the cost of investigating everyone who is infected with HIV could reach \$19 million the first year. The county's total AIDS budget is now \$17.4 million, about half of which goes for medical care.

Koop, meanwhile, also said that relaxing laws which protect people who are seropositive -- infected with the virus -- from discrimination by employers would be a mistake. Proposition 102 would repeal a state law that bars employers from using HIV test results as a basis for employment.

"You've got to treat this disease in such a way that you protect the employability and bread-winning ability of people who are seropositive," Koop said. "Otherwise you will have everyone who is seropositive be unemployed and that would be devastating."

The nonpartisan legislative analyst in Sacramento has estimated that the costs caused by Proposition 102 could reach into the hundreds of millions of dollars. Contact tracing could run into tens of millions of dollars, and the cost of caring for AIDS patients who lose their jobs and insurance would push the tab much higher, the official estimate said.

Controversial Proponent

Proponents moved Wednesday to take advantage of Gov. George Deukmejian's surprise endorsement with a press conference at which a controversial member of the President's Commission on Human Immunodeficiency Virus Epidemic spoke in favor of the initiative.

Dr. Theresa Crenshaw was a San Diego sex therapist and regular guest on radio and TV talk shows until taking up the AIDS cause. Since then, she has become aligned with the more conservative political thought on AIDS, at one point suggesting that the virus might be transmitted by mosquito bites.

Crenshaw said that Proposition 102 borrows key recommendations of the President's commission and that many of the medical leaders who oppose the initiative did so out of fear of retribution. "There is not as much freedom of speech about AIDS as you would think," she said.

Opponents promptly produced statements from other members of the President's commission, including Chairman Adm. James D. Watkins, that were critical of Proposition 102.

(c) 1988 Los Angeles Times, November 3, 1988

President's Commission

"On the whole, passage of this (initiative) will hinder and not improve our ability to control the HIV epidemic," Watkins' statement read. Campaign spokesmen said the remarks were made in September at a Chicago meeting of the National Leadership Coalition on AIDS.

Opponents also circulated a statement attributed to Kristine Gebbie, an Oregon health official who served on the commission, that found major fault with the measure. "The anti-discrimination legislation is the basic foundation upon which all the other recommendations of the commission were based," the statement read.

Meanwhile, campaign spending reports on file with the secretary of state show that more than \$637,000 has been spent by supporters of Proposition 102. The biggest contributions were loans of \$100,000 from Dannemeyer and \$90,000 from the Committee to Cap the National Debt, which is controlled by Gann. Another group, California Physicians for a Logical Aids Response, has not filed any reports, although a spokesman for Gann said the group has arranged about \$50,000 in radio advertising.

Opponents have spent more than \$620,000, the biggest contributions being \$50,000 from the American Foundation for AIDS Research and \$5,000 each from such corporations as AT&T, Pacific Telesis and Pacific Gas & Electric Co.

SUBJECT:

PROPOSITION 102 (AIDS REPORTING RULES); ACQUIRED IMMUNE DEFICIENCY SYNDROME; WDDP, C EVERETT; POLITICAL ENDORSEMENTS; CONFIDENTIALITY; POLITICAL CONTRIBUTIONS; POLITICAL CAMPAIGNS; CALIFORNIA -- ELECTIONS -- 1988

LEVEL 1 - 115 OF 299 STORIES

Proprietary to the United Press International 1988

August 7, 1988, Sunday, BC cycle

SECTION: Regional News

DISTRIBUTION: Oregon

LENGTH: 417 words

HEADLINE: Local officials to be told of AIDS virus cases

DATELINE: PORTLAND, Ore.

KEYWORD: Aids

BODY:

The names of some people who test positive for the virus that causes AIDS will be reported to local health officials under new Oregon Health Division rules that take effect Sept. 1, according to state officials.

Under the new rules doctors will be required to inform local health officials of people who have the virus if the infected person has refused to tell his sexual partners or falls into certain other categories.

The local officials will then inform the sexual partners that they have been exposed to the AIDS virus, but they will not identify the infected person.

Health Division Administrator Kristine Gebbie said that under state law the names of people testing positive for the virus cannot be released.

Currently only the names of people who have Acquired Immune Deficiency Syndrome are reported. A person can carry the AIDS virus for years before contracting the disease, but during that time he is infectious.

The new rules are designed to ensure that more sexual partners of people infected with the AIDS virus are informed of their possible exposure, said Kristine M. Gebbie, administrator of the Health Division.

"It's not different from what we do currently with sexually transmitted diseases," said Multnomah County Health Officer Dr. Gary Oxman. "In many cases, the (infected) person ... will notify their sexual contacts and have them come in for treatment or testing. But in some cases, the person will prefer that we do that."

In addition to cases where the infected person has refused to tell unsuspecting sexual partners, doctors will also be required to notify local health officials that someone is infected if the patient has donated blood or tissue during the previous year, has committed rape or child molestation since 1978, is younger than 6, is younger than 21 and in a special education class, has active tuberculosis or asks for help if notifying sexual or needle-using partners.

The new rules also require laboratories to report the results of all AIDS tests to the Health Division. That information will be used to better

Proprietary to the United Press International, August 7, 1988

understand the spread of AIDS in Oregon.

However, the Health Division will not be given the patients' names. Only the local health department will be given the names, assuming the patient falls into one of the special categories.

According to a report in the New England Journal of Medicine, requiring doctors to inform officials of patients infected with the AIDS virus has been effective in notifying sexual partners.

LEVEL 1 - 123 OF 299 STORIES

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June 2, 1988, Thursday, Late City Final Edition

SECTION: Section A; Page 1, Column 2; National Desk

LENGTH: 1443 words

HEADLINE: EXPERT PANEL SEES POOR LEADERSHIP IN U.S. AIDS BATTLE

BYLINE: By PHILIP M. BOFFEY, Special to the New York Times

DATELINE: WASHINGTON, June 1

BODY:

A committee of experts appointed by the National Academy of Sciences today strongly criticized "the absence of strong Federal leadership" in the fight against the AIDS epidemic, which was first recognized seven years ago.

The panel predicted that well over \$1 billion a year might soon be needed to finance public health and education measures to curb the epidemic.

In a reflection of the growing sense of urgency over the still unchecked spread of the deadly disease among intravenous drug users, their sex partners and babies, the committee charged that "the most serious deficiency" in current efforts to control the epidemic was "the gross inadequacy of Federal efforts" to combat drug-related AIDS.

New Programs Are Urged

Drug addicts frequently spread the AIDS virus from one to another by sharing contaminated needles, and they often spread the virus to their sex partners, providing a route by which the virus is spreading into the heterosexual population.

The committee's report acknowledged that substantial progress had been made over the past two years in research and public education about acquired immune deficiency syndrome. [Excerpts from the report are on page B13.] But it called for a wide range of new or expanded programs, including a new national commission to oversee the fragmented AIDS effort, new treatment programs for intravenous drug addicts and expanded research and drug-testing programs. It also called for educational programs aimed at minority groups that are at high risk of developing AIDS, a Federal statute to prohibit discrimination against victims of the disease, and a Federal grant program to assist states in financing health care for AIDS victims.

Potential Impact of Report

The strong comments by the academy, the nation's most prestigious scientific organization, could exert strong influence on the widening national debate over how best to deal with the epidemic. A previous report from the academy, "Confronting AIDS," issued in October 1986, provided a benchmark by which many members of Congress and analysts judged the effectiveness of the nation's efforts to combat AIDS.

(c) 1988 The New York Times, June 2, 1988

The latest academy report, "Confronting AIDS: Update 1988," adds its weight to similar recent recommendations by the President's AIDS Commission, calling for a major increase in treatment facilities for drug users and in financing AIDS programs.

Today's report from the academy is the opening salvo in an unusually busy week for appraising the AIDS epidemic. On Thursday the chairman of the President's AIDS Commission, James D. Watkins, will issue a major report presenting his final conclusions and recommendations for consideration by the full commission before the final report is forwarded to the White House.

Charting Scope of Epidemic

A large group of experts from the Federal Public Health Service will open a three-day meeting in Charlottesville, Va., on Thursday to update official estimates of the scope of the epidemic and to develop new strategies for dealing with the disease, which cripples the immune system.

The latest academy report was prepared by a committee of eight experts appointed jointly by the organization and its subunit, the Institute of Medicine. The panel was headed by Dr. Theodore Cooper, chairman and chief executive officer of the Upjohn Company, who was a former top Federal health official.

The other members were Dr. Stuart Altman, health policy professor at Brandeis University; Dr. David Baltimore, a Nobel Prize-winning biologist at the Massachusetts Institute of Technology; Kristine Gebbie, head of the Oregon Health Division, who is also a member of the President's AIDS Commission; Dr. Donald R. Hopkins, a former top Federal health official who is now at the Carter Presidential Center in Atlanta; Dr. Kenneth Prewitt, vice president of the Rockefeller Foundation; Dr. Howard M. Temin, a Nobel Prize-winning biologist at the University of Wisconsin, and Dr. Paul Volberding, director of AIDS activities at San Francisco General Hospital. The committee's staff was headed by Dr. Robin Weiss, director for AIDS activities at the Institute of Medicine.

Quest for Vaccine

At a news conference at the academy today, Dr. Cooper praised Surgeon General C. Everett Koop's educational efforts and cited "substantial progress" in developing AIDS education programs in the schools and in research to understand the AIDS virus. But he said researchers were "no closer" to having an AIDS vaccine today "than we were two years ago," and he foresaw "no breakthrough on the immediate horizon" in developing drugs to treat AIDS. He called for wider access to clinical trials of AIDS drugs by extending them to include more women, intravenous drug users, children and new geographic areas.

The panel complained that the Federal Government had failed to provide "overarching direction" to unite "all components of the Government and private sector" in a coordinated attack on AIDS. As a result, the panelists said, various agencies sometimes appear to be in conflict and many important programs languish for lack of direction.

The academy's report complained of inadequacies in financing adequate health care for AIDS victims and in setting standards to determine who should be tested for the AIDS virus. It said the Government had also failed to formulate an

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antidiscrimination statute to protect those infected with the virus from retribution, a step the panel considered crucial if efforts to encourage widespread testing are to succeed.

Dr. Cooper said the panel considered but rejected the notion of an "AIDS czar" or a separate AIDS agency to provide more coherent leadership on the ground that it would needlessly disrupt established programs.

New Commission Proposed

Instead, the panel called for a new national commission to succeed the existing President's AIDS Commission, whose mandate is about to expire with completion of its final report. The commission would have a five-year, renewable term and would report directly to the President.

The academy's earlier report had called for total national expenditures, including Federal, state and private contributions, to reach \$1 billion a year by 1990 for public health and educational measures to control AIDS, and another \$1 billion a year for research.

Today the academy panel said Federal research expenditures would probably reach the recommended \$1 billion level by 1990, when a further assessment would be needed.

But in the areas of public health and education, the panel said that the earlier estimate appeared to be insufficient and that "a substantial sum" of money, "well beyond the \$1 billion originally proposed," would be needed, mainly to provide new treatment and education programs for intravenous drug abusers. Only about \$250 million of the \$1 billion originally proposed was intended for drug abuse treatment and education, academy officials say.

The panel said it had not had time to develop a new estimate but members noted that the AIDS commission had recently called for additional expenditures of \$1.5 billion a year for drug treatment alone. That was roughly six times the amount the academy estimated in 1986 and suggested that the academy's original estimate could have been off by \$1 billion or more.

Although the panel did not officially endorse the commission's estimate, Dr. Weiss said it had been derived in a reasonable way and was "going in the right direction."

Call for Voluntary Testing

The panel suggested that the Federal Government use paid advertising to provide information to the public about AIDS instead of relying on little-watched public service announcements. It also said that mandatory screening for the AIDS virus was appropriate only for donations of blood, tissue and organs. Otherwise, it recommended greatly expanded voluntary testing.

The committee suggested that infection with the AIDS virus should be considered a disease, even if the victim has not yet developed any AIDS symptoms. The committee called the evidence "scientifically conclusive" that the human immunodeficiency virus, HIV, is the cause of AIDS, despite assertions by a few scientists that the case is not proved.

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The panel also warned that the small group of health-care workers caring for AIDS victims "may soon exceed its physical and emotional capacities." It called for adequate psychological support, training and guidance about risk for all health-care workers.

In rare cases, the panel said, it may be necessary to restrict the personal liberties of people who are infected but who continue to put others at risk.

GRAPHIC: Photo of Dr. Theodore Cooper and Dr. Sam Thier (pg. B13) (NYT/Paul Husefros)

SUBJECT: ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS); EPIDEMICS; FEDERAL AID (US); FORECASTS; DRUG ADDICTION AND ABUSE; MINORITIES (ETHNIC, RACIAL, RELIGIOUS); RESEARCH; PUBLIC OPINION

ORGANIZATION: SCIENCES, NATIONAL ACADEMY OF, AND NATIONAL RESEARCH COUNCIL

NAME: BOFFEY, PHILIP M

GEOGRAPHIC: UNITED STATES

LEVEL 1 - 131 OF 299 STORIES

Proprietary to the United Press International 1988

February 20, 1988, Saturday, BC cycle

SECTION: Regional News

DISTRIBUTION: Oregon

LENGTH: 259 words

DATELINE: PORTLAND, Ore.

KEYWORD: Aids-Gebbie

BODY:

Oregon's state health chief warned that the AIDS epidemic won't be stopped with a magical cure for the fatal disease - only by changing the behavior that spreads the deadly virus.

Health Division Administrator Kristine Gebbie told the City Club of Portland Friday that hard work and a commitment of time and care by all members of society are needed to stop the epidemic, spread mainly through sexual activity and sharing of needles by intravenous drug abusers.

Gebbie, a member of the presidential AIDS commission, said acquired immune deficiency syndrome "is not something to which we are subject by the casual whims of people around us. It is a disease for which we are at risk by the choices we make or do not make."

Gebbie said schools are an important part of the state's strategy in curbing the epidemic, although she expects AIDS curricula for the public schools will draw opposition from some parents. The first hearing on the Oregon Department of Education's draft AIDS curriculum is set for Monday night at South Salem High School.

The health officials said she had reservations about joining the AIDS commission in the wake of two resignations and the firing of the executive director.

"It looked like the whole thing was crumbling," she said, but added, "I have been pleasantly surprised and impressed with my experience there."

Gebbie said she was particularly impressed that the commission chairman, Adm. James Watkins, has targeted discrimination against AIDS victims as "the critical and crucial issue" of the epidemic.

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February 20, 1988, Saturday, Final Edition

SECTION: EDITORIAL; PAGE A21; FREE FOR ALL

LENGTH: 691 words

HEADLINE: The AIDS Commission: What Secrecy?

BODY:

Over here at the Presidential Commission on the HIV Epidemic (a.k.a. the AIDS Commission) there were belly laughs all around when we read Jack Anderson's Feb. 11 column, "AIDS Panel Cloaked in Secrecy." We all ran out to buy trenchcoats at lunchtime.

Joking aside, the piece did live up to Anderson's controversial reputation: the real story is not what he wrote but what he omitted. Let's start at the top of the list of cheap shots.

Anderson wrote, "The commission has been beleaguered by two resignations, a lawsuit and a congressional investigation." True enough, but that was nearly six months ago. Anderson failed to report how those dated issues have been resolved and how the commission's reputation in the national community of AIDS specialists has grown since then. Let's call that journalistic violation No. 1.

First, the two commissioners who found the commission too hot a spot were replaced by two new members, Dr. Beny Primm, a black physician and intravenous drug abuse specialist, and Kristine Gebbie, the Oregon public health director, both of whom were widely praised for the depth and breadth they added to the commission.

Second, the lawsuit by the ACLU over the makeup of the commission is almost a dead letter. What Anderson failed to report is that after the Primm and Gebbie appointments, the ACLU pulled its brief for a rewrite. Still, on Dec. 16, U.S. District Judge Oliver Gasch issued a preliminary ruling against the ACLU. It said in part, "Plaintiff's selective attack on some of the commissioners betrays the surrealistic nature of the standard they have fabricated. . . . Plaintiffs are not likely to succeed on the merits of their complaint. . . ."

We gave Anderson's "investigator" -- and we use the term loosely here -- a photocopy of this ruling. Oddly it was not mentioned in the column. Journalistic violation No. 2.

Let's talk about the "congressional investigation" conducted by the General Accounting Office, which consumed many, many hours of our staff time. All the issues investigated occurred before the current chairman, Adm. James D. Watkins (Ret.) and Polly Gault, executive director, took those posts. What was the GAO's most damning finding? That instead of the 15 days' requisite notice of meetings in the Federal Register, the commission had met the standard for only four meetings. Once we gave only 14 days' notice and another time 8 days', "with no explanation of the reason for the short notice." We stand accused. But so should Anderson for branding us with this probe without reporting its completion two months ago. Journalistic violation No. 3.

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Anderson also took a hack at our preliminary report of last Dec. 2 (filed five days early), which he said was filed "without a discussion by the full group." In fact, every commissioner and senior staff person contributed to that report.

What was the response to this report, considering the expectations created by the roasting we took in our early days? "Few had thought that the commission would get so far so fast" (Time); "The AIDS commission's first report was something of a surprise . . ." (San Francisco Chronicle); "Excellent," said Dr. Mathilde Krim, chairperson of the American Foundation for AIDS Research, on CBS Dec. 3. What are we up to, journalistic violation No. 4?

We have to stop somewhere, so let's close with Anderson's silly "secrecy" charge. Too bad he failed to attend the hearing he quoted from, where Adm. Watkins testified before Sen. John Glenn about the federal law that governs our operation. He would have heard wide agreement that no public body in Washington operates in as much "sunshine" as our commission.

In fact, we have had days and days of testimony and so far heard from more than 300 witnesses, all in public session, well covered by the media. Our offices are public and anyone is free to look at our files and our methods. I wonder how Anderson's investigative techniques would hold up under similar scrutiny, judging from this latest result? -- Thomas D. Brandt The writer is director of communications for the Presidential Commission on the Human Immunodeficiency Virus Epidemic.

TYPE: LETTER

LEVEL 1 - 142 OF 299 STORIES

Copyright (c) 1987 The Times Mirror Company;
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November 11, 1987, Wednesday, Home Edition

SECTION: Part 1; Page 13; Column 1; National Desk

LENGTH: 616 words

HEADLINE: DRUG, HEALTH EXPERTS PUT ON AIDS PANEL

EYLINE: By MARLENE CIMONS, Times Staff Writer

DATELINE: WASHINGTON

BODY:

The White House, attempting to bring its beleaguered AIDS commission back to full strength, named two new members Tuesday to fill the vacancies created by the resignations last month of its chairman and vice chairman.

Dr. Beny J. Prim, a New York specialist in drug addiction, was selected to replace Dr. W. Eugene Mayberry, the former chairman. Kristine Gebbie, administrator of the Oregon State Health Division and chairman of the AIDS task force of the Assn. of State and Territorial Health Officials, will succeed Dr. Woodrow A. Myers, the former vice chairman.

The commission, which is charged with advising President Reagan on a national strategy for the AIDS epidemic, is expected to issue a preliminary report on Dec. 7. A final report is expected in June.

Gay Spokesmen Pleased

Gay rights spokesmen and others said Tuesday that they were pleasantly surprised by the appointment of Gebbie, whose views on AIDS public health policy appear to conflict with those of some other panel members. Gebbie is a strong proponent of education and prevention to curtail the epidemic, and she advocates voluntary -- rather than mandatory -- testing for AIDS infection.

In addition, she supports ironclad protections against breaches of test-result confidentiality and stronger statutes to prevent discrimination against AIDS patients and those infected with the virus.

The commission, which has been beset with controversy since its inception, lost its two top members on Oct. 7, when Mayberry and Myers abruptly quit, unhappy about personality conflicts and ideological differences among commission members on how to approach critical AIDS issues. Later that day, the White House announced that Adm. James D. Watkins, retired chief of naval operations and a commission member, would take over as chairman.

Lawsuit Over Panel

Earlier, after its membership was announced, the commission was attacked for not including more individuals with wider AIDS expertise and for including some individuals whose beliefs clash with widely accepted medical evidence about the disease. The panel has also been the subject of a lawsuit challenging its

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composition.

Gebbie said that a conversation with Watkins persuaded her "to give (the commission) a try."

"I told him that I would bring a strong set of viewpoints from the state health perspective and that I didn't want to get involved if I couldn't tackle those issues head on," Gebbie said in a telephone interview. "He told me: 'That's what we want.' "

Jeff Levi, executive director of the National Gay and Lesbian Task Force, said he believes that Gebbie would "add a voice of reason to what is otherwise an unreasonable group of people," adding: "I just hope she won't get lost in the noise."

Rep. Henry A. Waxman (D-Los Angeles), chairman of the House Energy and Commerce subcommittee on health, agreed.

'Diligent Adviser'

"Gebbie has been a thoughtful and diligent adviser on AIDS policy," he said. "I hope she can bring some of the reality of dealing with AIDS and health care to this ideologically stacked panel. I'm happy that the President has finally chosen someone with some expertise in this area."

Prim, 59, of New Rochelle, N. Y., has been president of the Urban Resource Institute, an organization that deals with problems of the inner city, since 1983. He has been president and executive director of its sister organization, the Addiction Research and Treatment Corp. of Brooklyn, N. Y., since 1969.

Gebbie, 44, of Portland, Ore., is also assistant director for health at Oregon's Department of Human Resources and an adjunct associate professor with the school of nursing at Oregon Health Science University.

SUBJECT:

PRESIDENTIAL COMMISSION ON AIDS; ACQUIRED IMMUNE DEFICIENCY SYNDROME; UNITED STATES -- HEALTH; POLITICAL APPOINTMENTS; REAGAN, RONALD

LEVEL 1 - 144 OF 299 STORIES

Proprietary to the United Press International 1987

November 11, 1987, Wednesday, BC cycle

SECTION: Regional News

DISTRIBUTION: Oregon

LENGTH: 502 words

DATELINE: FORT LAUDERDALE, Fla.

KEYWORD: Aidspanel-Oregon

BODY:

Oregon Health Division Administrator Kristine Gebbie said she thinks a controversial presidential commission on AIDS to which she was appointed has a commitment to "getting down to work."

"It's quite a challenge," Gebbie said Tuesday after President Reagan appointed her to the panel. "It seemed like something I needed to do."

Gebbie, 44, said she learned Monday she had been chosen for the group, and flew almost immediately to Florida where the panel was touring AIDS clinics and hearing from AIDS experts.

"It's really hard for me to offer any deep observations on the panel," Gebbie said. "We've been mostly listening to other people. We haven't met alone yet."

Gebbie said she did not know if past criticism of the group, which has been accused of having too few experts in AIDS research and treatment, would hurt its work in the future.

"What I sense is a real commitment to getting down to work," Gebbie said.

She was appointed along with Beny J. Primm of New Rochelle, N.Y., to fill vacancies left when Chairman W. Eugene Mayberry and Vice Chairman Woodrow A. Myers Jr., resigned last month.

Mayberry, chief executive officer of the Mayo Clinic, had no comment about his reasons for quitting the controversial panel, but Myers, the Indiana state Health Commissioner, cited internal disputes and lack of administration support.

Gebbie said she was approached last week by Ret. Adm. James Watkins, who was appointed to succeed Mayberry as chairman, and they discussed the work of the panel before she agreed to accept the appointment.

She said if English had not been replaced by another health professional such as herself the panel might have lacked enough expertise on AIDS.

"It's terrific news for the state's efforts in the field of AIDS," Gov. Neil Goldschmidt said of Gebbie's appointment. "There is no question that she has been out front scrapping on this issue."

Proprietary to the United Press International, November 11, 1987

Goldschmidt, who has reportedly been angered by some of Gebbie's actions, also said her boss, Human Resources Director Kevin Concannon, will make a decision soon on Gebbie's future as head of the Health Division.

Gebbie said she did not know if the appointment would improve her chances of keeping her state job. She said she discussed the appointment with Concannon, who did not object to her accepting it.

Concannon was out of town and could not be reached for comment.

Gebbie, who has headed the Health Division for 10 years, is also an adjunct associate professor with the Department of Psychiatric/Mental Health Nursing at the Oregon Health Sciences University.

The task force was formed by Reagan last summer and is scheduled to complete its study on the causes and transmission of the deadly acquired immune deficiency syndrome and report to Reagan by July 1988. Its preliminary report is due Dec. 7.

Primm, 59, has been president of the Urban Resource Institute since 1983 and since 1969 has been president and executive director of the Addiction Research and Treatment Corp. in Brooklyn.

LEVEL 1 - 148 OF 299 STORIES

Proprietary to the United Press International 1987

November 10, 1987, Tuesday, BC cycle

SECTION: Regional News

DISTRIBUTION: Oregon

LENGTH: 153 words

DATELINE: PORTLAND, Ore.

KEYWORD: Awards

BODY:

Five state legislators, a former justice, the head of a state agency and a newspaper editor will be honored as 1987 civil liberties award recipients on Dec. 15.

The American Civil Liberties Union of Oregon said it will be presenting the award during its Bill of Rights Day celebration.

Honored for public leadership will be Senate President John Kitzhaber, D-Roseburg; Sens. Jane Cease and Frank Roberts, both D-Portland; Joyce Cohen, D-Lake Oswego, and Jeannette Hamby, R-Hillsboro. Also honored will be Kristine Gebbie, director of the State Health Division, and Betty Roberts, former justice of the Oregon Supreme Court.

Honored from the news industry will be Robert W. Chandler, editor of The Bulletin in Bend.

Attorneys Rex Armstrong and Charles F. Hinkle, who have worked on civil liberties cases, also will receive awards along with other ACLU volunteers, Doris Ennis, John Thompson and Clyde Van Cleve.

Proprietary to the United Press International 1987

October 8, 1987, Thursday, BC cycle

ADVANCED-DATE: October 7, 1987, Wednesday, BC cycle

SECTION: Regional News

DISTRIBUTION: Washington, Oregon

LENGTH: 251 words

DATELINE: PORTLAND, Ore.

KEYWORD: Aids-Gebbie

BODY:

Oregon Health Administrator Kristine Gebbie says U.S. Education Secretary William J. Bennett should leave anti-AIDS programs to public health officials.

Gebbie Wednesday was critical of Bennett, who this week issued a guide to AIDS education that takes a dim view of using condoms and emphasizes the teaching of sexual restraint as the best defense against the disease.

"I think Secretary Bennett should stick to education and leave public health to Surgeon General (C. Everett) Koop," Gebbie said.

Bennett and Koop have been at odds over the best way to fight Acquired Immune Deficiency Syndrome (AIDS). The surgeon general has recommended that people who are sexually active use condoms and that AIDS education begin in the elementary grades of school.

In issuing his book titled "AIDS and the Education of our Children" Tuesday, Bennett said the AIDS instruction could wait until students reach their junior high school years. He also said condoms can reduce the risk, but should "by no means be relied upon."

The booklet says that "promoting the use of condoms can suggest to teenagers that adults expect them to engage in sexual intercourse."

"Secretary Bennett misses the point that an awful low of people are sexually active with more than one partner," Gebbie said. "Responsible public health agencies can't ignore that."

Gebbie's department Wednesday launched a massive public relations campaign to convince people to either avoid sex with multiple partners or use condoms.

*Gebbie
attack
on
Bennett*

LEVEL 1 - 154 OF 299 STORIES

Proprietary to the United Press International 1987

October 8, 1987, Thursday, PM cycle

SECTION: Washington News

LENGTH: 367 words

HEADLINE: Dismay greets two AIDS commission resignations

DATELINE: WASHINGTON

KEYWORD:

Aidspanel-React

BODY:

Resignations by the two top presidential AIDS commission members are 'disastrous,' say organizations representing state health officials, business leaders and religious associations.

The groups said the future direction of the commission is in serious doubt after the Wednesday resignations of commission Chairman W. Eugene Mayberry and Vice Chairman Woodrow Myers Jr.

'In the face of this terrible epidemic, this kind of disarray is disastrous,' said Ann McFarren, executive director of the AIDS Action Council, a public policy and lobbying organization, in a statement Wednesday. 'It's time that the White House shows the American public it is serious about fighting this illness.'

'I call upon President Reagan to appoint AIDS experts -- a physician working in the field and a person with AIDS -- to the committee.'

Acquired immune deficiency syndrome is a fatal disease that destroys the body's ability to fight infection.

'The American public needs clear and strong leadership in responding to AIDS, and my fear is that this loss could impede the commission's effectiveness,' said Dr. Edward Brandt, chairman of the National Leadership Coalition on AIDS.

The coalition represents more than 50 corporations and labor, health, volunteer and religious organizations that are promoting cooperation in the fight against the AIDS epidemic.

Leaders of the Association of State and Territorial Health Officials also expressed concern. Myers, Indiana's health commission, is the group's current president.

'These resignations raise serious questions regarding the direction of the commission and its effectiveness in developing sound AIDS policy for the nation,' said Dr. Thomas Vernon, president-elect and Colorado health commissioner.

Proprietary to the United Press International, October 8, 1987

Kristine Gebbie, chairwoman of the association's AIDS committee and administrator of the Oregon state health division, said, ''With the clock running, it is unclear how the commission is going to be able to meet its mandate within the time frame it has been given.''

The 13-member presidential Commission on the Human Immunodeficiency Virus Epidemic is scheduled to make a final report next July, and its first interim report is due Dec. 7.

LEVEL 1 - 156 OF 299 STORIES

Proprietary to the United Press International 1987

October 7, 1987, Wednesday, AM cycle

SECTION: Washington News

LENGTH: 245 words

DATELINE: WASHINGTON

KEYWORD:

Aidspanel-React

BODY:

Organizations representing state health officials, the business community and national volunteer organizations said Wednesday the resignation of the presidential AIDS panel leadership raised questions about the panel's future.

"The American public needs clear and strong leadership in responding to AIDS, and my fear is that this loss could impede the commission's effectiveness," said Dr. Edward N. Brandt, chairman of the National Leadership Coalition on AIDS.

"I am dismayed" that Dr. Eugene Mayberry is being replaced, Brandt said.

The coalition represents more than 50 corporations and labor, health, volunteer and religious organizations that are promoting cooperation in the fight against the AIDS epidemic.

Leaders of the Association of State and Territorial Health Officials also expressed concern. The group's current president is Dr. Woodrow Myers of Indiana, who resigned as the Reagan panel's vice chairman.

"These resignations raise serious questions regarding the direction of the commission and its effectiveness in developing sound aids policy for the nation," said Dr. Thomas Vernon, president-elect and Colorado health commissioner. Vernon takes over from Myers in May.

Kristine Gebbie, chairwoman of the association's AIDS committee and administrator of the Oregon state health division, said, "With the clock running, it is unclear how the commission is going to be able to meet its mandate within the time frame it has been given."

LEVEL 1 - 168 OF 299 STORIES

Proprietary to the United Press International 1987

June 16, 1987, Tuesday, BC cycle

SECTION: Regional News

DISTRIBUTION: Oregon

LENGTH: 426 words

HEADLINE: Compromise AIDS bill proposed

BYLINE: By ETHAN RARICK

DATELINE: SALEM, Ore.

KEYWORD: Orxgr-Aids

BODY:

A state legislator supporting mandatory AIDS testing and Oregon's chief public health official reached a compromise that calls for a more extensive program to fight the deadly disease.

Sen. Jan Wyers, D-Portland, and Health Division Administrator Kristine Gebbie agreed Tuesday to support a four-part, \$2.5-million program that would replace a controversial bill introduced by Wyers that would have required premarital blood tests.

Legislative leaders and Gov. Neil Goldschmidt, who opposed the test for couples seeking a marriage license, expressed support for the new plan, but were uncertain about how much the program would cost or how it would be financed.

"I think it'll provide more protection for Oregonians than the pre-marital testing bill," Wyers said. "I wanted to find a compromise proposal."

Wyers said the new plan would include:

-- Testing of anonymous blood samples in hospitals to determine the spread of the disease.

-- An expanded education program in schools, particularly middle schools, about preventing AIDS.

-- Screening of people convicted of sex and drug related crimes and testing of those who are in high-risk groups.

-- A plan submitted to the legislature's Emergency Board by the Corrections Division for dealing with AIDS patients in state prisons.

"It makes a great deal more sense than premarital testing," Senate President John Kitzhaber, D-Roseburg, said after meeting with Wyers, House Speaker Vera Katz and Gov. Neil Goldschmidt.

Katz and Kitzhaber said they will support the plan, but they do not know where they will get the money to pay for the program or exactly how much it

Proprietary to the United Press International, June 16, 1987

will cost.

'We're in complete agreement with John and Vera,' Goldschmidt spokesman Floyd McKay said.

Wyers said he tried to reach a compromise because Goldschmidt and House Speaker Vera Katz strongly oppose premarital testing.

'From a public health standpoint, I don't have any problems with it,' said Gebbie, who has strongly opposed to a mandatory blood test for couples applying for a marriage license. 'I think the components of it are each good alternatives.'

Gebbie said the 'prevalence test' conducted in hospitals would use blood samples left over after other tests have been completed. The names of the donors would be removed prior to the AIDS test.

She said a similar study might also be done of inmates in state prisons.

The expanded education program, which would cost about \$2 million, would pay for training for teachers and parents in how to discuss 'safe sex' practices, Wyers said.

LEVEL 1 - 180 OF 299 STORIES

Proprietary to the United Press International 1987

March 13, 1987, Friday, BC cycle

SECTION: Regional News

DISTRIBUTION: Oregon

LENGTH: 376 words

HEADLINE: Health officials back gay rights bill

DATELINE: PORTLAND, Ore.

KEYWORD: Gayrights

BODY:

Oregon Health Administrator Kristine Gebbie and other health officials Friday joined the American Civil Liberties Union in endorsing a bill that would prohibit discrimination against homosexuals in the state.

Gebbie said the bill, which expands civil rights statutes, is needed in the war on the deadly disease aids.

She said people at high risk of developing AIDS have been reluctant to be tested for fear they will lose their jobs and homes and be denied access to public education and public accommodations.

Gebbie was joined at a news conference by Dr. Charles Schade, Multnomah County Health Officer, in endorsing HB2325, which prohibits discrimination on the basis of "sexual orientation."

"Discrimination and fear of discrimination against gay men has had a significant impact on control of AIDS," said Schade. "Because of fear of discrimination in insurance and employment, many people at risk of infection are reportedly not seeking testing and counseling."

"If discrimination prevents even one person with behavioral risk of AIDS from seeking testing and counseling for fear of being labeled homosexual, it is contributing to the epidemic," he said.

The ACLU and a broad cross section of religious, civic, and health care officials have urged adoption of the law.

The bill prohibits discrimination based on sexual orientation by employers, labor organizations, landlords, schools and places of public accommodation.

Rex Armstrong, president of the Oregon ACLU chapter, said current state civil rights statutes do not fully protect homosexuals.

"It is legal to fire a woman because she is a lesbian, to deny housing to a man because he is gay, or to refuse access to a restaurant to anyone simply because that person fits someone's stereotype of a homosexual," he said.

Proprietary to the United Press International, March 13, 1987

'A persons sexual practices -- so long as they are legal -- are irrevelant to decisions about where a person may live, work, be educated or seek to be fed,' Armstrong said.

'And such discrimination does occur. The ACLU of Oregon receives dozens of complaints each year from individuals who believe they have been unfairly denied housing, jobs or services because of their sexual orientation.'

Armstrong said they have no recourse under existing law.

LEVEL 1 - 181 OF 299 STORIES

Proprietary to the United Press International 1987

March 11, 1987, Wednesday, BC cycle

SECTION: Regional News

DISTRIBUTION: Washington, Oregon

LENGTH: 400 words

DATELINE: SALEM, Ore.

KEYWORD: Aids

BODY:

Gov. Neil Goldschmidt rejected a Health Division report calling for an additional \$10 million in state money for AIDS programs during the next two years and recommended instead an increase of \$2.2 million.

The recommendations came Wednesday from a panel of state specialists appointed by Goldschmidt to review the earlier Health Division recommendation that called AIDS an 'epidemic' in Oregon.

The extra general fund money would be split about evenly between paying for health care for AIDS patients and programs designed to stop the spread of the disease.

Goldschmidt also said the state may need to spend even more funds for AIDS programs, and left open the possibility of using money in the state's ending balance.

'We don't have a lot of experience with this subject,' Goldschmidt said. 'A larger ending balance...might be prudent.'

The state's ending balance is general fund money which is not spent in the state's biennial budget. The legislative Emergency Board allocates the money when the legislature is not in session.

Goldschmidt also recommended spending an additional \$1.8 million in grants and federal funds for AIDS programs during the next two years. A little more than \$1 million of that money would be spent on treatment and about \$700,000 would be spent on prevention and education.

Goldschmidt had already proposed spending about \$2.9 million on AIDS during the biennium.

The new recommendations would increase the state's total expenditure on AIDS programs during the next two years to \$6.8 million.

The report from the Health Division task force advocated spending \$22.75 million on AIDS programs during the next two years, including \$10 million from the state's general fund.

When it was released, Ways and Means Committee Co-chairman Sen. Mike Thorne, D-Pendleton, accused Health Division Administrator Kristine Gebbie of

Proprietary to the United Press International, March 11, 1987

'blindsiding' the governor by not releasing the figures earlier.

Gebbie said Wednesday she agreed with the lower recommendation made by Goldschmidt's panel.

'I think this is a very solid proposal,' Gebbie said. 'The new analysis seems to make a lot of sense.'

Gebbie said the two recommendations differed because her panel based its conclusions on national AIDS statistics, but the governor's group worked with state figures.

Gebbie also agreed with Goldschmidt that the state's AIDS budget might have to be re-evaluated.

LEVEL 1 - 184 OF 299 STORIES

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February 23, 1987, Monday, Late City Final Edition

SECTION: Section A; Page 15, Column 1; National Desk

LENGTH: 1254 words

HEADLINE: EXPERTS DUBIOUS OF WIDE AIDS TESTING

BYLINE: By PHILIP M. BOFFEY, Special to the New York Times

DATELINE: WASHINGTON, Feb. 22

BODY:

Health officials from key states and cities have said it would be a waste of effort and self-defeating to administer an AIDS virus test to all applicants for marriage licenses or all hospital patients, as Federal health officials have suggested.

The role of the virus test in controlling the spread of AIDS is to be debated Tuesday and Wednesday at a conference in Atlanta convened by the Federal Centers for Disease Control.

Interviews with health officials last week in 10 states, including the five hit hardest - New York, California, Florida, New Jersey and Texas - found not one advocate of broad-scale AIDS testing. Considerable opposition was also heard to spending a lot of money on mandatory screening that the critics said was not likely to detect many cases and might well drive away the people at greatest hazard.

The possibility of testing huge portions of the public was raised by Federal health officials who are concerned that the AIDS virus may be spreading undetected outside the original risk groups, chiefly homosexual males and intravenous drug users. Such a spread would not show up in the official count for years, as there is typically a four- to five-year interval between infection and development of full-fledged AIDS. The fear is that education alone is not enough to control the epidemic.

Other Steps Are Proposed

In last week's interviews, many officials rejecting broad mandatory testing called for focused monitoring of the virus spread and more aggressive efforts to persuade people in danger to take the test voluntarily.

Some health officials also advocated a more vigorous effort to contact all the sexual or needle-sharing partners of those whose tests showed they were infected, warning them of the danger and urging them to change their behavior. However, there was sharp disagreement over how to reach these contacts and on whether test results should be reported by name.

More than 30,000 cases of AIDS have been reported to Federal authorities, and more than half the victims have died. Officials project that by 1991 more than 50,000 Americans will be dying of AIDS each year.

*opposition
to
mandatory
testing*

(c) 1987 The New York Times, February 23, 1987

The AIDS virus test detects antibodies produced in the blood after a person has been infected with the virus. A confirmed positive test result is considered evidence that a person has been infected and, well or ill, must always be presumed capable of spreading it to others. The virus is spread in sexual intercourse, the sharing of contaminated blood, as on contaminated hypodermic needles, or in the womb of an infected woman.

Mandatory in Some Places

The tests are now used by blood banks to screen blood and by private physicians. The tests have also been taken voluntarily, at more than 100 sites or at private doctor's offices. The test is also mandatory for various employees of the military, the State Department and the Federal Job Corps program, and prisoners or convicted prostitutes in some areas.

The Centers for Disease Control's conference, at the Marriott Marquis Hotel in Atlanta, will discuss possible wider uses of the test. Officials say that broader testing could provide the first reliable data on how widely the virus has spread and also alert unknowing carriers.

The program for the conference poses for discussion: Should the AIDS test should be given to people attending a clinic for sexually transmitted diseases or a drug treatment program, as well as their sexual partners, assuming that counseling and education services are provided? It also asks whether the sexual partners of infected people should be notified. Even broader proposals offered for debate include whether to test people seeking family planning services, pregnant women, every hospital patient and everyone about to get married.

The conference is described by Federal health officials as a response to factors that have forced forward the issue of AIDS.

Lack of Data on Its Direction

Perhaps the chief driving force for wider testing is lack of knowledge of where the virus is spreading. "That makes me uncomfortable," said Dr. James O. Mason, director of the Centers for Disease Control. "I don't like to be locked in battle against an unprecedented enemy with my radar turned off.

"I've been concerned about the lack of good community-based prevalence-and-incidence data from the beginning. Why debate whether the virus is spreading heterosexually? Why not find out?"

State health officials who were interviewed said they were waiting to hear the discussion in Atlanta before making a final judgment. But many expressed skepticism.

"It gets talked about for premarital tests or hospital testing," said Kristine Gebbie, administrator of the Oregon Health Division, who is head of the AIDS committee for the Association of State and Territorial Health Officials. "But I don't know of any health department that is proposing that as an appropriate use of the tests now."

New Yorker Is Dubious

(c) 1987 The New York Times, February 23, 1987

In New York City, Dr. Stephen Schultz, deputy Commissioner of Health, said: "This is not a question of civil liberties as opposed to public health. It won't work even as a public health measure." Dr. Schultz predicted that mandatory tests would "drive people away" because those who already considered themselves outcasts would fear that the Government wanted to "find out who the bad people are."

Although information is needed, many health officials said, there are better ways to get it. The spread of the virus can be measured in research surveys of samples of the population or, as Centers of Disease Control is now attempting, by testing anonymous blood samples discarded by hospitals, several health officials said.

Several health officials recommended greater efforts to notify the sexual partners of infected people. Such tracing has been a routine part of public health efforts to control venereal diseases, but it has not been widely used for AIDS, partly because there is no treatment to offer.

But now attitudes appear slowly to be shifting. The two cities with the most cases of AIDS, New York and San Francisco, have begun notification programs, as have Colorado, Idaho, Minnesota and South Carolina, health officials and analysts report. However, none of the programs is comprehensive and most rely in the main on having the infected person notify sexual partners, with no certainty that this happens or is accompanied by helpful counseling.

San Francisco Gives Counseling

All of the tracing programs are essentially voluntary, since there is no way to force anyone to disclose sexual partners' names. San Francisco tries to find only the heterosexual partners of those infected. The city uses trained health workers to counsel the contacts without disclosing the name of the person who presumably infected them.

New York tries to warn all sexual contacts because many homosexual men in stable relationships have no idea they may have been infected.

There are similarly sharp differences of opinion over whether AIDS test results should be compiled by name. At least eight states already require that the names of all people who test positive for AIDS virus be reported to health authorities, according to the Intergovernmental Health Policy Project at George Washington University here. Such reports are now mandatory in Arizona, Colorado, Kentucky, Minnesota, Montana, Idaho, New Jersey, South Carolina and Wisconsin.

But jurisdictions with some of the highest concentrations of AIDS conduct anonymous testing where the blood sample simply gets a number.

SUBJECT: ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS); TESTS AND TESTING;
MARRIAGES; HOSPITALS

NAME: BOFFEY, PHILIP M

LEVEL 1 - 185 OF 299 STORIES

Proprietary to the United Press International 1987

February 17, 1987, Tuesday, BC cycle

SECTION: Regional News

DISTRIBUTION: Washington, Oregon

LENGTH: 445 words

DATELINE: SALEM, Ore.

KEYWORD: Orxgr-Aids

BODY:

The head of the state Health Division "blindsided" Gov. Neil Goldschmidt with a report that says Oregon will need an additional \$15 million over the next two years to care for AIDS victims, a key member of the legislature's budget committee said.

Sen. Mike Thorne, D-Pendleton, co-chairman of the Joint Ways and Means Committee, said Tuesday that Kristine Gebbie intentionally withheld the need for the extra money when the governor-elect's staff was putting together his proposed budget for 1987-89.

"She had a year to study the AIDS problem in Oregon and she knew about it when the governor's budget was coming together last fall," Thorne said. "She blindsided him."

Thorne accused Gebbie of holding back the information in a political move to "isolate" the issue and force the governor and the legislature to deal with it during the legislative session.

Thorne said he is considering taking the \$15 million out of the proposed 1987-89 budget for the Health Division.

"I have a long memory and that money may come out of her hide," he said.

Goldschmidt's chief spokesman, Floyd McKay, said Tuesday the report, which will be officially released Thursday, is a "budget buster" that would require further revisions in the governor's five-week old budget.

"It's a budget buster because we are already up against the state spending limit," McKay said.

Gebbie denied Thorne's allegation, saying that she alerted Goldschmidt aides to the problem right after last fall's general election and they chose to deal with the problem when her report on AIDS was finished.

"I raised the budget issue at every opportunity that came along," Gebbie said. "We had been working on the study for nearly a year and did not have final numbers, but we explained the flaws in the budget. It shouldn't have blindsided them."

Proprietary to the United Press International, February 17, 1987

Gebbie said the \$15 million will be needed to pay for increased welfare costs for AIDS victims who use up health benefits and their own money in hospital costs.

She said that if efforts to prevent the spread of AIDS, acquired immune deficiency syndrome, fails or if a cure is not found, it will cost \$30 million to care for AIDS victims in 1989-91.

There is a doubling of AIDS victims every nine months in Oregon. So far, 130 Oregonians have contracted the fatal disease of which 83 have died.

Thorne said a subcommittee of the full Ways and Means Committee has identified about \$10 million in cuts in education budgets that will be used to beef up human resource programs such as a two-parent welfare program.

Thorne said the \$15 million needed for AIDS victims would be in addition to cuts already identified by the subcommittee.

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LEVEL 1 - 186 OF 299 STORIES

Proprietary to the United Press International 1987

February 13, 1987, Friday, BC cycle

SECTION: Regional News

DISTRIBUTION: Washington, Oregon

LENGTH: 207 words

DATELINE: PORTLAND, Ore.

KEYWORD: Condoms

BODY:

The State Health Division says radio stations in Eugene and Ashland have become the first in Oregon to agree to broadcast public service announcements advocating the use of condoms to prevent the spread of AIDS.

Health Administrator Kristine Gebbie said KPNW AM and FM will broadcast announcements prepared by the health division in the Eugene and Springfield area. Sister stations KCMX AM and FM will carry the same messages in the Medford, Ashland and Grants Pass area.

The stations are owned by Pacific Northwest Broadcasting.

Gebbie said the announcements are co-sponsored by the Willamette AIDS Council in Lane County and the Lane County Health Services. She said the stations plan to broadcast the spot three times per day, seven days a week between the hours of 7 p-m and 6 a-m.

The announcement states:

'Condoms have not been a topic of discussion on the radio in the past. AIDS has changed that. Well over a million people in this country are already infected with the virus that causes AIDS... including thousands of Oregonians. Use of condoms will reduce the chance of spreading AIDS. Sexually active people can protect themselves and their loved ones with condoms. AIDS is a problem for all of us. AIDS is preventable.'

LEVEL 1 - 193 OF 299 STORIES

Proprietary to the United Press International 1987

January 30, 1987, Friday, BC cycle

SECTION: Regional News

DISTRIBUTION: Washington, Oregon

LENGTH: 694 words

HEADLINE: Health director backs condom ads

BYLINE: By PETER GILLINS

DATELINE: PORTLAND, Ore.

KEYWORD: Condoms-Oregon

*Condom
ads*

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BODY:

State Health Administrator Kristine Gebbie Thursday encouraged Oregon radio and television stations to accept advertisements for condoms in hopes they would help stop the spread of AIDS.

Gebbie sent letters to radio and television stations across the state urging them to accept ads from condom manufacturers and to run public service announcements that include information on the use of condoms for disease prevention.

"I want to express my strong endorsement of permitting condom advertisements on Oregon media broadcasts, in the interest of control of the spread of HIV virus," Gebbie wrote.

Many stations have policies against advertising of condoms and other products generally associated with birth control. Others allow such advertising only late at night.

Gebbie said the threat of Acquired Immunodeficiency syndrome, (AIDS) and other sexually transmitted diseases was so great that public sensibilities would have to change.

"Aids is a sexually transmitted disease that is reaching epidemic proportions in Oregon," she said. "The disease does not discriminate on the basis of sexual orientation, and all sexually active persons are at risk."

"Encouraging the use of condoms is one of the most important ways we can slow the spread of the disease in our state."

There have been 130 cases of AIDS diagnosed in the state, resulting in 82 deaths. The number of cases has been doubling every nine months.

At a news conference, Gebbie said her letter was prompted by KRON-TV in San Francisco, which recently began running condom spots and donating revenue from the ads to AIDS research.

Proprietary to the United Press International, January 30, 1987

"This is an intriguing step worth considering," she said.

Gebbie said she found advertising for condoms no more offensive than ads currently airing on television for feminine hygiene products.

"It's no more an affront to me than sitting in my living room watching douche ads during a situation comedy," she said.

"Sexuality is already a part of television," she added. "You see couple after couple hopping into bed, but discussions of AIDs is found mostly in news programming."

The health administrator said her department was now creating an awareness campaign that included public service television spots promoting the use of condoms. She said she hoped Oregon stations would run them.

Manager at many Oregon television stations said they don't run such ads now, but would be willing to consider the idea.

"Our policy hasn't changed," said Skip Hinman, general manager of KATU television in Portland. "We have not carried any condom advertising and we won't accept it until the policy is changed. We have it under review."

Hinman said the station had carried test ads for a female contraceptive device to monitor public response. "We received no response at all," he said.

Mick Schafbuch, general manager of KOIN television, also said his station was re-examining its policy against the ads "because of concerns about sexually transmitted disease and also teen pregnancy."

"I predict if we did accept condom ads, there would be a flurry of negative response," he said. "But I don't think that would convince us it is wrong."

"It all depends on how they are marketed. I think we would object if they were sold as sexual aids, but if they are marketed as a means of preventing disease, (they might be acceptable.)"

Liz Fetsch, operations manager for KGW TV, said her station had aired female contraceptive ads for more than two years late at night.

"For us, this isn't a big deal," she said. "We will review the spots to make sure they are tasteful. Also, the sponsors must buy adult time slots, generally after 10 p.m."

"We don't want to expose kids to them. That's a decision for parents to make," she said.

Both KGW and KOIN said they had received requests for time from the Trojan company and were reviewing the spots.

Ed Zander, general manager of KOB television in Medford, said he had never received a request from a condom manufacturer to buy commercial time. "We have never had to deal with the question," he said. "But I think we might run a telepoll to see what the viewer response might be."

LEVEL 1 - 200 OF 299 STORIES

Proprietary to the United Press International 1986

October 30, 1986, Thursday, BC cycle

SECTION: Regional News

DISTRIBUTION: Idaho, Washington, Oregon

LENGTH: 378 words

DATELINE: PORTLAND, Ore.

KEYWORD: Pituitary

BODY:

Former Oregon State Medical Examiner William Brady and acting Medical Examiner Larry Lewman have been sued by an Idaho couple who claim their son's pituitary gland was wrongfully sold 12 years ago.

The racketeering lawsuit by Joyce and James Evans of Lewiston, which claims intentional mishandling of a corpse, seeks \$903,340.

James L. Evans Jr., the couple's 20-year-old son, died in Portland on Sept. 18, 1974, of a gunshot wound. Attorney Richard Yugler, who filed the suit for the couple, said Wednesday there was a question of whether the death was accidental or suicide.

The suit claims Lewman performed the autopsy and intentionally removed young Evans' pituitary gland so it could be sold, pursuant to office policy.

It said the Evanses learned of the alleged policy in June of 1985 when allegations of wrongdoing in the medical examiners office surfaced publicly.

Brady was suspended without pay pending an investigation, and was fired in October of last year by state Health Division Administrator Kristine Gebbie. The firing followed a report by the state attorney general's office that concluded Brady had, among other things, sold skin samples and pituitary glands and used the money to pay for office parties, office furniture and other supplies.

Brady, who has denied the allegations, is suing Gebbie in U.S. District Court for reinstatement to his job and \$2.5 million in damages. Trial is scheduled for Nov. 18.

The Evanses charged that Brady and Lewman violated Oregon law through a pattern of official misconduct. The couple alleged in the suit that they suffered "severe mental and emotional distress and suffering" after learning about the sale of their son's pituitary gland. The suit said they incurred \$860 in expenses for psychological counseling.

The suit seeks the \$860 in special damages as well as \$200,000 general damages and \$100,000 in punitive damages. It asks that \$200,860 of the damages be trebled as allowed under Oregon's anti-racketeering law.

Proprietary to the United Press International, October 30, 1986

Yugler conceded it was a "very rare and unique case." He said attempts to settle the case with the state without filing a lawsuit had failed.

Marla Rae of the attorney general's office said she had not seen a copy of the complaint and was not in a position to comment.

LEVEL 1 - 202 OF 299 STORIES

Proprietary to the United Press International 1986

August 5, 1986, Tuesday, PM cycle

SECTION: Domestic News

LENGTH: 211 words

HEADLINE: Oregon bills Kremlin for Chernobyl fallout

DATELINE: PORTLAND, Ore.

KEYWORD:

Nukebill

*Bill
to
USSR*

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BODY:

Oregon Health Administrator Kristine Gebbie has sent a bill for \$73,060 to Soviet leader Mikhail Gorbachev for monitoring fallout from the Chernobyl nuclear accident.

The brief letter, with invoice attached, was mailed Monday at the direction of the Oregon Legislative Emergency Board.

"It was just a very short letter recapping our costs for personnel and equipment to monitor the air, rain, drinking water, vegetation and milk in Oregon after the nuclear accident," she said.

"It indicates if he has any questions, he should feel free to call me. I would be surprised if he did," she added.

The health division monitored radiation levels for several weeks after the Soviet nuclear accident on April 26 and found radiation levels several thousand times higher than background levels in Oregon's plentiful rainwater.

Health officials said the radiation levels were not dangerous, but they advised residents against drinking rainwater.

Gebbie said the radiation levels have returned to normal and special monitoring has ceased.

But the extra work forced the Health Division to ask the Emergency Board for additional money. The board approved \$39,400 in extra funding last month and instructed Gebbie to bill Gorbachev for the total amount of \$73,060.

LEVEL 1 - 204 OF 299 STORIES

Proprietary to the United Press International 1986

July 9, 1986, Wednesday, BC cycle

SECTION: Regional News

DISTRIBUTION: Oregon

LENGTH: 660 words

BYLINE: By PETER GILLINS

DATELINE: PORTLAND, Ore.

KEYWORD: Brady

BODY:

Oregon Health Administrator Kristine Gebbie said today she stands by her decision to fire state medical examiner William Brady, who has filed a \$2.5 million civil rights suit against her.

"I firmly believe that the termination of Dr. Brady was justified and properly handled," said Gebbie. "I stand by the decision I made. I have notified the Attorney General of this suit."

Gebbie said it would be inappropriate for her to comment further on the charges made in Brady's suit.

Brady filed the action Tuesday in U.S. District Court, seeking reinstatement to his job, back pay and \$2.5 million in damages.

Brady said he was denied a fair hearing when he was fired last Oct. 3 and claimed he is innocent of any wrongdoing. He also said Gebbie's actions have held him up to ridicule and forced him to seek psychiatric care for depression.

Gebbie dismissed Brady after 16 years on the job, charging that he had kept an illegal slush fund in his office, sold tissue collected during autopsies to medical researchers, and performed private autopsies on state time.

The job has remained vacant since the firing as the state has been unsuccessful in its attempt to find a replacement.

"These charges were and are false and defamatory and the defendant's discharging of the plaintiff under these circumstances imposed a stigma of dishonesty upon him and barred him from public service," said the suit filed by attorney Bernard Jolles on Brady's behalf.

The suit demands that Brady be to his job until there is a formal hearing on the charges against him.

Brady said Gebbie never gave him the type of hearing other state employees would receive to determine if they should be fired.

He said he was a classified state employee entitled to job protection when he was hired in 1969 as state medical investigator. But the status of the job was

Proprietary to the United Press International, July 9, 1986

changed to a non-protected management position appointed by the health administrator in 1977. The title was also changed to State Medical Examiner.

The suit said that when Brady was removed from the medical examiner's job, he should have been returned to classified employee status unless it could be proved that he was guilty of malfeasance in office or some other dishonest act.

'At no time did I receive any personal gain from any monies that were generated by the Medical Examiner's Office,' Brady said in an affidavit filed with the suit.

Brady was dismissed after an investigation by the state attorney general's office revealed that he had sold skin samples and pituitary glands to medical researchers and placed the money in a private fund that was used to buy furniture for the medical examiner's office. The fund was also used to buy coffee and pay for office parties.

In addition, Brady was accused of conducting private autopsies using state facilities and having billing the medical examiner's office for tests done as part of the private operations.

The State Government Ethics Committee reviewed the case and declined to bring any action against Brady because he paid \$17,083 in restitution to the state.

In his affidavit, Brady defended the practice of selling tissue to researchers, saying it was common practice.

'I am, at most, guilty of a technical violation of failing to indicate the special account in my budget for the medical examiners office,' he said.

Dr. Homer H. Harris, a former member of the Medical Investigator's Advisory Board, also provided an affidavit supporting Brady. He said it was a common practice throughout the nation for medical examiners to supplement their incomes with private autopsy work.

Brady said he had done 28 private cases in 1984 and 14 in 1985 and most were done in mortuaries, although some were done in the Multnomah County Medical Examiner's Office. He denied doing them on state time.

He also blamed bookkeeping errors by the Oregon Health Sciences University for the fact that some tests for his private work were billed to his office.

LEVEL 1 - 221 OF 299 STORIES

The Associated Press

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April 15, 1986, Tuesday, PM cycle

SECTION: Domestic News

LENGTH: 184 words

HEADLINE: Board Clears Former Medical Examiner

DATELINE: PORTLAND, Ore.

KEYWORD:

Brady

BODY:

Former state Medical Examiner William Brady, accused of selling body parts for research to finance office parties and buy furniture, has been cleared by the state Board of Medical Examiners.

The board, which conducted a nine-month investigation, decided at its meeting last week that Brady didn't violate the state Medical Practices Act, Executive Secretary John Ulwelling said Monday. No other charges are pending against him.

Brady, medical examiner for 16 years, was fired by state Health Division Administrator Kristine Gebbie on Oct. 3 after the attorney general's office reported he had sold skin samples and pituitary glands to set up a fund used for office parties and to buy furniture and supplies.

The report also alleged Brady profited from private autopsies conducted on state time with the help of public employees and equipment. He also was accused of selling autopsy reports.

After he repaid the state \$17,083, the Oregon Government Ethics Commission decided against any further disciplinary action.

Brady is seeking his old job. His application will be reviewed by Ms. Gebbie.

LEVEL 1 - 222 OF 299 STORIES

Proprietary to the United Press International 1986

April 15, 1986, Tuesday, BC cycle

SECTION: Regional News

DISTRIBUTION: Oregon

LENGTH: 623 words

HEADLINE: Brady says board ruling will help job fight

BYLINE: By BARNEY LERTEN

DATELINE: PORTLAND, Ore.

KEYWORD: Brady

BODY:

Dr. William Brady, fired as state medical examiner last fall, said Tuesday he is pleased that a state board had cleared him of wrongdoing and believes it will aid his effort to win his old job back.

The state Board of Medical Examiners board decided last week that Brady, fired for selling skin samples to pay for office parties and furniture, did not violate the state Medical Practices Act.

"The obvious reaction is that I'm pleased with the results of the report," Brady said from the Portland office of his private pathology practice. "I'm looking ahead to the future with a positive and confident attitude."

The board concluded its nine-month investigation and reached its decision last week, Executive Secretary John Ulwelling said Tuesday. He added that the board's decision resolved the final investigation into Brady's actions.

"I think that wraps it up in total," Ulwelling said.

Brady was fired Oct. 3 by state Health Division Administrator Kristine Gebbie after the state attorney general's office alleged he had sold skin samples and pituitary glands to set up an office "slush fund."

Brady strongly denied any wrongdoing, saying he pocketed no money for himself. But he agreed to repay the state \$17,083, saying he had "no further desire to fight with the state of Oregon."

Oregon Attorney General Dave Frohnmayer said his office would pursue no criminal charges against Brady, since there was no evidence he used the money to enrich himself. The Oregon Government Ethics Commission decided in January against any further disciplinary action.

Two other pathologists accused of conducting private autopsies also were ordered to make restitution. Deputy Medical Examiner Dr. Larry Lewman was allowed to keep his job, at a reduced salary, and Dr. Ronald O'Halloran now is working in California.

Brady
✓
board
ruling
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Proprietary to the United Press International, April 15, 1986

Brady said Tuesday he "definitely" was among the 22 applicants for state medical examiner and said of the board's decision, "I think it has strengthened my case."

Brady said he has not yet been interviewed for the post but has sent in his letters of recommendation and other data to the seven-member State Medical Examiner Advisory Board, which plans to make its recommendation to Gebbie this spring.

As for his private practice, Brady said, "I'm busy as could be. I was up in Juneau, Alaska, on a complex murder last week and I'll probably be in Idaho next week."

"I enjoy the private practice. I enjoy the work," he said.

A Health Division spokesman said Gebbie has not said whether she will consider reappointing Brady to the post, if the State Medical Examiner Advisory Board recommends that.

"She has made no statement on that (re-hiring) and would not until the board's recommendation of candidates was given to her," said spokesman Art Keil. "They serve as an advisory body to her, and she will make the selection."

"I think her position is fairly clear," Keil said. "The notice from the (Board of Medical Examiners) did not come as a surprise to the division. There never was a charge made by Ms. Gebbie that Brady's medical techniques were improper at all."

"The reason for his discharge was public confidence and trust and integrity, and the effect on those from the private funds. It was not medical issues that were being challenged," Keil said.

Asked if the Health Division could meet its new deadline of June 1 for selecting a new medical examiner -- pushed back from April 1 due to a lack of qualified applicants -- Keil said, "That's our hope."

"There are 150 to 175 qualified forensic pathologists in the country, and we aren't known as the highest paid such department in the country," Keil said. He also noted that Lewman has chosen not to apply for the post.

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Proprietary to the United Press International 1986

January 29, 1986, Wednesday, BC cycle

SECTION: Regional News

DISTRIBUTION: Oregon

LENGTH: 325 words

DATELINE: SALEM, Ore.

KEYWORD: Audit

BODY:

Secretary of State Barbara Roberts exceeded her legal authority by conducting an audit critical of the state Health Division's compliance with state laws, Gov. Vic Atiyeh said Wednesday.

The audit released Tuesday accused the Health Division of failing to comply with state laws requiring regular health inspections of restaurants, swimming pools and nursing homes.

It also said the agency was not adequately monitoring the 19 counties which contract with the state to do certain types of health inspections.

Atiyeh said during a news conference that the audit went beyond the fiscal audit duties of the Secretary of State's Office and crossed the line into passing judgment on the agency's operation which is the prerogative of the governor's office.

He said Roberts conducted a so-called "performance audit," which is not specifically authorized in the duties of the Secretary of State's Office.

The 1985 Oregon Legislature gave Roberts the authority to audit an agency's performance, but the bill was vetoed by Atiyeh who called it "an intrusion into the prerogatives of the governorship" that was inconsistent with the state constitution.

"Management of state agencies is the responsibility of the governor," Atiyeh said Wednesday. "The secretary of state has responsibility for fiscal audits, not management or performance audits."

Felicia Trader, deputy secretary of state, said the report was not an performance audit, which is an attempt to make state agencies more efficient.

Instead, the report was an audit to determine if the agency was complying with the laws it is required to enforce.

She said complaints about the audit from Atiyeh and Health Division Administrator Kristine Gebbie are an attempt to "divert" attention away from the issues raised in the audit.

"We have an agency that's not meeting the law," she said. "There has been 159 management studies by the governor and none of this being brought to

Proprietary to the United Press International, January 29, 1986

light.''

LEVEL 1 - 224 OF 299 STORIES

Proprietary to the United Press International 1986

January 28, 1986, Tuesday, BC cycle

SECTION: Regional News

DISTRIBUTION: Oregon

LENGTH: 473 words

HEADLINE: Audit raps state Health Division

BYLINE: By TOM TOWSLEE

DATELINE: SALEM, Ore.

KEYWORD: Audit

BODY:

Secretary of State Barbara Roberts released an audit Tuesday accusing the state Health Division of failing to fully comply with laws governing inspections of restaurants, swimming pools and nursing homes.

Roberts said state auditors found the division was not complying with 29 of 40 selected state laws and opinions by the attorney general that were scrutinized by auditors.

Health Division Administrator Kristine Gebbie said the audit was completed nearly a year ago and that most of the deficiencies have been corrected or are in the process of being corrected.

Roberts said the audit found that as of last February more than 50 of the state's 200 nursing homes had not been inspected within the calendar year as required by law and that one facility had not been inspected since 1983.

She said 40 percent of the state's restaurants had not been inspected in compliance with a mandated scheduled and that auditors found three restaurants that had not been inspected since 1981.

Some swimming pools and public spas, which are required to be inspected every six months to a year, had not been inspected for up to four years, she said.

She also said the division has fallen short in monitoring inspection programs that have been turned over to 19 counties Roberts said Health Division officials blamed lack of money for 13 of the 29 violations. Of the remaining 16, auditors said the division was either unaware of its responsibilities or had not completing rules to implement the laws.

"Health laws are on the books for a reason and noncompliance by any state agency is not acceptable," Roberts said. "There are clearly a number of areas in that division where there has been long-term noncompliance with the law."

"Most of the things in there we have corrected," said Gebbie, adding that she gave state auditors a detailed written description of her response to the audit which Roberts did not release.

Health
Audit
+
Roberts

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Proprietary to the United Press International, January 28, 1986

"It is appropriate for any agency to critique what it is supposed to do," Gebbie said. "I think the tone and style of the release of this audit is less than helpful because it didn't include our reaction to the points that were raised."

"We're under funded to provide sanitation inspections for counties that won't hire their own inspectors to do restaurants and swimming pools," said. "It has been the legislature's contention that counties should take over more of the inspection work."

Gebbie and Roberts disagreed over what kind of audit was done of the agency.

Gebbie called it a "performance audit," which would have made it the first ever conducted in Oregon. "I could have done without the honor," she said.

Roberts called it a "compliance audit" similar to what has been done in the past in conjunction with fiscal audits and that it was just presented in a different way than past audits.

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Proprietary to the United Press International 1986

January 14, 1986, Tuesday, AM cycle

SECTION: Regional News

DISTRIBUTION: Oregon

LENGTH: 459 words

DATELINE: SALEM, Ore.

KEYWORD: Ethics

BODY:

The Oregon Government Ethics Commission voted Tuesday to drop further proceedings against former state Medical Examiner Dr. William Brady, who was fired Oct. 3 for running a private autopsy business while a state employee.

The commission took the action because Brady has repaid the state more than \$17,000 that was placed in an office 'slush fund' to purchase office furniture, equipment and pay for staff parties.

In other action, the commission:

-- Agreed to pursue allegations against Clatsop County Sheriff Almond Eastman if efforts fail to negotiate a settlement of a complaint alleging he used his office for private financial gain.

-- Delayed until February action on allegations that former state Sen. DeII Isham, D-Lincoln City, received payment for lobbying prior to leaving office in January 1985.

Brady was fired by Health Division Administrator Kristine Gebbie following a three-month investigation which found that he was running a private autopsy business on state time, charged the state for laboratory fees for the autopsies and diverted autopsy fees into a private checking account.

An audit of the account by the Secretary of State's Office determined that Brady owed the state \$18,669 and he agreed to repay \$17,083. The difference was eventually determined to have been a legitimate office expense involving a medical examiner's conference in Eugene.

Eastman was charged in a complaint to the commission of using his office for public gain by providing security for a condominium construction project in Astoria with off-duty sheriff's deputies.

The commission found in September there was probably cause that Eastman violated state ethics laws by scheduling and paying himself for the security work that was obtained through sheriff's office and involved the use of county materials, facilities and supplies.

The commission said Tuesday it would conduct a contested case hearing if efforts between the state and Eastman's attorney to negotiate a settlement fail.

Proprietary to the United Press International, January 14, 1986

Eastman was a lieutenant with the sheriff's office when the alleged violation took place.

The commission held over a decision regarding allegations against Isham until Isham could appear before the commission with his attorney.

In November, the commission dismissed allegations that Isham, who is now a private lobbyist, used his public office to help owners of time-share condominiums draft and introduce legislation in 1985.

The commission delayed action on whether Isham violating ethics laws by accepting payment for future lobbying work prior to leaving office.

Isham, who was defeated for re-election in November 1984, received a retainer check for \$1,000 from condominium interests on Jan. 9, 1985. He official left office five days later.

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Proprietary to the United Press International 1985

November 26, 1985, Tuesday, BC cycle

SECTION: Regional News

DISTRIBUTION: Oregon

LENGTH: 624 words

DATELINE: SALEM, Ore.

KEYWORD: Brady

BODY:

Fired state Medical Examiner Dr. William Brady has repaid the state \$17,083.48 as reimbursement for money he received for running a private autopsy business while a state employee.

Art Keil, assistant to Health Division Administrator Kristine Gebbie, said the money arrived in the mail Monday in the form of a check drawn on Brady's personal bank account.

'I'm substantially satisfied,' said Gebbie. 'The man has done what we've asked and we can close the matter out now.'

She said money will be deposited in the state General Fund.

The state is also seeking repayment of \$7,048 from Brady's chief deputy, Dr. Larry Lewman, and \$5,252 from his former chief deputy, Dr. Ronald O'Halloran, both of whom participated in the private autopsy business.

Marla Rae, spokeswoman for the state Department of Justice, said officials of the state Health Division will meet Wednesday with Lewman, who is negotiating the amount he owes.

She said a letter demanding payment has been sent to O'Halloran, who left the medical examiner's office in June and is now deputy medical examiner in Ventura County, Calif.

'I have no further desire to fight with the state of Oregon,' Brady told the Oregon Government Ethics Commission Tuesday. 'I paid all that money back to the state.'

Brady appeared before the ethics commission with his attorney to answer allegations that he used his office for private personal gain, a violation of state government ethics laws.

The commission found there is 'probable cause' that Brady violated state ethics laws, a preliminary action needed to keep active the investigation of Brady.

Brady was fired Oct. 3 by Gebbie for performing private autopsies on state time and at state expense and for putting the proceeds in a private bank account to purchase office equipment, furniture, decorations and pay for parties.

Proprietary to the United Press International, November 26, 1985

He was also accused of receiving money for the sale of body tissues and fluids from cadavers to private medical researchers.

A secretary of state audit of the account urged that Brady be forced to repay the state a total of \$19,500, including \$14,500 for improperly using public funds, \$4,600 for improper compensation for his duties and \$400 for laboratory fees improperly paid by the state.

The amount was later revised downward to \$18,669.42.

Still in question is about \$1,600 Brady received and deposited in the account for fees received from participants in a medical examiners conference at the Valley River Inn in Eugene in January 1980.

"He paid the money because he wants to get this behind him," Brady's attorney, Ronald Hoevet of Portland, told the ethics commission. "He has had a traumatic few months and is not interested in fighting with the state over how much he owes or how much he doesn't owe."

Brady admitted that keeping the account was "a dumb thing to do," but denied that he benefited personally.

"I have conducted myself scrupulously and honestly," he said. "It was a dumb thing to do and it cost me my job and it may cost me my career."

"There is not one shred of evidence that one penny of the money in that account went to Dr. Brady for his personal use," Hoevet told the ethics commission. "Every penny was used for office purposes."

He said the policy-setting state Medical Examiner's Advisory Board had no policy regarding conducting private autopsies and that Gebbie was aware the autopsies were being done.

He said \$3,900 of the money was paid to Brady for autopsies performed by the Federal Aviation Administration. Brady said he performed the autopsies after being retained as private pathologist by the federal government.

"He was not state medical examiner 24 hours a day and can agree to do private autopsy work," Hoevet said.

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Proprietary to the United Press International 1985

October 4, 1985, Friday, BC cycle

SECTION: Regional News

DISTRIBUTION: Arizona-Nevada, Washington, California

LENGTH: 427 words

HEADLINE: Brady vows to fight for 'only job I ever want'

BYLINE: By BARNEY LERTEN

DATELINE: PORTLAND, Ore.

KEYWORD: Brady

BODY:

Calling it "the only job I ever want," Oregon state Medical Examiner Dr. William Brady vowed to fight to regain the post he held for 16 years.

"I would hope that when I apply, I receive your positive consideration -- and you will have my application, I assure you," Brady told the State Medical Examiner Advisory Board Friday.

"This is the only job I've ever had in my life. This is the only job I ever want," he said, drawing a round of applause from supporters."

State Health Division Administrator Kristine Gebbie fired Brady Thursday for a list of alleged violations, including conducting private autopsies on state time and selling human tissues for scientific research with the money going into an office fund.

Dr. Richard Moore of Portland, chairman of the board, explained that the board acts in an advisory capacity and does not hire a medical examiner, only making recommendations to Gebbie. Moore also said the meeting was not a hearing on the case, but Brady nonetheless took advantage of the forum to state his position.

Brady passed out biopsy specimens and other materials during his talk, during which he asserted that he used personal funds to furnish his office for everything from furniture to ceiling light fixtures.

"In 20 years of government service, I have never even asked for them to supply me a desk," Brady said.

Brady insisted that his policy has been to use the morgue for private autopsies only during after-hour work in the evening and said that most of the autopsies were done off the premises. He emphatically denied telling his secretary that outside work should be done during office hours.

"The strict, hard and fast rule was to use the office typewriter (for outside work) after hours and on the weekends," Brady said. "I deny categorically that I ever allowed, suggested or told my secretary that it

Proprietary to the United Press International, October 4, 1985

should be done during work hours.''

Brady said he never made a penny on a book he wrote on forensic pathology, with all proceeds going to the state. He said he had no problem with that because, ''The state has been very good to me.''

He also said he helped the state attorney general's office on numerous civil cases, at no cost.

State Police Superintendent John Williams, a member of the board, defended Brady, saying that ''his professionalism leaves nothing in doubt as to the service he has provided for the state of Oregon.''

Gebbie spoke to the board briefly before Brady, saying the issues as she saw them involved the trust, confidence and integrity of the state medical examiner system.

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Proprietary to the United Press International 1985

October 3, 1985, Thursday, BC cycle

SECTION: Regional News

DISTRIBUTION: Oregon

LENGTH: 878 words

BYLINE: By BARNEY LERTEN

DATELINE: PORTLAND, Ore.

KEYWORD: Brady

BODY:

State Medical Examiner Dr. William Brady was officially fired Thursday by Health Division Administrator Kristine Gebbie for maintaining an improper office slush fund.

Brady has indicated he feels the state Medical Examiner Advisory Board supports him and will recommend at a meeting Friday afternoon that he be rehired for his old job.

"Trust and confidence have been violated by Dr. William Brady through his systematic 16-year diversion of public funds," Gebbie said.

The Health Division chief said last week she would fire Brady and his chief deputy, Dr. Larry Lewman, effective Wednesday unless either man could present convincing evidence for her to reverse her decision.

Brady and his counsel appealed to Gebbie Wednesday for a time extension to allow for a full hearing on the case, but Gebbie said Thursday, "He presented no compelling evidence for me to retain him."

However, she said she had changed her mind about Lewman and will allow him to keep his job -- with a cut in pay.

"Lewman performed private autopsies for personal gain but did so without questioning the apparent standards of practice set by his supervisor," Gebbie said. "He was not involved in the slush fund issue."

Lewman's salary was reduced by \$950 a month, from \$5,348 to \$4,398, a loss of \$11,400 a year. Gebbie said Lewman will continue to provide private forensic pathology services and technical assistance to the statewide medical examiner program.

In announcing Brady's firing, Gebbie cited four areas of violations discovered during a three-month investigation by the state attorney general's office:

-- Brady established a private autopsy business that he conducted from the medical examiner's office. He performed and instructed his staff to perform autopsies and to do the clerical work during regular office hours.

*Brady
firing*

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Proprietary to the United Press International, October 3, 1985

Payments for the work went into his personal and private bank accounts. The money was not used for any office function or supplies, Gebbie said.

-- Brady performed private autopsies for federal agencies that were billed to the federal government, the proceeds going into Brady's bank account. Gebbie said the autopsies should have been done in the normal process of state business and at state expense.

-- Brady diverted over \$16,000 in money paid to the state and placed these funds in a private bank account from which he authorized payment for lunches, staff parties, coffee and other items not authorized by state government.

-- Brady used state-contracted laboratory services for his personal autopsy business and charged the state for the services.

'The division will, of course, seek restitution of funds rightfully belonging to the state,' Gebbie said.

She said Lewman is acting as state medical examiner while the process begins for choosing Brady's replacement.

'The medical examiner's advisory board has the job of reviewing and recommending a candidate to me,' she said. Asked whether Lewman might take the job, she noted that 'he has expressed distaste for some management functions and has said he would rather perform autopsies.'

Gebbie said she heard last week from several county medical examiners 'personally loyal to Dr. Brady who said they would have difficulty continuing if he was fired. I have not heard from any this morning.'

Umatilla County Medical Examiner Dr. Joseph Diehl, who has a private practice in Pendleton, said Thursday he will resign his post next week if 'before that, someone in state government doesn't come to their senses.'

Diehl said Gebbie had called him Thursday and that he told her he believed her action was very unfair. He has said he talked to 33 of the state's 36 medical examiners and that 'well over half' said they might resign because of the firing.

The administrator said replacements for any county medical examiners who resign would 'go through the Health Division and Dr. Lewman, although we might seek the board's counsel.'

Brady and his attorney have said they will consider legal appeals to fight for his job. He insisted at a news conference he 'did nothing wrong' and said the charges resulted from employees upset by budget cuts and layoffs who took documents from his private files.

'I think we have been very careful and very fair to Dr. Brady in following appropriate procedures,' Gebbie said. 'I think that if Dr. Brady thinks things were stolen, he should pursue that with the police.'

Gebbie acknowledged that the report from the attorney general 'contains comments clearly from disgruntled employees,' but added, 'I did not make my decision on a lot of those side issues.'

Proprietary to the United Press International, October 3, 1985

Brady had said he would appeal his firing to Gov. Vic Atiyeh, but the governor said Wednesday he won't intervene and will not meet with Brady. "I don't think I should insert myself at this time," Atiyeh said.

"There is a need for a good deal of policy clarification for (Brady's) successor," Gebbie said, adding that the division already has moved to strengthen oversight of the medical examiner's office.

"That office previously was very autonomous," she said. "It is now part of a larger program in the division called Health Status Monitoring." Gebbie said Herb Hirst, chief of that office, will supervise the medical examiner's operation.

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Proprietary to the United Press International 1985

October 2, 1985, Wednesday, AM cycle

SECTION: Regional News

DISTRIBUTION: Oregon

LENGTH: 458 words

DATELINE: SALEM, Ore.

KEYWORD: Brady

BODY:

State Medical Examiner Dr. William Brady met Wednesday with the state administrator who fired him for maintaining an office slush fund with money from private autopsies and sale of body tissues to medical researchers.

Brady met with State Health Division Administrator Kristine Gebbie for one hour in a final effort to end his week-long battle to save the job he has held for 16 years.

Gebbie, who announced Sept. 25 that she intended to fire Brady as of Wednesday, is expected to announce her final decision Thursday.

Brady said during a news conference Tuesday that he did nothing wrong and that he would not attend the meeting with Gebbie. His attorney, Ronald Hoevet, said Gebbie has already made up her mind to fire Brady and the meeting would be 'a charade and a sham.'

Health Division spokesman Art Keil said he did not know why Brady changed his mind and decided to attend the session.

Brady had indicated that rather than meet with Gebbie he would attempt to save his job with a direct appeal of Gov. Vic Atiyeh.

Atiyeh said, however, that such a meeting was 'not appropriate' and indicated he would stand behind whatever decision Gebbie made.

He said that if Gebbie follows through and official fires Brady then he would consider the matter closed.

'I cannot see that he is entitled to any different treatment than any other state employee,' Atiyeh said.

'Some action must take place and I'm going to leave that to the administrator and if that includes firing him then I'll go along with that,' he said.

'He's a victim of his own actions,' Atiyeh said. 'What he did was not right and it was certainly not right according to the regulations of state government.'

Proprietary to the United Press International, October 2, 1985

Brady and his chief deputy, Dr. Larry Lewman, were fired Sept. 25 following release of results of a three-month investigation by the state attorney general's office.

Gebbie met with Lewman following her meeting with Brady.

The investigation, which was conducted by a private lawyer retained by the Department of Justice, said there was insufficient evidence to file criminal charges against Brady.

The report stated, however, that "the evidence did indicate a misuse of public funds and facilities and violation of conflict-of-interest policies" of the state.

Brady maintained the slush fund for more than 13 years, using it to buy office furniture, equipment, coffee and meals for the medical examiner's office staff.

During those 13 years more an estimated \$16,844 was deposited in the fund.

Brady has received support from county medical examiners, some of whom indicated they would resign in protest if Brady is fired.

Atiyeh said he considers the threat of mass resignations an "emotional response" and doubts that anyone will quit.

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The Associated Press

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September 27, 1985, Friday, AM cycle

SECTION: Domestic News

LENGTH: 387 words

DATELINE: PORTLAND, Ore.

KEYWORD:

Skin Selling

BODY:

The Oregon medical examiner, who sold skin samples and pituitary glands to finance office parties, said Friday he believes he should keep his job because of his 20-year record of service to the state.

Dr. William J. Brady's comments in an interview on KXL radio were the first public statement since Wednesday, when state Health Division Administrator Kristine Gebbie said she would fire him unless he persuaded her otherwise.

Ms. Gebbie said she expected to replace Brady because he used money from skin sample and pituitary sales to finance office parties and the purchase of office furniture and other supplies. She also cited Brady's performance of autopsies for fees.

Brady, 53, on Friday emphasized that none of the money went into his own pocket.

"I did a lot of extra work outside of hours to give that material to the medical school to help people," he said. "That money could easily have been put in my own pocket and declared as income tax and nobody would have complained.

"However, what I did was donate it ... to the office to make the office a better place to live. Not a penny of that money was ever used for my own purposes or my own equipment. It totally went to my staff," he said.

Brady said he did not know whether he would be able to meet with Ms. Gebbie Wednesday. She has said she wants to meet him that day to allow him to state his case.

The medical examiner also is counting on help from the State Medical Examiner's Advisory Board, which by law advises the governor on the operation of the medical examiner's office and the hiring of the examiner.

The board has scheduled a meeting for next Thursday at Ms. Gebbie's direction, said Diane Stepan, management assistant in the medical examiner's office.

The Associated Press, September 27, 1985

Brady's lawyer, Ron Hoevet, has complained that Ms. Gebbie should have consulted the board before deciding his client should be fired.

Ms. Gebbie also has said she intends to fire Deputy State Medical Examiner Larry Lewman because he performed private autopsies for fees.

Lewman said he will meet with Ms. Gebbie but does not plan to fight for his job. He said he expects to continue working as a pathologist for the state on a contract basis.

Ms. Gebbie has said it will take some very strong reasoning by Brady and Lewman to make her change her mind about dismissing them.

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The Associated Press

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February 23, 1985, Saturday, PM cycle

SECTION: Domestic News

LENGTH: 494 words

HEADLINE: Common Preservative May Have Caused Girl's Death

DATELINE: SALEM, Ore.

KEYWORD:
Preservative Death

BODY:

The death of a 10-year-old girl after eating restaurant food that contained "astounding" levels of a common preservative prompted the state health department to issue emergency regulations on their use.

Medaya Hesper McPike's death was apparently the first suspected from a sulfite reaction in Oregon, said deputy state epidemiologist Dr. Laurence Foster. Medaya's cause of death was listed as brain damage caused by oxygen deprivation following anaphylactic shock, an allergic reaction.

A sulfite reaction was the "most likely explanation," he added.

Dr. Ronald Simon, a researcher at the Scripps Clinic and Research Foundation in La Jolla, Calif., said the Oregon death is the seventh such fatality in the nation that he's aware of.

There has been evidence in the last several years that sulfites can trigger severe asthma attacks in some sufferers of the respiratory ailment, Simon said.

Medaya had asthma.

A sulfite reaction "seems the most likely explanation of what happened," he said.

The state Health Division on Friday issued regulations requiring Oregon's estimated 6,000 restaurants to stop using sulfites or post notices at entrances and on menus warning of their use, said agency administrator Kristine Gebbie.

Ms. Gebbie said she would ask the state Agriculture Department to issue a similar rule for food processors.

Sulfites are used widely to prevent spoiling and discoloration of fresh fruits and vegetables.

Medaya died Wednesday at Salem Hospital Memorial Unit, five days after eating at Enciso Mexican Restaurant, officials said. She was stricken within a

The Associated Press, February 23, 1985

half-hour of the meal.

Tests by the agriculture department showed that lettuce at the restaurant contained 740 parts per million of a sulfite agent, while the guacamole had 9,050 ppm, department spokesman Dalton Hobbs said.

"As far as we know," the samples came from the same batches from which Medaya ate, said Joe Fowler of the Marion County Health Department.

Simon called the preservative levels "astounding."

Under U.S. Food and Drug Administration rules, guacamole shipped interstate can contain no more than 1,000 ppm of sulfite agents, said Ellen Miller, a consumer affairs officer with the agency in Seattle. The FDA is not empowered to regulate the addition of preservatives at restaurants.

Oregon health officials have begun testing guacamole from other restaurants for sulfite, Foster said.

Foster and other officials said that practices at Enciso are no different from those at any other restaurant that uses the preservative.

"This is a very widespread practice around the state and it is just bad luck that this happened at their restaurant," Foster said.

Foster's sentiments were echoed by restaurant manager Francisco Enciso, who said, "We are saddened and agree it was a terrible thing that this accident had to occur. But it's unfair to pinpoint one establishment as the cause when the major part of the restaurant industry uses this product."

GRAPHIC: Laserphoto SM2

LEVEL 1 - 268 OF 299 STORIES

Proprietary to the United Press International 1984

December 3, 1984, Monday, BC cycle

SECTION: Regional News

DISTRIBUTION: Oregon

LENGTH: 282 words

HEADLINE: Tougher funeral home regulations examined

DATELINE: PORTLAND, Ore.

KEYWORD: Morticians

BODY:

Funeral industry and state health officials decided Monday to examine ways to better regulate cremations and burials and avoid incidents like a recent discovery of 16 bodies in a mortuary garage.

One proposal was to establish "closer checks between the time the death certificate is initiated and when the burial permit is filed," said Art Keil, executive assistant to Oregon Health Division Administrator Kristine Gebbie.

Although the division maintains vital statistics on death, there may be a need for a "better cross check or paper trail with death certificates and information from county registrars and cemeteries," he said.

A second proposal involves licensing cemeteries and crematoriums, Keil said.

"There's just no statewide control whatsoever" of the facilities, he said.

Possible statutory changes include higher fees for the state Mortuary Board, which "inspects funeral homes but has a limited budget because it assesses its own fees," and more authority for board inspectors to gain access to funeral homes, he said.

"The bottom line really is, would these prevent an unscrupulous person from doing wrong?" Keil said. "There's some question there. The feeling at the meeting was there probably needs to be some tightening up."

The group will meet again Dec. 21 to discuss the proposals, and an agreement might be reached then on which approach to take, he said.

The meeting was called to discuss if there is a need for legislation to meet future problems like the Oct. 18 discovery of 16 bodies in the garage of Omsberg's Pacific Mortuary in Lincoln City. Owner Dale Omsberg has been charged with 29 counts of theft, attempted theft and corpse abuse.

LEVEL 1 - 282 OF 299 STORIES

The Associated Press

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January 24, 1983, Monday, PM cycle

SECTION: Domestic News

LENGTH: 92 words

DATELINE: SALEM, Ore.

KEYWORD:
National Briefs

BODY:

To preserve teen-agers' confidentiality, Oregon's Health Division said it will forgo federal funds and use state money to provide birth control services to girls under 18.

The U.S. Department of Health and Human Services recently announced regulations requiring parents to be notified if minor children receive certain federally financed family planning services.

Separating state from federal money will be "an accountant's nightmare," Health Division Administrator Kristine Gebbie said Saturday, but she said confidentiality is more important.

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Jan 24

LEVEL 1 - 286 OF 299 STORIES

Proprietary to the United Press International 1982

October 9, 1982, Saturday, BC cycle

SECTION: Regional News

DISTRIBUTION: Oregon

LENGTH: 276 words

DATELINE: PORTLAND, Ore.

KEYWORD: Loggerdeath

BODY:

State Health Division investigators say an Independence nursing home did not notify state officials about a patient's deteriorating condition before the 81-year-old man died.

"It's our opinion that the facility did not take all the required steps to notify the appropriate nursing and medical personnel in a timely manner about the patient's changing condition," said Donna Clark, executive assistant to Kristine Gebbie, health division administrator.

Late last week, the health division released its findings in the case of Edmund Lundberg, a retired logger who died at the Cedarwood Care Center Sept. 26, shortly before the state planned to move him to a less expensive facility.

The director of nursing or registered nurse designee at the facility was not notified of Lundberg's deteriorating condition and the attending physician, Dr. John Kulus, was not notified until two hours before the man died, Ms. Clark said.

Betty Martin, a care center administrator, said the problems cited by the state were "technicalities" and "paper problems," which did not affect the death of Lundberg.

She said there was no medical error, but "a lack of documentation" because the woman on duty was a trained registered nurse who did not receive her license until two days after the death.

However, Ms. Martin said the investigation was "very fair."

She added, "These were violations of regulations which, due to policy changes, won't happen again."

Ms. Martin earlier said the man was depressed because the state ignored Lundberg's requests not to be relocated.

She said the depression have have added to Lundberg's deteriorating condition.

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Proprietary to the United Press International 1980

December 31, 1980, Wednesday, BC cycle

SECTION: Regional News

DISTRIBUTION: Oregon

LENGTH: 236 words

DATELINE: PORTLAND, Ore.

KEYWORD: Nursing

BODY:

State Health Administrator Kristine Gebbie said Tuesday that one of the highest fines ever levied against a nursing home and a recommended decertification will be contested in an administrative hearing.

She said no date has been set for a hearings officer to consider testimony in complaints against Royal Care Center of Portland, which was fined \$4,450 by the State Health Division. She said she will then rule on the case, which can be appealed by the home to the Oregon Court of Appeals.

The division has recommended to the federal Health and Human Services Department that the home be decertified from receiving Medicaid and Medicare money.

The home was cited for five infractions in the fine notice. They included failure to grant access to the division to inspect patient medical records, failure to provide two patients with necessary treatment, failure to notify a doctor that a patient needed medical attention, failure to notify the director of nursing of a patient's significant condition change or to document a plan of treatment action, and failure to carry out doctors' orders.

Charles Miller, chief of the state division's Office of Health Facilities Services, said the home was certified to receive federal reimbursement for 110 Medicaid patients and 55 Medicare patients.

The Board of Examiners of Nursing Home Administrators was expected to discuss the Roy Care care at its January meeting.

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June 19, 1979, Tuesday, Final Edition

SECTION: First Section; A6

LENGTH: 370 words

HEADLINE: Oregon Legalizes Marijuana as Medicine

BYLINE: By Phil Cogswell, Special to The Washington Post

DATELINE: SALEM, Ore., June 18, 1979

BODY:

What is said to be the first state law legalizing nonexperimental use of marijuana by a specific category of user was signed into law today by Oregon Gov. Vic Atiyeh.

The law allows possession of up to one ounce of marijuana by persons being treated for glaucoma or receiving chemotherapy treatment for cancer.

Supporters of the law, which passed the legislature unanimously, said marijuana is one of the most effective drugs for reducing ocular pressure from glaucoma and for relieving nausea often experienced by persons undergoing chemotherapy.

Implementation of the law, however, could be delayed by federal rules, the head of the Oregon Health Division said today.

The new Oregon law has been hailed by the National Organization for the Reform of Marijuana Laws as a breakthrough in efforts to reclassify the substance. Other states have set up experimental programs using marijuana for medical purposes under federal regulations, but none has legalized the use of marijuana for medical purposes outside the federal regulations.

A representative of the federal Drug Enforcement Administration told the legislature the law would violate various federal statutes but federal officials have not indicated what action they might take to prevent its implementation.

The new state law provides for police to turn confiscated marijuana over to the Oregon Health Division, which is to test it for purity before giving pure marijuana to physicians, who then may dispense it to patients.

Kristine Gebbie, health division administrator, said physicians have said that their dispensing of marijuana could pose a "significant problem" with federal laws regulating controlled substances.

Under federal law, she said, a physician dispensing marijuana can lose the right to prescribe other drugs covered by the Controlled Substances Act. She said the division will work with the Oregon Medical Association to try to work out a distribution system.

Gebbie said the division also is "very concerned" about how to determine the purity of marijuana. There is no single test for purity, which means it is

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necessary to run several tests for various possible impurities, she said.

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Health Line

April 23, 1993

SECTION: POLITICS & POLICY

LENGTH: 720 words

HEADLINE: NAMES AND FACES: SENATORS, SHALALA AND MORE KOOP

BODY:

BREAUX: New Orleans TIMES-PICAYUNE: "Sen. John Breaux (D-LA) sent a letter to Hillary Rodham Clinton (4/21) containing recommendations on health care reform culled from a series of forums held in Louisiana last week" (see AHL, 4/16). Breaux "said he was struck by the urgency constituents place on the issue." Letter text: "If there is one thing that just about everyone who participated in these six meetings agreed upon, it was that the time has come to act on health care reform." Constituent concerns outlined in the letter include: "Limiting the role of the federal government; ... insurance reform that eliminates discrimination against people with pre-existing medical conditions and those who change jobs; ... emphasis on preventive health care and public health education; ... accessible long-term care; ... and continued, low-cost, accessible health care for the poor such as that provided by the charity hospitals in Louisiana" (4/22).

SHELBY: Syndicated columnists Rowland Evans and Robert Novak write WH "strategists are counting" on Sen. Banking Chair Don Riegle (D-MI) to keep a "key element" of Clinton's expected health reform bill -- price controls -- "out of the clutches" of subcmte. chair Richard Shelby (D-AL) (see AHL, 4/15). A price-control provision "presumably" would go to Shelby's subcmte. on economic stabilization, but Clinton advisers hope Riegle, who "is no buddy" of Shelby's, will deny him jurisdiction. Clinton strategists "have condemned Shelby to oblivion as an object lesson of what happens to Democrats who oppose the president's program" (BIRMINGHAM NEWS, 4/18).

KOOP: Speaking before the OH Hospital Assn., fmr. Surgeon General C. Everett Koop said, "There is something terribly wrong with our nonsystem of health care." Koop "stressed the importance" of prevention and offered suggestions for reform including elimination of wasteful procedures, reforming med school programs to offer financial incentives for students to become general practitioners, and banning cigarette smoking in all public areas. COLUMBUS DISPATCH reports Koop "acknowledged that the wheels of change turn slowly" and it might take at least a decade to see changes in the health system. Koop also discussed suggestions he had made to Pres. Bush to form a health commission whose meetings would be broadcast on C-SPAN. Koop: "I truly believe if George Bush had listened to me about health care reform, he would still be president" (Holly Goodman, 4/22).

AIDS CZAR: WASH. POST reports HHS Sec. Donna Shalala told the audience at the Nat'l Minority AIDS Council Congressional

Health Line, April 23, 1993

Dinner 4/22 that the position of AIDS policy coordinator will be based in the WH, "will be an 'integral part of the senior staff' and will be 'a named member of the Domestic Policy Council.'"

"Leading" candidates for the position include fmr. WA state health official Kristine M. Gebbie and San Francisco business exec. Lee Smith (Al Kamen, 4/23). USA TODAY notes Shalala told the crowd the Clinton admin. is "not taking a 'business-as-usual' approach to AIDS" (4/23).

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The Washington Post

April 23, 1993, Friday, Final Edition

SECTION: FIRST SECTION; PAGE A21; THE FEDERAL PAGE; THE NEW REGIME

LENGTH: 888 words

HEADLINE: So Much for the New Guard . . .

SERIES: Occasional

BYLINE: Al Kamen

BODY:

Record numbers of Democratic staff members on the Hill, out in the policy making wilderness for the last dozen years, have been falling all over themselves for jobs in the Clinton administration.

A survey in the newsletter CongressDaily/AM today finds that 118 Democratic aides have arrived or are en route to the other end of Pennsylvania Avenue, and more are certain to leave in coming months for administration jobs. Dozens more have signed up with lobbying and consulting firms.

Some movement is common after an election cycle, the newsletter notes, "but rarely has this exodus been as pronounced as this year."

Of those in the administration, 37 have landed jobs in the White House, and 38 have followed three Cabinet members who came from the Hill. Defense Secretary Les Aspin has 15 people (11 from the House Armed Services Committee he chaired); Treasury Secretary Lloyd Bentsen has 13 (including 11 from the Senate Finance Committee he led); and Agriculture Secretary Mike Espy has 10 (including six former aides either on his staff or from the House Agriculture Committee.)

In addition, six of Vice President Gore's key Senate people have moved to the White House and many former Gore people have been sprinkled throughout the Clinton administration in key positions.

As would be expected, few Republicans have left the Hill since the election. Apparently, even those jobs beat panhandling.

Looking Like Whose America?

The men and women in President Clinton's foreign policy operation may be diverse in some ways, but they are a group that's been heavily filtered through some of the most elite finishing schools for the international crowd.

It turns out about one-third of the 40 or so top officials at the State Department and the National Security Council have degrees from such institutions as the Fletcher School of Law and Diplomacy at Tufts University, Columbia University's School of International and Public Affairs, Georgetown's School of Foreign Service and others that belong to the Association of Professional Schools of International Affairs. Several more have taught at the 14 schools in the association, by the association's count.

The Washington Post, April 23, 1993

Senior Role Is Seen for AIDS Adviser

Clinton's AIDS policy coordinator "will work inside the White House," will be an "integral part of the senior staff" and will be "a named member of the Domestic Policy Council," Secretary of Health and Human Services Donna E. Shalala said in remarks prepared for the National Minority AIDS Council Congressional Dinner last night. "The president insists on having the right person. We'll make our choice soon -- count on that," she said.

The Domestic Policy Council consists of the president, vice president, some Cabinet secretaries and others named to consider domestic (as distinct from foreign policy) issues. Top-level White House staff members also are included.

Leading candidates for the job include San Francisco business executive Lee Smith and former Washington state health official Kristine M. Gebbie.

Jobs, Jobs, Jobs

Associate White House counsel and Duke Law School professor Walter Dellinger, slated to head the office of legal counsel at Justice Department, is also under consideration for a seat on the 4th U.S. Circuit Court of Appeals that would put him closer to his home in North Carolina.

Jill A. Schuker, now senior vice president with the public relations giant, Hill and Knowlton, is in line to be assistant to Commerce Secretary Ronald H. Brown and director of the press and public affairs office. Schuker, a longtime Democratic operative, was an aide to State spokesman Hodding Carter, then a spokeswoman at the U.N. mission for Ambassador Donald F. McHenry and later press secretary to New York Gov. Hugh Carey.

Over at Health and Human Services, word is that Victor Zonana, business reporter in the Los Angeles Times bureau in New York City, is in line to be deputy to assistant press secretary Avis LaVelle.

Settled in on the White House domestic policy staff: Jose Cerda, who worked on the Clinton campaign and before that for Rep. George E. Sangmeister (D-Ill.), has signed up to work on crime and drug policy both for domestic policy adviser Carol Rasco and for the national drug policy director; Donsia Strong, former counsel to Rep. John Bryant (D-Tex.), is working on lobbying reform, civil rights and other legal issues; and, Paul Weinstein, who also worked on the campaign and for Gore and former representative Tom McMillen (D-Md.), will be handling community development and urban issues.

Meanwhile, James P. Allen, a retired Marine Corps officer from McLean, has asked the White House to withdraw his nomination to become assistant secretary of veterans affairs for human resources and administration. A VA official said that Allen withdrew "for personal reasons."

It's Official

Archer Durham, a retired major general in the U.S. Air Force and former commanding general of Andrews Air Force Base, has been named assistant secretary of Energy for Human Resources and Administration. Also, Boston Mayor Raymond L. Flynn (D) was formally nominated yesterday to be U.S. ambassador to the Vatican. Flynn's strong antiabortion views have sparked some opposition from some

The Washington Post, April 23, 1993

abortion rights groups, but there's no sign the nomination is in any trouble.

TYPE: FOREIGN NEWS

SUBJECT: APPOINTED GOVERNMENT OFFICIALS; APPOINTMENTS; CONGRESSIONAL STAFF

NAMED-PERSONS: JILL A. SCHUKER; WALTER DELLINGER; ARCHER DURHAM; RAYMOND L. FLYNN; VICTOR ZONANA

LEVEL 1 - 3 OF 111 STORIES

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Health Line

March 16, 1993

SECTION: THE PLAYING FIELD

LENGTH: 587 words

HEADLINE: NAMES AND FACES: FILLING IN SOME HHS GAPS

BODY:

Pres. Clinton announced nominations for two senior-level HHS positions 3/12 (HHS release, 3/12). Dr. Philip Lee, "a leading figure in the (San Francisco) Bay Area medical world," has been nominated for the position of asst. sec. for health. Pending Senate confirmation, Lee will be in charge of the FDA, NIH, CDC and other public health agencies. According to the S.F. EXAMINER, Lee "has been increasingly critical of what he sees as excessive prices and costs resulting from medical specialists and high-tech equipment" (Carl Irving, 3/16). Also, Keith Apfel, Sen. Bill Bradley's (D-NJ) leg. dir., has been nominated to the position of asst. sec for management and budget (WH release, 3/12). Apfel will oversee HHS' \$600B budget (WASH. POST, 3/13).

AIDS CZAR: POST reports the position is "still wide open ... largely because it is not clear what" Pres. Clinton "wants to do with it." "Apparently," the AIDS dir. will be part of WH adviser Carol Rasco's domestic policy staff, but HHS Sec. Shalala "is likely to exercise some control." Potential nominees:

Kristine M. Gebbie, ex-dir. of WA state health dept.; Kaiser Family Fdn.'s Mark D. Smith; Levis Strauss' Lee Smith; and NYC Health Commis. Margaret Hamburg (see AHL, 3/2).

FDA: Burson Marsteller's Jim O'Hara will be moving to the FDA, "where he will be in charge of news media spin control" for Kessler (Al Kamen, WASH. POST, 3/15).

ZELMAN: L.A. DAILY NEWS profiles WH health task force member Walter Zelman, who when first approached by CA Insurance Commis. John Garamendi to help revamp the state's health care system, said he didn't "know health care." DAILY NEWS: "Less than two years later, Zelman not only knows health care, he's shaping it." DAILY NEWS notes Zelman's work in developing the Garamendi plan, and its combination of managed comp. with gov't price controls. NEWS: "Zelman has always prided the Garamendi plan on its seeming contradictions and resistance to being neatly labeled" (Edmund Sanders, 3/14).

ALTERNATIVE MEDICINE: N.Y. TIMES profiles Dr. Joseph J. Jacobs, dir. of NIH's new Office of Alternative Medicine. TIMES: "Many who know Dr. Jacobs and have seen him in action believe that if anybody can balance the conflicting pressures of an entrenched and highly skeptical medical establishment on the one hand, and an alternative community sometimes prone to overexuberant and unfounded proclamations on the other, it is this genial, chatty, straight-shooting bear of a man, whose background seems custom-tailored for the job" (Angier, 3/16).

LEVEL 1 - 6 OF 111 STORIES

Copyright 1992 The National Journal, Inc.
The National Journal

November 28, 1992

SECTION: HEALTH; Vol. 24, No. 48; Pg. 2723

LENGTH: 2708 words

HEADLINE: Attacking AIDS

BYLINE: BY JULIE KOSTERLITZ

HIGHLIGHT:

Nearly 12 years after the epidemic began, AIDS activist and public health officials think they finally have a commander in chief who will wage an all-out war against the disease. Are expectations running too high?

BODY:

On election night, 250 AIDS and gay-rights activists gathered at the home of a Los Angeles physician to celebrate Bill Clinton's victory. "People were literally sobbing. They were so happy and relieved," recalled David B. Mixner, a business consultant and gay activist who has known Clinton for 25 years and has been one of his key advisers on AIDS. "I've never been to a more emotional evening in my life."

The emotion was understandable. Clinton will be the first President in the nearly 12-year history of the epidemic to have declared the disease a national priority. He made several major speeches on AIDS and arranged for two speakers infected with the AIDS virus to address the Democratic National Convention. He issued detailed policy proposals and, in his election night speech, mentioned AIDS near the top of a list of problems that he planned to tackle. More than any presidential nominee in history, he openly sought and acknowledged support from the gay community, where AIDS has claimed most of its roughly 150,000 death toll. Mixner has lost 186 friends to AIDS, including his longtime partner.

Clinton's pronouncements have brought a cautious optimism to public health workers and others who fight the disease. Though gun-shy from years of political controversy, they're pleased because Clinton's policy proposals closely track the consensus that has emerged from their ranks. He has promised to implement the recommendations of the blue-ribbon National Commission on AIDS -- among other things, to increase spending on research, prevention and care; to beef up AIDS education; and to fight discrimination against victims.

"The difference is the honesty about the problem," said Kristine M. Gebbie, secretary of the Washington state health department who served on the Presidential Commission on AIDS, a forerunner of the present commission. The moralism of the Religious Right stifled progress during the Reagan and Bush years, Gebbie said. "People have consumed energy trying to cope with the barriers erected, trying to end-run them, rather than turning their energies to preventing the spread of the epidemic."

But even as they cheer Clinton's arrival, AIDS warriors face a new challenge. "It is a very different mind-set to focus on more-positive accomplishments," said Jeffrey A. Levi, policy director of the AIDS Action Council, a Washington

The National Journal, November 28, 1992

umbrella group for AIDS organizations. "I think we're all excited but a little scared. Now we have an Administration willing to pay attention to what we're proposing. With that comes far greater responsibility to get it right."

While an AIDS war conjures up visions of platoons of white-coated researchers, the biggest battles in Clinton's war may be fought outside the laboratory -- in the realms of health care and prevention. There will be plenty of obstacles. Money is tight, and prevention requires confronting sexual behaviors and drug abuse that make mainstream America queasy.

There's also the problem of unrealistic expectations fueled by 12 years of pent-up demand. Clinton promised an "AIDS czar" and a "Manhattan Project" to fight the disease. But no one seems to know what these promises mean. In the gay community -- where the epidemic has taken a heavy emotional toll -- expectations are running high. "I can't tell you how much hope there is," Mixner said. There has even been talk of recruiting Gen. H. Norman Schwarzkopf, the Persian Gulf war hero, to head the effort. Despite cautions from scientists, some activists seem to hope that a new Administration will bring a vaccine or a cure.

It's not even clear what "winning" means. Although no one considers acceptable the current level of new infections -- 40,000-80,000 a year, according to the Centers for Disease Control and Prevention (CDC) -- most experts don't expect AIDS to be eradicated soon, or perhaps ever. "If having a vaccine was the answer, we'd have won the war on syphilis and measles a long time ago," Gebbie said. "A vaccine still depends on people making the right choices about their sex behavior, on their follow-through. We haven't mastered all that yet."

Like the AIDS commission, Clinton has embraced many goals without saying how he would get there. (An example, from a Clinton position paper: "The Food and Drug Administration will also make possible greater access to promising experimental therapies without compromising patient safety.")

"Who could argue with things like 'increasing efficiency'?" said Mark Smith, a vice president of the Kaiser Family Foundation in San Francisco who heads its AIDS policy program. "How to get it done in practice is another story."

The task of drawing a battle plan will probably fall to the AIDS czar. But no one's sure whether the job will come with the power to change programs and redirect funds, or merely to convene and cajole. Should the officeholder be a well known and commanding presence? A technical expert? Or merely adept at navigating the bureaucracy?

Speculation is rife. A source close to the campaign said that Clinton talked to former Surgeon General C. Everett Koop at least twice before Election Day. Other names that surface are David E. Rogers, vice chairman of the National Commission on AIDS and a professor at New York Hospital-Cornell Medical Center in New York City; Margaret A. Hamburg, the New York City health commissioner; Jonathan M. Mann, former head of the World Health Organization's AIDS program and now director of the International AIDS Center at the Harvard School of Public Health; and Smith of the Kaiser Foundation.

Money will be a big problem. Just providing basic health coverage for poor and uninsured AIDS victims could add \$ 1 billion a year to the nation's health

The National Journal, November 28, 1992

care bill. Moreover, waging an all-out war will require the support of Congress, state governments and even local school boards. Winning them over will involve selling the public an idea that push political hot buttons or seem counterintuitive. "There's a trickle-down effect where, the lower down you get [in the level of government], the more hands-off your approach has to be," said Larry Kessler, an AIDS commission member who heads the AIDS Action Committee of Massachusetts, a nonprofit group. (For a look at the pitfalls of fighting AIDS locally, see box, pp. 2724-25.)

Despite a consensus on what's needed to stop the spread of AIDS -- postponing early sexual initiation, avoiding drug abuse and increasing condom use -- motivating people to change their behavior is a problem. It has proven difficult to get nonmonogamous heterosexuals and adolescents to use condoms, and to keep recovering drug addicts from relapsing. "We think we know what needs to be done, but there's no written guarantee that everything will work," Levi said.

Experts say that the lack of research on behavior is a legacy of the past elevation of moralism over science and that more money is needed for such research.

Nevertheless, public health experts and AIDS activists say there are simple but important things that Clinton can do. Using the platform of the presidency to heighten the visibility of AIDS and creating a climate of compassion for its victims are preconditions for mobilizing against the epidemic, they say. "We need to first decide as a society that the people being affected are worth saving," said John L. Barnes, executive director of the Delaware Lesbian & Gay Health Advocates. "I'm not sure that's a common belief."

Advocates praise Clinton's pledge to develop an AIDS plan laying out objectives and blueprints for achieving them, and calling for coordination among federal agencies and consultation with outside groups. Clinton has also promised to lift the ban on travel to the United States by foreigners infected with the AIDS virus and to strengthen enforcement of the Americans With Disabilities Act.

CARE, NO CURE

Requests for AIDS research money have fared relatively well in Washington during the past few years. Biomedical research already has yielded substantial gains in knowledge about the AIDS virus and has produced effective medications for slowing its spread and treating some infections that come with it.

Many experts say that some additional money would be useful -- but not vastly more. Last year, the National Institutes of Health requested \$ 1.2 billion for AIDS biomedical research; Congress appropriated about \$ 860 million. "While things are not perfect," said Roy Widdus, executive director of the National commission on AIDS, "the efforts here are closer to what is desirable and lots of good things have been done."

Efforts to streamline, coordinate and set priorities for research may be equally important. Some advocates of the Manhattan Project approach have suggested setting up a crack team of scientists under the direction of an acknowledged expert, free from the red tape and peer review that usually precedes federal approval. Clinton has also promised to speed up drug research and broaden access to promising new drugs.

The National Journal, November 28, 1992

But spending on AIDS care has lagged behind the spread of the epidemic. Congress authorized \$ 875 million in annual spending under the 1990 Ryan White Care Act, which primarily funnels emergency medical aid to states and cities hit hard by the epidemic. But only \$ 348 million was appropriated this year.

Some other federal programs, chiefly medicaid, pick up some of the costs of AIDS patient care. The national health insurance program that Clinton has promised to seek would guarantee coverage to all Americans -- in theory, eliminating the need for the special programs that have sprung up to fill existing gaps.

But many experts say that it will take years to overhaul the health care system, and that help is urgently needed now. By next year, it's estimated that there will be 151,000-225,000 Americans living with AIDS, up from 111,000-122,000 in 1990. Many are destitute, and nearly 30 percent lack health insurance, according to an estimate prepared for the national commission.

The Supreme Court recently let stand a lower court ruling that permitted an employer to limit health benefits to a worker who disclosed that he had AIDS. Clinton has said that he would forbid such practices but hasn't said how he would accomplish the change.

A top priority on most people's lists -- including Clinton's -- is coming up with the additional \$ 527 million that was not appropriated under the Ryan White law. The AIDS commission has proposed other measures that Clinton hasn't addressed, such as extending medicaid coverage to poor people who test positive for the virus, instead of waiting until they develop full-blown AIDS.

Spending for AIDS care shouldn't be viewed as an entitlement, public health officials argue, nor even as a matter of compassion. Catching and treating the disease early can reduce the costs of treatment. And care is a vital part of preventing the spread of disease. Strapped public health departments often end up cannibalizing prevention funds to care for the very sick.

"There's two ways to approach prevention. One is to target the uninfected, and teach them how not to get infected," said Donald P. Francis, a 20-year veteran of the CDC who is now a consultant in San Francisco. "The other is taking the infected and teaching them how not to infect anyone else. You have to have a very structured program combining medical and preventive counseling for individuals and their contacts. What brings people in is medical care."

A NEW PRAGMATISM?

Prevention may be the most visible front in the new AIDS war. Educating people about the disease and trying to change the behaviors that put them at risk have always been considered the best weapons and are underused. "The prevention piece is the piece that needs the most work," AIDS commission member Kessler said. "We're way behind other nations on this front."

Prevention involves confronting such social taboos as homosexuality, sex outside of marriage and drug abuse. A difficult task under any circumstances, it became virtually impossible under two Administrations that largely deferred judgement on such matters to the Religious Right.

The National Journal, November 28, 1992

Advocates are pressing for a new approach that substitutes pragmatism for moralism. The public health community has a name for it: "harm reduction." It holds that the first goal of prevention is not to eliminate risky behaviors -- no matter how distasteful they are to the public -- but to reduce the chances that they will spread a deadly disease.

That means, for example, preaching the advantages of abstinence to adolescents -- while making sure they know how to get and use condoms. Public health experts say that, contrary to right-wing dogma, making condoms available doesn't encourage teens to have sex. And because it can save lives, failing to do so borders on unethical, they argue. The United States should also follow the lead of many European countries, where candid public advertisements about AIDS and condoms are widespread, they say.

Clinton has called for a "strong and effective national AIDS education campaign," providing more funds for local organizations that reach out to the groups most at risk, and making condoms available in schools.

An even more radical departure from the status quo is likely to come in fighting the epidemic among intravenous drug abusers. Although there are twice as many cases of AIDS among gay men as among drug abusers, the infection rate in the latter group is rising much more rapidly. Drug abusers have helped speed the spread of AIDS to women and children.

Often poor and suffering from other ailments, addicts are tough to reach and difficult to care for. They're also at risk for spreading tuberculosis -- an infection associated with AIDS that is itself highly infectious and often resistant to drug therapies.

Alarmed public health officials say it's vital to provide treatment as quickly as possible to drug abusers who want it, and to ensure that addicts at least get clean needles -- if necessary, by exchanging clean needles for used one. Pursuing both measures could reduce the number of new infections among drug abusers, now estimated at 15,000-30,000 a year, by two-thirds, said Don C. Des Jarlais, director of research for the chemical dependency institute at Beth Israel Medical Center in New York City and a member of the AIDS commission. But as many as 107,000 addicts are now on waiting lists for treatment, according to a federal estimate, and 48 states make it a crime to possess injection equipment.

Clinton has endorsed an AIDS commission recommendation to make drug treatment available on demand. In theory, a federal law passed last year already requires states to do so for intravenous drug users and for pregnant drug abusers. But Congress came up with only \$ 50 million of the extra \$ 500 million authorized for this. Even the larger sum, it is assumed, would help fewer than a third of the nation's estimated one million intravenous drug addicts.

The AIDS commission has urged shifting funds from law enforcement and drug interdiction -- the focus of the Bush Administration's antidrug efforts. But such a move could be politically risky for Clinton.

The AIDS commission has proposed ending restrictions on the possession of needles and syringes; Clinton hasn't taken a position on that issue. The Reagan and Bush Administrations both opposed needle exchanging, calling it an unproven approach that runs counter to the goal of ending drug abuse.

The National Journal, November 28, 1992

"To say that syringe exchanges condone drug abuse is not a scientific statement," Des Jarlais said. In fact, there is evidence that such programs encourage addicts to seek treatment, he said, and while more research is needed, studies show uniformly that such programs have had positive effects.

Doing away with state prohibitions on syringes, Des Jarlais said, "doesn't cost a cent." But that, too would be likely to ignite passions in Washington and in state capitals. "I think it's basically a question of political courage," he said. The question is whether politicians "want to vote on the basis of science and not on symbolism."

GRAPHIC: Picture 1, David B. Mixner, a top Clinton adviser on AIDS, "I can't tell you how much hope there is" among gays. Shepard Sherbell/SABA; Picture 2, Jeffrey A. Levi of the AIDS Action Council, The challenge now is putting theory into practice. John Eisele; Picture 3, National Commission on AIDS executive director Roy Widdus, AIDS biomedical research has fared well in the competition for federal dollars. Richard A. Bloom

LEVEL 1 - 8 OF 111 STORIES

Copyright 1992 PR Newswire Association, Inc.
PR Newswire

November 5, 1992, Thursday

SECTION: State and Regional News

DISTRIBUTION: TO STATE AND MEDICAL EDITORS

LENGTH: 862 words

HEADLINE: WASHINGTON STATE DEPARTMENT OF HEALTH: FIRST HEALTH REPORT ON PEOPLE
OF COLOR FINDS DIVERSITY OF PROBLEMS

KEYWORD: bc-Health-Report-Color

BODY:

Minority groups in Washington have diverse health problems, though two striking patterns emerge from the first statewide health report on people of color: a lack of timely prenatal care and early death from violence, the Washington State Department of Health said today.

The report, released today by State Health Secretary Kristine M. Gebbie, represents Washington's first comprehensive statistical analysis of birth, death and other health records of Native Americans, African Americans, Hispanics and Asian Pacific Americans. The goal of the report is to inform and educate health- and illness-care providers, policy makers, constituent groups and the general public about the health status of minorities.

"This is our first detailed look at the health of people of color in our state," Gebbie said at a press conference during the first statewide minority health conference. "Many of the problems experienced by people of color result from difficulties around access to primary care and preventive health services, both of which are often associated with poverty. As Washington moves to reforming its non-system of health and illness care, I am hopeful that future reports will be more encouraging. For progress to occur, health providers and communities must use this information to plan new services and adjust existing ones."

The report concludes that people of color have varying risk factors. Among the findings, in relation to all minorities in Washington:

- African Americans are at high risk in numerous categories, including high teen birth and abortion rates, many low birth weight infants and high numbers of AIDS cases and deaths.
- Among Hispanics, Puerto Ricans have high rates of maternal smoking; while Mexicans have high teen birth rates, but low rates of maternal smoking, drinking and infant mortality.
- Native Americans have high smoking rates; a high rate of alcohol use, as measured by maternal drinking and deaths by cirrhosis of the liver; and high rates of diabetes and Sudden Infant Death Syndrome (SIDS).

PR Newswire, November 5, 1992

- Among Asian Pacific Americans, Japanese women have a high rate of smoking during pregnancy; Chinese women have a high rate of diabetes, and Chinese infants have a high death rate. It is uncertain whether these last two rates are linked.

The report indicated that homicide is a leading cause of death among all adolescent people of color, and specifically among African Americans in three groups: girls under age 13, teenage boys and girls, and men and women between ages 20 and 39. Homicide also ranked as a leading cause of death among Asian Pacific Americans in two groups: boys under age 13 and women aged 20-39; and Hispanics in two groups: teenage boys, and men and women ages 20-39.

The study also found that for all four populations, including most Hispanic and Asian Pacific subgroups, 30 to 40 percent of the pregnant women begin prenatal care after the first trimester. However, the report noted cultural differences may be a cause of this problem, such as childbirth being viewed as process needing no intervention and traditional practices that may not meet standard definitions of "prenatal care."

To help address the problem, Gebbie announced the state health agency will be awarding \$200,000 in grants to develop community-based programs to strengthen prenatal care and to reduce infant mortality among Native Americans and African Americans. The funding will be provided to organizations serving residents of King and Pierce counties, along with tribes in Colville, Yakima and the south Puget Sound area.

In addition, Washington will be investing new federal funds in controlling chronic disease among low-income residents, including people of color, along with developing plans for early detection of breast and cervical cancer among minority women.

Gebbie also noted that Washington has adequate data on minorities, including insurance coverage, emergency room use, and the availability of culturally sensitive and bilingual health professionals.

"This report represents an important first step," Gebbie said. "In terms of developing a broad database on the health of people of color, we have a long way to go, but we will be working with care providers, hospitals and others to improve our data."

She noted that the health problems of communities of color are a growing concern in Washington state, in part because minorities represent an increasing proportion of the state's population, which totals about 5 million people. According to the 1990 census, minorities comprised 11.5 percent of the population, up from 8.5 percent in 1980.

Joining Gebbie in releasing the report were: James Kelly, executive director of the State African American Affairs Commission; Jerry Martinez, executive director of the Hispanic Affairs Commission; Patricia Lee, executive director of the Asian American Affairs Commission; and Gabriel Landry, representing the Governor's Office on Indian Affairs. CONTACT: Dean R. Owen, 206-753-3934, or Mimi Nickerson-Johns, 206-753-3237, both of the Washington State Department of Health

PR Newswire, November 5, 1992

ORGANIZATION: Washington State Department of Health

GEOGRAPHIC: Washington

INDUSTRY: Health Care; Hospitals

LEVEL 1 - 14 OF 111 STORIES

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August 20, 1992, Thursday

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SECTION: State and Regional News

DISTRIBUTION: TO STATE AND MEDICAL EDITORS

LENGTH: 881 words

HEADLINE: WASHINGTON STATE DEPARTMENT OF HEALTH: HIV INFECTION DOUBLES AMONG
WOMEN IN WASHINGTON STATE

DATELINE: OLYMPIA, Wash., Aug. 20

KEYWORD: bc-Health-HIV-study

BODY:

The number of women carrying the AIDS virus at the time of giving birth has doubled statewide between 1989 and 1991, and, in Western Washington's urban areas, the rate of HIV infection among child-bearing women has increased as much as six-fold, according to state and local health officials.

In addition, a report published by the Washington State Department of Health and the Seattle/King County Department of Public Health indicates the rate of infection among child-bearing African-American women is more than 10 times higher than that of white women.

"The most disturbing aspect of this report is that the majority of women identified as infected with HIV reside in urban areas in Western Washington, where AIDS education and prevention efforts are among the strongest in the state," said State Health Secretary Kristine M. Gebbie. "Clearly, the message about how to prevent HIV infection has not changed the behavior of persons at risk, especially women of color."

The report, which compares 1989 and 1991 figures, states that the rate of infection increased from 15 per 100,000 women to 100 per 100,000 women in Region 5, which includes Pierce County. In Region 4, which encompasses King County, the rate more than quadrupled from 13 to 56 per 100,000.

While the rate of infection has skyrocketed, the actual numbers of women infected remain relatively low among those giving birth in 1991. About 11 women were HIV-positive among more than 11,000 tested last year in Pierce County, and 12 women infected among about 21,000 tested in King County.

Statewide, the number of known infected women has more than doubled from about 200 among those tested in 1989 to about 410 in 1991. Women are at 10 times higher risk than men of contracting HIV during intercourse with an HIV-infected person.

About 15,000 men and women are believed to be infected with HIV in Washington state. More than 3,100 people have been diagnosed with AIDS since the early 1980s.

PR Newswire, August 20, 1992

Among child-bearing African-American women, the rate is 251 per 100,000, compared to 22 per 100,000 for white women.

The numbers are based on anonymous testing of women who give birth, and do not include those who have abortions or miscarriages, or who do not become pregnant. Health officials believe few, if any, of the women had more than one child over the two-year period, thereby providing a virtually unduplicated count.

As part of the state's comprehensive newborn screening program, all newborn infants are tested anonymously for HIV. Health officials estimate that up to one-third of newborns delivered from HIV-infected mothers also carry the AIDS virus.

In an effort to better educate women, the state health agency has identified treatment and nutritional programs serving women, such as First Steps, which provides prenatal and post-natal care for low-income women. These programs will be providing additional training and education on preventing HIV infection.

Family planning agencies already provide HIV education and counseling to new clients. They also conduct testing for other sexually transmitted diseases, such as gonorrhea and chlamydia, which are the two most prevalent. Some clinics also provide HIV testing and counseling.

Women or men who are concerned about their HIV status, or who have questions, should contact their local health department or the Washington State HIV/AIDS Hotline at 800-272-2437. The hotline is staffed between 8:30 a.m. and 5 p.m., Monday through Friday. There is a tape-recorded message during non-business hours.

HIV-Infected Women in Washington

REGION(A)	1989 RATE(B)	1991 RATE(B)
1	0.16	0.10
2	0.16	0.13
3	0.28	0.18
4	0.13	0.47
5	0.15	1.00
6	0.00	0.09

1991 Infection Rate Among Women by Race

RACE	RATE
White	0.22
African-American	2.51
Hispanic	0.31
Asian	0.27
Native American	0.41

(A)

Region 1: Counties of Spokane, Okanogan, Ferry, Stevens, Pend Oreille, Lincoln, Adams, Whitman, Columbia, Garfield, Asotin and Walla Walla

Region 2: Counties of Benton, Franklin, Yakima, Grant, Kittitas, Chelan and Douglas

Region 3: Counties of Snohomish, Whatcom, Skagit and San Juan

Region 4: Seattle and King County

PR Newswire, August 20, 1992

Region 5: Tacoma, and Pierce and Kitsap counties

Region 6: Counties of Clark, Skamania, Cowlitz, Wahkiakum, Thurston,
Pacific, Lewis, Grays Harbor, Mason, Jefferson and Clallam

(B) Rates based on per 1,000 women

CONTACT: Dean R. Owen, 206-753-3934, or Ann Marie Kimball, 206-586-8334,
both of the Washington State Department of Health; or Bob Wood of Seattle

ORGANIZATION: Washington State Department of Health; Seattle/

GEOGRAPHIC: Washington

INDUSTRY: Health Care; Hospitals

LEVEL 1 - 19 OF 111 STORIES

Copyright 1992 PR Newswire Association, Inc.
PR Newswire

May 7, 1992, Thursday

SECTION: State and Regional News

DISTRIBUTION: TO STATE AND MEDICAL EDITORS

LENGTH: 372 words

HEADLINE: DEPARTMENT OF HEALTH: FAMILY PLANNING SERVICES IN WASHINGTON WILL NOT
CHANGE DESPITE FEDERAL REQUIREMENTS

DATELINE: OLYMPIA, Wash., May 7

KEYWORD: bc-Family-Planning-Srvcs

BODY:

Treatment, care and counseling for women at family planning clinics in Washington state will not change, despite grant federal regulations allowing only physicians to advise patients on abortion, the Washington State Department of Health said today.

State Health Secretary Kristine M. Gebbie has announced the State Department of Health will work with local family planning programs to establish procedures ensuring that the determination of pregnancy and any subsequent counseling is state-funded, not federally-funded.

"Our message to the women of Washington is that all women receiving family planning services will continue to receive the full range of treatment, care and counseling," Gebbie said. "It's business as usual. We cannot let these federal requirements under the so-called 'gag rule' prevent pregnant women from having complete information on their options."

The guidelines permit only physicians to discuss abortion with clients and allow referrals to "full service" health care providers, but not to providers whose principal activity is abortion. The physician's responsibility to counsel may not be delegated to non-physicians under the guidelines.

The guidelines are designed to enforce a regulation adopted four years ago by the U.S. Department of Health and Human Services (HHS) prohibiting family planning agencies that accept federal funds from informing women about abortion. The U.S. Supreme Court last year upheld the constitutionality of the regulation.

Washington will continue to receive \$1.9 million annually in federal funding for local family planning services, along with the state contribution this year of \$4.2 million. These state funds can finance any pregnancy-related services, assuring that the federal dollars are used only for contraception and other related services.

With more than 70 clinics administered by 23 private family planning agencies in Washington, the state health agency has asked HHS for an additional six months to develop plans to ensure that record-keeping systems fully reflect this funding separation and comply with federal requirements. CONTACT: Dean R.

1992 PR Newswire, May 7, 1992

Owen of Washington State Department of Health, 206-753-3934

ORGANIZATION: Washington State Department of Health

GEOGRAPHIC: Washington

INDUSTRY: Health Care; Hospitals

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LEVEL 1 - 25 OF 111 STORIES

Copyright 1992 PR Newswire Association, Inc.
PR Newswire

March 2, 1992, Monday

SECTION: State and Regional News

DISTRIBUTION: TO STATE EDITOR

LENGTH: 328 words

HEADLINE: SENATE BUDGET WOULD 'CRIPPLE' STATE PROGRAM AGAINST INCOMPETENT,
UNETHICAL HEALTH PROFESSIONALS

DATELINE: OLYMPIA, Wash., March 2

KEYWORD: bc-health-program-budget

BODY:

Investigations and disciplinary actions against incompetent and unethical health professionals in Washington State would be significantly reduced under the supplemental budget approved last week by the State Senate.

A House-Senate conference committee currently is hammering out a compromise between the Senate and House budgets.

The Senate budget, which would cut 3,600 state employees in Thurston County, would eliminate nearly 70 staff in the State Department of Health, including 20 who investigate and process complaints against physicians, psychologists, counselors, dentists, nurses, pharmacists and other health practitioners. The 20 staff would represent a 10 percent cut in the number of employees in the state health agency's office of professional licensing services.

Last year, there were 1,100 investigations statewide, leading to nearly 650 actions against health and medical professionals. Of these, about 400 were in King County alone.

"This budget cut would cripple our program to protect the public from unethical and dishonest health and medical personnel," said State Health Secretary Kristine M. Gebbie. "The reductions also would significantly disable our efforts in responding to emergencies, such as the Sudafed tampering last year."

Among the other potential effects of the Senate budget:

- Eliminate reviews of physician malpractice cases;
- Decrease the number of hearings by disciplinary boards, which issue final actions against incompetent and unethical providers; and
- Eliminate the department's certification program for sex offender treatment providers.

The Senate budget also would reduce the number of staff in the state health agency's programs for commercial shellfish inspection, tuberculosis investigations, and drug lab clean-ups.

CONTACT: Dean R. Owen of the State of Washington Department of Health,
206-753-3934

1992 PR Newswire, March 2, 1992

ORGANIZATION: State of Washington Department of Health

GEOGRAPHIC: Washington

INDUSTRY: Health Care; Hospitals

LEVEL 1 - 38 OF 111 STORIES

Copyright 1991 The Seattle Times Company
The Seattle Times

July 17, 1991, Wednesday, Final Edition

SECTION: EDITORIAL; Pg. A9

LENGTH: 428 words

HEADLINE: A PERSONAL RIGHT THAT CANNOT BE DENIED

BYLINE: BY KRISTINE M. GEBBIE

BODY:

IT'S BEEN nearly two months since the Supreme Court upheld the constitutionality of a federal regulation prohibiting family planning agencies that accept federal funds from informing women about abortion.

It remains uncertain how that ruling will be put into practice and whether careful bookkeeping on how federal funds are spent will satisfy the Department of Health and Human Services.

Tomorrow, members of major women's rights organizations and their supporters will converge on our nation's capital, lobbying for legislation to overturn the court's decision.

Abortion is one of the options available to a woman who finds herself pregnant. Every woman has the right to choose which courses of action fit her life the best. To make that choice, she must have all information available about her options, and those options should be presented to her by health professionals who are knowledgeable and caring.

I am responsible for health programs serving the nearly 5 million residents of our state. That responsibility includes providing accurate and timely information about personal choices individuals must make on health and illness care, including contraception and pregnancy.

All women are entitled to the same information.

More than 100,000 women in Washington use publicly funded family planning clinics. Many of these women have low, fixed incomes. Some do not speak English as a primary language. These clinics are their major sources of information about a wide range of personal-health matters.

The providers of care at these clinics are professionals who expect to honestly answer all patient questions.

Those supporting the court's ruling argue that it will result in fewer abortions. They are wrong. The ruling will increase the rates of unwanted pregnancy, unwanted children, and abortion. Some clinics will be forced to close because accepting federal funding with the restrictions would violate their ethics.

The Seattle Times, July 17, 1991

Women - and men - will be denied contraception services and information. Some of the women who become pregnant will seek avenues for abortions; others will give birth to children who are unwanted and at risk for many problems. This state has a reputation for protecting individual rights. Those rights should not be compromised by withholding information about legal and, in most cases, safe options for terminating a pregnancy.

Kristine M. Gebbie is secretary of the Washington State Department of Health.

GRAPHIC: PHOTO TIMES FILE: TWO DEMONSTRATORS ON OPPOSITE SIDES OF THE ISSUE IN DOWNTOWN SEATTLE LAST YEAR.

LANGUAGE: ENGLISH

TYPE: OP-ED

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LEVEL 1 - 40 OF 111 STORIES

Copyright 1991 PR Newswire Association, Inc.
PR Newswire

July 16, 1991, Tuesday

SECTION: State and Regional News

DISTRIBUTION: TO CITY AND MEDICAL EDITORS

LENGTH: 390 words

HEADLINE: STATE HEALTH SECRETARY ASKS GOVERNOR'S AIDS COUNCIL TO ANALYZE NEW AIDS GUIDELINES FOR HEALTH PROFESSIONALS

DATELINE: OLYMPIA, Wash., July 16

KEYWORD: bc-Aids-Guidelines

BODY:

State Health Secretary Kristine M. Gebbie has asked the Governor's Advisory Council on HIV/AIDS to analyze new federal guidelines for health professionals infected with the Human Immunodeficiency Virus (HIV), the virus that causes AIDS, and to advise her on how current recommendations would be applied in Washington State.

Gebbie said the guidelines were consistent with earlier draft versions on which she and other states' health officials provided comments to the U.S. Centers for Disease Control (CDC).

"It's important that we at the state level take a hard look at these guidelines and come up with any special modifications to recommendations we provide physicians, nurses and other health care providers," Gebbie said. "I intend to work with the Governor's Council -- as well as professional organizations, including the state medical, hospital and dental associations -- to provide institutions and care givers assistance as they continue to serve and protect patients."

Robert Wood, M.D., a Seattle physician, chairs the Governor's Council, which advises the Governor, the State Department of Health and other state agencies on HIV-related issues. The Committee is expected to provide Gebbie its analysis sometime this fall.

Gebbie is a member of a CDC-HIV committee composed of federal and state health officials.

The guidelines include:

-- Reaffirmation of currently recommended "universal precautions" to avoid transmission of HIV, HBV (the hepatitis B virus) and other disease-causing agents, including sterilization of equipment and careful handling and disposal of needles;

-- Encouragement of health care professionals who perform tasks that could lead to blood transmission of HIV or HBV to be tested and to re-evaluate their professional practice based on the results;

1991 PR Newswire, July 16, 1991

-- Support for research to identify modifications for medical, surgical and dental procedures and for equipment to reduce the risk of injuries to health professionals that might lead to exposing patients to the AIDS virus; and

-- Establishment of an expert panel to define and review invasive procedures which may pose a workplace risk of transmission and to work with individual cases of HIV-infected health care workers. CONTACT: Dean R. Owen of the Washington State Department of Health, 206-753-3934

ORGANIZATION: Washington State Department of Health

GEOGRAPHIC: Washington

INDUSTRY: Medical Science; Pharmaceuticals

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LEVEL 1 - 41 OF 111 STORIES

Copyright 1991 PR Newswire Association, Inc.
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May 23, 1991, Thursday

SECTION: State and Regional News

DISTRIBUTION: TO STATE EDITOR

LENGTH: 289 words

HEADLINE: STATE HEALTH SECRETARY SAYS STATE WILL CONTINUE ALL FAMILY PLANNING SERVICES, INCLUDING ABORTION COUNSELING

DATELINE: OLYMPIA, Wash., May 23

KEYWORD: bc-abortion-counseling

BODY:

The decision today by the U.S. Supreme Court upholding a ban on federally-funded abortion counseling does not mean that all counseling on abortions in Washington's 23 family planning agencies will cease, according to State Health Secretary Kristine M. Gebbie.

"For many thousands of women in Washington state, these family planning clinics are the only source of information on a wide range of subjects, including abortions," Gebbie said. "We will use existing state funds to help ensure that counseling and services related to all types of family planning subjects will be provided, so that women may make informed decisions."

The method for ensuring that these services continue has yet to be determined. But Gebbie added her staff has been discussing options for several months, particularly since the court heard arguments on the case last fall, and will re-examine those options when specific guidelines are issued by the U.S. Department of Health and Human Services.

The nation's highest court ruled five-to-one that the thousands of family planning agencies nationwide that receive federal Title X funding cannot advise pregnant women on abortions. The court upheld a lower court decision that regulations established in 1988 prohibiting family planning clinics from providing abortion information or referrals did not violate the First Amendment.

Currently, Washington receives about \$2.5 million in funds under Title X of the Public Health Service Act. Of this \$2.5 million, \$1.9 million is directed toward local family planning agencies. State funds for family planning total \$3.5 million currently. CONTACT: Dean R. Owen of the Washington State Department of Health, 206-753-3934

ORGANIZATION: Washington State Department of Health

GEOGRAPHIC: Washington

LEVEL 1 - 66 OF 111 STORIES

Copyright 1990 PR Newswire Association, Inc.
PR Newswire

June 22, 1990, Friday

DISTRIBUTION: TO STATE AND ASSIGNMENT DESKS AND HEALTH EDITOR

LENGTH: 425 words

HEADLINE: WASHINGTON STUDENTS AMONG BEST EDUCATED ON HIV, THE AIDS VIRUS

DATELINE: OLYMPIA, Wash., June 22

KEYWORD: WASH. STUDENTS AMONG BEST EDUCATED ON HIV, THE AIDS VIRUS

BODY:

OLYMPIA, Wash., June 22 /PRN/ -- Washington State high school students are among the best informed in the nation on the myths and realities of the virus which causes AIDS, the Washington State Department of Health said today.

According to a report by the U.S. Centers for Disease Control (CDC), Washington State 10th and 12th graders correctly answered questions on transmitting the human immunodeficiency virus (HIV) more frequently than other high school students.

In addition, Seattle students in the same grades are consistently in the top four among large cities studied separately.

In the CDC-published study, a majority of Washington students accurately identified the following "non-risk" factors which are frequently -- and mistakenly -- associated with HIV, the AIDS virus: giving blood, insect bites, using public toilets and having a blood test. In addition, nearly 100 percent of the students answered correctly that intravenous drug use and having sexual intercourse without a condom can transmit HIV.

"It appears the state's universal education program in schools is working and working effectively," said Kristine M. Gebbie, secretary of the State Department of Health. "This doesn't mean we can relax. Greater knowledge is the beginning step toward the responsible behavior choices necessary to reduce transmission of the disease."

The Omnibus AIDS Bill passed by the State Legislature two years ago mandated education on transmission and prevention of HIV and AIDS for students in grades 5 through 12.

The survey in Washington State was conducted by the Office of the Superintendent of Public Instruction and the Seattle Public Schools in collaboration with the CDC. Nearly 2,600 students in more than 90 randomly-selected school districts in Washington participated in the study. Nationally, a total of 31 states and the District of Columbia participated in the survey.

"The survey results reveal a commitment by educators, school nurses and parents to provide accurate information about the transmission of the AIDS virus," said Superintendent of Public Instruction Judith Billings. "Students must now take the next step by converting their knowledge into personal behavior."

CONTACT -- Dean R. Owen, 206-753-3934; or Mimi Fields, M.D., 206-586-8344, both of the Washington State Department of Health; or

PR Newswire, June 22, 1990

Pamela Tollefsen, 206-586-0245; or Marilyn Jones, 206-753-6725, both
of the Office of the Superintendent of Public Instruction

LEVEL 1 - 81 OF 111 STORIES

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August 3, 1988, Wednesday, Final Edition

SECTION: FIRST SECTION; PAGE A1

LENGTH: 830 words

HEADLINE: Reagan Turns Aside AIDS Panel Report;
More Study of Antibias-Law Proposal Ordered;
OPM Rules Adopted

BYLINE: Sandra G. Boodman, Washington Post Staff Writer

BODY:

President Reagan yesterday declined to embrace many of the recommendations contained in the report of his advisory commission on AIDS, including its key proposal for a new federal law barring discrimination against people infected with the virus.

In a prepared statement, Reagan issued his own "10-point action plan" that directs federal agencies to adopt voluntary antibias guidelines based on those released last spring by the Office of Personnel Management. The OPM guidelines, which he urged private employers to follow, state that infected employees should be allowed to continue working "as long as they are able to maintain acceptable performance and do not pose a safety or health threat to themselves or others."

"These directives will assure compassion toward those with [AIDS] infection," said Reagan, describing the disease as "a public health threat that has touched the lives of Americans with alarming speed and frightening consequences."

Reagan's plan contains few detailed recommendations and referred a number of issues to federal agencies for further study. He ordered the Justice Department to determine whether antidiscrimination legislation is needed, and ordered the Department of Health and Human Services to hold meetings on ways to "intensify public health measures" to reduce the spread of AIDS.

He also called on Congress to support his antidrug policies, but did not endorse the recommendation of the presidential commission that the administration allocate \$ 1.7 billion in new funds for vastly expanded treatment programs for intravenous drug abusers, the fastest growing group of AIDS patients.

Public health officials, leading congressional Democrats, AIDS activists and several members of the 13-member commission said they were disappointed by Reagan's response to the report submitted June 24 by the commission. Led by its chairman, retired admiral James D. Watkins, the commission had pushed for a new federal antidiscrimination law, echoing a host of public health officials who have maintained that such a measure is central to controlling AIDS by encouraging people to be tested and treated.

The administration has opposed a new federal law, saying it is unnecessary and a matter best left to the states.

(c) 1988 The Washington Post, August 3, 1988

"It sounds like somebody missed the point we were trying to make," said Kristine M. Gebbie, Oregon's health commissioner and a member of the commission. "It may be that we'll have to wait for a new administration." Both Massachusetts Gov. Michael S. Dukakis, the Democratic nominee, and Vice President Bush have said they favor a federal antidiscrimination law.

Frank Lilly, a New York geneticist and the only openly gay member of the commission, said he was "terribly disappointed" by Reagan's response. "Maybe I'm an idealist, but I had hoped for more than this," he said. "I guess I shouldn't be surprised. Ronald Reagan has stalled for seven years [on AIDS]. Surely no one can be surprised that he's stalling for the last six months" of his term.

But Dr. William B. Walsh, a conservative panelist and an outspoken opponent of the antidiscrimination proposal, was pleased. "I think this is a very good, healthy and measured response," he said.

Watkins, who had previously attacked the administration's response to acquired immune deficiency syndrome as "slow, halting and uneven," learned of Reagan's response an hour before it was announced by the White House when he was briefed by his staff. Through a spokesman, Watkins, who was vacationing in Canada, said the antibiotics directive is "an important first step" but declined to comment further.

Others were more outspoken. The American Civil Liberties Union called Reagan's response "a 10-point inaction plan" and a "slap in the face to the commission." And Rep. Henry A. Waxman (D-Calif.) said: "We don't need another study. If the president is going to take the chief recommendations of his commission and just ignore them, why did he bother having a commission?"

Reagan's response was based in part on advice from Dr. Donald Ian MacDonald, the White House adviser for drug policy who was assigned last month to review the 201-page report, which contained nearly 600 recommendations.

In a breakfast meeting with reporters, MacDonald said he "lost a lot of sleep" over the discrimination question and tried to balance the call for an antibiotics law with some conservatives' "unwillingness to reward behaviors that cause infection."

"The system, in many ways, is working," said MacDonald, who said he spent the past month consulting officials inside and outside the federal government, including several panelists. He neither praised nor condemned the commission's report, but said he thought the panel "really would like AIDS to go away."

MacDonald disputed the panel's call for nearly \$ 1.7 billion in new funds for drug-treatment programs, a figure he said he thought was "too high." He said that \$ 500 million in new funds was a more realistic figure.

GRAPHIC: PHOTO, DR. DONALD IAN MACDONALD, REAGAN'S ADVISER ON DRUG POLICY, DISCUSSES THE AIDS STATEMENT. RAY LUSTIG

TYPE: NATIONAL NEWS

SUBJECT: UNITED STATES; U.S. PRESIDENT; ACQUIRED IMMUNE DEFICIENCY SYNDROME; CIVIL RIGHTS

(c) 1988 The Washington Post, August 3, 1988

ORGANIZATION: PRESIDENTIAL AIDS PANEL; OFFICE OF PERSONNEL MANAGEMENT

NAMED-PERSONS: RONALD REAGAN; JAMES D. WATKINS; DONALD IAN MACDONALD

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LEVEL 1 - 82 OF 111 STORIES

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June 18, 1988, Saturday, Late City Final Edition

SECTION: Section 1; Page 6, Column 1; National Desk

LENGTH: 1104 words

HEADLINE: AIDS Panelists Vote to Expand Anti-Bias Law

BYLINE: By PHILIP M. BOFFEY, Special to the New York Times

DATELINE: WASHINGTON, June 17

BODY:

A bitterly divided Presidential AIDS commission today narrowly endorsed an anti-discrimination proposal that its chairman called "the key issue in the entire report" to be delivered shortly to President Reagan.

Only 7 of the 12 members present supported the proposal that a federal law prohibiting Government-supported programs from discriminating against the handicapped, including persons who have AIDS or carry the AIDS virus, be expanded to include the private sector.

The issue was the most contentious debated at today's final deliberations by the 13-member commission on its report. The report, due to be delivered to the President on June 24, contains almost 600 recommendations for coping with the AIDS crisis.

The Arguments, Pro and Con

In a debate that was open to the public, the supporters of the anti-discrimination proposal said it was necessary if individuals were to be persuaded to obtain testing for infection with the AIDS virus, and said the proposal was consistent with existing legislation protecting the handicapped against discriminatory actions.

Opponents of the proposal complained that it would force businesses to hire people who carry the AIDS virus, thus driving up the cost of insurance and exposing both business owners and landlords to possible litigation by infected individuals.

Virus carriers are often healthy for years, but have a high chance of eventually developing acquired immune deficiency syndrome, scientists believe.

Priority Areas Approved

The commission also approved a draft executive summary that highlighted 20 high-priority areas among its recommendations. The list included suggestions that the nation concentrate on dealing with the total spread of the AIDS virus and not simply with the extent of full-fledged AIDS disease.

Other proposals included the following:

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* That public health authorities be required to notify the sex partners of infected individuals so that they, too, could obtain AIDS blood tests.

* That the intravenous drug abuse problem become 'a top national priority.'

* That the National Institutes of Health be given greater administrative freedom to conduct and set research priorities to find drug treatments and vaccines to combat AIDS.

* That health education be instituted in kindergarten and extend through the 12th grade.

A potentially controversial proposal approved today recommended that doctors and other health care personnel be required to report to state health officials on a confidential basis the names of all individuals who are found infected with the AIDS virus.

In no case, however, would the names of the infected individuals be released either to the sexual contacts of the infected person or to other Governmental agencies, like the Federal Centers for Disease Control. A few states already require reporting of virus carriers, but most only require reporting of actual AIDS cases and much of the nation's testing for the infection is on an anonymous basis, which would make any reporting of names highly incomplete.

How Members Voted

The commissioners voting in favor of the anti-discrimination proposal included the chairman, James D. Watkins, a retired Admiral; Dr. Colleen Conway-Welch, a nursing dean at Vanderbilt University; John J. Creedon, president and chief executive of Metropolitan Life Insurance; Kristine M. Gebbie, administrator of the Oregon health division; Dr. Burton J. Lee 3d, a physician at Memorial Sloan-Kettering Cancer Center in New York; Dr. Frank Lilly, chairman of genetics at the Albert Einstein College of Medicine, and Dr. Beny Primm, executive director of the Addiction Research and Treatment Corporation in Brooklyn.

Those declining to vote for the proposal included Dr. Theresa L. Crenshaw, a sex therapist from San Diego; Richard M. DeVos, president of the Amway Corporation; Penny Pullen, Republican leader of the Illinois House; Dr. Cory SerVaas, editor and publisher of The Saturday Evening Post, and Dr. William B. Walsh, the head of Project HOPE, a medical relief organization.

The AIDS commission, officially called the Presidential Commission on the Human Immunodeficiency Virus Epidemic, was established by President Reagan last year to advise the nation on measures needed to confront the disease.

The Chairman, Admiral Watkins, had previously presented his own draft report and recommendations. Subsequently, the commissioners have amended some provisions in the chairman's report. Until today, with the outbreak of dissent over the call for a strong Federal anti-discrimination statute, there had been little serious disagreement on major issues being pressed by the Chairman.

John Cardinal O'Connor, Roman Catholic archbishop of New York City, had to leave the meeting early. He left his proxy vote to Admiral Watkins who voted it in favor of the anti-discrimination proposal, making the final vote 8 to 5 in

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favor.

Proposal Tied to Disability Bill

The supporters of the anti-discrimination proposal stressed that it is similar to a bill proposed by the Presidentially appointed National Council on the Handicapped in a report last January to Mr. Reagan. The Handicap Council proposal was recently introduced into the Congress and has been co-sponsored by Republican Senator Bob Dole.

The commission in essence is proposing to broaden and extend Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities by any institution receiving Federal financial assistance.

That law has been interpreted to cover individuals suffering from AIDS or who carry the AIDS virus.

Supporters of the anti-discrimination proposal stressed that they were not seeking special privileges for those who carry the AIDS virus, but rather to provide protection against discrimination to all handicapped people.

The opposition to extending Section 504 to cover the private sector was led initially by Dr. Walsh. He said that he was not in favor of discrimination but preferred a proposal that would simply urge the President as well as state leaders to speak out in favor of protecting the civil rights of infected individuals, while leaving legislative remedies to the local level.

Commissioner SerVaas suggested that the provision "might be hurting the very people we're trying to help" because small businesses such as hairdressing salons might be bankrupted if a significant fraction of their employees became infected." Other commissioners noted, however, that as with all civil rights laws, small businesses with fewer than 15 employees were exempted from provisions of Section 504.

GRAPHIC: Photo of Adm. James D. Watkins, chairman of the Presidential AIDS commission (AP)

SUBJECT: ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS); LAW AND LEGISLATION; FEDERAL AID (US); HANDICAPPED

ORGANIZATION: AIDS, PRESIDENTIAL COMMISSION ON

NAME: BOFFEY, PHILIP M

GEOGRAPHIC: UNITED STATES; UNITED STATES

LEVEL 1 - 83 OF 111 STORIES

The Associated Press

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June 17, 1988, Friday, AM cycle

SECTION: Washington Dateline

LENGTH: 468 words

HEADLINE: Panel Recommends Anti-Discrimination Recommendation

BYLINE: By JERRY ESTILL, Associated Press Writer

DATELINE: WASHINGTON

KEYWORD: AIDS Commission

BODY:

The White House AIDS Commission gave final approval late Friday to a recommendation for federal legislation to prohibit discrimination against people infected with the deadly virus.

Although all commissioners expressed support for the sentiment during informal discussions last week, when the final vote was taken, only seven of the 12 present backed the proposal being pushed strongly by retired Adm. James D. Watkins, the panel's chairman.

The action came in the eighth hour of what was expected to be an even longer session as the commission put the finishing touches on the 269-page report due at the White House next Friday.

After dealing with the anti-discrimination recommendation, the commission turned to the last remaining item of controversy _ what, if anything, to recommend in the way of administrative changes to deal with AIDS and other epidemics in the future.

Watkins favors giving the office of surgeon general vast new powers to deal with present and future health emergencies proclaimed by the president.

However, several commissioners are on record opposing that approach.

Among the options up for consideration as the panel wound up its work was a suggestion from one member, Kristine M. Gebbie _ the Oregon state health officer _ calling for legislation that would enable the surgeon general to request the president to declare public health emergencies.

But rather than give the surgeon general the primary role once such a designation is made, Ms. Gebbie said legislation should require the secretary of the Department of Health and Human Services "to designate immediately for a maximum of 12 months a special assistant secretary of health" to manage the crisis.

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The Associated Press, June 17, 1988

As the panel spent two full days working page by page through the document, the commissioners made no major changes but did make some minor ones:

The panel debated at length and then voted 7-6 to delete a recommendation that physicians be liable for up to a year in prison for violating the confidentiality of a patient with AIDS.

The commission adopted a revision in a section on prison testing that calls on prison administrators to urge their inmates to be tested for AIDS, but without requiring the prisoners to do so.

AIDS, or acquired immune deficiency syndrome, is a contagious disease that attacks the body's immune system, rendering it incapable of resisting other diseases and infections. No one is known to have recovered from AIDS, which most often is spread through close contact with blood, blood products or semen from infected persons. Its chief victims have been homosexual men and intravenous drug users.

As of June 13, AIDS had been diagnosed in 64,896 Americans, of whom more than half, or 36,480 have died since June 1981, according to the federal Centers for Disease Control.

LEVEL 1 - 84 OF 111 STORIES

The Associated Press

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June 16, 1988, Thursday, AM cycle

SECTION: Washington Dateline

LENGTH: 510 words

HEADLINE: Panel Recommends that NIH Get Greater Autonomy

BYLINE: By JERRY ESTILL, Associated Press Writer

DATELINE: WASHINGTON

KEYWORD: AIDS Commission

BODY:

The White House AIDS commission recommended Thursday that the National Institutes of Health be given much greater autonomy within the federal health bureaucracy to deal with diseases such as AIDS.

Although adoption of the specific language that will go into the final report to President Reagan was postponed until Friday, the members agreed unanimously with the concept outlined by Dr. Burton James Lee III of the Memorial Sloan-Kettering Cancer Center in New York City.

"As a clinical researcher in cancer medicine, I have worked with the NIH all of my professional life and it is my strong view that NIH has been unable to function as effectively as it could simply because the mechanisms are buried under so much bureaucracy," Lee told his fellow commissioners.

Lee said he would like to see NIH "cut loose" from the Department of Health and Human Services and made an independent agency much like the National Science Foundation.

As a compromise, however, the proposal for which he won approval calls for the president to direct that the NIH director report directly to the HHS secretary, rather than to subordinates in the department, for a two-year trial period and that the NIH chief have broad discretionary budget and personnel authority during the same period.

Lee said if that change in procedure resulted in greater flexibility for NIH to "achieve its scientific mandate, it shall become permanent." Otherwise, he said, Congress should then consider giving NIH a more independent status.

James D. Watkins, chairman of the commission and a strong supporter of Lee's proposal, emphasized that the change would not alter the requirement for the National Institutes of Health to win its allocation from Congress in competition with other government needs.

The Associated Press, June 16, 1988

Nor, he said, would it give the NIH director power to shift funds from one institute to another _ from the National Institute on Aging, for example, to the National Cancer Institute.

Watkins said the main idea was to insulate the NIH director _ now Dr. James E. Wyngaarden _ from having to clear internal personnel and spending priorities with several layers of bureaucrats at HHS and, especially, at the Office of Management and Budget.

Kristine M. Gebbie of Oregon, head of the Association of State and Territorial Health Officials' AIDS Committee, asked whether the object of the Lee proposal was to "bomb the OMB."

"That's not a bad idea," said Watkins, a retired admiral and chief of Navy operations, adding that OMB has been the government's "surrogate health secretary for too long."

"We're saying, 'Get out of the business,'" he continued. "You don't know what you're doing."

Although he supported the proposal in the end, William B. Walsh, president of Project HOPE, expressed concern that the commission had not heard from OMB on the matter.

Watkins shot back that OMB officials had declined to testify before the commission or to allow its employees to answer questions from the commission staff.

"Under those circumstances, we can say what we please," said Watkins.

LEVEL 1 - 86 OF 111 STORIES

Proprietary to the United Press International 1988

June 2, 1988, Thursday, BC cycle

SECTION: Washington News

LENGTH: 1691 words

HEADLINE: AIDS commissioners describe achievements

DATELINE: WASHINGTON

KEYWORD:

Aids-Members

BODY:

United Press International interviewed members of the President's Commission on the Human Immunodeficiency Virus Epidemic during the weeks before its final report was completed. This is what they said about their achievements, failures, and the future of the war against AIDS:

Dr. Burton James Lee, a physician at the Memorial Sloan-Kettering Cancer Center in New York, said the commission's main achievement would be arriving at unanimity on primary AIDS issues: "We've awakened the country's awareness to the drug abuse problem, and made discrimination against people with AIDS a major issue."

Beyond this, Lee said, if the AIDS commission recommendations are implemented, it could pay off in other areas, like old age and cancer by encouraging community-based research and the development of cheaper ways to care for people outside of hospitals.

Lee said the achievements of the commission were remarkable in light of an inauspicious start, but he said the commissioners were people who are "not used to being downgraded."

"We're not used to failing and we're glad we didn't fail on this one."

Dr. Theresa Crenshaw, director of a San Diego, Calif., clinic for sexual disorders, also felt arriving at a consensus on divisive AIDS issues would be "an excellent role model for society."

"As we got educated, the nation got educated," she said, though she still has doubts about the information young people are getting.

"Adults are still fighting over whether and what to include in education. I get the feeling with respect to kids that we're fiddling while Rome burns," she said.

Richard DeVos, president of Amway Corp., said serving on the commission sharply increased his awareness of drug problems, and taught him "greater respect for the homosexual community and their due diligence to work through the problem" of AIDS.

Proprietary to the United Press International, June 2, 1988

'I've been left with more hope on resolving AIDS problems, and higher frustration on the drug problem,' DeVos said.

Although before serving on the commission, 'I never would have supported such a thing,' he now favors legalized medical administration of drugs to addicts.

'I'm willing to try some new things. If that means supplying drugs under clinical conditions, that's better than the alternative (with addicts) killing, stealing or pushing otherwise.'

Colleen Conway-Welsh, dean of nursing at Vanderbilt University in Nashville, Tenn., said the commission had 'done a lot more than I anticipated we could do. Significant early problems caused us to pull together and work even harder.'

But she said she worried, 'No matter what we do, it doesn't seem to be enough because of the nature of the virus and the disease it causes.'

'We're not used to an epidemic for which there is no cure,' she said.

Cardinal John O'Connor of the Archdiocese of New York said he thinks the most important thing coming out of the AIDS commission is 'the very, very strong emphasis on the person.'

'That will shine through very clearly in the report and I hope will make very clear to the president of the country we're not dealing with something in the abstract, but with human beings.'

Respect for the homosexual community in coping with AIDS 'is not new to me,' O'Connor said. 'I have visited, sat with, mopped the brows of, emptied the bedpans of more than 1,000 persons with AIDS, and I've seen much of the work of members of the homosexual community ... for those afflicted.'

O'Connor said, 'Some of our regulatory agencies have virtually no authority to take the kind of action that is needed. The Food and Drug Administration for example,' O'Connor said. 'I remain as frustrated and resentful as I was at the beginning -- so little seems to have been done about lowering the cost of vital medications.'

Dr. William B. Walsh, president of Project HOPE, was glad the end is in sight for the commission. 'I'm getting AIDS burn-out,' he quipped.

Walsh opposes discrimination against people with AIDS, but stressed also 'the rights of the public to have their good health protected.'

'While asking society to help him die with dignity, the patient with AIDS and the seropositive patient have an obligation not to willfully spread the disease.' Seropositive people are those who have the AIDS virus but no symptoms of the disease.

He predicted compassion for AIDS victims will decline.

'You should have compassion for those who contracted the disease - became seropositive -- when they did not know how the disease was transmitted,' Walsh said. 'Now the knowledge of how it's transmitted is so common, if you go out

Proprietary to the United Press International, June 2, 1988

and get the disease today, the public will be less compassionate.

'I don't think that's heartless at all,' said Walsh, adding that drug-users who don't know what they are doing, and people who are infected through deception, rape, or contaminated blood transfusions still deserve 'all the compassion in the world.'

Frank Lilly, chairman of the genetics department at Albert Einstein College of Medicine in New York, an avowed homosexual, said he had worried he might have to battle for acceptance on the commission, but said his fears were 'rapidly dispelled.'

He said his exchanges with O'Connor, who has long denounced homosexual behavior, were 'minimal but cordial.'

Lilly, 'by and large happy' with the commission's achievements so far, also had a serious reservation.

'The commission is simply not going to face, for very clear political reasons, the relationship between homophobia and the AIDS epidemic,' Lilly said. 'The climate in Congress is clear. Even to refer to that connection would be bad politically.'

'I accept that decision reluctantly,' Lilly said. 'The first draft of the report is excellent, with a huge number of very good recommendations. I don't want to see that tossed into the wastebasket (because it included discussion of homophobia).'

Penny Pullen, minority leader in the Illinois State House of Representatives, seemed to have the greatest reservation about what the commission might achieve.

'The AIDS epidemic is a never-ending maze. So many issues are interwoven in it. Perhaps we will have ended up raising more issues than we resolved,' Pullen said. 'But the raising of issues is a precursor to solving them.'

Pullen said her goal in serving on the commission had been 'to stimulate a turning of public policy toward measures to protect the public from further spread of the epidemic. It remains to be seen whether I have contributed to that.'

'I still ask the question, how many people have to become needlessly infected before public health officials do something about this epidemic?'

Kristine M. Gebbie, a nurse with Oregon's Health Division who heads the AIDS committee of the Association of State and Territorial Health Officials, joined the panel in October after two other commissioners resigned.

She worries about implementation of the panel's recommendations 'because we're talking about large dollar amounts and major shifts in policy. Whoever moves into the White House next year will have some major grappling to do.'

Dr. Cory SerVaas, editor and publisher of The Saturday Evening Post, commented, 'One of the most constructive things out of the commission's work will come in protecting the public: in the blood banks, by bringing great

Proprietary to the United Press International, June 2, 1988

emphasis to the drug problem, by getting the FDA some financial help, and getting home care and treatment for AIDS patients.'

Like DeVos, SerVaas now feels legal medical distribution of drugs to addicts deserves consideration. 'If it took the money and crime out of it, we could treat these people as the sick people that they are,' she said.

She also believes more sites are needed where people can be tested for AIDS virus exposure.

'A lot of innocent people will be caught with AIDS as a result of there not being convenient confidential testing,' SerVaas said.

Dr. Beny J. Primm, executive director of the Addiction Research and Treatment Corp., believes the commission's recommendations for vastly expanded drug treatment to reduce the spread of AIDS among intravenous drug abusers will be carried out, although they are costly.

'I'm a dreamer,' he said.

He said serving on the panel 'touched and moved' commissioners as they witnessed the problems of people with AIDS, and got to know one another. Primm suspected some commissioners had never been close to blacks before and said he had not previously been close to people with multimillion-dollar fortunes.

Primm said his greatest regret is the loss of expertise when the commission is disbanded in June. 'Once they dissolve the commission (Congress) won't have anyone and it bothers me, just letting all this go to pot.'

John J. Creedon, president of Metropolitan Life Insurance Co. in New York, said the panel's preliminary reports had already had an impact on the nation, stimulating legislative activity at all levels of government and causing the administration to increase its budget request for AIDS.

'We're really acting as a significant catalyst in the whole AIDS area,' Creedon said. 'We're also setting a tone for the country -- one of understanding, sympathy and recognition of this as a health problem.'

Retired Adm. James Watkins headed the panel after the Oct. 7 resignations of its co-chairmen, Dr. Eugene Mayberry, chief executive officer of the Mayo Foundation in Rochester, Minn., and Dr. Woodrow Myers, Indiana state health commissioner.

When Watkins stepped in the commission was in shambles with virtually no staff, 10 angry commissioners, little accomplished and public criticism from all sides.

'Running the Navy ... is a piece of cake compared to this commission,' said the 61-year-old Watkins, who was chief of naval operations from 1982 to 1986. 'But frankly, I've enjoyed it because I see a light at the end of the tunnel that I never could have seen last October when I was asked to take over the chairmanship.'

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February 17, 1988, Wednesday, Late City Final Edition

SECTION: Section A; Page 1, Column 1; National Desk

LENGTH: 3014 words

HEADLINE: U.S. Confronting AIDS With Sense of Realism

SERIES: AIDS: Confronting The Epidemic - Last of four articles

BYLINE: By BRUCE LAMBERT

BODY:

America is confronting AIDS in 1988 with a new sense of realism and a surge of activity by a broad range of public and private groups, according to health policy experts who only a year ago were lamenting the nation's complacency.

Although the experts see the intensified national response as a hopeful development, they say that the nation's efforts to stem the fatal disease are still belated, disjointed and sometimes misguided.

"Within the last year, the awareness has changed dramatically," said Dr. Mathilde Krim, founding chairman of the American Foundation for AIDS Research. "It happened almost palpably, and suddenly everybody would like to do something."

No epidemic in the nation's history has elicited such a broad and complex response.

Despite the welcome shift to activism, experts warn that the nation desperately needs an even greater effort to halt the spread of AIDS and to prepare for the inevitable flood of patients.

"We're still running behind the virus," said New York City's Health Commissioner, Dr. Stephen C. Joseph. The University of Michigan's dean of public health, June E. Osborn, said, "Things we're doing now should have been done two years ago."

Acquired immune deficiency syndrome is posing troubling issues throughout society. Theologians debate about condoms, courtroom officers demand rubber gloves, television producers mull safe-sex themes, dating services offer to match singles who have passed the antibody test and officials clash over giving clean needles to drug addicts.

In the perceived absence of strong Federal leadership, other forces are filling the vacuum: state and local governments, hospitals, physicians, private groups and businesses. The ad hoc result is a peculiarly American response to AIDS: an emerging patchwork of laws, regulations, health care and educational measures and efforts by governments at every level as well as by voluntary and self-help groups.

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The most glaring weakness in the response, experts say, is the lack of effective action to curb the spread of AIDS among drug addicts, their sex partners and babies.

Still, as the epidemic enters its eighth year and the caseload has surpassed the 50,000 mark, health authorities, advocates for AIDS victims and public officials see signs of a nation finally mobilizing.

Nearly 600 AIDS-related laws have been proposed across the country, 90 of them enacted last year. Some political leaders are taking a harder line on issues like mandatory testing and tracing of sexual and needle-sharing contacts of those found infected, measures that many health experts fear will be counterproductive. But voluntary measures favored by health professionals, such as AIDS education, are also growing rapidly.

With some exceptions, fears that the threat of AIDS would lead to severe, repressive measures have not materialized, at least so far. Polls suggest that the public is increasingly compassionate toward AIDS patients.

Although many critics have decried what they see as President Reagan's lack of leadership on AIDS, he has established a commission that, after initial stumbling, has gained new respect as it confronts some of the most urgent concerns. This week, for example, the commission will hold hearings in New York on the slow progress in finding new treatments and other issues. But with the nation embarked on a Presidential campaign season, clear direction from Washington may not come until after a new administration takes office next year.

A Surge In Actions

The past year saw a dramatic rise in anti-AIDS actions around the country. Before 1987, for example, no state required its local schools to teach about AIDS, but by the end of the year 18 had done so. More are expected to follow, spurred by grants and a model curriculum from the Federal Centers for Disease Control.

Longtime centers of the epidemic such as New York stepped up their efforts. Criticized for lacking a master plan, the city is now drafting one. The city also distributed a million free condoms, sponsored blunt television commercials ('Don't go out without your rubbers') and distributed a video to high schools. The state expanded treatment programs to reduce long waiting lists for addicts, and the city prepared to experiment with distribution of clean needles to addicts. The state authorized a 500-bed hospital expansion to help care for AIDS patients.

The accelerating political pace on AIDS has brought some results that are helpful and others that, in the view of public health experts, are wasteful or counterproductive. But extreme proposals such as for the quarantining of AIDS patients have made little headway.

This sampling from the last few weeks illustrates the trends:

* Los Angeles's Board of Supervisors voted to crack down on unsafe sex in bathhouses. Virginia's Governor authorized physicians to report infected people to health officials so their sex partners could be notified.

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* Louisiana and Illinois became the first states to require testing of marriage applicants for infection with the AIDS virus. The Newark City Council overrode a mayoral veto to force testing of convicted prostitutes.

* Florida's Governor said he was considering a plan for detention facilities for recalcitrants who continue to infect others despite warnings. On Long Island, the Suffolk County Legislature overrode a veto to require that spouses of infected persons be notified.

'Quick-fix solutions like premarital testing, which run counter to what public health authorities would like, are in the forefront,' said Karen S. Walker, who is the senior editor of AIDS Policy and Law, a newsletter.

Health experts question the value of many of these initiatives. Illinois hospitals were overwhelmed with requests when the premarital testing law took effect Jan. 1, forcing some couples into other states or wedding postponements. Health experts say scarce funds for AIDS prevention would be better spent on high-risk groups.

More extreme proposals are pending, including one to authorize Missouri courts to order testing based on anonymous telephone tips, and another to test every resident of Virginia over the age of 5.

Most such proposals have not been adopted, according to monitors at George Washington University's Intergovernmental Health Policy Project. But the project director, Richard E. Merritt, mused, 'One wonders whether the forces of moderation will continue to prevail.'

Dispute On U.S. Role

While many experts believe Federal medical institutions have done a good job of tracking the epidemic and mounting scientific research, many also say the Government has neglected issues of prevention, civil rights and care of patients. This has inevitably shifted responsibility to state and local governments and led to a diversity of responses, a situation that some condemn but others say has its merits.

'A centerpiece of the AIDS problem has been the lack of a coherent, cohesive and well-thought-out national policy,' said Dr. Lonnie R. Bristow, a trustee of the American Medical Association.

Several European countries, with much smaller caseloads than in the United States, already have sent mailings on AIDS to every resident. That has yet to be done here. Federal officials plan the first such mailing later this year, but are still undecided on its content. In the meantime, Alaska and Massachusetts are spending state money to send their residents the AIDS report by the Surgeon General of the United States.

'States and localities are left to fend for themselves,' acknowledged Dr. Bernard J. Turock, the Illinois public health director. Yet he and some others value state autonomy on public health in tailoring AIDS policies to local needs and tastes. But Dr. Osborn of the University of Michigan asked, 'Must we waste precious time and lives, relearning the lessons of this epidemic in every new city and town, reinventing the wheel?'

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In Chicago, Paul Varnell of the Illinois Gay and Lesbian Task Force said, "The city keeps waiting for the state to do it, the state keeps waiting for the Federal Government to do it - and the Federal Government says it should be up to the state and local governments."

Chaotic Mix Of Policies

Fragmented responsibility for AIDS has resulted in a chaotic mix of policies, replete with contradictions, duplication, gaps and disparities.

What is required teaching in one school may be banned in a neighboring community. Condoms are distributed free to homosexual men in New York City jails, but are contraband in New York State prisons.

San Francisco, where gay groups have political influence and the city had surplus funds, formed a model health system for AIDS patients. But in more conservative Texas, burdened by both the nation's fourth-highest AIDS caseload and a shattered oil economy, advocates say that funds to fight the disease are scarce.

Some 22 states have passed laws governing the testing of applicants for health or life insurance for infection with the AIDS virus. Connecticut requires applicants to be tested, while adjacent New York forbids it. Massachusetts also prohibited testing until Gov. Michael S. Dukakis recently overruled his insurance commissioner, who quit in protest.

Privacy rules conflict. New York refuses to record AIDS antibody test results by name, while Colorado requires confidential reporting of names to health officials so that sexual and needle-sharing partners of infected people can be reached if necessary. (In practice, half the names given turn out to be pseudonyms.) Which approach works best to combat the spread of the disease is not yet clear.

The extent of discrimination and legal action to prevent it varies by location. In California, a Federal court reinstated an AIDS-infected teacher to his job and a state agency ruled that the Raytheon Corporation could not bar an infected employee. But pre-hiring testing is so common in Dallas, said the president of the Gay Alliance, William Waybourn, that "the testing issue is one I think we've lost."

Hospitals Jammed

Fighting the epidemic at the front lines is the nation's health care industry. Individual efforts are often valiant, but in some major cities the system is already under stress - with an onslaught of patients yet to come.

New York City's public and private hospitals have been overwhelmed largely because of mistaken AIDS projections by state planners. Ambulances divert patients from one hospital to another. Even heart attack and stroke victims sometimes linger in emergency rooms up to three days waiting for a bed in the intensive care ward.

Greater Miami was likewise unprepared for the 1,397 cases it has had so far. Health Network, a local group, says its referral list has only five physicians accepting private patients. Indigents are served at Dade County's Jackson

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Memorial Hospital. There they face a three-month appointment backlog to see an AIDS specialist, and an even longer wait for treatment.

Often working heroically under the workload, doctors, nurses and orderlies have put in long hours, sometimes to the point of burnout. There have been notable lapses: food trays left outside patients' doorways, a New York City dentist fined for turning away an AIDS patient and some surgeons refusing to operate. But most health workers have put aside any personal qualms.

Trying to mold national policy, the American Medical Association last June promulgated guidelines on testing that were incorporated into legislative bills, and in December it proclaimed the ethical duty of physicians to treat AIDS patients.

New Sense Of Realism

A new sense of realism is motivating and shaping the nation's response to AIDS, if for no other reason than that events require it. Nan D. Hunter, who handles AIDS issues for the American Civil Liberties Union, said, "City and states are being forced to confront this disease - they don't have any choice."

Geography no longer offers sanctuary from the virus. AIDS, once viewed as an exotic New York-San Francisco disease, then as an urban disease, is now everywhere to some degree.

"We hear of the smallest hospitals in the smallest rural towns seeing AIDS cases," said Mary Lou Johnson, administrator of Colorado's state task force on AIDS, one of 40 such panels sprouting around the country. New York's State Health Commissioner, Dr. David Axelrod, said, "The rest of the country is unfortunately catching up with us."

An aide to the United States Conference of Mayors, Richard D. Johnson, said that concern intensified "just about a year ago, in the aftermath of the Surgeon General's report," adding: "That's what made people sit up and take notice, that's when we started getting lots of calls. Government has a tendency not to deal with something until it has to."

Gov. George Sinner of North Dakota said, "We are in a position to learn from the tragedies of New York and California." With only seven cases, his state issued a 131-page "Plan for Action" of education, confidentiality, nondiscrimination and testing of prisoners, prostitutes and marriage applicants.

Adding to the sense of urgency is "the fading hope for a magic bullet" for a cure or vaccine, said Kristine M. Gebbie, Oregon's health commissioner, who is a member of President Reagan's panel.

The Public Is Concerned

Public opinion is also changing. Surveys indicate Americans are better informed and their mood is shifting from fright to concern. A recent Gallup poll found 87 percent of the respondents expressing compassion.

Singles night at the Village Presbyterian Church in a suburb of Kansas City, Mo., devoted its Tuesday night program throughout January to AIDS presentations, attracting rapt crowds of hundreds. The speaker, Virginia E. Allen, heads a

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local AIDS agency, the Good Samaritan Project.

'My first speech on AIDS, in 1985, was in an auditorium set up for 200 people, and only six showed up,' she said. But now the program is in hot demand, with 669 presentations last year and 1,500 expected this year. Audiences have grown to as large as 1,700, often overflowing. Good Samaritan has extended to surrounding states. Ms. Allen recalls a trip to a rural town with a population of about 400 and drawing 300 to her talk.

'The majority are very responsive,' she said. 'They want to find out how to protect themselves, and how to help others.' Among its programs, Good Samaritan organized a network of teen-age AIDS advisers in nearly 100 schools and a toll-free telephone hot line.

Kansas City's experience is not unique. In Montgomery County, Md., 300 government, business and civic leaders gathered last month to discuss the impact of AIDS on hospitals, social services and employers. In Providence, R.I., 80 business officials convened to talk about AIDS issues. In remote Canton, N.Y., near Canada, an AIDS forum packed an auditorium and lasted into the night.

While the nation was preoccupied with the report of a family of AIDS-infected hemophiliac boys burned out of its home in Arcadia, Fla., a less publicized drama was playing out in Arcadia, Ind. There the residents welcomed Ryan White, an infected youngster. Gov. Robert D. Orr, a conservative Republican, shook his hand and bestowed an award.

Irrational panic still occurs. Swimmers deserted the Williamson, W.Va., pool when an AIDS patient showed up. Some immigration employees wore plastic gloves for Haitian applicants. The Radford, Va., schools barred a theater group because it once performed with AIDS patients onstage. A Simsbury, Conn., school canceled a basketball game this month on the rumor than an opposing player might have AIDS.

Leadership can help allay such fears, asserts Dr. Woodrow A. Myers, Indiana's health commissioner. He believes Mr. Reagan should use the power of the Presidency and his skills as the great communicator to calm the public. A fireside chat or an AIDS baby in the President's lap could do wonders, Dr. Myers said.

Business, Volunteers

Beyond government and the health care industry, other segments of society are beginning to confront AIDS.

Business, for example, is beginning to grapple with issues of job discrimination, sick leave, health insurance and the worries of co-workers.

'Within the last 12 months there been a radical expansion of corporate awareness,' said B. J. Stiles of the National Leadership Coalition on AIDS, which promotes business involvement on AIDS.

A Fortune magazine survey of executives ranked AIDS among their top three concerns. The International Business Machines Corporation sent brochures to all 240,000 domestic employees. The Public Service Electric and Gas Company of New Jersey has provided speakers, pamphlets and videotapes for its 13,000

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employees.

Some private groups are finding AIDS a thorny issue. The United States Catholic Conference released a policy statement on AIDS in December, only to have its reference to condoms denounced by two Cardinals, John J. O'Connor of New York and Bernard Law of Boston.

Self-help efforts are growing. Groups like the Gay Men's Health Crisis, formed near the beginning of the epidemic in New York to help patients and lobby for better policies, have grown into major professional organizations. A host of smaller groups, local and national, have sprung up to help patients or push for desired laws. Frustrated by the slow pace of drug development, a group of New York AIDS patients and physicians formed Community Research Initiative to organize their own drug experiments.

Fund-raising efforts have drawn volunteers from celebrities like Elizabeth Taylor, to unknowns like Brent Earle, who last year ran 10,000 miles to publicize the cause.

"As a country, we have denied that AIDS will sooner or later affect almost every one of us in some way until, now, there is an almost universal realization that it does," said Mr. Stiles.

And Dr. Joseph of New York City said, "The way mankind responds to crisis is first disbelief, then denial, then the third stage is mobilization, and we're at the horizon of that now."

GRAPHIC: Photos of Ryan White talking with classmates (pg. B10) (The International Star/Jeff Atteberry); Virginia E. Allen (pg. B10) (NYT/David Hutson)

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