Correspondence

Guidelines for Physicians Testing for HIV Antibody

To the Editor:

The circumstances surrounding the testing of an individual for the antibodies against HIV abound with personal, public, and professional ethical concerns. The federal AIDS Policy Act proposed in the House and Senate very properly addresses most of these concerns. It encourages appropriate counseling and testing and authorizes funds for such activities.

Individuals and organizations involved in providing testing should assure that an individual not request or allow testing without full understanding of the significance of the test and the consequences of the results to themselves and to others. The testing of blood for the presence of HIV antibody can be likened to a biopsy to determine if a malignancy exists. A positive result for either can be a life-threatening outcome. Both can threaten others in terms of potential loss of life of the person tested; a positive HIV antibody test can literally threaten the physical health of others. A physician's responsibility in both cases is a heavy one.

The companion bills in Congress address the physician's responsibilities and place a burden upon physicians to notify individuals when they believe that the individuals have been exposed and that the circumstances of exposure are of serious magnitude. While it should not be the purpose of legislation to prescribe specific methods of accomplishing the intent of the legislation, the following is offered as one approach.

A physician under no circumstances should test an individual for the presence of HIV antibody without the fullest explanation of the significance of both positive and negative test results, and the potential consequence to others of a positive test result. The physician should, after this explanation, obtain a written request from the individual to have the test performed, just as one would for a biopsy.

In addition, the physician should assume the obligation to obtain agreement from the person being tested that the person's sexual partner(s) will be informed of the result by the patient, or that the patient allow the physician or a qualified counselor to inform the sexual partner using the name of the patient. The patient should be urged to have the sexual partner tested simultaneously.

No physician or public health worker should, under any circumstance, inform a person that he or she has been named as a sexual partner of an individual infected with HIV without written permission to use the infected individual's name. To do otherwise could make the physician or counselor party to a malicious act of abuse. Persons having found themselves to be infected could name other individuals as contacts from anger or from a sense of retribution. Because of this possibility, physicians should exercise extreme caution in agreeing to inform or doing so on their own volition.

If the patient does not consent to this approach, he or she should be referred to a site where anonymous testing and counseling are provided. The official health agency should not be requested to inform people of their possible exposure since this would be a breach of confidentiality.

David J. Sencer, M.D., M.P.H.
Chief Operating Officer
Management Sciences for Health
Director, Centers for Disease Control (1966–77)
Commissioner of Health, New York City (1982–86)

California's "AIDS Confidentiality Laws"

To the Editor:

In April 1985 the California State Legislature enacted measures that became known as the "AIDS confidentiality laws," which were codified as sections 199.20 and 199.21 of the California Health and Safety Code.

Section 199.20 prevents, with limited exception, the compulsory identification of anyone as the subject of a blood test to detect antibodies to the human immunodeficiency virus (HIV), the probable causative agent of AIDS.

Section 199.21 prevents disclosure of results of a blood test for HIV antibodies to a third party, without written authorization for such disclosure from the person tested. If such disclosure is made without written authorization, there are civil and in some cases criminal penalties, including imprisonment.

Only two other states, Florida and Wisconsin, and the District of Columbia have confidentiality laws similar to those of California.[1]

Jack E. McCleary, M.D., president of the Los Angeles County Med-

https://doi.org/10.1111/j.1748-720X.1987.tb01020.x Published online by Cambridge University Press