Summary of the Meeting of the
Non-Nominal Testing Committee

Friday, 4 March 1994
The Ministry of Health

Present:

Jay Browne, Chair
Glen Brown, AIDS Action Now
David Butler-Jones, Medical Officer of Health, Simcoe County
Alan Cornwall, AIDS Action Now
Celia Denov, Executive Director, Community Health Division
Janet Ecker, College of Physicians and Surgeons
Bill Flanagan, AIDS Committee of Toronto
Jane Greer, Hassle Free Clinic
Christine Henderson, Ministry of Health Legal Branch
Don Kilby, primary care physician, Ottawa
John Krauser, Ontario Medical Association
Bill Leaming, AIDS Action Now
Richard Schabas, Chief Medical Officer of Health
Janice Tripp, AIDS Bureau

This was the first time the committee had met since early spring 1993.

The group had been sent copies of a proposed draft regulation prepared by Glen Brown of AIDS Action Now to replace the one that had been discussed in earlier meetings of the committee. The regulation was drafted as a positive statement of the conditions that would trigger a report.

The group raised the following issues:

- several members objected to the significant change in focus and format.

- the group agreed that the regulation will apply only to a small number of physicians who are willing and able to meet the requirements for non-nominal testing and reporting.

- some members asked that the Ministry of Health clarify the policies underlying non-nominal testing and reporting, including society's obligation to protect people who may be unknowingly exposed and society's obligation to safeguard confidentiality.

- members agreed that the context for the regulation should be counselling, which would be reflected in guidelines -- a reference to the guidelines should be included in the regulation.

- the Ontario Medical Association is concerned that the focus has shifted from the traditional protective approach used with communicable diseases and laid out in the Health Protection and Promotion Act to the more punitive threshold approach laid out in the Child Welfare Act, which requires physicians to report child abuse

- the previous proposed regulation gave primary responsibility for ensuring that the infected person was counselled and that contacts were notified to the physician; the wording of the regulation now under consideration appears to move responsibility to the patient who must actively refuse counselling or to contact partners before the physician is obliged to report.

- some members felt there should be higher standards for the physician to assess the patient's compliance with the regulation; they suggested changes to the wording that would removes phrases such as the patient "explicitly refuses" and "states that he or she", and asked that the phrase "the physician has reasonable grounds to suspect the person is unwilling or unable to reduce the risk of transmission and/or notify partners" be added. However, they did believe that this phrase alone would not be enough and that the other wording should still be changed.

- some members could not support the implication in 1.1.c.i. that oral sex without a condom is not risky and others could not support any reference to the activity triggering reporting; some members suggested that the sections that specifically defined the activities be removed from the regulation and dealt with in guidelines.

- some members objected to section 1.3, which exempts physicians from reporting people who do not comply with partner notification if such disclosure would place the patient in danger; they suggested that it be removed and this be considered a situation that would trigger a call to the medical officer of health as covered in 1.2, who would work with the physician to resolve the situation.

- some members suggested that section 1.4 should be addressed in the guidelines, not as part of the regulation

It was agreed that Christine Henderson would redraft the regulation based on the discussion and prepare options. The goal is to develop a final regulation and guidelines by June 1994.

The next meeting of the group will be held:

TO BE ADVISED