



Ontario

Ministry Ministère
of de
Health la Santé

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October 15, 1992

MEMO TO: Members
Non-Nominal Testing Steering Committee

FROM: J.A. Browne
AIDS Coordinator

Please find attached the minutes of our meeting of
September 21st.

After briefings, we are proceeding in the direction that
has been suggested and our guidelines sub-committee has
their first meeting on Monday, October 19th. We hope to
have the sub-committee's recommended guidelines to all
the members in time to prepare for our next meeting of
the Non-nominal Testing Steering Committee on Friday,
November 27th, 1 p.m. to 4 p.m. to be held in Room 927,
9th Floor, Hepburn Block.

for: Jay
J. Hyde

Summary of the Meeting of the Non-nominal HIV Testing Steering Committee

Ontario Medical Association
Monday, September 21, 1992

Present:

Jay Browne, Chair
Shelley Acheson, Minister's Office
Jean Bacon, AIDS Bureau
Glen Brown, AIDS Action Now
Janet Ecker, College of Physicians and Surgeons of Ontario
Bill Kennedy, Policy Branch, Ministry of Health
Don Kilby, primary care physician
Alex Klein, primary care physician
John Krauser, Ontario Medical Association
Richard Schabas, Chief Medical Officer of Health
Lori Stoltz, lawyer in private practice
Janice Tripp, Hassle Free Clinic
Cezarina Wysocki, Legal Branch, Ministry of Health

Regrets:

David Butler-Jones, Medical Officer of Health
Celia Denov, Executive Director, Community Health

1. Purpose of Meeting

The Committee met to discuss issues raised by AIDS Action Now in a draft letter prepared August 31, 1992, and circulated to the members. The letter was a response to the Proposal for Changes to the Health Protection and Promotion Act generated out of the last steering committee meeting.

Glen Brown, representing AIDS Action Now noted that it was not necessary to discuss several of the larger policy issues raised in the letter (i.e., Ontario's public health strategy, making HIV a non-reportable disease) as these points were designed to bring to the Minister's attention the organization's ongoing desire to see a completely new policy approach to HIV/AIDS.

Instead the committee looked specifically at four concerns with the proposed change:

- that the words "is likely to" be changed to "will" in the section that reads: "The physician has no reason to believe that the patient is likely to expose others to infection with an agent of AIDS."
- that the determination that someone will expose others require clear evidence
- that the requirements to qualify for non-nominal testing not undermine the anonymous testing program in Ontario
- that patients have the option of contacting public health directly for assistance with partner notification (The proposal suggested that physicians act as an intermediary between the patient and public health.)

2. Decisions Made

The committee discussed these concerns and agreed to the following:

- "is likely to" was changed to "will" (a copy of the revised proposed amendment is attached to this summary).
- the guidelines for physicians and medical officers of health will be crucial in determining how the legislative amendment is interpreted. These guidelines will:
 - set out clear criteria physicians can use in determining whether or not someone will expose others and whether or not contacts have been notified
 - ensure that the integrity of the anonymous testing program is respected and maintained (e.g., patients who have been through anonymous testing will be assumed to have received appropriate pre- and post-test counselling; they will also be assumed to be aware of the importance of partner notification, and the physician's role will be encourage and support this process)
 - ensure that physicians inform patients they have the right to go directly to public health for assistance with partner notification
 - give clear guidelines for medical officers of health to ensure the legislation is interpreted consistently across the province, and that names and addresses are requested only when appropriate (i.e., based on behavior and not HIV status or sexual orientation)

Because the issue of how the amendment to the legislation will be put into practice depends so heavily on the guidelines, Dr. Schabas suggested that AIDS Action Now not be asked to give final approval to the proposed amendments until the organization had had the opportunity to review the proposed guidelines, and that the AIDS Bureau wait to go forward with the proposed amendment until the guidelines are complete and approved by the steering committee. Members agreed.

It was also agreed that the community would be directly involved in developing the guidelines. However, John Krauser requested that the final writing be done by physicians and medical officers of health.

3. Next Steps

Guidelines Committee. The first meeting of the guidelines working group will be held October 19th at 1 p.m. The following members of the steering committee agreed to serve on the guidelines committee:

- Glen Brown or another representative from AIDS Action Now
- Janet Ecker
- Don Kilby (Alex Klein as alternate)
- John Krauser
- Richard Schabas
- Lori Stolz
- Janice Tripp

Physician Liability. To determine whether or not it is necessary to make the proposed change to the statute (i.e., set out the duties required by physicians for non-nominal testing and give physicians who perform these duties in good faith immunity from charges for failing to report.), Cezarina Wysocki will forward to the College of Physicians and Surgeons and to the Ontario Medical Association a copy of the revised proposed amendment to the regulation. Lawyers for these two organizations will then be asked to review the proposed change and determine if it provides enough protection from liability.

Physicians' Ongoing Responsibilities. Lori Stoltz stressed again the importance of introducing the proposed change to section 34 of the statute (i.e., establishing physicians' ongoing responsibility to report a patient whose conduct or behavior would expose others to risk of infection) at the same time as the regulation change.

Process for Issuing the Guidelines. The Committee agreed that information issued by the College of Physicians and Surgeons will have a greater influence on physician practices than information issued by the ministry. Once the proposed guidelines are developed, the ministry will enter into discussion with the College and OMA about the most effective process for issuing the guidelines.

Other Sections of the Act. The proposed amendment to the regulation will have implications for other sections of the Act. Other sections that should be addressed to make non-nominal reporting consistent are: s.25, s.27(1), s.27(2) and s.28.

4. Next Meeting

The next meeting of the steering committee will be held on November 27th from 2 to 4 p.m. at the Ontario Medical Association.