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AIDS: Law, Ethics, and Public Policy
1988-mid 1991 Addendum to Scope Note 8

Pat Milmoie McCarrick
Summer, 1991

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The Centers for Disease Control (CDC) of the US. Department of Health and Human Services defines the acquired immunodeficiency syndrome (AIDS) as a specific group of diseases or conditions which are indicative of severe immunosuppression related to infection with the human immunodeficiency virus (HIV). HIV/AIDS is an epidemic familiar to almost everyone in the United States in the light of the broad education campaign aimed at widespread dissemination of information to the general public about the transmission and infection processes of this currently incurable disease.

The numbers of persons who are afflicted by AIDS or who are infected with HIV continue to grow. U.S. residents are tallied quarterly in the CDC report, *HIV/AIDS Surveillance*. The October 1992 issue reported the total number of AIDS cases in the United States at 242,146 with 160,372 deaths since the disease was first identified. Total worldwide figures compiled by the Global AIDS Policy Coalition and released by the World Health Organization estimate that 12.9 million people were infected by the AIDS virus at the beginning of 1992. They predict that those infected will reach 24 million by 2000 when the death toll will have climbed to almost 4.7 million (V, Funds Called Inadequate 1992).

Information Sources

On-going sources of information to the literature about AIDS include:

AIDSLINE. An online database that is part of the National Library of Medicine's (NLM) MEDLARS system.

Bibliographic citations to the literature of AIDS are available to those with access codes. The AIDS Bibliography published quarterly, is the print version of citations from the AIDSLINE, CATLINE, and AVLINE databases. The MEDLARS system also maintains two other AIDS related online databases: AIDSTRIALS, a database on current clinical trials, and AIDS-DRUGS, a database about clinical drugs and vaccines.

AIDS and Public Policy Journal. Published quarterly by University Publishing, 107 E. Church Street, Frederick, MD 21701.

The journal offers articles concerning AIDS education, ethical issues, public attitudes, funding information, and governmental policy.

AIDS Policy and Law. Published biweekly by Buraff Publications, 1350 Connecticut Avenue NW, Suite 1000, Washington, DC 20036.

The newsletter contains brief updates on legislation, regulation, and litigation concerning AIDS.

A.T.I.N.: AIDS Targeted Information Newsletter. Published monthly by Williams & Wilkins, 428 E. Preston St., Baltimore, MD 21202.

An extensive listing of AIDS abstracts and critical comments from current AIDS literature appear in this newsletter sponsored by the American Foundation for AIDS Research (AmFAR), 40 West 57th Street, Suite 406, New York, NY 10019. One section is devoted to Public Policy: Social, Ethical & Legal Concerns.

BIOETHICSLINE. The online database prepared for the National Library of Medicine's MEDLARS system by the Kennedy Institute of Ethics at Georgetown University.

Literature citations to ethical, legal, and public policy issues raised by AIDS are added bi-monthly and may be searched by using the following keywords: "AIDS", "AIDS seroposi-

tivity" or "HIV seropositivity." Individuals may request offline searches from the NRC (1-800-MED-ETHX) and printouts of bibliographic citations will be mailed directly from the NLM. If the texts of articles cited are not available locally, photocopies may be obtained through the Document Delivery Service of the NRC in compliance with copyright law. The print version of all citations added annually to BIOETHICSLINE, the BIBLIOGRAPHY OF BIOETHICS edited by LeRoy Walters and Tamar Joy Kahn, is published each year, and is available from the Kennedy Institute of Ethics, Georgetown University, Washington, DC 20057-1065. Inquiries may be made by tele-phone: 1-800-MED-ETHX or 1-202-687- 6738.

Intergovernmental AIDS Reports. Published ten times per year by the AIDS Policy Center at the Intergovernmental Health Policy Project, 2021 K Street, NW, Suite 800, Washington, DC 20006.

The reports give AIDS-related programs and policy initiatives occurring within state, county, and municipal governments in the nation. Policy research findings and interviews with state and local officials are also featured.

Manuel, C., et al. **The Ethical Approach to AIDS: A Bibliographical Review.** *Journal of Medical Ethics* 16(1): 14-27, March 1990.

The authors have compiled a bibliography of 232 citations which may be accessed by the following subject categories: general; measures to protect society (including quarantine, registration, research, screening, and education); and measures to protect the individual (confidentiality, a right to information, and a right to treatment). Their survey indicates that the number of papers treating ethical problems linked to AIDS has doubled annually since 1983.

Government Commissions

Canada. Federal/Provincial/Territorial Advisory Committee on AIDS. **Confidentiality and HIV Seropositivity: A Summary.** *Canadian Medical Association Journal* 141(6): 523-525, 15 September 1989.

The report provides basic principles and guidelines for HIV antibody testing along with

definitions for research identification, a statement of support for counseling and obtaining informed consent before any testing, and followup recommendations which are warranted if ethically justified or prescribed bylaw. The committee states that no physician has the right or the duty to inform employers of HIV positive persons.

Canadian Human Rights Commission. **Acquired Immunodeficiency Syndrome (AIDS). Policy on AIDS.** Adopted May 1988.

The Commission declared that it will foster improved public understanding about AIDS, deal with complaints that allege discrimination, and consider that being HIV-infection-free is a bona fide occupational requirement for certain positions with HIV testing only for such employees. Background notes accompany the policy.

Great Britain. General Medical Council. **Ethics and AIDS: UK Recommendations.** *IME Bulletin* 41: 3-6, August 1988.

Offered to give guidance to physicians in Great Britain, the recommendations of the Council state that physicians are expected to extend to HIV and AIDS patients the same care and support given any patient unless the physician lacks the knowledge, skill or facilities to do so. In such a case, the patient may be referred to another physician. Taking risk to the physician into consideration is unethical. Physicians who are infected by HIV or AIDS must seek specialist advice on the extent to which their practice needs to be limited. Noting that the guidelines are not a code, the Council's recommendations discuss informed consent and confidentiality.

U. S. Presidential Commission on the Human Immunodeficiency Virus Epidemic. **REPORT.** Washington Government Printing Office, June 1988.

Ethical, legal, societal, and educational issues are addressed in this report submitted to the president of the United States by the special commission established to make recommendations for establishment of a federal policy for AIDS. The commission says it sought to strike a proper balance between its obligations to both those with HIV infection and those who do not have the virus.

The commission recommended increased funding for municipal hospital systems in cities with a high prevalence of AIDS infection, case managers to insure continuity of care, and social and psychological support services. Community health and mental health centers should be strengthened to assist AIDS/HIV patients with funds appropriated by the government for home care for underinsured persons. The report also suggested that states should create an insurance pool for the medically uninsurable.

Association Statements

American Medical Association. Council on Ethical and Judicial Affairs. **Ethical Issues Involved In the Growing AIDS Crisis.** *Connecticut Medicine* 52(7): 427-428, July 1988.

The AMA Council states that physicians may not ethically refuse to treat AIDS patients, nor should the patient be subject to discrimination based on fear or prejudice. Physicians unable to provide competent care should refer patients to those equipped to offer service. Physicians should respect privacy and confidentiality unless they know that a seropositive individual is endangering another, in which case persuasion should be tried. If persuasion fails, physicians should report to public health officials; if no action is taken, physician may notify third parties.

American Psychiatric Association. Commission on AIDS. **Position Statement Opposing Mandatory Name Reporting of HIV-Seropositive Individuals.** *American Journal of Psychiatry* 147(4): 541, April 1990.

The Council says that the mandatory reporting of the names of persons with AIDS would breach patient confidentiality without achieving any significant practical benefit to public health.

American Public Health Association. **Contact Tracing and Partner Notification: Report. Special Initiative on AIDS.** Washington: American Public Health Association, 1988.

The report compares AIDS and sexually transmitted diseases and notes similarities and differences. It discusses HIV contact tracing, discrimination, and confidentiality as well as the need for counseling, repeat testing, and treatment provisions, and concludes that partner

notification is crucial in efforts to “break the transmission of HIV.”

Books/Special Issues

Allen, James R., et. al. **AIDS: The Responsibilities of Health Professionals**. Special Supplement. *Hastings Center Report* 18(2): S1-S32, April/May 1988.

Five authors discuss the responsibilities of health care workers from ethical or legal viewpoints.

Almond, Brenda, ed. **AIDS: A MORAL ISSUE: THE ETHICAL, LEGAL AND SOCIAL ASPECTS**. New York: St. Martin's Press, 1990. 186 p.

A group of British philosophers, counselors, and ethicists have written about AIDS from the medical community, and personal perspectives discussing both individual rights and protection of the uninfected.

Backer, Thomas E., et al. eds. **Psychology and AIDS**. Special Issue. *American Psychologist* 43(11): 835-990, November 1988.

The editors have collected material about science, the practice of psychology, and the social issues that psychologists focus on in their work with AIDS. Six major sections include material on legislative and government action, testing, behavior change, discrimination, counseling concerning the ethical and legal dilemmas, education, and organizational issues for the profession and the American Psychological Association.

Bayer, Ronald. **PRIVATE ACTS, SOCIAL CONSEQUENCES: AIDS AND THE POLITICS OF PUBLIC HEALTH**. New York: Free Press, 1989. 282 p.

Bayer presents a history of the development of the disease and discusses the politics involved in the areas of AIDS privacy, safety identification, exclusion, control, education for behavior change, and the politics of public health.

Berk, Richard A., ed. **THE SOCIAL IMPACT OF AIDS IN THE U.S.** Cambridge, MA: Abt Books, 1988. 143 p.

The book points out that ongoing relationships

between AIDS and related social phenomena will pose questions for public policy for years to come. Areas discussed include AIDS and: geographical distribution, social life, pornography, hospitals and physicians, religion, the press, and the public.

Fee, Elizabeth, and Fox Daniel M., eds. **AIDS: THE BURDENS OF HISTORY**. Berkeley: University of California Press, 1988. 362 p.

The authors say that the essays they have chosen “exemplify some of the ways that the rigorous application of historical methods can contribute to the public understanding of the AIDS epidemic.” They address the “burdens” of history, that is, the significance of the past for the present on topics such as quarantine, physicians’ roles, public education, public health regulation, and social policy.

Gostin, Larry O., ed. **AIDS AND THE HEALTH CARE SYSTEMS**. New Haven: Yale University Press, 1990. 299 p.

Funded by the American Foundation for AIDS Research, the book documents the December 1988 meeting. Hospitals, Health Care Professionals, and AIDS. It is divided into eight broad sections, each with chapters by different contributors. Topics include: Policies and Priorities: Planning for the 1990's; Prevention, Treatment, Care, and Dignity; Patients' Rights and Public Health: Confidentiality, Duty to Warn, and Discrimination; The Threat to Health Care Workers: Assessment and Response; Professional Responsibility; Balancing Hope and Risk: Regulation of Biomedical Research The Price Financing. Reimbursement Systems, and the Financial Impact on Providers; and The International Perspective.

Gostin Larry, and Curran, William. **The Harvard Model AIDS Legislation Project**. Special Issue. *American Journal of Law & Medicine* 16(1 & 2): 1-265, 1990.

Initiated in early 1988, the Harvard Model AIDS Legislation Project studied important public health issues raised by the HIV/AIDS epidemic. Papers presented for the project were revised for this special symposium issue.

Graubard, Stephen R. ed. **Living with AIDS**. Special Issues. *Daedalus* 118(2): 1-201, Spring

1989 and *Daedalus* 118(3): 1-254, Summer 1989. Also available as a monograph entitled: **LIVING WITH AIDS**. Cambridge, MA: MIT Press, 1990. 463 p.

Two special issues of the journal of the Academy of Arts and Sciences concentrate on the complex effects the disease of AIDS has had on “accepted notions about why individuals, institutions, and communities comport themselves as they do.” International and national policies are reviewed, and the editor points out that the condition will exist well into the future, thus the choice of the words “living with” as part of the title. There are 19 essays in the two issues; authors include Ronald Bayer, Anthony S. Fauci, Michael Kirby and June Osborn.

Gunderson, Martin; Mayo, David J.; and Rhame, Frank S. **AIDS: TESTING AND PRIVACY**. Salt Lake City: University of Utah Press, 1989. 241 p.

The authors review the background of the ethical issues concerned with testing, the circumstances of any testing, and a discussion of privacy. They also discuss types of possible tests, the patient-physician relationship, and the role of insurers, employers, and the government.

Hallman, David G., ed. **AIDS ISSUES: CONFRONTING THE CHALLENGE**. New York: Pilgrim Press, 1989. 315 p.

The United Church of Canada organized various Christian church groups to produce this collection of essays about the ethical and theological issues concerned with AIDS and the need for response from religion.

Humber, James M., and Almeder, Robert F. **AIDS AND ETHICS**. Biomedical Ethics Reviews 1988. Clifton, NJ: Humana Press, 1989. 171 p.

The three sections of the book offer ten essays discussing Problems in Understanding, AIDS and Public Policy, and AIDS and the Health Care Professions.

Institute of Medicine, (U.S.). Committee for the Oversight of AIDS Activities. **CONFRONTING AIDS: UPDATE 1988**. Washington: National Academy Press, 1988. 239 p.

The special committee was established in 1987 to monitor and assess the nation’s response to AIDS in matters of public health, health care,

and research. Its report discusses discrimination, educational recommendations, screening and testing, confidentiality, voluntary contact notification programs, drug and/or vaccine development and testing, as well as other important legal and ethical situations associated with AIDS infected persons.

Juengst, Eric T., and Koenig, Barbara A., eds. **THE MEANING OF AIDS: IMPLICATIONS FOR MEDICAL SCIENCE, CLINICAL PRACTICE, AND PUBLIC HEALTH POLICY**. Studies in Health and Human Values, Volume 1. New York: Praeger, 1989. 198 p.

The editors include 18 essays which originated as contributions to the 1986 meeting of the Society for Health and Human Values, AIDS and the Medical Humanities. The work is in two parts: Part One, Interpreting Our Knowledge of AIDS; and Part Two, The Clinical Experience of AIDS. Essays focus on physician response, decision making about life-sustaining treatment, advance directives, informing others, and allocation of intensive care beds.

LeBlang, Theodore R., ed. **Symposium: AIDS**. Special Issues. *Journal of Legal Medicine* 9(4): 489-635, December 1988 and *Journal of Legal Medicine* 10(1): 1-210, March 1989.

The two-part series features articles about the medical, legal, ethical, economic, and societal issues arising as a result of AIDS.

Loewy, Erich H., ed. **Ethical and Communal Issues In AIDS**. Special Issue. *Theoretical Medicine* 11(3): 173-226, September 1990.

Following Loewy’s introductory article four authors discuss issues in AIDS. Larry R. Churchill’s **AIDS and ‘Dirt’: Reflections on the Ethics of Ritual Cleanliness** offers his view that cultural beliefs and attitudes persist beyond hygiene to a ritual mythic cleanliness that aces the disease and the victim as both to be avoided. Other articles include **Negotiating Criteria and Setting Limits: The Case of AIDS** by Mary Anne Cutter; **HIV and the Obligation to Treat** by M. Sheldon; and **Ethics, AIDS, and Community Responsibility** by J. Douard.

Melton, J. Gordon. **THE CHURCHES SPEAK ON— AIDS: OFFICIAL STATEMENTS**

FROM RELIGIOUS BODIES AND ECUMENICAL ORGANIZATIONS. Detroit: Gale Research, 1989. 203 p.

Part of a series containing official statements from religious bodies and ecumenical organizations concerning social and political issues, this volume opens with an overview of the contemporary debate in the churches about the AIDS crisis. The work presents the original text of statements prepared by four religious groupings: Roman Catholic, Protestant and Eastern Orthodox, Jewish, and others. The material is compiled and edited by the Institute for the Study of American Religion.

Miller, Heather G.; Turner, Charles F.; and Moses, Lincoln E., eds. **AIDS: THE SECOND DECADE.** Washington, DC: National Academy Press, 1990. 495 p.

The Committee on AIDS Research and Behavioral, Social, and Statistical Sciences of the National Research Council has joined others in preparing an extensive 495-page report on topics that include AIDS prevention, adolescents and AIDS, female prostitutes, the national blood supply, and studies of the fallibility of various surveys and methods of improving data.

Nelkin, Dorothy; Willis, David P.; and Parris, Scott V. **A Disease of Society: Cultural Responses.** Part 1 and Part 2. *Milbank Quarterly* 68 Supplement 1 and Supplement 2: 1-319, 1990. Also available as a monograph entitled: **A DISEASE OF SOCIETY: CULTURAL AND INSTITUTIONAL RESPONSES TO AIDS.** New York: Cambridge University Press, 1991. 287 p.

The editors indicate that the volumes suggest how AIDS affects five value areas: society's commitment to autonomy when community values are at risk; the limits of tolerance about conformity; the roles and responsibilities of government in managing diseases; the roles and responsibilities of persons closest to an AIDS patient; and the roles and responsibilities of professionals. The essays look at social relationships, the regulatory process, and individual rights from the viewpoint of the AIDS epidemic.

O'Malley, Padraig. **AIDS.** Special Issue. *New England Journal of Public Policy* 4(1): 5-525,

Winter/Spring 1988.

A publication of the University of Massachusetts' School of Public Affairs, this special issue is devoted to AIDS as a crisis that will have impact of "overwhelming consequences well into the twenty-first century." The collection of essays includes works on public policy, education, ethical issues, epidemiology, testing, and health policy.

Pierce, Christine, and VanDeVeer, Donald, eds. **AIDS: ETHICS AND PUBLIC POLICY.** Belmont, CA: Wadsworth Publishing. 1988. 241 p.

The collection of essays is concerned with the questions of what actions should be taken about AIDS proposals that would limit the liberty of those who are infected: quarantine or punishment concepts, testing, workplace ramifications, insurance problems, mandatory screening, privacy, and confidentiality are among the topics discussed. Authors represented include Alan Brandt, Loretta Kopelman, Ronald Dworkin, and Joel Feinberg.

Rogers, David E., and Ginzberg, Eli, eds. **PUBLIC AND PROFESSIONAL ATTITUDES TOWARD AIDS PATIENTS: A NATIONAL DILEMMA.** Boulder, CO: Westview Press, 1989. 136 p.

Contributors examine both the historical aspects and the issues that arise in the treatment of AIDS, morally, socially and professionally with a view to offering ways to "cope better and more generously" with AIDS patients or those infected with HIV.

Shifts, Randy. **AND THE BAND PLAYED ON: POLITICS, PEOPLE, AND THE AIDS EPIDEMIC.** New York: St. Martin's Press, 1987. 630 p. (Paperback reprint. New York: Penguin Books, 1988. Contains new section, **Afterword/1988.**)

Journalist Shifts describes the beginning of the AIDS epidemic and shows how lack of action by everyone involved caused the disease to spread more widely than it might have if policies had been established for AIDS confinement.

Sieghart, Paul. **AIDS AND HUMAN RIGHTS: A UK PERSPECTIVE.** London: BMA Foundation for AIDS, 1989. 103 p.

The report looks at the legality of various

measures suggested relative to the AIDS disease and offers recommendations for ones perceived as legal. Chapters concern human rights in general and individual and societal rights such as privacy, mandatory testing, compulsory registration, disclosure, and right to work. The trustees of the British Medical Foundation for AIDS include recommendations to perform research, promote safety in blood transfusions and other body products, prevent the reuse of needles, make available safety measures, and provide education for high risk groups.

Sontag, Susan. **AIDS AND ITS METAPHORS**. New York: Farrar, Straus and Giroux, 1989. 95 p. Sontag considers the attitudes about AIDS which she thinks encumber and distort the ways society views the disease.

Journal Articles

Allen, James R. **Health Care Workers and the Risk of HIV Transmission**. *Hastings Center Report* 18(2): S1-S5, April/May 1988.

Allen, a Centers for Disease Control physician, cites statistics indicating there is a low risk of HIV infection for health personnel caring for AIDS patients. This risk could be further reduced if recommended guidelines were followed meticulously.

Annas, George J. **Legal Risks and Responsibilities of Physicians in the AIDS Epidemic**. *Hastings Center Report* 18(2): S26-S32, April/May 1988.

Annas summarizes the law relating to physicians' obligations to treat AIDS and HIV patients, and points out ways that laws could be strengthened to express these obligations more clearly. Anti-discrimination statutes, contractual agreements, CDC guidelines, occupational safety regulations, medical association standards, and state licensing boards are discussed; he urges a multifaceted approach concerning AIDS which includes universal health insurance, monetary and licensure suspension penalties for discrimination, and use of realistic methods to prevent transmission.

Arras, John D. **The Fragile Web of Responsibility AIDS and the Duty to Treat**. *Hastings Center Report* 18(2): S10-S20, April/May 1988.

The author claims that stress on the voluntary nature of the physician-patient relationship by contemporary bioethicists has contributed to the problem of non-treatment since physicians can choose whichever patients they wish. Professional virtue, medical virtue, and the characteristics of duty are reviewed. He thinks that AIDS has stimulated debate on the physicians' role in modern society, and that there is no reason to believe that there will not be other unanticipated virulent diseases in the future.

Arras, John D. **Noncompliance In AIDS Research**. *Hastings Center Report* 20(5): 24-32, September/October 1990.

Arras says that AIDS has changed a minor research problem into a major issue since patient-subjects who have AIDS may lie to become enrolled in a study and then "lie about their medical condition and level of compliance." The validity of clinical trials is threatened when protocols are not followed or when patients' self-interest is the motivation rather than medical science or assistance to future AIDS patients. The author states that the answers lie in a social policy "fostering conditions under which traditional appeals to altruism of research subjects can again become meaningful."

Atkins, Patricia S. **The Constitutional Implications of Mandatory AIDS Testing In the Health Care Industry**. *Southwestern University Law Review* 17(4): 787-822, 1988.

Atkins says that it is rare in law that a disease is a legal issue. AIDS has generated cases based on discrimination, violation of privacy rights, and unreasonable search and seizure. States have passed legislation which protects against mandatory testing and reporting. She discusses relevant cases.

Axelrod, David. **AIDS: The State of the New York State Approach**. *Mount Sinai Journal of Medicine* 56(3): 238-241, 1988.

Touching on ethical responsibility, Axelrod asks how the social fabric of drug users can be reweaved to stop HIV transmission. He writes about the allocation of health resources for drug users and the terminally ill, and concludes that social services need to formulate ways to change behavior.

Banks, Taunya Lovell. **AIDS and Government: A Plan of Action? A Review of the REPORT of the Presidential Commission on the Human Immunodeficiency Virus Epidemic.** *Michigan Law Review* 87: 1321-1337, May 1989.

Law professor Banks describes the major recommendations from the government's AIDS report, and discusses the discrimination, and confidentiality issues, noting civil libertarians disappointment that states should enact HIV-specific statutes to punish those who know of their disease status and engage in behavior which is likely to result in transmission of HIV. She thinks the report will prod Congress to take decisive steps.

Banks, Taunya Lovell. **AIDS and the Right to Health Care.** *Issues in Law & Medicine* 4(2): 151-173, Fall 1988.

Banks says that there is a legal and ethical duty to treat AIDS patients, and discusses the patient's right to health care in the light of recent court decisions. She indicates that there is no constitutional right to health care, and concludes that the health care crisis will be approached piecemeal, which she considers an unfortunate approach to AIDS health care.

Barry, Michele. **Ethical Considerations of Human Investigation in Developing Countries: The AIDS Dilemma.** *New England Journal of Medicine* 319(16): 1083-1086, 20 October 1988.

The author recommends that basic ethical principles should be interpreted and applied in sensitive manner to different cultural settings. She thinks that risk benefit assessment in AIDS research may involve political concerns and that care must be taken to avoid exploitation of the subjects with studies only carried out with the subjects' collaboration, with training, and with education programs. Barry advocates a fair allocation of health resources to the society under study.

Bayer, Ronald. **AIDS, Privacy and Responsibility.** *Daedalus* 118(3): 79-99, Summer 1989.

Bayer says that public health strategy to limit HIV infection will only be effective if it produces changes in sexual, procreative, and drug using behavior. He thinks that these private decisions call for a recognition of the moral obligation to avoid what may put others at risk,

and goes on to discuss HIV screening, education efforts, and possible difficulties.

Bayer, Ronald. **Ethical and Social Policy Issues Raised by HIV Screening: The Epidemic Evolves and So Do the Challenges.** *AIDS Policy and Law* 3(3): 119-124, March 1989.

Bayer presents four broad issues in screening: screening and behavioral change, screening for clinical purposes, screening for safety (prisons and psychiatric hospitals), and screening in seroprevalence studies. He points out that there are no ethical grounds to oppose blinded seroprevalence studies.

Bayer, Ronald; Levine, Carol; and Wolf, Susan. **HIV Antibody Screening: An Ethical Framework for Evaluating Proposed Programs.** *New England Journal of Public Policy* 4(1): 5-25, Winter/Spring 1988.

A Hastings Center research group indicates that it is opposed to widespread mandatory testing, supports voluntary testing for those at serious risk, and urges counselling for AIDS infected persons who should be protected from discrimination and offered confidentiality.

Berger, Philip B. **AIDS and Ethics: An Analytic Framework.** *Canadian Family Physician* 34(8): 1787-1793, August 1988.

Difficult ethical issues in public policy can be evaluated and assessed on the likelihood of success and comparison to measures that balance private rights and public good according to Berger. Methods of protecting the public from HIV include screening donated blood, tissues and organs; education programs; and needle distribution. He does not think quarantine and mandatory testing of immigrants would be justifiable or successful.

Bergman, Beth. **AIDS, Prostitution, and the Use of Historical Stereotypes to Legislate Sexuality.** *John Marshall Law Review* 21(4): 777-830, Summer 1988.

After describing AIDS transmission and the history of quarantine laws and testing, the author examines current due process and protection rights for the prostitute. She includes privacy interests, which would be threatened if mandatory testing were required for high risk behavior. Bergman writes that homosexuals and

prostitutes would be subject to discrimination and stigma-tization by legislation which defined certain groups for testing and quarantine. She discusses the decriminalization of prostitution and recommends education and counseling as the best approach to control AIDS infection.

Berman, Judith A. **AIDS Antibody Testing and Health Insurance Underwriting: A Paradigmatic Inquiry.** *Ohio State Law Journal* 49(4): 1059-1076, 1989.

Berman calls attention to the medical advances which have been made in testing to detect cancer, diabetes, Parkinson's disease, and says that as cost goes down, such testing will be required by insurance companies on grounds similar to testing for AIDS or HIV. She discusses the various factors found in the health insurance area which could lead to discrimination and uninsurability for many.

Black, Douglas. **Ethics of HIV Testing; A Personal View.** *Journal of the Royal College of Physicians of London* 23(1): 19-21, January 1989.

Physician Black supports the British General Medical Council's statement that AIDS be treated as similar to other infections, through the application of established principles of diagnosis and management. Noting the complex ethical problems involving testing, confidentiality, informed consent, access to counselling, "maximizing of good and minimizing of harm to the individual and the community", the author says that some of these may be in conflict with each other, but that all are involved in AIDS-related ethical decisions.

Blendon, Robert J. and Donelan, Karen. **Discrimination Against People with AIDS: The Public's Perspective.** *New England Journal of Medicine* 319(15): 1022-1026, 13 October 1988.

Reporting on more than 750 different surveys made between 1983 and 1988, Blendon notes that most of those questioned had little personal exposure to anyone with AIDS. Persons with the disease were seen as being discriminated against, but respondents said all should have hospital care.

Block, A. Jay. **The Physician's Responsibility for the Care of AIDS Patients: An Opinion.** *Chest* 94(6): 1283-1284, December 1988.

The president of the American College of Chest Physicians cites the risks to health personnel in the treatment of AIDS, and finds that risk from all health-care related exposures in 1,750 subjects was less than 0.1 percent. He says that with prudent care, most health workers have little to fear from AIDS and that physicians "must take the lead in replacing ignorance with information, and in replacing hysteria with caution."

Brandt, Allen, M. **The Syphilis Epidemic and Its Relation to AIDS.** *Science* 239(4838): 375-380, 22 January 1988.

Brandt looks at the strengths and limits of past approaches in the history of medical and public health responses to controlling sexually transmitted diseases, specifically syphilis, as a possible guide for AIDS health policy. He reviews scientific, medical, and public health methods as well as the role of social and cultural values. For AIDS he recommends intensive educational programs including research in the social and behavioral sciences.

Christakis, Nicholas A. **The Ethical Design of an AIDS Vaccine Trial In Africa.** *Hastings Center Report* 18(5): 31-37, June/July 1988.

Expressing concern that clinical trials in third world countries might disregard the rights of the subject, the author urges scientific but also ethical and cultural consideration in the design of any AIDS study. He says consent would be necessary, if possible, perhaps with this consent coming from a trusted leader if participants view themselves less as individuals than as part of a society. Counselling should be offered and the countries should have access to any vaccine developed.

Cleary, Paul D. **Education and the Prevention of AIDS.** *Law, Medicine & Health Care* 16(3-4): 267-273, Fall/Winter 1988.

In highlighting the challenge to halt the AIDS epidemic, Cleary notes that determinants of health related behaviors are not well understood. Education can help attitude and opinion changes, he says, but not necessarily behavior changes. A perception of risk, fear, and comprehending causes of infection must be part of education. Cleary urges development in the understanding of communication and

education processes.

Condit, Douglas, and Frater, Robert W.M. **Human Immunodeficiency Virus and the Cardiac Surgeon: A Survey of Attitudes.** *Annals of Thoracic Surgery* 47(2): 182-186, February 1989.

The physician authors indicate that there is a lack of knowledge about the effect of the presence of HIV on operative risk for the patient and for the cardiac surgical team. Polling board-certified cardiac surgeons, the authors say that more than half of the active surgeons in the U.S. replied and 66% of these would operate for an urgent cardiac operation. However, the respondents regard the presence of AIDS as a contraindication to cardiopulmonary bypass, presumably a medical judgment. Virtually all who replied wanted to test "high-risk" patients, and a substantial majority would test all patients for HIV seropositivity.

Cooper, Elizabeth R. **Caring for Children with AIDS: New Challenges for Medicine and Society.** *Pediatrician* 17(2): 118-123, February 1990.

The author points out the dilemmas presented to physicians by children with AIDS with complications such as school, daycare, entire family planning, reproductive choices, parenthood, custody, foster care, and access to experimental care. Cooper thinks that AIDS has become a disease for which "research is [the] standard of care."

Cotton, Deborah J. **The Impact of AIDS on the Medical Care System.** *Journal of the American Medical Association* 260(4): 519-523, 22/29 July 1988.

Cotton recommends intensive training and education of health personnel who take care of AIDS patients, perhaps as a new subspecialty. She expresses concern over health care workers' "burnout" and acquiring HIV infection, describing the difficult management of drug abuser patients. Urging city-wide planning in the large cities which have the most AIDS patients, she says the ethical issue of allocation of scarce medical resources for AIDS instead of for prenatal care, cancer, heart disease, and geriatrics must be addressed. The need for care does not lessen the need for prevention and

research in the AIDS area.

Dickens, Bernard M. **Legal Limits of AIDS Confidentiality.** *Journal of the American Medical Association* 259(23): 3449-3451, 17 June 1988.

Fear of HIV infection contracted at work, at school, in contact sports, and in health settings is commonplace if unreasonable according to attorney Dickens, who discusses the duty to warn. He cites *Tarasoff v. Regents of the University of California* (551 P2d 334 [Cal 1976]) which weighed privacy rights versus public interest in safety from violent assault and held "the protective privilege ends where the public peril begins." Dickens concludes that HIV infected persons cannot rely on confidentiality since the law often "compels, justifies, and excuses disclosure of information." He recommends anonymous counseling and enforcement of protection in discrimination in housing, employment, public accommodations, and governmental services in the event infected persons, identities are likely to become public.

Dickens, Bernard M. **Legal Rights and Duties in the AIDS Epidemic.** *Science* 239(4840): 580-587, 5 February 1988.

Dickens reviews the rights of infected individuals with regard to testing, treatment, and confidentiality, and looks at discrimination in access to health care, employment, housing, education, and insurance. He outlines the duties an infected person has to contain transmission of the virus, including liability for contaminated blood. The author also considers the rights of the uninfected to protection, the rights and duties of health professionals and health authorities, and international legal developments outside the United States.

Duerfeldt, William F. **Preparing an AIDS Policy for Colleges of Osteopathic Medicine.** *Journal of the American Osteopathic Association* 89(1): 95-98, 103, January 1989.

The author reports on an AIDS survey made at osteopathic colleges and provides its conclusions and recommendations: to accept the care of all patients, to forego mandatory testing of students or employees, to preserve the right of confidentiality for the person with AIDS, to prohibit reassignment to avoid a classmate or

fellow employee with AIDS, to take precautions as recommended by the CDC, and to assign the responsibility of limiting practice to any physician or student with HIV seropositivity. A sample informed consent form for antibody testing as included as well as HIV testing recommendations.

Emanuel, Ezekiel. **Do Physicians Have an Obligation to Treat Patients with AIDS?** *New England Journal of Medicine* 318(25): 1686-1690, 23 June 1988.

Physicians are obligated to treat AIDS patients if medicine is viewed as a profession, not a commercial enterprise; those who join the profession assume an obligation to care for the ill even at some personal risk. According to the author, AIDS is not an excessive risk, and he suggests that four factors might limit a presumed obligation: excessive risk, questionable benefits, obligations to other patients, and obligations to self and family.

Fallone, Edward A. **Preserving the Public Health: A Proposal to Quarantine Recalcitrant AIDS Carriers.** *Boston University Law Review* 68(2): 441-506, March 1988.

Fallone says that complete quarantining of known AIDS carriers would be an unnecessary infringement on personal liberty and an inadequate attempt to control transmission of the disease. He concludes that a limited use of powers to control recalcitrants with extensive public education may be the most effective means of stopping AIDS spread.

Fauci, Anthony S. **AIDS—Challenges to Basic and Clinical Biomedical Research.** *Journal of the Association of American Medical Colleges* 64(3): 115-119, March 1989.

Fauci explains that clinical trials have a dual purpose: to identify which drugs are helpful and which are not, and to provide data on the safety and effectiveness of the drugs. The article describes a program to involve larger participation by community physicians and their AIDS patients in AIDS-related research projects.

Fost, Norman. **AIDS In Context: Ethical and Social Implications.** *American Pharmacy*, NS28(6): 15-20, June 1988.

Fost claims that the three ethical concerns

regarding AIDS are: to protect the public health where the ethical issue is the duty to prevent further harm; to protect the inherent rights of patients, and last, to insure the fair allocation of scarce health resources. He says health care workers and school children are at low risk, but that prisoners, fetuses, and newborns can be at higher risk. He thinks that confusion and stigmatization are inherent in mass screening. In conclusion, he declares that AIDS is not America's main health problem and should share funds with other pressing health problems.

Fox, Daniel M. **The Politics of Physicians' Responsibility In Epidemics: A Note on History.** *Hastings Center Report* 18(2): S5-S10, April/May 1988.

Fox thinks that physician conduct in past epidemics has been one of professional accommodation to civic obligation rather than adherence to ethical precepts. If plague doctors survived they had cash rewards plus improved social and professional status.

Fowler, Marsha D.M. **Acquired Immunodeficiency Syndrome and Refusal to Provide Care.** *Heart and Lung* 17(2): 213-215, March 1988.

The duty to treat is conditioned by the level of risk to the professional according to Fowler. "Where a patient's need is great and the refusal to care would likely result in harm, the duty to care is greater. There is, however, no duty to care where the care will not benefit the patient needless sacrifice is not warranted. But where care will meet need, prevent harm, and prove efficacious, there is a general duty to care."

Freedman, Benjamin. **Health Professions, Codes, and Right to Refuse to Treat HIV-Infectious Patients.** *Hastings Center Report* 18(2): S20-S26, April/May 1988.

Reporting on professional statements by the Committee on Ethics of the American Nurses' Association and the American Medical Association's Council on Ethical and Judicial Affairs, Freedman points out the advantage of ethical statements over ad hoc reactions. He thinks that such codes and statements encompass principles that are chosen for their excellence.

Funds Called Inadequate For Global AIDS Fight. *Washington Post*: A16, 1 December 1992.

This wire service article provides recent estimates in the numbers of persons infected with the AIDS virus as well as projections of the cost of the disease.

Gallagher, Morris. **AIDS and HIV Infection: Ethical Problems for General Practitioners.** *Journal of the Royal College of General Practitioners* 38(314): 414-417, September 1988.

The ethical issues which are related to the doctor-patient relationship, i.e., duty to care, consent, and confidentiality, are examined by the author who urges following the fundamental ethical principles of respect for persons, duty to do good and avoid harm, and fairness to all. He thinks that AIDS is likely to become the most serious health problem of the century and that physicians' response to the issues is crucial.

Gardner, Kathy J. **Sentenced to Prison, Sentenced to AIDS: The Eighth Amendment Right to Be Protected from Prison's Second Death Row.** *Dickinson Law Review* 92(4): 863-893, Summer 1988.

Gardner describes AIDS and says that the prison population is particularly vulnerable to infection through forced homosexual relations and drug abuse. The inmates have a constitutional right to be spared cruel and unusual punishment, which in her view, is what contracting AIDS would be for a prisoner. She urges AIDS prevention programs to insure the protection of the inmates.

Gentemann, Evelyn M. **After School Board of Nassau County v. Arline Employees with AIDS and the Concerns of the 'Worried Well'.** *American University Law Review* 37(3): 867-914, Spring 1988.

This extensive legal discussion of the cases, court decisions, and regulations concerning the handicapped offers a history of the background to AIDS court decisions. Pointing out that the disease is forcing society to confront questions about the importance of individual civil rights and the protection of the public from health risk, Gentemann says the Arline case gives AIDS infected persons access to the courts to establish themselves as qualified for jobs denied.

Geraghty, Diane. **AIDS and the Physician's Duty to Treat.** *Journal of Legal Medicine* 10(1):

47-58, March 1989.

The author points out that in common law, a relationship must be established to create a duty to treat. However, she notes that this obligation may come about because of the physician's arrangements with third parties. Physicians who refuse to treat AIDS patients could be held legally accountable for their decision under statutes which limit common law rule and by non-statutory sources such as employee contracts and hospital by-laws.

Gerbert, Barbara; Maguire, Bryan T.; and Coates, Thomas J. **Are Patients Talking to Their Physicians about AIDS?** *American Journal of Public Health* 80(4): 467-469, April 1990.

In a random survey of 2,000 adults, 94% had seen a physician in the previous five years of whom 15% had discussed AIDS. Such conversations were not "commonplace" according to the authors, and 72% of the 15% who had discussed AIDS had initiated the conversation. Physicians were encouraged to discuss AIDS risk reduction with all patients and to take sex histories to help identify and modify risky behavior.

Gillon, Raanan, ed. **AIDS Symposium.** *Journal of Medical Ethics* 15(2): 61-81, June 1989.

The authors discuss the legal implications of AIDS and HIV for British and American law, autonomy, welfare and the treatment of AIDS; and psychosocial ethical aspects of AIDS.

Gostin, Larry. **The Harvard Model AIDS Legislation Project. A Decade of a Maturing Epidemic: An Assessment and Directions for Future Public Policy.** Preface. *American Journal of Law & Medicine* 16(1 & 2): 1-32, 1990.

Stating that over 200 state and local statutes relating to AIDS have been enacted, Gostin points out that the content is inconsistent, with little federal guidance. He questions whether testing should be voluntary, routine, or mandatory when risk of transmission is high, and discusses moral value situations concerning sex or drugs, confidentiality, anti-discrimination law, and the duty to treat. The Harvard Model developed legislative guidelines for different public health issues including testing, education, confidentiality and discrimination, and financing.

Gostin, Larry. **The Politics of AIDS: Compulsory State Powers, Public Health, and Civil Liberties.** *Ohio State Law Journal* 49(4): 1017-1058, 1989.

Gostin thinks that the various risks involved in the transmission of the AIDS virus are not significant enough to justify coercive compulsory public health measures such as quarantine or governmental restrictions on the sexual activities of known AIDS carriers. He reviews various suggested changes such as isolation of the infected in AIDS facilities, modified isolation based on behavior, and criminalization of HIV transmission, all of which he thinks are inappropriate. He urges focused education, testing, counseling, and treatment for drug dependency.

Gostin, Lawrence A. **The AIDS Litigation Project. A National Review of Court and Human Rights Commission Decisions. Part I. The Social Impact of AIDS.** *Journal of the American Medical Association* 263(14): 1961-1970, 11 April 1990. Part II: **Discrimination.** *Journal of the American Medical Association* 263(15): 2086-2093, 18 April 1990.

Gostin says that the "sharp differences in perception of public health, ethics, and civil liberties have created the largest body of legal cases attributable to a single disease in the history of American jurisprudence." He reviews the areas of law encompassed in the 469 cases he cites in the bibliography, and notes that they show values conflicts that will likely require legislative and policy resolution.

In Part II the author points out that institutional groups that have issued AIDS papers have unanimously condemned discrimination as unjust and detrimental to public health. "Case identification (testing, reporting and partner notification) is of growing importance as the benefits of early intervention become clearer." Gostin looks at 149 cases of discrimination reported by municipal and federal agencies, and reviews the major areas of discrimination litigation: education, employment, housing, insurance, and health care.

Gramelspacher, Gregory P., and Siegler Mark. **Do Physicians Have a Professional Responsibility to Care for Patients with HIV Disease?** *Issues*

in Law & Medicine 4(3): 383-393, Winter 1988.

The physician authors offer published and anecdotal reports about the attitudes of health care workers in caring for HIV or AIDS patients. They look at policy statements from medical organizations, summarize knowledge about the transmissibility and risk of HIV and AIDS infection to health workers, and suggest that AIDS needs to be brought into the mainstream of medical care.

Harris, Curtis E. **AIDS and the Future.** *Issues in Law & Medicine* 4(2): 141-149, Fall 1988.

Harris discusses issues of access and health care decision making for the near future when many more AIDS cases are predicted to need treatment. He thinks that euthanasia and suicide will become important issues if there is any expressed or subliminal messages that human life is of no intrinsic or social value.

Hollowell, Edward E., and Eldridge, James E. **The Legal Obligations of Treating or Testing for the HIV Infection.** *Journal of Practical Nursing* 38(2): 36-40, June 1988.

The legal obligations unique to AIDS are refined versions of commonly accepted principles of health care law, according to the authors. These include: delivery of health care services in a safe environment, obtaining informed consent prior to treatment, and maintaining medical record confidentiality. In AIDS this translates to care without discrimination in an environment that prevents viral transmission in any direction, informed consent to administer testing, and strict confidentiality which would be maintained through the AIDS related disclosure requirements.

Holzhauser, James D. **AIDS Testing In the Health Care Setting.** *Issues in Law & Medicine* 4(3): 345-357, Winter 1988.

Holzhauser presents the background for providing treatment and says that mandatory testing does little to reduce potential liability to the hospital nor can it be medically or economically justified.

Jager, Hans. **Ethical Questions.** *In his: AIDS AND AIDS RISK PATIENT CARE.* Chichester, United Kingdom: Ellis Horwood, 1988, pp.

103-112.

Jager reviews the various clinical and ethical dilemmas associated with AIDS, discussing testing, preventive measures, questions about therapy, and confidentiality.

Jonsen, Albert R. **The Duty to Treat Patients with AIDS.** Special Issue. *Occupational Medicine: State of the Art Reviews* 4:31-34, 1989.

Stating that American law does not require physicians to provide services to any particular patient unless some special relationship already exists, Jonsen discusses the questions arising about treatment. He concludes that there is a strong imperative for physicians to respond to the needs of the sick.

Kaminski, Mitchell A., and Hartmann, Peter M. **HIV Testing: Issues for the Family Physician.** *American Family Physician* 38(1): 117-122, July 1988.

The authors write that family physicians are in the optimal position to provide initial care for the AIDS patient. They must be knowledgeable about the disease and be prepared to offer counselling for the patient and the family.

Kleiman, Mark A.R. **AIDS, Vice, and Public Policy.** *Law and Contemporary Problems* 51(1): 315-368, Winter 1988.

Kleiman asserts that government actions concerning AIDS should have three goals: care of the sick, protection of the interests of the infected, and minimization of the number of new infections. He regards the third as the most important.

Kirby, Michael. **AIDS and Law.** *Daedalus* 118(3): 101-121, Summer 1989.

Kirby thinks that there are limits to what law can and should do in response to AIDS and that law's objective would be to contain the epidemic. The response to AIDS of the world legal systems will "depend on local institutions and legal environments." He discusses criminal law, quarantine blood transfusion, and other issues related to AIDS.

Koop, C. Everett. **Challenge of AIDS.** *American Journal of Hospital Pharmacy* 45(3): 537-540, March 1988.

Written while Koop was U.S. Surgeon General,

the article presents some of the ethical dilemmas that arise from fear of exposure to AIDS. He mentions federal guidelines that were issued and notes that in the past, regulations alone did not solve difficult health care issues. Koop raises questions about the allocation of health monies and concludes by expressing his hope that the world will see that the United States offers compassion and justice in addition to first-class science.

Levine, Carol. **Has AIDS Changed the Ethics of Human Subjects Research?** *Law, Medicine & Health Care* 16(3-4): 167-173, Fall/Winter 1988.

The author presents two issues arising in AIDS research: when identification or linkage to an individual is essential to the research or if informed consent in a protocol includes interviews with patient, family, friends, or sexual contacts and provides identifiable information. Much of AIDS research has been based on random selection of leftover blood with no identifiers except age, sex, race, place, and date. She discusses the right not to know test results, the regulation of new drugs, and access to clinical or vaccine trials. Levine concludes that research is essential and depends on the voluntary and full participation of the AIDS patient.

Levine, Carol, and Bayer, Ronald. **The Ethics of Screening for Early Intervention in HIV Disease.** *American Journal of Public Health* 79(12): 1661-1667, December 1989.

Levine and Bayer point out that since many are convinced of the benefits of early treatment of asymptomatic HIV infection, testing can be good. They discuss the grounds for establishing voluntary anonymous or confidential screening programs for those at high risk of HTV infection and say that testing should be based on explicit informed consent. There is no justification for mandatory screening based on non-therapeutic benefit. Screening programs that identify those with infection but that do not plan for follow-up treatment are not ethical.

Lo, Bernard. **Ethical Dilemmas About HIV Infection.** *Journal of the American Podiatric Medical Association* 78(3): 138-142, March 1988.

Lo says that the two most common ethical dilemmas concern risk of exposure and

disclosure to third parties who are at risk. He suggests treating all patients as if they were HIV positive. Care givers should urge patients to tell third parties, and if necessary, seek assistance of public health officials.

Lo, Bernard, et al. **Voluntary Screening for Human Immunodeficiency Virus (HIV) Infection.** *Annals of Internal Medicine* 110(9): 727-733, 1 May 1989.

Lo notes that voluntary HIV infection screening may help prevent the spread of the disease if those who test positive alter behavior which may transmit infection. The author thinks that health personnel can maximize the benefit of such screening by informing those at high risk that tests reduce uncertainty about their status and affect the medical treatment they receive. Confidentiality of test results, the need to tell sex partners the results, and education to reduce high risk behavior should be discussed by health care workers with those infected.

Mariner, Wendy K. **Why Clinical Trials of AIDS Vaccines Are Premature.** *American Journal of Public Health* 79(1): 86-91, January 1989.

The author states that ethical principles for the conduct of human clinical research hold that such research must be scientifically needed and of sound design, that any harm is reasonable in relation to the benefits, and that subjects participate voluntarily with their confidentiality maintained. She reviews the ethical implications of both animal and human studies, particularly responsibilities concerning research in developing nations.

McLaughlin, Carol A. **Legal Issues in Healthcare Settings. AIDS: Current State of the Law—An Overview.** *Journal of Law & Health* 3(1): 77-115, 1988-1989.

Presenting AIDS legal issues in an outline format, McLaughlin makes a factual statement followed by bibliographic citations to medical information, discrimination sites including health care settings, and tort claims available to my persons.

Melton, Gary B. **Ethical and Legal Issues in AIDS-Related Practice.** *American Psychologist* 43(11): 941-947, November 1988.

Melton thinks some AIDS ethical dilemmas regarding psychologists' obligations to clients and third parties often remain unsettled. The professional should strive to protect the privacy of the patient and promote the patient's welfare; psychologists have a duty to be knowledgeable about the disease. When compelling interests of third parties must be considered, intrusions on the client should be no greater than necessary.

Morissette, Michel R. **AIDS and Palliative Care: An Individual Appeal to Health Care Professionals and Intervening Parties.** *Journal of Palliative Care* 6(1): 26-31, March 1990.

This personal account favors treating AIDS patients in the hospice atmosphere. The author says that 11 of 97 AIDS patients who had died in Holland had requested and received active euthanasia.

Nolan, Kathleen. **Ethical Issues in Caring for Pregnant Women and Newborns at Risk for Human Immunodeficiency Virus Infection.** *Seminars in Perinatology* 13(1): 55-65, February 1989.

Nolan examines neonatal screening for HIV/AIDS and concludes that it should not be conducted universally or forced on parents unless it is essential to the infant's care or to placement with adoptive or foster parents. She discusses prenatal testing, the risk of transmission of HIV from parent to child, and counseling HIV-infected women, and concludes that reduction of the number of infected women is the most effective means of reducing perinatal transmission. Drug treatments and therapy should be widely available as well as general use of barriers in sexual intercourse.

O'Brien, Maura. **Mandatory HIV Antibody Testing Policies: An Ethical Analysis.** *Bioethics* 3(4): 273-300, October 1989.

O'Brien opposes HIV antibody testing of the general public or those considered at risk for infection. She describes mandatory testing proposals and the limits and capabilities of HIV tests. Ethical guidelines for an HIV screening policy accompanied by counselling are provided.

O'Brien, Raymond C. **Discrimination: The Difference with AIDS.** *Journal of Contemporary*

Health Law and Policy 6(7): 93-125, Spring 1990.

AIDS discrimination is different according to O'Brien because it depends on the attitude of those who discriminate: some condemn the activity or the status of those with the disease, others think that those who have AIDS have already been burdened by existing discriminations. Saying that probably all would urge care for the afflicted first, O'Brien writes that choices will be made for other money spent to check the disease, either to effect lifestyles or to eliminate the disease without regard to lifestyle. He concludes that AIDS is an intolerable addition to the past discrimination applied to homosexuals, blacks, and now Hispanics.

Osborn, June E. **Public Health and the Politics of AIDS Prevention.** *Daedalus* 118(3):123-144, Summer 1989.

Osborn thinks politicians in this country have hesitated to act on AIDS because there is an assumption that science and technology can eliminate all public health threats. She states that for the first time in history, education about the disease allows for individual avoidance of the threat. AIDS patterns throughout the world are discussed along with dissemination methods for educational material.

Pellegrino, Edmund D. **Ethics.** *Journal of the American Medical Association* 263(19): 2641-2642, 16 May 1990.

Writing in the annual Contempo Issue of *JAMA*, Pellegrino says treatment of AIDS infection "poses some of the most difficult dilemmas in clinical medicine." He focuses on the ethical impact of recent research, especially early treatment, and asks 19 questions accompanied by discussion concerning confidentiality, treatment refusal, physicians obligations to patients, costs, payment methods, just allocation, health professionals' 'burnout' and welfare, changes in experimentation protocols, and AIDS tests for pregnant women. He stresses that education and counselling to prevent AIDS are necessary until such time as a vaccine is available.

Pellegrino, Edmund D. **HIV Infection and the Ethics of Clinical Care.** *Journal of Legal Medicine* 10(1): 29-46, March 1989.

Discussing clinical or bedside decisions, Pellegrino addresses three questions: the moral obligation for physicians to treat HIV infected persons, whether the duty is modified by the universal fatality of the disease, and how treatment decisions are affected. He says that there is a duty to treat and that, in turn, society has the obligation to provide maximum protection and fair distribution of the burden. He concludes that clinical decisions for AIDS patients should be made by the same criteria applied to all ill patients: prognosis, effectiveness and benefit of treatment, and informed consent.

Perry, Samuel. **Warning Third Parties at Risk of AIDS: APA's Policy Is a Barrier to Treatment.** *Hospital and Community Psychiatry* 40(2): 158-161, February 1989. (see also Zonana, Howard)

The American Psychiatric Association adopted a policy statement that said that psychiatrists may warn third parties who are placed at risk by the behavior of an HIV infected patient. Dr. Perry holds that the public will be better served if patients are sure of confidentiality. He thinks that the policy will prevent those infected from seeking treatment.

Perry, Samuel, et al. **Voluntarily Informing Others of Positive HIV Test Results: Patterns of Notification by Infected Gay Men.** *Hospital and Community Psychiatry* 41(5): 549-551, May 1990.

Forty urban homosexual men who learned they were HIV infected were interviewed to determine the frequency with which they voluntarily informed physicians, dentists, friends, family members, and past and present sexual partners of their HIV seropositivity. Ninety percent informed a personal physician, 13 of 27 (48%) who sought dental care informed the dentist, 66% notified current sex partners, 90% made no attempt to notify past partners, 68% confided in at least one friend but only 35% told a family member. The authors note the relatively small number of subjects in the study and urge others to conduct studies to help guide public policy.

Peterson, Lynn M. **AIDS: The Ethical Dilemma for Surgeons.** *Law, Medicine & Health Care*

17(2): 139-144, Summer 1989.

A surgeon who operates on AIDS patients describes the reality of the fear expressed by surgeons who base refusal to operate on danger to themselves, their families and their other patients. Physicians are generally responsible for the care of the sick and a surgeon would be “expected to provide care as long as it does not entail an unreasonable risk.” The author thinks that surgeons are at no greater risk than other health professionals and that this risk varies in high and low prevalence areas.

Porter, Joan P.; Glass, Marta J.; and Koff, Wayne C. **Ethical Considerations In AIDS Vaccine Testing.** *IRB* 11(3): 1-4, May/June 1989.

The authors express ethical concern that a lack of suitable animal models cause higher risk levels to vaccine volunteers. She urges confidentiality and informed consent for both volunteers and their sexual partners about possible medical risks, social risks of vaccine induced seroconversion, efficacy, and liability. The need for protection of human subjects makes such ethical principles as respect for persons, beneficence, and justice fundamental in a well-planned study.

Ratzan, Richard M., and Schneiderman, Henry. **AIDS, Autopsies, and Abandonment.** *Journal of the American Medical Association* 260(23): 3466-3469, 16 December 1988.

The authors state that autopsies should be as available for AIDS patients as they are for any other patient; non-abandonment continues to apply after a person’s death since a relationship established in patient care is a commitment that continues if an autopsy is clinically indicated. They conclude that “throughout the first 2300 years of western medicine, beginning with Hippocrates and ending with the advent of penicillin only some 45 years ago, to be a doctor was to take personal risks for our patients.”

Richman, Douglas D. **Public Access to Experimental Drug Therapy: AIDS Raises Yet Another Conflict Between Freedom of the Individual and Welfare of the Individual and the Public.** *Journal of Infectious Diseases* 159(3): 412- 415, March 1989.

Richman says that uncontrolled studies in AIDS patients could reveal a curative drug, but they

would miss drugs that help but do not cure or drugs that “look good on paper” but do more harm than good. He criticizes the open distribution of unproved drugs as not compassionate and delaying access of needy patients and health personnel to critical information that could prolong life and reduce suffering.

Ryan, Caitlin C., and Rowe, Mona J. **AIDS: Legal and Ethical Issues.** *Social Casework: The Journal of Contemporary Social Work* 69(6): 324-333, June 1988.

The authors urge social workers to insure that social services are equitably allocated, that those who are infected with AIDS receive protection from discrimination as well as the care and services they need, and that professionals affirm traditional values of advocacy, community service, respect for differences, and commitment to social change.

Sharp, Sanford C. **The Physician’s Obligation to Treat AIDS Patients.** *Southern Medical Journal* 81(10): 1282-1285, October 1988.

Physician Sharp notes that his peers have had little impetus to explore their acceptance of personal risk in patient care before the appearance of AIDS. He says that a physician is obligated to treat all who would benefit from his care, basing this on historical tradition, formal codes, the dependent nature of the patient, the social contract, and medicine as a profession.

Skeel, Joy D., and Self, Donnie J. **AIDS and the Allocation of Limited Resources: Admissions to Intensive Care Units.** *Journal of Critical Care* 3(3):195-198, September 1988.

In situations with very high mortality patients are often not admitted to the intensive care unit (ICU) when the disease is known to be chronically debilitating and terminal, according to the authors. However, with such patients, temporary crises may permit such acute care and monitoring if the patient is likely to be able to leave the ICU, if the patient does not have multiple organ involvement, and the recovery from the crisis is high. They say that, morally, AIDS should not be treated differently from other terminal diseases, and urge studies of outcomes to determine appropriate treatment and fair allocation of resources.

Spong, Salwa G. **AIDS and the Health Care Provider: Burgeoning Legal Issues.** *Michigan Bar Journal* 67: 610-620, July 1988.

Employment discrimination, the duty to provide a safe working environment, informed consent for HIV testing, confidentiality and disclosure duties, and patient screening are treated in what Spong notes is a rapidly developing area of the law.

Street, John. **British Government Policy on AIDS: Learning Not to Die of Ignorance.** *Parliamentary Affairs* 41(4): 490-507, October 1988.

Saying that the substance of Britain's AIDS policy is largely money allocated for research, treatment, and education, Street also points out the role government can have in public understanding of the disease. The essay provides a detailed reporting of the UK's education program, research policy, clinical treatment, and prevention programs concerning AIDS. The author says that a national plan designed and driven by government on a 10- to 20-year time scale was recommended by a select committee set up to combat AIDS, but he thinks that such long range plans are unlikely to succeed. He says "learning not to die of ignorance may mean, therefore, more than issuing instructions and funding medical and sociological research; it may mean learning how political practice and private behaviour interact."

Sullivan, Kathleen M., and Field, Martha A. **AIDS and the Coercive Power of the State.** *Harvard Civil Rights-Civil Liberties Law Review* 23(1): 139-197, Winter 1988.

A legal review of quarantine and criminalization of behavior with respect the possible uses of such measures to combat AIDS is presented by two Harvard law professors. They indicate that both frank education and social services should not be underestimated as containment measures, and end by stating, "it would be a mistake to enact either criminal measures or quarantines to deal with the problem of transmission of AIDS."

Tauer, Carol A. **AIDS: Human Rights and Public Health.** *Medical Anthropology* 10(2-3): 177-192, March 1989.

Tauer offers international views on such human rights as confidentiality, informed consent, and the right to know. She goes onto include information about testing and screening in the United States, Britain, and France; government sponsored education programs; quarantine; protection for civil rights; and ethical principles on overriding basic rights.

Tegtmeier, June W. **Ethics and AIDS: A Summary of the Law and a Critical Analysis of the Individual Physician's Duty to Treat.** *American Journal of Law & Medicine* 16(1-2): 249-265, 1990.

The author states that theories which say that the physician has an ethical duty to treat are susceptible to criticism since state and local laws can be enacted to establish the legal duty to treat. It is only by "reasoned analysis that the medical and legal professions can reach correct ethical conclusions that will protect the tradition of freedom and the autonomy of the physician."

Thomasma, David C., and McElhinney, Thomas K. **Ethical Concerns About AIDS.** *Pharos* 53(2): 7-11, Spring 1990.

Describing AIDS as a modern form of leprosy, the authors review the medical ethical concerns created by the disease. They discuss the health professional's obligations, institutional concerns, screening, confidentiality, informed consent, and experimentation.

Volberding, Paul. **Supporting the Health Care Team In Caring for Patients with AIDS.** *Journal of the American Medical Association* 26(5): 747-748, 3 February 1989.

Because of its medical complexities and associated social and ethical problems, AIDS does not easily fit into the current medical care system, according to Volberding. He thinks that ethical issues include the limitation of care or withdrawal of support when the patient cannot express his desires and no one speaks on the patient's behalf. The author recommends multidisciplinary assistance among physicians as well as social, economic, and psychological support from health care personnel including medical ethicists.

Wachter, Robert M., et al. **Life-Sustaining Treatment for Patients with AIDS.** *Chest* 95(3):

647- 652, March 1989.

The physician authors point out that, while AIDS patients often have a poor prognosis, outcomes continue to improve with new treatments. Physicians should understand and use well-established ethical principles to allow informed competent patients with AIDS to express their preference regarding intensive care. Patients would be encouraged to provide advanced directives or to designate surrogate decision makers. Alternative compassionate care should be available, but arbitrary policies denying intensive care to AIDS patients for whom it is medically indicated and desired are not warranted.

Walters, LeRoy. **Ethical Issues In the Prevention and Treatment of HIV Infection and AIDS.** *Science* 239(4840): 597-603, 5 February 1990.

Walters thinks the major ethical question posed by the AIDS epidemic is how to control the epidemic while protecting individual freedom and preventing unjust discrimination against particular social groups. He surveys the issues in public health policies, the delivery of health care, and research.

Winston, Morton E. **AIDS, Confidentiality and the Right to Know.** *Public Affairs Quarterly* 2(2): 91-104, April 1988.

Winston provides a discussion of confidentiality within an ethical framework, noting the limits to it from the "Harm and Vulnerability Principles."

Wittenberg, J., and Lazenby, A. **AIDS in Infancy**

Diagnostic, Therapeutic, and Ethical Problems. *Canadian Journal of Psychiatry* 34(6): 576-580.

Parental decision making and testing are suggested as areas of ethical concern in the care of infants infected with the AIDS virus.

Zonana, Howard. **Warning Third Parties at Risk of AIDS: APA's Policy Is a Reasonable Approach.** *Hospital and Community Psychiatry* 40(2): 162-164, February 1989. (see also Perry, Samuel)

Zonana says that the policy the American Psychiatric Association adopted, which says that psychiatrists may warn third parties who are placed at risk by the behavior of an HIV infected patient, is a reasonable policy. Since the professional must first exhaust efforts to work with the patient to end behavior that places others at risk the patient should understand that the limits of confidentiality will only be breached as a last resort.

(Scope Note 8, **AIDS: LAW, ETHICS, AND PUBLIC POLICY**, was prepared by Robert C. Iosco and edited by LeRoy Walters and Pat Milmoie McCarrick in April 1988. This update of AIDS ethical literature was compiled and annotated by Ms. McCarrick, who is a reference librarian at the National Reference Center for Bioethics literature.)