

F I N A L R E P O R T

AIDS TASK FORCE

January 1989

BACKGROUND INFORMATION

The AIDS Task Force was established by the Legislative Council in the 1987 Interim for a two-year period with the following charge: "Conduct a study of health care costs, testing and detection, and other issues relating to AIDS."

In the 1988 Interim, the Legislative Council made the following addition to the charge: "to protect civil liberties, monitor implementation of related legislation approved during the 1988 legislative session; and submit a final report containing proposed legislation by December 15, 1988." A summary of the legislation enacted in the 1988 Session is attached to this report.

The following members served on the AIDS Task Force:

Senator Al Sturgeon, Sioux City, Co-chairperson
Representative Ralph Rosenberg, Ames, Co-chairperson
Senator David Readinger, Urbandale
Representative Mike Van Camp, Davenport
Elizabeth Coss, R.N., Des Moines
Alex Ervanian, M.D., Des Moines
Jill June, Des Moines
Clark McDonald, Des Moines
Carla Mehus, Des Moines
John Schmacker, Des Moines
Carolyn Scholl, Des Moines

An interim report of the AIDS Task Force activities during the 1987 Interim was previously submitted to the Legislative Council. This report summarizes Task Force activity during 1988.

MEETING DATES -- 1988 INTERIM

The Task Force was authorized two meeting days and held the meetings on September 15, 1988, and December 13, 1988.

PRESENTATIONS

The following presentations were made to the AIDS Task Force on September 17, 1988:

1. Mr. Mike Guely of the Iowa Department of Public Health reviewed proposed administrative rules which he indicated were organized so as to place all AIDS-related rules in a single chapter of the Iowa Administrative Code. The rules described amendments made to develop the single chapter; certification procedures and standards that laboratories must comply with in order to perform human immunodeficiency virus (HIV) testing; and two hour training programs for certain legislatively identified groups of health care and health care-related workers.

2. Mr. Jack Kelly of the Iowa Department of Public Health discussed a financial report relating to the AIDS control project operated by the Department which provided an explanation of the federal funding received and contracts awarded. He also stated that the Department urges the adoption of universal precautions to prevent the transmission of contagious and infectious diseases, indicating that currently, there are no plans to adopt administrative rules which specifically address this subject.

3. Ms. Diane Kutzko of the AIDS Subcommittee of the Health Law Committee of the Iowa State Bar Association reviewed the potential legal vulnerability of the 1988 Legislation. Included among the concerns addressed was the liability potential for health care providers and others as a result of the required written notification placed with a deceased person who is suspected of suffering from a contagious or infectious disease; the provision which requires a minor's parent or guardian to be notified in the event of a positive HIV test on the minor was questioned as to whether there is a legitimate state interest in notification following the fact; and whether the confidentiality provisions are adverse to protecting the interests of a sex partner of a person who is infected with AIDS. Ms. Kutzko's presentation generated extensive discussion regarding physician pretest counseling requirements, confidentiality concerns, preferences for administrative rulemaking to redress legal problems, and other items regarding the 1988 Legislation.

The following presentations were made to the AIDS task force at its second meeting held on December 13, 1988:

1. William J. Hausler, Jr., Ph.D., State Hygienic Laboratory outlined a proposal for surveillance of the spread of HIV among the newborn population of the state as part of a national study. He indicated that the study would use blood samples already submitted to the laboratory through the Iowa Neonatal Metabolic Screening Program, but indicated that a change in current law would be necessary for the proposed program to operate.

2. Ms. Diane Kutzko, AIDS Subcommittee of the Health Law Committee of the Iowa State Bar Association, expressed concerns regarding the current law. The concerns included the duty of health care providers to provide written notification of actual and suspected cases of AIDS to accompany dead bodies; the requirement that a physician notify a minor's parent or guardian following a positive HIV test result; and the issues surrounding partner notification and confidentiality requirements.

3. Ms. Jeanine Freeman, Iowa Hospital Association, expressed the intention of the Association to pursue its concerns primarily through the regulatory process rather than advocating legislation. The concerns include a change in partner notification provisions to facilitate physician compliance with American Medical Association ethical standards; clarification of the physician requirements regarding informed consent and legislation removing the strict liability and \$1,000 penalty provisions from current law; and desire to review proposed legislation from the Iowa Pathologists Association and other groups.

4. Ms. Becky Roorda, Iowa Medical Society, discussed four concerns seen as requiring legislative action. They include a belief that an HIV infected person's refusal to voluntarily notify an endangered identifiable third party would place a physician who wishes to protect the public health in an ethical dilemma under current confidentiality provisions; that physician pretest counseling requirements prior to performing an HIV test should be clarified to permit the use of written information with opportunities for discussion to replace the current strict counseling requirement; that the required \$1,000 penalty should be removed as unnecessary and serving to discourage health care practitioners from performing HIV tests out of concern for liability; and that the parental and guardian notification provision be redrafted to clarify its specific application to HIV test results.

5. Ms. Melody Oltmann, Cedar Rapids Department of Safety and Health Services, discussed a bill by Senator Richard Running which relates to notification of health care practitioners and others who receive a significant exposure to a reportable contagious or infectious disease. Committee discussion of the proposal centered on concerns relating to confidentiality.

6. Ms. Deborah Ozga, Bureau of Medical Services of the Department of Human Services, updated the Task Force on progress made toward obtaining a federal Medicaid waiver to provide alternative services to persons with AIDS or a related condition.

7. Ms. Peggy Huppert, Iowa Hospice Organization, discussed the history and current status of the hospice movement, cost-effectiveness aspects of hospice care, trends for hospice

accreditation and certification, public policy advantages of hospice care for persons with AIDS, and hospice involvement in the Medicaid waiver application. She estimated that approximately \$1,000,000 in state dollars would provide the hospice Medicaid benefit to serve many persons with AIDS and other terminally ill patients in a cost-effective manner.

8. Ms. Elaine Edge, AIDS consultant for the Department of Education, outlined the AIDS education provisions mandated by Senate File 2094 and discussed progress made by schools in implementation.

9. Mr. Jack Kelly, Iowa Department of Public Health, discussed his written response to Task Force members' questions which had been previously mailed. The discussion included submissions of grant applications, the basis of DPH guidelines for universal precautions, information collection, fiscal information, the departmental position on Dr. Hausler's proposed study, administrative rules for laboratory certification, and administrative rules relating to the tagging of dead bodies.

MATERIALS CONSIDERED

The AIDS Task Force considered the following materials, memoranda, and other written submissions during the 1988 Interim which have been filed with the Legislative Service Bureau:

1. A notice of intended action by the Iowa Department of Public Health published in the Iowa Administrative Bulletin on August 10, 1988.
2. A discussion draft of proposed administrative rules supplied by the Iowa Department of Public Health.
3. A final draft of proposed administrative rules provided by the Iowa Department of Public Health.
4. A packet of materials distributed by the Iowa Department of Public Health which includes an HIV test information form, a financial breakdown of spending on the AIDS control project, the number of AIDS cases in the state reported as of 9/1/88, and a listing of AIDS alternative testing sites.
5. A summary of AIDS legislation enacted in the 1988 Session prepared by the Legislative Service Bureau.
6. A packet of materials prepared by Ms. Diane Kutzko, AIDS Subcommittee of the Health Law Committee of the Iowa State Bar Association.

7. A memorandum and packet of material prepared by the Iowa Department of Public Health in response to questions raised at the September meeting of the Task Force.

8. A summary of the activities of the Bureau of Medical Services of the Department of Human Services relating to a Medicaid waiver application for persons with AIDS and related conditions prepared by Ms. Deborah Ozger.

9. A letter from the AIDS AD HOC Committee submitted on the letterhead of the Department of Safety and Health Services of the city of Cedar Rapids with a bill draft by Senator Running attached (LSB 1051SF 73).

10. A letter from the Dr. John W. Olds, M.D., Chairperson of the Iowa Medical Society Committee on AIDS, containing legislative recommendations. Additional attachments containing position statements of the American Medical Association submitted to the Board of Trustees of the Iowa Medical Association were placed on file with the Legislative Service Bureau.

11. A copy of a letter sent to health care providers prepared by Ms. Cheryl D. Christie, R.N., of the Iowa Department of Public Health describing compliance measures.

12. A memorandum prepared by Ms. Gail M. Sullivan, Department of Education, describing AIDS curriculum development and local school compliance with AIDS education requirements enacted in 1988.

13. A letter from Ms. Jeanine Freeman, Iowa Hospital Association, containing legislative recommendations.

14. A letter from Ms. Diane Kutzko, Chairperson of the AIDS Subcommittee of the Health Law Committee of the Iowa State Bar Association containing legislative recommendations.

15. A letter from Dr. William J. Hausler, Ph.D., State Hygienic Laboratory, containing legislative recommendations.

RECOMMENDATIONS

At the final meeting held on December 13, 1988, there was a quorum lacking for the approval of formal recommendations to the Legislative Council and the General Assembly. In the absence of a quorum Task Force members discussed and expressed preferences for several informal recommendations. The discussion of these informal recommendations is contained in the minutes of the December 13, 1988, meeting.