

## TEXT SUPPLEMENT (Ch 16): Laws Regarding AIDS and Public Health

The response of the U.S. government to AIDS has been influenced partly by the nature of transmission of the disease (that is, it is not transmitted by casual contact), partly by the political organization of the 'AIDS community,' and partly by changes in civil rights laws during the period since 1950. Before 1950, U.S. law gave only weak support to individual rights. The Supreme Court decision in *Brown v. Board of Education*, the resultant Civil Rights Act of 1964, and the Voting Rights Act of 1965 have given much greater strength to the rights of individuals in the face of discrimination by the many. More recently, the Rehabilitation Act of 1973 mandated that employers receiving federal funds cannot discriminate against someone with a handicapping condition who is otherwise qualified, and a disease that does not endanger others is considered a handicapping condition. This was upheld in *School Board of Nassau County v. Arline* (1987), in which a person with tuberculosis won the right to continue work. These principles have been further extended in the United States by the Americans with Disabilities Act (1990). Under this act, persons with disabilities can not be denied "full and equal enjoyment" of goods, services and public accommodations. AIDS is considered a disability under this act. The U.S. Supreme Court has recently ruled that asymptomatic HIV infection can also be a disability. A disability is defined under this law as "a physical or mental impairment that substantially limits one or more of the major life activities of the individual." The court case involved an HIV-positive woman who was denied treatment by a dentist in his regular dental office. The court ruled that the woman was disabled because HIV infection limited her ability to have children (because unprotected intercourse would put her husband and a child they conceived at risk for infection). The dentist had wanted to offer the woman dental treatment in a hospital but the court also ruled (5 to 4) that the Universal Precautions for handling body fluids (see text, page 604) should make a dental office a safe environment for treatment.

AIDS is a reportable disease in all 50 of the United States. Twenty-seven states require the notification of public health officials of HIV infection, including the person's name, so that cases can be followed. The issue of mandatory testing for HIV antibodies remains very controversial. Issues of confidentiality are involved, because many people fear (correctly or incorrectly) that they would be discriminated against if they were identified as being HIV positive. At the same time, medical professionals would like to know the HIV status of their patients so that they can provide both better care for the infected person and better protection for health care workers against unintentional infection. Forty-four states permit notification of healthcare workers of patients' HIV status; two states (Arkansas and Missouri) require it.

Current laws generally prohibit testing a person without the person's consent. However, the U.S. government does test everyone who applies for immigration, the Peace Corps, the Job Corps, the military, or the Foreign Service, and also tests the spouses of Foreign Service applicants. The 1992 International Conference on AIDS, which was to have been held in the United States, was moved to Amsterdam in protest against the U.S. policy of denying entry to any HIV-positive person; that policy has since been relaxed. Fourteen states screen all prisoners and six segregate those who are HIV positive.

Another issue relates to the notification of sexual partners of HIV-infected persons. For other sexually transmitted diseases, public health officials notify and test the sexual partners of all infected persons, then the partners of those sexual partners, and so on. Some doctors have argued against this practice for HIV-infected women, who are often diagnosed during prenatal testing when they are pregnant. Many HIV-positive women (and their unborn fetuses) become victims of domestic violence when their HIV status is reported to their partner. Partner notification is permitted ('duty to warn'), but not required, in most states. Notification obviously depends on infected persons' accurate disclosure of the names of all their partners.