Op-Ed

Science, Politics, and the End of the Lifelong Gay Blood Donor Ban

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ON DECEMBER 23, 2014, DR. MARGARET HAMBURG, commissioner of the Food and Drug Administration (FDA), announced that her agency had decided to amend a policy in place since 1986. The old policy barred any man who had had sex with another man between 1977 and the present from donating blood. The new policy excluded only those men who had had sex with another man within the last year. The scientific evidence justified the new policy, Hamburg explained (<http://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm427843.htm>). But a review of the history surrounding the decades-old “lifelong ban” on gay men donating blood makes clear that far more was at stake.

In 1983, almost a year before HIV was identified as the etiologic cause of AIDS, and 2 years before the licensure of the antibody screening test designed to detect infection, political pressure began mounting to prohibit “high risk” donors from donating blood.

Gay organizations just coming to grips with a new threat to the survival of their communities were concerned that an explicit ban on blood donations by gay men would add to stigmatization and homophobic attitudes. It is important to remember that this occurred when 25 states still criminalized sex between consenting adults of the same sex (and, in 1985, the US Supreme Court, in *Bowers v Hardwick*, upheld the constitutionality of Georgia’s sodomy statute). Gays were not alone, however, in questioning the wisdom of an exclusionary policy that might have a negative effect on the “adequacy” of the blood supply. Indeed, many blood bankers asked what the evidence was to justify this disruptive move.

Against such voices of restraint were those who saw an emerging crisis that required immediate action. Donald Francis, who was then director of the Centers for Disease Control and Prevention’s AIDS laboratory,

asked, "How many cases will it take?" as he also demanded that those who were reluctant to take action do so quickly.

In this context of fear, the US Public Health Service issued its first, cautiously worded, exclusionary recommendations on March 4, 1983: "Sexually active homosexual and bisexual men with multiple partners" should refrain from blood donation. But even those words were modest in comparison with the 1986 federal regulations that banned all gay men from donating blood.

In 1985, the prospects for securing the safety of the blood supply were radically improved with the licensure of an assay that could identify HIV antibodies. Yet as effective as the test was in protecting the blood supply, it also had its limits. For example, the antibody test could not identify those recently infected, within a "window" of months. Thus, many argued, without careful donor screening, it was possible that HIV-tainted blood might still be used for transfusions or for the manufacture of blood products. Over the next several years, the HIV antibody assay's sensitivity and specificity dramatically improved. In 1992, a new test for the HIV virus was licensed, thus reducing the perilous "window" to weeks, if not days. Accordingly, the exclusionary policy that in 1985 was justified in the name of providing a critical margin of safety came under increasing scrutiny and protest.

Reasoning that absolute safety was an illusion, Harvey Feinberg asked, "How can we define and attain desirable balance among the goals of safety and an adequate blood supply . . . while maintaining our ethical responsibility to donor, the patient and to society at large?"¹ In the coming years, this debate expanded to include not only safety or the cost of screening but also the impact on the dignity (and altruism) of those who sought to donate blood.

In March 2006, the US Department of Health and Human Services (HHS) Advisory Committee on Blood Safety and Availability met to consider these issues. Given the scientific evidence, they asked what justified barring gay men from donating blood for life while federal policy imposed only a 1-year exclusion for those with a recent tattoo or ear piercing; those who had had sexual contact with a person with hepatitis, syphilis, or gonorrhea; those who had had sex with anyone who had ever used needles to take drugs; a man who had had sex with a prostitute; or a man who had had sexual contact with a female who had had sexual contact with a man who had had sex with another man. In addition, in the same year, the American Red Cross declared that the lifetime exclusion

was “neither medically nor scientifically warranted.” But despite the evidence, the Advisory Committee voted against changing its 20-year-old policy.

In 2010, the HHS Advisory Committee, in a deeply divided vote, again refused to modify the exclusionary policy. It concluded, “We find that currently available scientific data are inadequate to support” a change.

By 2013, though, the political landscape had markedly changed. The American Medical Association declared that the lifetime ban on blood donation for men who have sex with men was “discriminatory and not based on sound science.”² Soon thereafter, the American Osteopathic Association adopted a similar stance.³ That same year, 18 US senators and 68 US representatives wrote to HHS Secretary Kathleen Sebelius: “Our current policies turn away healthy, willing donors, even when we face serious blood shortages. Further, the existing lifetime ban continues to perpetuate inaccurate stereotypes against gay and bisexual men, and fosters an atmosphere that promotes discrimination.”⁴ In state after state, bans on gay marriage had fallen.

A year later, the HHS Advisory Committee voted to embrace a new policy ending the 28-year-old lifetime exclusion of gay blood donors, thus setting the stage for Commissioner Hamburg’s year-end announcement. The FDA has taken a long-overdue step. But for many, it still was a step far too tentative, driven not by science but by the fear of political backlash.

References

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