

Just news

AIDS-related discrimination becoming routine

"I don't think the law has done much to stop discrimination."

— Julia Hale-Harbaugh, US Office for Civil Rights

BY ANNDEE HOCHMAN

A young man vacationing at the coast severely injures his ankle and is denied medical treatment when the doctor sees his address — in an urban neighborhood well-known as a "gay area." The man is not gay, and he does not have AIDS, yet he must travel 200 miles back home and wait 12 hours to get his injury treated.

A Seattle-area nursing home refuses to admit a patient diagnosed with AIDS, saying that if other residents and their families found out, it would present "a public relations nightmare."

A man talks excitedly to his colleagues about an AIDS education forum he recently attended. Several days later, he is fired; his boss assumes that if the man wants to learn about AIDS, he must have the disease.

These instances have two things in common. They happened. And they are illegal.

Federal and Oregon laws protecting persons with handicaps from discrimination in housing, employment and public accommodations apply to people infected with HIV, people with AIDS and people perceived to have AIDS or HIV-infection.

The law, specifically section 504 of the federal Rehabilitation Act of 1973, says that programs receiving federal moneys — including hospitals, nursing homes, adoption agencies, day care centers, and senior citizen meal programs — cannot discriminate against people with handicaps, including HIV-infection and AIDS. Oregon civil rights laws provide similar protections.

But the laws alone don't stop discrimination. A representative from the federal Office for Civil Rights, visiting Portland last month as part of AIDS Discrimination Awareness Week, said her regional branch of OCR, located in Seattle, has investigated 100 complaints of AIDS-related discrimination since 1986.

"I don't think the law has done much to stop discrimination," said Julia Hale-Harbaugh, from the Region X Office for Civil Rights, which serves Washington, Oregon, Idaho and Alaska. "Every day we get letters and phone calls from people who've lost their jobs or their houses or been denied services because they have AIDS or someone thinks they have AIDS."

"Most of this is borne out of ignorance and fear — an unwillingness to accept what the experts are telling us about this disease and how difficult it is to transmit."

Hale-Harbaugh said that discrimination against persons perceived to have AIDS is as prevalent as discrimination against those who actually have the disease. Gay men, minorities, people who take care of AIDS patients or who have gay friends may be targeted for unfair treatment as well, she said.

"The AIDS epidemic affects everybody's civil rights," Hale-Harbaugh said.

In Oregon, the state Bureau of Labor and Industries handles civil rights complaints based on AIDS status. Labor Commissioner Mary Wendy Roberts recently said it is illegal for dentists to refuse treatment or to charge additional fees to HIV-positive patients. Any employer with more than six employees is covered by the handicapped statute banning discrimination.

At a news conference launching AIDS

Discrimination Awareness Week, sponsored by the Metropolitan Human Relations Commission, Roberts said that her agency has received fewer than 20 complaints this year about AIDS- or HIV-related discrimination. But she said such incidents are underreported because people may fear further discrimination if they complain.

"The most frustrating thing I hear is when someone says, 'Yeah, I lost my job but I don't want to file a complaint because it's too much of a hassle,'" said Hale-Harbaugh. "As a handicapped person, I've experienced discrimination all my life. When I don't complain, I allow that to continue to happen."

Hale-Harbaugh said the most common type of discrimination against people with AIDS or HIV-infection are the most blatant — firing, eviction or denial of services. Some hospitals, for instance, routinely transfer people with AIDS to large municipal hospitals, effectively "dumping" patients they don't want to serve.

But other complaints detail more subtle moves to isolate or differentiate people with AIDS. For example, some hospitals post special signs on the doors of AIDS patients. "We see unnecessary labelling and segregation of patients," Hale-Harbaugh said. "It hurts people. You can't believe how much it hurts them."

In addition, she said, fear of AIDS has rekindled longtime prejudices against sexual, racial and ethnic minorities, and AIDS-related discrimination may fall most heavily on members of these groups.

Private insurance companies in Oregon have a wider license to discriminate than public employers or facilities. An insurance company may deny coverage to people with AIDS, and companies are permitted to ask applicants whether they have tested HIV-positive or have been diagnosed with AIDS. They cannot, however, ask if you have taken an HIV-antibody test or require that you take one based on your lifestyle or sexual orientation. (In other words, they can't just assume you have AIDS or are at risk of contracting it.)

When individuals complain to the federal Office for Civil Rights, they receive a packet of forms to help them detail the complaint in writing. Within 15 days, the agency begins its investigation by reviewing written records and interviewing the people involved. Normally, the office has 185 days to process a complaint, but that limit is shortened to 90 days when the person complaining has a life-threatening illness.

If the OCR finds that discrimination occurred, they attempt to negotiate with the body that violated the statutes — for instance, by reinstating a fired employee or awarding her/him back pay and benefits.

"We really bend over backwards to get voluntary compliance," Hale-Harbaugh said. "There are no punitive damages we can impose. The ultimate penalty is to have your federal financial assistance terminated."

Hale-Harbaugh believes individuals must learn their rights regarding AIDS-related discrimination and insist that employers, medical providers and others follow the statutes.

"All the communities have to take responsibility for bringing it out into the light and saying, 'We're not going to put up with it anymore,'" she said. "Nobody's an island on this one."



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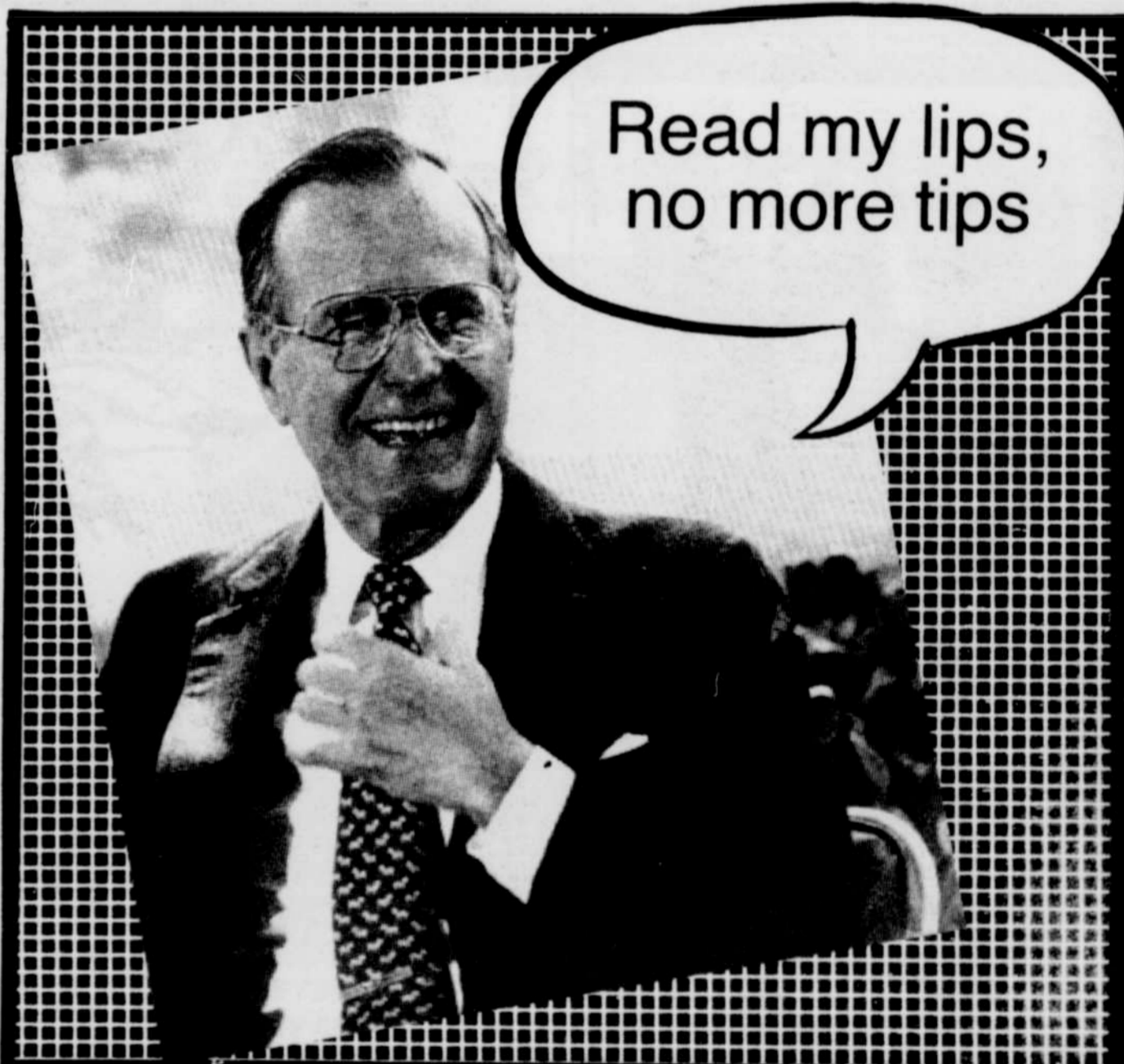
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