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New Developments in 9-11 Biowar Legislation -- MEHPA Draws Criticism, More Microbiologists Dying

by Michael Davidson, FTW staff writer

April 4, 2002, 10:00 AM PST (FTW) -- Even as the epidemic of dying microbiologists continues, the draconian Model Emergency Health Powers Act (MEHPA) is making its way across the country. But MEHPA's march is turning out to be much less of a walk in the park than the Bush administration expected. All over America, individuals and organizations are rising up to oppose what many see as an astounding assault on civil liberties. The legislation is being pushed on states by the Department of Health and Human Services. Among other provisions, MEHPA includes sections that:

" Require any individual to be vaccinated. Refusal could constitute a felony and will result in quarantine.

" Require any individual to undergo specific medical treatment. Refusal could constitute a felony and will result in quarantine.

" Allow state or local governments to seize any property, including real estate, food, medicine, fuel or clothing, an official thinks necessary to handle the emergency.

" Allow state or local governments to seize and destroy any property alleged to be hazardous. There will be no compensation or recourse.

" Draft you or your business into state service in the event of a declared emergency.

" Impose rationing, price controls, quotas and transportation controls.

" Suspend any state law, regulation or rule that is thought to interfere with handling the declared emergency.

In addition to the medical, ethical, religious and constitutional problems MEHPA poses, much of the opposition to MEHPA relates to the amazing vagueness of the law's language -- any state governor can use MEHPA to make him or herself an absolute dictator by declaring an emergency. The proposed law defines a "public health emergency" as "an occurrence or imminent threat of an illness or health condition, caused by bioterrorism, epidemic or pandemic disease, or novel or highly fatal infectious agent or biological toxin that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability."

Lawrence O. Gostin, Georgetown University Law School professor and primary

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author of MEHPA, uses incredibly vague language in his attempts to defend his proposed law. In an Insight On The News magazine article dated Jan. 7 Gostin, while discussing the checks and balances on a governor's declaration of a state of emergency, said, "The governor could do so only if there were compelling grounds for believing that there is a strong potential for mass casualties from bioterrorism or a novel infectious disease."

LEGISLATORS, NGOs, AIDS/HIV COMMUNITY OPPOSES MEHPA

There is particular concern about MEHPA in the AIDS/HIV community. The AIDS problem has been repeatedly described as a "pandemic," a word specifically used in the legislation. In the Insight On The News article Gostin states, "It is not intended that long-term endemic diseases such as HIV/AIDS would be covered."

MEHPA's progress is being closely monitored by the American Legislative Exchange Council (ALEC), a non-partisan association of state legislators. As of March 29, ALEC points to 24 states where versions of MEHPA have been introduced. So far, only South Dakota has passed a watered-down MEHPA-type law. A Minnesota bill close to passage is closer to the draft legislation. This bill has many of the original model law's provisions. Only one state, Mississippi, has actually defeated a MEHPA-type law.

According to Sandy Liddy Bourne, one of ALEC's MEHPA coordinators, "The further we get from 9-11, the less enthusiasm there seems to be for this type of legislation. State legislators are realizing they have other pressing issues to attend to." Organizations and citizen groups throughout the country, including the Libertarian Party and the Association of American Physicians and Surgeons, are pressing forward with concerted efforts to stop MEHPA-type legislation.

U.S. SPIN FANS FLAMES OF BIOTERRORISM

That enthusiasm to which Bourne referred can be rekindled at any moment, and it is quite apparent that some interests -- especially the U.S. government -- are extremely interested in keeping bioterrorism fears inflamed. News stories attempting to link Al Qaeda and the Taliban to bioterrorism pop up on a regular basis.

For example, a New York Times article published March 23 was headlined, "U.S. Says It Found Qaeda Lab Being Built to Produce Anthrax," and restated that claim by "officials" in the first sentence. However, in the 13th paragraph the Times reports, "American officials did not describe the evidence in detail but said that it included medical equipment and supplies that would be useful for legitimate research but could also be used to produce biological agents."

An Associated Press story on March 22 began, "U.S. forces have recently found what appears to be another rudimentary al-Qaida biological weapons research site." The very next sentence was, "Officials found no evidence the terrorist organization could make weapons out of diseases or poisons, the official said. Instead, searchers found medical supplies and commonly available chemistry equipment."

Attorney General John Ashcroft is part of this "terrifyism" game. In a March 6 interview with USA Today, Ashcroft was quoted as saying authorities are "not on the verge" of any significant breakthrough in searching for the source of last fall's anthrax mailings that killed five. Ashcroft should be aware that prior to this

interview, the FBI publicly acknowledged that the anthrax came from the U.S. military. A Feb. 25 story in The Washington Times began, "The FBI's search for the person who mailed anthrax-laced letters that killed five persons has focused on a former U.S. scientist who worked at a government laboratory where he learned to make a weapons-grade strain of the deadly bacteria."

Barbara Hatch Rosenberg is Chair of the Bioweapons Verification Working Group at the Federation of American Scientists (FAS). She is an acknowledged authority in the field, was a senior advisor to President Clinton, and has extensive connections in the biowarfare, law enforcement and intelligence communities. Rosenberg posted an article on the FAS website Feb. 5 beginning, "For more than three months now the FBI has known that the perpetrator of the anthrax attacks is an American."

Both the White House and the FBI have ridiculed Rosenberg's statements.

Even apparently "good" news can serve the needs of some to keep the public on the edge of its bioterrorism seat. America was strongly reminded of the biowarfare threat when, on March 28, the Washington Post reported that a pharmaceutical company had "discovered" between 70- and 90 million frozen, long-forgotten smallpox vaccine doses. How the company, Aventis Pasteur (now owned by Bayer, AG), could have forgotten 70- to 90 million units of its stock-in-trade was a temporary mystery. Until the next day, when an AP story by Lauran Neergaard reported that the federal government knew about the stockpile for years, and that Aventis had formally offered the vaccine to the government at no charge after Sept. 11.

In February, FTW reported that British vaccine maker, Acambis, had received a \$428 million federal contract last November to produce 155 million doses of smallpox vaccine. This was in addition to the contract Acambis already had to produce 54 million doses. The government has 15.4 million doses of smallpox vaccine warehoused, and planned to dilute them five to one. This would bring the total U.S. stockpile to 286 million doses. Is Aventis getting a free \$150 million tax write off at taxpayer expense?

MICROBIOLOGISTS CONTINUE TO DIE

Also in February, FTW reported on the extremely suspicious deaths of as many as 14 world-class microbiologists. Since that report, three more microbiologists have died.

At about 8:45 p.m. on Feb. 27, Tanya Holzmayer answered the door of her Mountain View, Calif. home to find a Domino's Pizza deliveryman. While explaining that she had not ordered a pizza, a man jumped out of the shadows firing several point-black shots at Holzmayer, killing her instantly. The shooter ran down the street, jumped into a Ford Explorer, and sped away. Holzmayer's work was centered on using genomics to develop drugs for HIV/AIDS and cancer.

At about 10 o'clock that night, the body of Guyang "Matthew" Huang was found on a jogging path in a Foster City, Calif. park. He had been shot once in the head, and a .380 semi-automatic pistol was near his body. Quoted about Huang in the San Francisco Chronicle on Feb. 28, Mountain View police Capt. Craig Courtin said, "[Huang] did make a phone call to his wife and told her he was on the bay, told her he had shot his boss [Holzmayer,] and...he threatened suicide."

While the pistol found beside Huang was immediately found to have been registered to him, a month after the incident Mountain View police have not confirmed any ballistic evidence that links Huang's gun to Holzmayer's murder.

Both Holzmayer and Huang, like the other dead microbiologists FTW reported on in February, were experts at DNA sequencing. Holzmayer had been Huang's superior at PPD, a Menlo Park, Calif. biotech firm. Holzmayer fired Huang in June, eight months before the shootings. Holzmayer herself left PPD in recent months, possibly to start her own biotech firm. PPD will not comment, other than to say Holzmayer and Huang both worked there.

Quoted in the Sacramento Bee on March 2, Maurille Fournier, Huang's doctoral advisor, said Huang was fired because PPD believed he was doing work for another firm on the side, but that Huang insisted PPD knew about this other work. It is clear from several sources that Holzmayer did not initiate Huang's firing, and did not want to fire him, but was ordered to do so by senior management.

Huang should not have been worried about finding employment. His resume included the fact that he was a senior research fellow at the University of Washington's Department of Molecular Biology and a professor at the University of Massachusetts, Amherst. He was also a founder of the Southern China National Human Genome Research Center.

In another bizarre incident, British microbiologist David Wynn-Williams was killed while jogging near his home in Cambridge, England. Wynn-Williams was an acknowledged expert on the microbiology of the Antarctic ecosystem, and how it could serve as a model for life on other planets. And like the others, Wynn-Williams was involved in DNA sequencing.

According to a March 27 report in England's The Telegraph, Wynn-Williams was caught between two cars that apparently collided. Neither driver was hurt, yet the impact was sufficient enough to kill Wynn-Williams.

[Ed. Note: In our previous story on MEHPA, FTW relied in part upon data provided by ALEC, some of which the group has since corrected. The current story reflects ALEC's corrected tracking information of MEHPA status in various states.--MCR]

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