

PITTSBURGH COMMISSION ON HUMAN RELATIONS

MINUTES

May 5, 1997

Attendance: Harry Kunselman, Chair
Father Lou Vallone
Curtis Smith
Christine Williams
Elizabeth Pittinger
Charles Honse, Jr.
Pamela Golden
B. J. Samson
Robert McClenahan
John B. Grice

Staff: Charles Morrison, Director
Connie Miskis Zatek
George Monroe
Yancy Miles
Kevin Trower, Legal Counsel

Guests: Marianne Jackson, Mayor's Office
Dave Goldberg, Controller's Office
Constance Wellons, former Commissioner
Bernie Cohen-Scott, former Commisisoner

I. CALL TO ORDER

The meeting was called to order at approximately 3:35 p.m. by Harry Kunselman, Chair.

II. ADOPTION OF MINUTES

Commissioner Kunselman asked that an additional sentence be noted on page 4 regarding the discussion of the Motions Commissioner: "Commissioner Samson is removed from the Compliance Review Section during the term of her office as Motions Commissioner." He also noted that several typographical errors must to be corrected before distributing the official Minutes of the meeting.

With the above addition and corrections noted, the Minutes of the April Commission meeting were unanimously adopted upon motion of Commissioner John Grice and second by Commissioner Charles Honse, Jr.

III. INSTITUTIONAL REVIEW BOARD REQUEST FOR COMMENTS

Dr. Dennis Swanson of the University of Pittsburgh Institutional Review Board briefly introduced members of the Review Board and his staff: Dr. Peitzman, Dr. Marilyn Borscht, Nell Schielgel, Dr. Ted Delbridge, Jeannie Barone and Dr. Watkins. Dr. Borscht presented a summary of the "Efficacy Trial of Diaspirin Cross-Linked Hemoglobin (DCLHb) in the Treatment of Severe Traumatic Hemorrhage Shock."

Dr. Borscht stated that DCLHb is a solution of modified human hemoglobin which has been cleansed of individual properties. In laboratory tests and during the first four years of clinical study, this solution has been administered to more than 350 patients and has been effective in increasing the oxygen to tissues. Major benefits included the facts that no cross-matching is needed and the solution can be given immediately. In addition, it does not need to be refrigerated and may be stored for up to one year. Human blood must be refrigerated and has a storage life of only one month. Side effects are minimal and include temporary yellowing of the skin and/or red-colored urine.

In the proposed study at the University of Pittsburgh, DCLHb, or a placebo consisting of salt water, will be administered at random to patients over 18 years of age with life-threatening loss of blood in the immediate stages of trauma. Once it is determined that a trauma victim meets selected criteria, an envelope will be opened indicating whether or not that person is to receive DCLHb or the salt water solution. All other treatments for injuries sustained will remain standard for those injuries. Patients excluded from the study are those under 18, pregnant women and those with severe head injuries or facing imminent death.

Dr. Borscht explained that the nature of life-threatening injuries is such that prior approval and consent cannot always be obtained prior to administering the solution. Every attempt will be made to obtain consent from the patient or family as soon as possible. Once a patient, or the family, has been informed they may choose to continue with the treatment fully or in a limited capacity or discontinue it completely.

Approximately 40 other trauma centers around the country are participating in this study, therefore, a broad cross-section of the population is expected. In the Pittsburgh service area, 20-30 patients may be selected within a one-year period; only half will receive the DCLHb solution. Right now, this solution can only be administered at the trauma centers involved in the study, but later, it can be given anywhere, including on the field during war or calamity.

Commissioner Pittinger indicated that legal guardians (of mentally incapacitated individuals) cannot give consent for human research; that the described protocol requires such permission or lack of objection be sought from a family member or legally authorized representative. Dr. Swanson agreed this may prove a drawback in some instances and will check further with their attorneys.

The Institutional Review Board is comprised of members of the community with broad backgrounds in medical, legal and other fields and it is their sole responsibility to determine if the proposed trial is reasonably safe, etc. The Commissioners were assured that there is no liability on the part of the Commission for serving as a sounding board for community input and comment. If the Commission decided not to participate in the review process, the Review Board would have to have consultation with the community at another level. Notice of this study will also be advertised in the local press. It is anticipated that actual start date of the study will be within next several weeks.

IV. COMMITTEE AND STAFF REPORTS

A. Nominating Committee

Commissioner McClenahan reported that the Nominating Committee, consisting of Christine Williams, Dr. George Board and himself, had met to consider nominations for 1997/98 Executive Committee. As part of narrowing their considerations, the Nominating Committee surveyed Commissioners for interest and received responses from all but three. The recommendation of the Nominating Committee is that the Executive Committee remain as they are currently seated:

Chair
Vice Chair
Vice Chair
Secretary
Treasurer

Harry Kunselman
Charles Honse, Jr.
Christine Williams
Rev. William Morgan
Elizabeth Pittinger

Additional petitions for nominations may be submitted by Commissioners but must be returned, bearing the signature of the proposed nominee and two other Commissioners, by May 16. Petitions will be forwarded to Commissioners absent from this meeting.

A final slate of candidates will be forwarded to Commissioners ten days prior to the June 2 election.

B. Compliance Update

George Monroe reported 98 cases have been submitted to EEOC against a contract goal of 116. This includes an upgrade of four cases.

The Director was asked about the status of the HUD contract. He reported that the Commission will not have to process a specific number of housing cases during the first year of the contract, however the Commission will receive an infusion of funds to get the new program up and running. Receipt of a portion of these funds will be available within 60 days of the signing of the contract, which has already taken place.

C. Director's Report

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| April 3 | Fair Housing Best Practice Conference -- NCCJ
To achieve fair housing compliance; targeted at providers. A similar conference on June 21 will be targeted to consumers. |
| April 14 | Presentation to the Soroptimist International of Pittsburgh, Inc. a professional business women's organization. |

- April 15 Quarterly meeting with the Regional Director of the State Human Relations Commission
- Monthly meeting of the Interagency Task Force on Drugs, Violence and Weapons, -- School Board
- April 23 U.S. Dept. of Justice Training targeted to police officers regarding Cultural Diversity and Race Relations
- Coalition to Counter Hate Groups -- debriefing on April 5 Unity Rally in Market Square. Formulate plans to hold annual rally.
- April 24 Fair Housing Roundtable
- Proposal for summer human relations program submitted to the Grable Foundation (Copy of abstract distributed) and notice of funding has been received. This will impact approximately 800 young people. Goal is to show children how to diffuse conflict and enhance their self-esteem. Commissioners were encouraged to also become involved in the program.
- April 25 Director made presentation to and led informal discussion of Allegheny County Bar Association Young Lawyer's Association. Director noted that the Commission enjoys a good reputation in the legal community.
- April 29 Second meeting of the Curfew Advisory Committee. Target goal is to compile data and issue report to Council by June or July.
- April 30 Commission participated in Fair Housing program at Market Square.
- May 3 Director met with Philadelphia Gay and Lesbian Task Force with regard to the results of a survey on discrimination and violence and the impact on their community. They plan to request the state to include protection for sexual minorities in the Pennsylvania Human Relations Act.

During April, eight fair housing outreach/education meetings were presented at local Carnegie Libraries.

Duquesne University will be the site of the National Conference on Peacemaking and Conflict Resolution, May 23 - 27.

D. Budget & Finance Committee

Commissioner Pittinger reported that the Committee had met April 25 to discuss recent requests of the Budget Office for additional reductions in the Commission budget. She indicated that this is not possible as the Commission is operating at the absolute minimum.

The Commission has not yet received requests for preliminary information for 1998 budget negotiations. This information is typically submitted in early July. She suggested that the Commission declare itself off-limits for further budget cuts.

Commissioner Pittinger commended the Director and staff for their exceptional performance in processing complaints as well as for their commitment and dedication.

V. OLD BUSINESS

All issues were discussed as part of staff and committee reports.

VI. NEW BUSINESS

A. Motions Commissioner

Commissioner Vallone reported that the Public Hearing Section had met and discussed Rule 7 of the Commission Rules & Regulations and feels there is a potential problem with Rule 7(c). Commissioner Vallone stated that if the Motions Commissioner rules on a motion that ends processing of the case with the Compliance Section, it now becomes one of adjudication. If it were then referred back to the Compliance Section for approval or disapproval, there would be a mixing of prosecutorial and adjudicatorial functions and possible violation of the Lyness decision. Therefore, the recommendation of the Public Hearing Section is to amend Rule 7(c) to remove reference of approval (or disapproval) by the Compliance Review Section. This would keep all rulings on motions in the Public Hearing Section. Commissioner Vallone put forth this committee recommendation as a motion.

Discussion:

Commissioner Vallone noted that the majority of motions presented are ones dealing with questions of jurisdiction or procedure and are not based on the merits or facts of a case. In the past, if a motion was presented after a public hearing panel was seated, that motion was passed on to the panel. Otherwise, he, as Motions Commissioner, ruled on it alone. (If that case were later to proceed to public hearing, Commissioner Vallone was careful not to assign himself to the hearing panel, in order to avoid potential conflict.)

Commissioner Honse stated that rulings on questions of jurisdiction were not adjudicatory in nature. Commissioner Vallone disagreed, stated that if the ruling ended in a disposition, it was in fact an adjudicatory function. Solicitor Trower agreed.

Commissioner Kunselman stated that he did not see where a violation of Lyness would occur because the motion, even if it involved a final disposition, would not have been reviewed by the Compliance Review Section prior to a cause finding.

Solicitor Trower stated that if there is a finding of cause and a motion leads to a final disposition, that case should go to the Public Hearing Section. If there is no finding of cause and issues are raised relating to jurisdiction, procedures, etc., it goes to the Motions Commissioner. The motion can be heard by either group. However, Mr. Trower noted that it would "probably be safer" if the motion led to a final disposition that it go to the Public Hearing Section because that is where final dispositions are done. But, it could also be sent to the Compliance Review Section if there is no finding of cause.

The Chair posed the following question: Suppose there is no finding of cause and the Motions Commissioner decides to deny the motion. The case then proceeds through the Compliance Review Section. Would this create a Lyness problem when the case comes back for public hearing at a later date?

Commissioner Vallone stated that Commissioners are "tainted" when they are privy to the merits of a case, not as a result of their function in arguing an issue on a point of law. Commissioner Pittinger disagreed. She also stated that eliminating the Compliance Review Section's approval (or disapproval) of a motion prior to a ruling of probable cause does not deal with the issue of due process.

Commissioner Honse stated that the Compliance Review Section regularly makes decisions prior to a finding of probable cause, which result in final disposition of a case. Would these not be considered adjudicatory in nature, too?

Commissioner Vallone maintained that the Compliance Review Section can authorize procedural closures, however, once a motion is filed, that party is requesting adjudication. Therefore, that ends the involvement of the Compliance Review Section because the case must move to the Motions Commissioner and/or Public Hearing Section.

Solicitor Trower stated that in the original controversy, the concern was if a Motions Commissioner sat on the Compliance Review Section and ruled on a motion as a final disposition, did you not end up having someone from Compliance also making a final disposition. With this decision to have a "free-standing" Motions Commissioner, this is no longer a problem.

If a motion is presented prior to a finding of probable cause, which leads to a final disposition, which side of the Commission should vote on it? Trower's recommendation was that because the Commission is not getting to the issue of merits, but is making a decision on legal issues, it can be voted upon by the Compliance Review Section. After a finding of probable cause, the vote should be by the Public Hearing Section. This is currently the procedure under Rule 7.

Solicitor Trower also recommended that the free-standing Motions Commissioner also issue Findings of Fact and Conclusions of Law as part of his or her decision, if the ruling on the motion is made prior to a probable cause finding; and if that ruling is reversed upon review by the Compliance Review Section, the case can go right back to where it was in the process without any damage being done.

If the motion is reviewed by the Motions Commission and reviewed by the Compliance Review Section, which disagrees with the ruling, the case goes back into the process to proceed to a finding. If a motion is received after a probable cause finding, the motion should be reviewed by the Motions Commissioner and voted upon by the Public Hearing Section.

Commissioner Honse specifically asked Solicitor Trower if Rule 7(c) was correct as currently stated. Trower responded affirmatively. Commissioner Vallone maintained, however, that if approval amounts to a final disposition, it is an adjudication and was, therefore, in favor of striking reference to the Compliance Review Section in Rule 7(c).

Commissioner Honse asked that absent Commissioners receive this additional information on this issue and that a call on the question be delayed until the June Commission meeting. He moved to table the vote at this time. The motion was seconded by Commissioner Williams and carried unanimously.

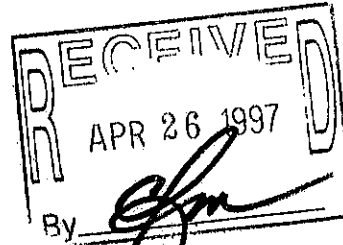
With no further business to conduct, the meeting was properly adjourned at 5:15 p.m. upon motion of Commissioner Grice and second by Commissioner Williams.

/cmz



University of Pittsburgh

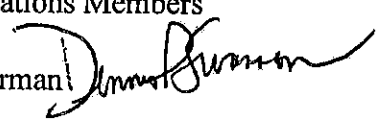
*Health Sciences
Institutional Review Board*



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c/o WPIC, 3811 O'Hara Street
Pittsburgh, Pennsylvania 15213
412-647-7644

MEMORANDUM

TO: City of Pittsburgh Commission on Human Relations Members

FROM: Dennis P. Swanson, Administrative Vice Chairman 

DATE: April 23, 1997

SUBJECT: Protocol Requesting Waiver of Consent in Emergency Research

As you may recall, at the April 7, 1997, Commission meeting, you graciously agreed to participate as the University of Pittsburgh Institutional Review Board's (IRB) resource for community consultation for protocols which involve requests for waiver of consent in emergency research. The IRB has recently received a request for waiver of consent from Andrew Peitzman, M.D., from the Department of Anesthesiology/Critical Care Medicine. He has prepared an informational summary of the proposed research study which is enclosed for your review.

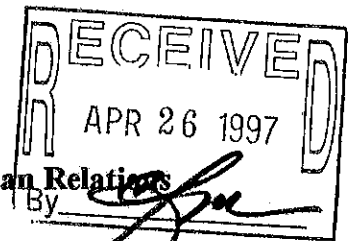
Dr. Peitzman and I will attend the May 5, 1997, meeting and at that time he will present a brief overview of the study and address any questions or concerns that you may have. Please feel free to contact me in the interim with any questions at 647-9834.

Once again, I would like to take this opportunity to thank each of you for considering our request and making the decision to be a part of this very important process.

DPS:jmb

Enclosure

Information Summary for the City of Pittsburgh Commission on Human Relations



**Study Title: The Efficacy Trial of Diaspirin Cross-Linked Hemoglobin (DCLHb™)
in the Treatment of Severe Traumatic Hemorrhagic Shock**

Overview

Physicians at the University of Pittsburgh Medical Center (UPMC) plan to take part in a clinical research study of a modified human hemoglobin (blood) solution made by Baxter, called "diaspirin cross-linked hemoglobin" (DCLHb). The subjects in this study will be victims of severe traumatic injury (for example, a motor vehicle accident or a gunshot wound) who are brought to the emergency room in shock with life-threatening blood loss. All subjects entered into the study will receive all available standard treatments for their injury. In addition, half of the subjects will receive DCLHb through a vein, and the other half will receive a salt-water solution. The subjects will be carefully monitored.

Independent experts will monitor safety throughout the study. At the end of the study, the number of subjects in each group who survive will be compared, to determine if DCLHb saved lives.

Under a new regulation of the Department of Health and Human Services and the Food and Drug Administration, this research may be done with an exception to the usual procedure for obtaining a subject's written consent to participate. The study physicians and the University of Pittsburgh Institutional Review Board are seeking your questions and comments, on behalf of the community, about this research.

DCLHb

To survive, the body's vital organs and tissues must have a constant supply of oxygen. Oxygen is breathed into the lungs, where it is transferred to small blood vessels. Hemoglobin is the part of the blood that carries oxygen through the blood vessels to the tissues. When life-threatening blood loss occurs, the body may have too little hemoglobin to carry enough oxygen for survival. The usual treatment is to give fluids and blood that has been donated and stored. However, stored blood loses some of its ability to carry oxygen and may cause allergic reactions if it is not matched to the victim's own blood type. DCLHb is a modified hemoglobin solution made from human blood cells that have been filtered and pasteurized. These processes add extra steps to make the solution safe from viruses. DCLHb can carry more oxygen than stored blood and does not need to be matched to the patient's blood type. Just like stored blood, it must be given immediately to replace lost hemoglobin when life-threatening blood loss has occurred.

DCLHb has been studied in patients for four years. These studies have included many different types of patients, including those with trauma, shock, stroke, kidney failure, critical illness, overwhelming infection, acute anemia, and major surgery. Over 700 patients have participated, of which more than 350 have received DCLHb. These studies

have involved 26 hospitals or universities in the United States and eight other countries. Before DCLHb can be accepted as a standard treatment, however, its effectiveness must be tested even more extensively in patients.

Study Subjects

The subjects in this study will be adult victims of severe traumatic injury who are brought to the UPMC Trauma Center and have shock with life-threatening blood loss. With standard available treatments (fluid therapy, blood transfusion, surgery), about 40% of victims with this degree of injury will die. Victims of any race, ethnic group, sex, religion, or HIV status will be equally eligible for the study. Only patients who are younger than 18 years, are pregnant, object to the use of blood products (Jehovah's Witness), have severe head injuries, or whose heart has stopped will be excluded from the study.

Study Procedures

Subjects in the study will receive all standard treatments and procedures normally used to treat severe injury and shock, including fluid therapy, blood transfusion, and surgery if necessary. In addition to these standard treatments, subjects will be randomly chosen (like a coin toss) to also receive either DCLHb or a salt water solution. The solution will be given through a vein, similar to the way in which blood is given.

During the study, the physicians will collect information from the patient through physical examinations and laboratory tests, including urine samples and blood samples withdrawn from a vein or an artery. These procedures are similar to the usual tests done for a patient in this severely ill condition.

The study team will also evaluate the patient's vital signs (blood pressure, heart rate, breathing rate, breathing effort) several times during the first 48 hours of the study. On days 4, 7, 10, 14, 21, and 28 after the study starts, additional blood samples and vital sign measurements will be taken. The patient's participation in the study lasts for a total of 28 days.

Consent Procedure

Research on emergency treatments like DCLHb is difficult to do, because the treatments must be given immediately, the subject is often unable to respond, the subject's family may not be available, or the subject's identity may be unknown. In the past, such research was done without the subject's consent. In 1993, however, all emergency research without consent was stopped until a new federal regulation could be developed that would offer more protection of subjects' rights. Many experts in the fields of medicine and ethics were involved in developing this regulation. After a period of public commentary on the new regulation, it became final in November 1996. The regulation states that under certain circumstances new treatments may be tested in emergency situations before written consent is obtained. It requires that (1) each subject may benefit by participating in the

study, (2) the new treatment has the potential to save lives of future patients, (3) current treatments for these patients are not very effective, and (4) the study could not be done with the usual written consent procedure. The FDA determined that this study of DCLHb meets these criteria.

As soon as an eligible subject for the study is identified in the emergency room, every effort will be made to obtain the consent of the subject or a family member or legally authorized representative before giving DCLHb. If, however, consent cannot be obtained in the required time frame for giving DCLHb, DCLHb (or salt water) will be started before consent. As soon as possible, the subject or a family member or representative will be notified about the study. If that person does not want the subject to remain in the study, it will be stopped immediately.

The City of Pittsburgh Human Relations Commission and the City of Pittsburgh Department of Parks and Recreation Summer Food Service Program propose a co-presentation of Children's Programming for the Summer of 1997. An important mission of the Human Relations Commission is to promote improved human and community relations in the City through community education. The mission of the Summer Food Service Program is to serve healthy and nutritious meals to income-eligible children during the period that school is not in session. The Human Relations Commission and the Summer Food Service Program are natural partners in this plan to educate the future citizenry of the City of Pittsburgh.

We propose to produce an *interactive, value-building, discussion-generating program at four target sites* from June 16, 1997 through August 29, 1997. This program will serve approximately 800 children. The sites are tentatively scheduled to be:

- Northview Heights
- Ormsby Recreation Center
- Magee Recreation Center, and
- Broadhead Manor Salvation Army.

The first week of the program we would arrange to have the children's pictures taken. We will have staff on hand with parental consent forms. We would put a headshot of each child on the wall with his or her name printed on top. Then we would attach to each photo a cut out paper t-shirt with five stripes on it.

Each stripe would be broken down into 10 blocks, for a total of 50 blocks. Each stripe would represent a value and be discussed one day a week. For example:

Red =	Respect for self and others	Monday
Blue =	Racial harmony	Tuesday
Yellow =	Honesty	Wednesday
Green =	Cooperation/ communication	Thursday
Purple =	Self esteem	Friday

Each day, the site leader (who will have been specifically chosen and trained for this program) will ask a question about the topic of the day. The idea is to get the children thinking about the questions and about the values in general. When a child is present for the food service and answers the question he or she gets to put a sticker in the block for the day with the color for the day. We will make up 50 questions or discussion topics. If a child showed up for all 50 meals and participated in the exercise, he or she would have their striped shirt completely filled in.

At the end of the summer we will give all our children a white shirt with five colored stripes with the values indicated on the front. On the back it would say: City of Pittsburgh, Summer Food Service Program, Human Relations Commission, Summer 1997.

This proposal serves many purposes:

1. Children enjoy having their photos taken and enjoy seeing their name in print. They might be proud of it and want to invite their friends to see it or bring their parents or grandparents out to the site. This would **promote attendance at the Summer Food Service program as well as ownership in the values.**

2. The mere **discussion of these values is helpful.** Depending on the age and education of the child he or she might not be familiar with the concept of self-esteem or realize that everyday he or she can play an active role in promoting racial harmony, etc. Moreover, **weekly reinforcement of the values is very important.**
3. The Summer Food Service Program is constantly looking for ways to **de-stigmatize the welfare perception of the program.** We want our children to be comfortable coming out for meals. This program will give them another reason to come out and to bring their friends and family.
4. The **t-shirt distribution will reinforce what the children learned.** When children wear the t-shirt back to school in the Fall, they can speak proudly of their interactions at the Summer Food Program and with the Human Relations Commission.

The Human Relations Commission and the Summer Food Service Program staff will work together in developing the values and preparing the discussion questions. Interactive Human Relations speaker may come to sites. We will invite our City Cable Channel to follow the progress of the program and by about the 8th week we will invite the general news media out.

Anticipated costs of the program include:

Staff	\$ 4,000
Film	\$ 250
Photographer incidentals (gas, etc.)	\$ 100
T-shirts with five colors (approximately \$3.25 per shirt)	\$ 3,000
Supplies (paper, photocopies, stickers),	\$ 1,000
Artist incidentals	\$ 50

Total	\$ 8,400

This budget assumes that the photographers and the artist will come to us gratis, via interns from local colleges.

We think that this will be a very valuable experience for our children and an opportunity to blend healthy bodies with healthy minds, the end result being happy children and a more educated and community-aware future citizenry.

MEMORANDUM

TO: Commissioners

FROM: Nominating Committee: Christine Williams
Dr. George Board and Robert McClenahan, Chair

DATE: May 5, 1997

SUBJECT: COMMITTEE RECOMMENDATIONS FOR 1997/98 OFFICERS

The Nominating Committee recommends that the current officers be re-elected to the Executive Committee. These Commissioners/positions are as follows:

Chair	Harry Kunselman
Vice chair	Chuck Honse
Vice chair	Christine Williams
Secretary	Reverend William Morgan
Treasurer	Elizabeth Pittinger

In accordance with the Commission By-Laws, Article VII Elections, Commissioners may also nominate additional candidates by petition. The petition must be signed by two Commissioners and bear the acceptance signature of the nominee.

Nominating petitions are available today, and will be forwarded to absent Commissioners. If you choose to nominate by petition, the signed form must be returned to the Commission offices 15 days prior to the scheduled election, or Friday, May 16, 1997.

The election will take place at the June 2nd meeting.

/cmz

PITTSBURGH COMMISSION ON HUMAN RELATIONS
A G E N D A
May 5, 1997

I. CALL TO ORDER

II. ADOPTION OF MINUTES

III. PROTOCOL REVIEW: UNIVERSITY OF PITTSBURGH

IV. STAFF & COMMITTEE REPORTS

- A. Nominating Committee
- B. Compliance Update
- C. Director's Report
- D. Budget & Finance Committee

V. OLD BUSINESS

VI. NEW BUSINESS

/cmz