



Attorneys for the Rights of the Child

Protecting Children's Bodily Integrity
Newsletter

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More circumcision
deaths, page 3

Whose Responsibility Is It to End Circumcision?

**A Report from the 2005
AAP Convention**

by Georganne Chapin, JD

Intactivists from around the US traveled to Washington, DC, for the annual conference of the American Academy of Pediatrics, October 8-11. An inside crew of six tended the NOCIRC booth, while another 30 or so (plus a black puppy) set up shop on the sidewalks, where their voices and their placards couldn't be missed by the several thousand physicians, other health professionals, and their guests in attendance. By day we educated; and by night we reported in, shared our experiences, and talked strategy.

WE ARE MAKING PROGRESS – that was the general consensus. Never the most hostile crowd (the obstetricians seem to have cornered that honor), many, many pediatricians in 2005 seem to have heard the message promoted on our poster of a happy baby, that circumcision is “no longer recommended; he's happy about that!” While some passers-by averted their eyes and picked up their pace, while a very pregnant Jewish pediatrician said she could “never allow” a bloodless *brit shalom*, and while one particularly nasty doc told Len Glick he should be ashamed of himself, many others took literature, stopped to look at our displays, and commented or asked questions. Some wanted to talk about the demonstrators outside (*Are you with them?*), with a range of reactions from curious, to positive, to bemused. One drug company rep leaned toward me and dropped his voice, saying, *I can't believe that guy is talking about his ... his... foreskin.*” – this at an event where glitzy exhibits the size of house trailers trumpeted treatments for diarrhea, excess mucous, and eczema.

Lisa, the pretty wife of a pediatrician, also stopped at the NOCIRC booth. Her husband had told her, *believe me, it's barbaric*, when the question of *(continued on page 5)*

Success In Minnesota

by Cindy Tregilgas

I started working on getting Medicaid (called Medical Assistance (MA) in Minnesota) to stop funding circumcisions in early 2003. I wrote many letters to the Minnesota Department of Human Services (DHS), but was met with a stonewall. Their standard line was that it was a “prevailing community standard” and they didn't want to inflict “socioeconomic markers” on poor children by not paying for circumcisions. I also wrote letters to many legislators in the spring of 2003, but got few responses and most were lukewarm. In the process of doing all this, I discovered that MN Representative Fran Bradley, the Chair of the Minnesota House Health Policy and Finance Committee, had introduced a bill in January of 2002 to discontinue Medical Assistance coverage of newborn circumcisions (this was before I had gotten active). Unfortunately, the bill didn't go anywhere, apparently due to lack of support from the medical community, according to Rep. Bradley. He had apparently introduced it as a result of material he had received from the International Coalition for Genital Integrity (ICGI). As a side note, the Minnesota legislature meets every year from about early February to the end of May, but they only pass a budget every two years, in odd numbered years. Also in the spring of 2003, I established my own NoCirc Center (NoCirc of Minnesota – St. Paul), to better facilitate getting a bank account, mailbox, website, non-profit mailing status, etc.

In 2004, I again sent letters to legislators and *(continued on page 6)*



Cindy Tregilgas

Louisiana Medicaid Ends State Subsidy for Non-therapeutic Circumcision

By George Hill

Secretary of the Department of Health and Hospitals Fred Cerise, M. D., announced the end of the state subsidy for medically unnecessary non-therapeutic circumcision that had been carried out through Louisiana Medicaid on April 20, 2005 in a ruling by Louisiana Medicaid. The announcement was made on April 20, 2005 in a ruling published in the Louisiana Register.

Louisiana Governor Kathleen Babineaux Blanco appointed Dr. Cerise to his position as Secretary, DHH, shortly after her inauguration in 2004. Dr. Cerise previously had been the administrator of Earl K. Long Medical Center in Baton Rouge.

Dr. Cerise held a series of public meetings in 2004 to hear proposals for the reform of healthcare in Louisiana. NOCIRC of Louisiana made a brief presentation to Dr. Cerise at a meeting in Baton Rouge in May 2004. Later NOCIRC of Louisiana mailed additional documentation to Dr. Cerise over a period of several months.

Dr. Cerise appointed Roxanne Townsend, M.D., to be medical director of Louisiana Medicaid in August 2004. (<http://www.dhh.state.la.us/offices/news.asp?ID=81&Detail=304>) Dr. Townsend previously had been the interim chief executive officer of Earl K. Long Medical Center. Dr. Cerise announced in December 2004 that Dr. Townsend would investigate the possibility of ending the subsidy for circumcision.

NOCIRC of Louisiana then supplied documents and information to Dr. Townsend. This culminated in the decision to end the funding of medically unnecessary circumcision as described above.

It is expected that fewer boys will be circumcised after the end of the subsidy, so *(continued on page 9)*

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Executive Director's Message

Life at ARC continues to be very exciting and productive. The movement has continued to make great strides in more effectively protecting genital integrity, providing us with the energy, inspiration, and spirit that enables us to move ahead with our continued dedication to protecting children and educating adults.

This year saw Medicaid funding for circumcision stop in Idaho, Minnesota, and Louisiana, thanks in no small part to activists' continued efforts. These developments bring the total number of states that now do not pay for Medicaid-funded circumcision to sixteen, or nearly one third of all states. This issue includes insider stories on these successful struggles in Minnesota (by Cindy Tregilgas) and Louisiana (by George Hill). New ARC Board Member Georgianne Chapin contributes both a fascinating book review and also an article on the meetings and demonstrations at the conference of the American Academy of Pediatrics (AAP) in Washington, DC.

We have been busy on the publication front lately. I just put the final touches on my article entitled, "Genital Integrity and Gender Equity," which draws parallels between the movement to protect genital integrity and the movement to eliminate sex-based discrimination against males and females. The article will be published by Kluwer Academic/Plenum Publishers with the other proceedings of the Eighth International Symposium on Circumcision and Human (continued on page 9)

**The Medicalization of Everything
Anatomical - Alice Dreger's *One of Us: Conjoined Twins and the Future of Normal* (Harvard 2004)**

Review by *Georgianne Chapin*

Alice Dreger – medical historian, university professor, and director of medical education for the Intersex Society of North American – has spent her career exploring the outer limits of congenital anomalies. First through her work on hermaphrodites (or “intersex” persons), and now in an engaging and accessible book about conjoined twins, Dreger shows how cultural strivings toward “normality” and the medicalization of “nearly everything anatomical” rob children of the right to determine their own identities and futures.

Based on reviews of medical and popular literature, and interviews with conjoined twins and their families (several wonderful pictures also appear in the book), Dreger concludes that children who are born attached are generally not just accepting of, but happy with their lives. She finds only one instance (a well-publicized recent case of 30 year-old Iranian sisters attached at their heads) where twins born conjoined have chosen to be separated. In fact, even when one twin's actual or imminent death threatens the other's survival, Dreger finds no reports of the surviving twin requesting surgery. Rather, it is the medical establishment that rushes to intervene, capitalizing on the drama of the event and parents' understandable confusion and lack of a roadmap for navigating the unexpected.

Several themes predominate here, some of them echoing Dreger's well-known work on intersex and all of interest to those who believe that people should be able to make their own decisions about their bodies.

First, Dreger shows that with the exception of emergencies, separation surgeries are often not medically necessary procedures, (continued on page 5)

**Marked in Your Flesh:
Circumcision from Ancient
Judea to Modern America.**

Review by *Steven Svoboda*

Leonard B. Glick. Oxford, England: Oxford University Press, 2005. www.oup.com. 370 pages. No stated cover price; currently priced at \$30.00. Available postpaid in the US for \$20 directly from Quabbin Books, P.O. Box 14, New Salem, MA 01355. 978-544-7141.

Leonard B. Glick, who is both a retired anthropology professor and a physician, has created a unique, fascinating study of male circumcision and Jewish history. (Full disclosure: I commented on drafts of “Marked in Your Flesh” [for which I am mentioned in the acknowledgements], authored a quote on the back cover, and am cited in the bibliography.) Glick makes no secret of his opposition to circumcision, yet engagingly sketches for us the tangled historical, cultural, and religious web that led to a non-therapeutic, painful, harmful surgery becoming this country's most common medical procedure.

I greatly enjoyed Glick's authoritative yet accessible distillations of Biblical verse and history, as with the tale of revenge and circumcision contained in Genesis Chapter 34, and as with the history of Christian condemnation and Jewish veneration of circumcision in the early years of the Christian era. The author reminds us that as early as the fifteenth century, women were effectively eliminated from participation in the circumcision ritual when the mother's role holding her child was eliminated through a rabbinical ruling.

Glick follows upon and extends author Lawrence Hoffman's work (in the excellent *Covenant of Blood: Circumcision and Gender in Rabbinic Judaism*, published by the University of Chicago Press in 1996) crystallizing the strange, critical role of blood in the Jewish symbolism of circumcision. The author deftly sketches the important role of Moses Maimonides, the twelfth century physician-philosopher who believed that bodily pain was the real purpose of circumcision (continued on page 7)



South Africa: Boy Dies At Circumcision School

Published: November 28, 2005

One boy has died and eight others are in hospital after they fell ill at a circumcision school in Mthatha the area, says the health department.

Mthatha - One boy has died and eight others were admitted to Mthatha general hospital after they fell ill at a circumcision school in the area, the Eastern Cape health department said on Monday.

"When we got there on Sunday night one of the boys had already died. Two are in a critical condition and the others are stable," spokesperson Sizwe Kupelo said. They are aged between 18 and 20.

Health department officials went to investigate the school at Link village outside Mthatha after being informed by community members of possible problems.

"It's a legal school. The man in charge is registered, but failed to report on time that the boys were sick. There is a possibility that he will be charged with negligence," Kupelo said. Police have opened an inquest docket.

It was the first death since the start of the circumcision season two weeks ago.

In a separate incident, police and health officials would on Monday continue their search for a group of 19 boys believed to be part of an illegal initiation school hiding in the bush near Flagstaff.

"Police and community members spent the whole day on Saturday searching for the boys. They started the search at 10:00 using a helicopter. It was called off at 15:45 due to bad weather. One of the boys is reported to be in ill health."

Kupelo said that since Friday last week six people had been arrested in different parts of the province for "unlawful circumcisions".

The department appealed to community members to take responsibility for the schools in their area and to report problems. *(continued on page 9)*

New York City: City Questions Circumcision Ritual After Baby Dies

By Andy Newman

Published: August 26, 2005

A circumcision ritual practiced by some Orthodox Jews has alarmed city health officials, who say it may have led to three cases of herpes - one of them fatal - in infants. But after months of meetings with Orthodox leaders, city officials have been unable to persuade them to abandon the practice.

The city's intervention has angered many Orthodox leaders, and the issue has left the city struggling to balance its mandate to protect public health with the constitutional guarantee of religious freedom.

"This is a very delicate area, so to speak," said Health Commissioner Thomas R. Frieden.

The practice is known as oral suction, or in Hebrew, *metzitzah b'peh*: after removing the foreskin of the penis, the practitioner, or mohel, sucks the blood from the wound to clean it.

It became a health issue after a boy in Staten Island and twins in Brooklyn, circumcised by the same mohel in 2003 and 2004, contracted Type-1 herpes. Most adults carry the disease, which causes the common cold sore, but it can be life-threatening for infants. One of the twins died.

Since February, the mohel, Rabbi Yitzchok Fischer, 57, has been under court order not to perform the ritual in New York City while the health department is investigating whether he spread the infection to the infants.

Pressure from Orthodox leaders on the issue led Mayor Michael R. Bloomberg and health officials to meet with them on Aug. 11. The mayor's comments on his radio program the next day seemed meant to soothe all parties and not upset a group that can be a formidable voting bloc: "We're going to do a study, and make sure that everybody is safe and at the same time, it is not the government's business to tell people how to practice their religion."

The health department, after the meeting, *(continued on page 4)*

MGMBill.Org Press Release

For Immediate Release – 9/30/2005

Contact: Matthew Hess, President

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Child Advocates Urge NYC to Regulate Circumcision

As the debate over metzizah b'peh rages on in New York City, a growing number of voices are calling for children to be legally protected from all forms of medically unnecessary circumcision.

SAN DIEGO, California – A decision made earlier this month by the city of New York to allow a Jewish religious court to rule on the public safety of a circumcision practice called *metzizah b'peh* (oral suction) has sparked a wave of criticism among children's rights advocates. The move is the latest twist in a controversy that began last November when a mohel was accused of transmitting herpes to three baby boys while sucking the blood from their wounded penises using his mouth. One of the baby boys died.

Matthew Hess of San Diego based MGMBill.org said that Mayor Michael Bloomberg is compromising public safety to curry favor with the Orthodox Jewish community. "Mayor Bloomberg said in a radio interview last month that 'it is not the government's business to tell people how to practice their religion', but that is not true in every instance," said Hess. "Government has both the authority and an obligation to regulate any religious practice that causes harm to another person, and I question whether it is even legal for a religious court to rule on matters of public health. I urge the Mayor to put control of this issue back with the Department of Health where it belongs."

Hess also called on New York City to regulate circumcision in general, saying that it violates children's rights. "The problem with infant circumcision is that the child is unable to give his consent," said Hess. "Circumcision is the amputation of part a child's sexual organs, and it results in a significant and permanent loss of sexual feeling. Children and infants of both genders should be legally protected from this medically *(continued on page 9)*

City Questions

(continued from page 3) reiterated that it did not intend to ban or regulate oral suction. But Dr. Frieden has said that the city is taking this approach partly because any broad rule would be virtually unenforceable. Circumcision generally takes place in private homes.

Dr. Frieden said the department regarded herpes transmission via oral suction as "somewhat inevitable to occur as long as this practice continues, if at a very low rate."

The use of suction to stop bleeding dates back centuries and is mentioned in the Talmud. The safety of direct oral contact has been questioned since the 19th century, and many Orthodox and nearly all non-Orthodox Jews have abandoned it. Dr. Frieden said he hoped the rabbis would voluntarily switch to suctioning the blood through a tube, an alternative endorsed by the Rabbinical Council of America, the largest group of Orthodox rabbis.

But the most traditionalist groups, including many Hasidic sects in New York, consider oral suction integral to God's covenant with the Jews requiring circumcision, and they have no intention of stopping.

"The Orthodox Jewish community will continue the practice that has been practiced for over 5,000 years," said Rabbi David Niederman of the United Jewish Organization in Williamsburg, Brooklyn, after the meeting with the mayor. "We do not change. And we will not change."

David Zwiebel, executive vice president of Agudath Israel, an umbrella organization of Orthodox Jews, said that metzitzah b'peh is probably performed more than 2,000 times a year in New York City.

The potential risks of oral suction, however, are not confined to Orthodox communities. Dr. Frieden said in March that the health department had fielded several calls from panicked non-Orthodox parents who had hired Hasidic mohels unaware of what their services entailed.

Defenders of oral suction say there is no proof that it spreads herpes at all. They say that mohels use antiseptic

mouthwash before performing oral suction, and that the known incidence of herpes among infants who have undergone it is minuscule. (The city's health department recorded cases in 1988 and 1998, though doctors in New York, as in most states, are not required to report neonatal herpes.)

Dr. Kenneth I. Glassberg, past president of the New York section of the American Urological Association and director of pediatric urology at Morgan Stanley Children's Hospital of New York Presbyterian, said that while he found oral suction "personally displeasing," he did not recommend that rabbis stop using it.

"If I knew something caused a problem from a medical point of view," said Dr. Glassberg, whose private practice includes many Hasidic families, "I would recommend against it."

But Rabbi Moshe Tendler, a microbiologist and professor of Talmud and medical ethics at Yeshiva University, said that metzitzah b'peh violates Jewish law.

"The rule that's above all rules in the Torah is that you cannot expose or accept a risk to health unless there is true justification for it," said Dr. Tendler, co-author of a 2004 article in the journal *Pediatrics* that said direct contact posed a serious risk of infection.

"Now there have been several cases of herpes in the metro area," he said. "Whether it can be directly associated with this mohel nobody knows. All we're talking about now is presumptive evidence, and on that alone it would be improper according to Jewish law to do oral suction."

The inconsistent treatment of Rabbi Fischer himself indicates the confusion metzitzah b'peh has sown among health authorities, who typically regulate circumcisions by doctors but not religious practitioners.

In Rockland County, where Rabbi Fischer lives in the Hasidic community of Monsey, he has been barred from performing oral suction. But the state health department retracted a request it had made to Rabbi Fischer to stop the practice. And in New Jersey, where Rabbi Fischer has done some of his 12,000 circumcisions, the health authorities have been silent.



Mayor Michael R. Bloomberg met with Orthodox leaders and health officials at City Hall on Aug. 11 to discuss a practice that some rabbis consider integral to God's covenant with the Jews requiring circumcision.

Rabbi Fischer's lawyer, Mark J. Kurzmann, said that absent conclusive proof that the rabbi had spread herpes, he should be allowed to continue the practice. Rabbi Fischer said through Mr. Kurzmann that the twin who died and the Staten Island boy both had herpes-like rashes before they were circumcised and were seen by a pediatrician who approved their circumcision. The health department declined to comment on its investigation.

<http://www.nytimes.com/2005/08/26/nyregion/26circumcise.html?ex=1129262400&en=fc451462e6ceadd>

ARC Cited

"Press Here — First Cut is the Deepest"

By Anneli Rufus, *East Bay Express*
Published September 28, 2005

Published in 1987, Point Richmond pediatrician **Edgar Schoen's** "Ode to the Circumcised Male" includes the lines: *It's a great work of art like the statue of Venus/if you're wearing a hat on the head of your penis./When you gaze through a looking glass, don't think of Alice; /don't rue that you suffered a rape of your phallus.*

Schoen's new book *On Circumcision* (RDR, \$16.95) is prose, but just as insistent: (continued on page 8)

Responsibility

(continued from page 1) circumcising their infant sons was raised, so they didn't. Linda, though, had never felt quite comfortable with the decision, fearing that her boys would be shunned in their conservative suburban schools, and that they would never find girls willing to marry them. Feeling like a perky salesclerk, I congratulated Lisa for her decision, assuring her that they will have lots of company as the circumcision rate continues to fall. Then, speaking from my own experience, I told her, *believe me, your kids will one day thank you for leaving them intact.* After further conversation (most of it involving grownup sex), it emerged that Lisa's boys are 19 and 17, leading me to believe that they have already, if silently, sent up a prayer of thanks for their parents' decision.

While many who stopped at our booth expressed the opinion that circumcision was unnecessary and maybe even unfortunate, few seemed to think they themselves could do much about it. Some examples of what we heard:

► *Hey, I don't like doing circumcisions; but if I didn't do it, the parents would just go find another doctor.*

► *I tell them it's not necessary, but they do it anyway.*

► *I'm from Mexico. It's not our custom, but some parents are asking for it because they've heard it's better.*

► *Hey, don't blame the pediatricians; it's the OBs you should be talking to.*

► *I'm a midwife; we try to talk to the parents, but they insist.*

► *It's really all about the fathers; the fathers want their boys to look like*

them.

► *If they've already circumcised one baby, they're almost sure to do the next.*

Among ourselves, we talked about how to respond to these disclaimers. *If the parents wanted to remove their child's healthy tonsils, would you do it? Can you educate parents about the risks of the procedure? Do you tell them that the child should be able to make his own choice? [Do you tell them that it's brutal, painful, unnecessary, and that you **won't do it**?!] Here, please take one of our brochures on conscientious objection.*

We decided that it all came down to one question: **Whose responsibility is it to end circumcision?**

We'll be asking that question, now, at every venue – at each medical conference and baby fair, on billboards and in letters to the editor. We'll be asking it of anybody who concedes – even a little bit – that maybe the time has come. Anybody who admits to a tiny bit of discomfort, who knows that circumcision may not be necessary, but is uncomfortable trying to talk an uninformed parent out of it. People who think well, these people might have a point, but it's not *my* issue (*I mean*, one doctor asked us in the last hour of the conference's last day, *with all the problems in the world, why should I care about this? Why are you so passionate about this?*) As we responded, this guy **listened**. And I think he got it, that he's now asking himself – even if only in a whisper – *could it be **my** responsibility to end circumcision?*

-Georganne Chapin, JD,
ARC Board Member and Secretary

Review: The Medicalization of Everything Anatomical

(continued from page 2) and often do nothing to improve the physical health or function of either child. "In fact, they often leave the children's bodies – at least temporarily and often permanently – much more ill and impaired than before . . . [and] are almost always performed . . . because the adult decision makers believe the children will be better off psychosocially if separated, even if this means the children will lose function they would otherwise have."

Second, an American obsession with individualism, and the fact that "American culture equates individualism with independence, and interdependence with weakness" means that we are unable to bear the possibility that mutilation, permanent disability, and even death (of one or both twins) are not actually *preferable* to conjoinment.

Related to this is "anxiety about conjoined children's future sexuality." Here, Dreger quotes from a physician's 1875 commentary on the most famous "Siamese twins" Chang and Eng, who married (separate wives), and fathered children (and incidentally, held slaves and successfully ran separate farms), to the effect that the mere *fact* that they were sexually active "'shocked the moral sense of the community.'" The tribulations of Violet Hilton, a conjoined twin and performer who in the 1930s traveled through 21 states with her fiancé (and of course her conjoined twin Daisy), in an attempt to obtain a marriage license, illustrate society's persistent worries about matters sexual, decades later. And, Dreger shows in the account of a surgeon who in 2002 surgically separated conjoined twin sisters at UCLA Medical Center, this sexual anxiety persists today; the doctor quotes himself, at the moment of separation, as saying "We now have *two* weddings to go to."

Ironically and sadly, however, as Dreger describes in some detail, separation surgeries often sexually mutilate both twins, especially those who share uro-genital organs, relegating them to multiple "reconstructive" surgeries and incalculable (continued on page 10)



Protesters, AAP Conference, October, 2005

Minnesota

(continued from page 1) tried to meet with some of them, but didn't get far. One bright spot was that Minnesota Senator Linda Berglin, who is the Chair of the Senate Health, Human Services and Corrections (HHS) Budget Division (a Finance committee), sent me a note saying that she agreed with me and had included a prior authorization requirement for circumcision in her health and human services bill. Unfortunately, the 2004 Minnesota legislature was deadlocked and passed virtually nothing that year, so the bill didn't go anywhere. However, she did introduce the bill again in 2005, and it became the Senate Omnibus HHS Finance bill that went to the House-Senate conference committee. Also in 2004, I started a petition on my website calling for defunding, and gradually accumulated an e-mail list of about 30-40 supporters, a few of which were somewhat active.

Finally, in 2004, I was able to pull together data on Medicaid money spent on circumcisions in Minnesota in 2002 (the most recent year for which information was available). I had received some data from the Minnesota DHS, but it had some holes in it. Most notably, it did not include the cost of circumcisions done under managed care contracts, which are about 70% of the total MA-funded circumcisions done every year. When I filled in the missing pieces, the numbers came out to over \$1 million per year spent on newborn circumcisions.

In 2005, I decided I was going to go all out on this. In January 2005, I sent the governor, the Minnesota DHS, and every legislator (201 of them) a letter, along with a packet of information including a summary of the dollars spent on circumcision in 2002, a copy of the petition (which had about 50 signatures by then), a "myth and fact" sheet I had put together, a summary of medical position statements, and some publications from DOC. Stapled to the top of each letter was a fake "check" made out to the State of Minnesota for \$1,027,019 (the amount I calculated had been spent on newborn circumcisions in 2002). I had made these look as much like real

checks as I could, printed them on green paper and cut them out. Hopefully, it helped get their attention!

In February 2005, I testified at the Senate HHS Budget Division meeting when they were hearing public testimony. Minnesota Department of Human Services (DHS) had a huge budget problem this past year, and the governor's proposal included severe cuts to MA. Therefore, I was the only one there testifying to try to get less coverage for something. It got attention, especially when I mentioned that they could use the money saved on this to reinstate some of the proposed cuts. At the meeting, I handed out folders containing many of the same things I had sent them in January, including a copy of the "check" stapled to the inside of the folder. Linda Berglin stated her support and said that requiring prior authorization for circumcision was in her bill.

In March 2005, I did the same thing in the House Health Policy and Finance meeting when they took public testimony. About a week later, I got an e-mail from Rep. Jim Abeler, who is a member of that committee. He said he was going to try to get my idea passed! He later introduced a bill that was included in the House Health Omnibus Finance bill and passed in the House-Senate conference committee.

The section of H.F. 139 that pertains to circumcision is as follows:

359.19 [EFFECTIVE DATE.] This section is effective after August 1, 2005.
359.20 Sec. 31. Minnesota Statutes 2004, section 256B.0625, is
359.21 amended by adding a subdivision to read:

359.22 Subd. 3f. [CIRCUMCISION FOR NEWBORNS.] Newborn
359.23 circumcision is not covered unless the procedure is medically
359.24 necessary or required because of a well-established religious
359.25 practice.

The August 1, 2005 effective date was extended to September 1, 2005, most likely because the law wasn't passed until mid-July after a grueling special session (during which the state of Minnesota partially shut down – what a way to make national news!) and they needed time to implement everything.

Obviously, I am extremely happy that this law was passed!! I wish Rep. Abeler had not put the religious exemption in there as I believe it is unconstitutional, may present a loophole for abuse and will be difficult to administer. However, I think the number of "religious" circumcisions covered will be small, and we will be monitoring this to see what happens. George Hill and John Geisheker sent a letter to Care Delivery Management, Inc. (CDMI), which is the company that administers the Minnesota MA coverage, outlining what should and should not be covered. Based on what I've seen on the MN DHS website, CDMI used a lot of the information that George and John sent them in establishing the policies and procedures for coverage.

Throughout the process, I was grateful for the supporters that wrote letters to legislators, contributed money or provided advice and encouragement along the way. I'd especially like to thank John Geisheker, Amber Craig, George Hill and Marilyn Milos. Thank you for all you do!!

-Cindy Tregilgas

Thank you for your support!

The ARC staff and associates thank you for your continued support and extend their best wishes to you and yours for a joyful holiday season.

Support from readers like you enables ARC to maintain a strong legal presence in our quest to protect the inherent rights of all children.

Your gift can be given through the ARC website, www.arclaw.org, using a credit card or PayPal. They are secure transactions.

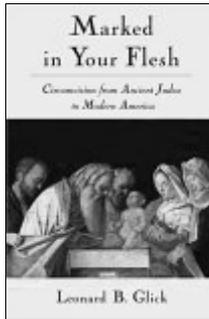
Marked in Your Flesh

(continued from page 2) and whose justifications for circumcision were fundamentally sociological, not theological. Glick also shows that Isaac ben Yedaiah, a follower of Maimonides, went even further in arguing that one of the operation's most beneficial results is repression of sexual energy! The author shows that, bizarrely, for medieval Jewish mystics, circumcision came to mean that one was physically imprinted with the Hebrew characters representing YHWH (Yahweh), the name of the Lord.

Later, circumcision became a focus of Christian condemnation of the Jews. The year 1753 saw the passage in Britain of the "Jew Bill," permitting residents for at least three years to become naturalized citizens "without receiving the Sacrament of the Lord's Supper," but the ensuing uproar soon forced the repeal of the Jew Bill.

Chapter 5 of "Marked in Your Flesh" provides an enthralling tale of Jews attempting to blend into the larger society. Glick's professorial skills are nowhere more evident than here, as he shows us the roots of and ultimate demise of nineteenth century rabbinical questioning of circumcision in a number of European countries.

Professor Glick traces for us some of the earliest nineteenth century examples of the now familiar discourse conflating religious and medical considerations to justify circumcision. The author shows us how an unfortunate chain of events led to employment of the more drastic procedure commonly practiced today. Starting in 1870, physician Lewis Sayre advocated the cure of a broad range of conditions by what he called "circumcision," meaning removal of *part* of the foreskin. By 1887, it was clear enough to Sayre that other physicians were removing the complete foreskin that Sayre authored another paper declaring his unease that these doctors were going much too far.



By that point, of course, the cat was well out of the bag. As Glick shows, it was not long before the very presence of a foreskin came to be seen as pathological!

I enjoyed Glick's adroit commentary on the American Academy of Pediatrics' hopelessly contradictory 1999 position statement on circumcision. "If until now anyone has doubted that male infant circumcision is a procedure like no other in the minds of the very physicians who perform it, surely the American Academy of Pediatrics has provided an answer." In contrast to all other medical decisions, parents are to determine a child's best interests. "This extraordinary statement is the only instance of physicians explicitly delegating responsibility for irreversible surgery to persons with no medical credentials." Glick skillfully reads and places in context commentary on *bris milah* by a range of Jewish institutions and individuals. What we notice most of all is the difficulties encountered by rabbis and laypeople alike in trying to explain this most "mysterious rite."

In a large book packed with facts and footnotes, Glick's errors are vanishingly few and far between (most notably, he repeatedly neglects the anomalous case of South Korea when discussing countries with high circumcision rates). Leonard Glick has crafted a unique and invaluable study connecting religious and historical roots of the practice with its current (ultimately untenable yet surprisingly tenacious) position in our culture. As he notes with reference to the widespread medicalization of circumcision as performed even by Jewish families, "the great majority of Jewish Americans have already decided against *ritual* circumcision." At least with regard to Judaism, asserted "religious" justifications for violations of genital integrity have already crumbled; what remains to be done (though obviously it isn't easy!) is outreach and advocacy. "Marked in Your Flesh" should instruct and inspire activists as we work toward the day when no infants or children will be circumcised.

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Panel OKs Medicaid spending plan: (Idaho) Budget is higher than governor's by \$10 million

The House-Senate budget committee on Friday approved a spending blueprint for Medicaid that's \$10 million higher than Gov. Dirk Kempthorne had asked for — on the basis that the governor is overly optimistic about forthcoming federal reforms to the health care program for the poor and disabled.

But no one criticized the Joint Finance-Appropriations Committee's action, which also instructed the Department of Health and Welfare to end the practice of subsidizing infant circumcisions (for a savings of \$173,000) and to find ways to streamline sprawling mental health services.

"It's a thoughtful budget," Kempthorne's Health and Welfare adviser, David Lehman, said after the vote. "We are very delighted, very pleased with the actions of the committee," Health and Welfare director Karl Kurtz told legislative budget writers.

Kempthorne told lawmakers in his State of the State speech that his budget "anticipates that we'll find additional ways to contain rising costs."

But he added, "Absent federal reforms in the Medicaid system, or drastic or even devastating reductions in vital services, we will have to revisit this year's Medicaid budget next session."

Senate Finance Chairman Dean Cameron of Rupert said he wasn't comfortable with the prospect of waiting and then having to inject another \$20 million into the budget next year.

"We all recognize that the governor's number is well under what the actual cost will be," Cameron said. "It is far more responsible for us to put a reasonable number out there."

"I feel like this is as honest a budget as we can come up with," said Rep. Margaret Henbest, a Boise Democrat who worked up the budget with Republican Sen. John McGee of Caldwell.

The budget remains more than \$8 million less than the agency had requested, but (continued on page 8)

Minnesota Defunds Circumcision

<http://www.startribune.com/stories/462/5590176.html>

The state of Minnesota is quietly getting out of the business of paying for three controversial treatments that affect the sex lives or sex organs of low-income patients.

Starting today, the state will no longer cover routine circumcisions, unless "required by religious practice," under its insurance plans for 670,000 low-income Minnesotans, according to the Department of Human Services.

It's also dropping coverage of Viagra and other impotence drugs.

And last month, it completely stopped paying for sex-change operations.

Each of the three changes in coverage may face legal problems.

The Legislature voted to end the payments with little fanfare during the special session in July. Supporters say they were "no brainers" at a time when legislators desperately needed to cut costs without doing serious harm to the programs: MinnesotaCare, Medical Assistance and General Assistance Medical Care.

Even state officials admit that the new rules may be challenged by civil liberties groups and activists, and in one case would require a federal agency to reverse its policy.

But at least one Stillwater woman hopes the changes will spur a sea change in Minnesota, to help turn the tide against what she considers an unnecessary and barbaric procedure.

Ending circumcision: In recent years, about 10,000 baby boys have been circumcised each year at state expense, at an average cost of \$54, according to the Human Services Department. That's 10,000 too many to Cindy Tregilgas, a Stillwater financial manager and mother of two sons. For several years, as a volunteer for NoCirc, the National Organization of Circumcision Information Resource Centers, she had lobbied the Legislature to stop circumcision. This year, her testimony helped change the policy, making Minnesota the 16th state to do so.

At a House hearing in March, she said: "I have come here today not to ask for money, but instead to show you where money can be saved." She argued that taxpayer dollars were wasted on a "cosmetic procedure." While she opposes circumcision on moral grounds, she said, the money argument was especially persuasive. "Frankly if it's ten dollars to spend on something that's totally unnecessary and can cause harm vs. spending on necessary medical services for low-income people, it's a no-brainer," she said.

The bill's sponsor, Rep. Jim Abeler, R-Anoka, a chiropractor and father of six boys, agreed. "There's no medical indication, [and] we're looking for ways to save some money," he said.

Circumcision is practiced by Jews and Muslims, but he said neither group asked for the exemption. "I thought it seemed reasonable," he said.

Assistant Human Services Commissioner Brian Osberg, who oversees the state health plans, acknowledged that the religious exemption might pose problems. "We have not determined exactly how we're going to process that exception," he said.

Its legality was questioned by Charles Samuelson, executive director of the American Civil Liberties Union of Minnesota, who wondered how the state could base payments on a patient's religion. "It just doesn't make sense," he said. "My guess is that if it was challenged, they would be hard pressed to keep that exception."

Abeler, the sponsor, said he included it as a show of respect to other religions, and doesn't believe it affects many people.

In any case, Tregilgas hopes this is just the beginning. Now, most private insurers cover routine circumcision in Minnesota. In other states, she said, private insurers have followed the government's lead. "I think it will take some time. But I do think that over time, [fewer] insurance companies are going to cover it."

<http://www.startribune.com/stories/462/5590176.html>

Idaho

(continued from page 7) lawmakers were confident that the agency would find ways to keep costs in check.

Part of that effort was the joint committee's clear directive that the agency end state-supported infant circumcisions unless they are medically necessary.

And the committee instructed the department to review mental health services for possible overuse. Mental health care is one of Medicaid's more rapidly growing expenses.

The panel said the department should look at limiting hours and requiring prior approval for psychosocial rehabilitation services — a popular set of services provided to help kids and adults with severe emotional problems function in the community and at home.

Henbest said the intent is not to limit the availability of the service, but to better match the services to clients.

Citation: Wayne Hoffman. Panel OKs Medicaid spending plan. Idaho Statesman, Boise, Saturday, March 12, 2005.

ARC Cited

(continued from page 4) Shearing newborns' foreskins reduces the rates of urinary-tract infection, genital cancers, and AIDS, Oakland Kaiser's former chief of pediatrics claims. He concedes that the surgery is "contentious" -- as evinced by barbs from groups such as the National Organization to Halt the Abuse and Routine Mutilation of Males (NOHARMM) and Berkeley's Attorneys for the Rights of the Child, whose executive director J. Steven Svoboda has urged the California medical board to take "appropriate disciplinary action" against Schoen, whom he charges with making false claims while promoting "an anachronistic medical practice." www.eastbayexpress.com/issues/2005-09-28/culture/presshere.html.



Louisiana

(Continued from page 1) more boys will be spared the pain, trauma, risks and complications that accompany neonatal circumcision. Intact non-circumcised non-traumatized newborn boys reportedly are more likely to successfully initiate breastfeeding, so the general health of the infant male population is expected to improve with a concomitant reduction in the extremely high rate of infant morbidity and mortality in Louisiana, which recently was reported to be 9.7 deaths per 1000 live births. Louisiana currently ranks 50 out of 50 in overall state health. Therefore, the money Louisiana previously spent on non-therapeutic circumcision clearly did *not* purchase health for its inhabitants. (<http://www.dhh.state.la.us/offices/news.asp?ID=81&Detail=386&Arch=2004>)

-George Hill

Message

(continued from page 2) Rights, held last year in Padua, Italy. An article on HIV and circumcision, written with Robert Van Howe, M.D. and medical historian Frederick Hodges and entitled "HIV Infection and Circumcision: Cutting through the Hyperbole," is about to appear in the UK-based Journal of the Royal Society for the Promotion of Health. Another article written with Dr. Van Howe is due to appear soon in a leading journal in the US. (More details following publication.)



Steven, Sarita and Eli Svoboda

Thanks to Dan Bollinger for the phenomenal job he is doing at updating and improving the ARC website. Come visit us at www.arclaw.org! More upgrades and new features are on the way! Thanks also to Gary Burlingame for his longtime contributions to our website.

Attorneys for the Rights of the Child (2961 Ashby Avenue, Berkeley, CA

94705) is, of course, a 501(c)(3) non-profit organization, with all donations fully tax-deductible. Thanks to your greatly appreciated generosity, we are able to continue our work to promote, protect, and enhance the genital integrity of all children. ARC remains indebted for our health, emotional and moral support, and even our very survival to our loyal and highly valued supporters. Best wishes for the rest of the year and for the coming holidays and New Year!

School

(continued from page 3) "We want it to be a communal thing. During the June/July season 23 boys died in the bush." About half those deaths were in the Libode area, east of Mthatha.

Of the 23 who had died, 15 succumbed to illnesses such as meningitis and pneumonia. At least five boys had their genitals amputated following botched circumcisions.

Kupelo said boys going to circumcision schools needed to be sent for medical check-ups to make sure they were in good health before undergoing the ritual.

"They are exposed to bad weather conditions and to dehydration. According to the traditional way the boys are denied water for the first eight days. If they aren't healthy enough there is definitely a risk."

Those in the province requiring assistance or wanting to report illegal schools could call the circumcision health line on 08000-323-64.

Read the story online: http://www.news24.com/News24/South_Africa/News/0,,2-7-1442_1841681,00.html

Press Release

(continued from page 3) unnecessary genital altering surgery until they are old enough to make the decision for themselves." Hess has twice submitted proposed legislation to Congress and the California State Legislature that would ban routine circumcision of children under the age of 18, and he has authored a similar bill proposal for New York State.

One legal expert in Berkeley, Cali-

fornia, argues that male children are already protected from circumcision under the U.S. Constitution. "Removing healthy, functional tissue from a nonconsenting minor in the name of religion or preventive medicine is assault," said J. Steven Svoboda, Executive Director of Attorneys for the Rights of the Child. "Although girls are specifically protected by federal and New York State law from genital cutting, boys are also covered under the equal protection clause of the Fourteenth Amendment to the U.S. Constitution. Mayor Bloomberg and Health Commissioner Thomas Frieden would be on solid legal ground should they decide to prohibit medically unnecessary circumcision of male minors in the city of New York."

Leonard Glick, Ph.D., and author of the newly published book *Marked In Your Flesh: Circumcision From Ancient Judea To Modern America*, agrees that circumcision laws should apply to both genders. "Since no court in this country could or would accept a parental right to require even minimal genital surgery for a daughter, no matter what the cultural or religious justification, it must be asked why we sanction genital surgery for sons. Logic dictates that the fundamental right of female *and* male children to physical integrity must trump parental beliefs or desires."

Glick, who also holds a medical degree, is Professor Emeritus of Anthropology at Hampshire College in Amherst, Massachusetts. He added that "removal of healthy tissue – even when it is claimed that this may be beneficial at some hypothetical future time - is not in any child's best interests."

Criticism of male circumcision is growing across the Atlantic as well. An article by M. Fox and M. Thomson appearing in the August 2005 issue of the *British Journal of Medical Ethics* concludes that male circumcision is "a procedure in need of a justification", and that "it is ethically inappropriate to subject children – male or female – to the acknowledged risks of circumcision." The authors also contend that "there is no compelling legal authority for the common view that male circumcision is lawful."

Review: The Medicalization of Everything Anatomical.

(continued from page 5) future disabilities. Dreger notes that, as is true in general of pediatric surgeries performed in the United States, virtually no information is available as to the actual results of separation surgeries; the only such report she could find a 2002 study published in the *British Journal of Urology*) dividing the outcomes into “dead,” on the one hand, or “alive and well” on the other.

Dreger’s assertion that “U.S. culture tends to see nearly everything anatomical” – from body weight to hyperactivity, menopause, birth, death and (yes) circumcision – constitutes a third and essential theme of her work. This and a brief footnote on the relative weights given to self-determination versus anatomical “normalization” constitute her only mentions of circumcision in this book. Yet, one cannot miss the point that the bioethical issues are the same, whether dealing with extremely rare phenomena such as conjoined twins or a condition that afflicts just about half of all people on earth – possession of a penile prepuce at birth. A condition doesn’t have to be rare to be pathologized by medicine or by society.

Dreger makes a number of other interesting observations. As in her work on intersex, she contrasts “freak” shows of the past, where people with unusual anatomies could at least profit from their own conditions, with the contemporary appropriation of freakish individuals by physicians who benefit with both fame and fortune while purporting to operate “for the good of humanity.” She comments upon the astronomical expenditure of public funds spent on separation surgeries, including one particularly heart-wrenching case involving Angela and Amy Lakeberg, conjoined twin girls from Indiana. In a highly publicized and controversial operation (“... if the girls had been singletons, it is inconceivable that physicians would have considered actively causing the death of Amy to save Angela”) one twin was “sacrificed” to “save” the other, whose own prognosis was exceedingly poor and who died several months later; at a cost to the public of

nearly two million dollars. In addition to her own qualms about such expenditure of resources, Dreger quotes several commentators on the Lakeberg case, including Christian ethicist Stephen Lammers who said, “It is grimly ironic that we live in a society that permits a procedure such as [this one], but at the same time permits ... its infant mortality to be one of the highest in the industrialized world.”

Finally, Dreger talks about the need for psychosocial support in families who are confused and distressed by the prospect of raising children in a community that has never seen anyone like them. In this context, she counters critics who characterize anything other than surgical intervention as “doing nothing,” pointing out that psychosocial support is a very concrete and respectable therapy for many conditions. On the other hand, surgery performed without also directly addressing parents’ and patients’ feelings of guilt and shame only serves to confirm “that the children and their families [are] freaks.”

At one point in the book, Dreger asks herself the question, “So are surgical normalizations performed for psychosocial reasons morally flawed because they seek to fix a child who is not broken?” Her answer is surprising given the evidence she has mustered and the critical eye she casts toward the whole concept of “normalization”: “On most days, I don’t think so. It seems to me, as a parent and a normate as well as a historian, that an unusual anatomy might lead to an *unnecessarily* painful psychosocial existence, particularly if it is a very obvious difference that could be remedied with little risk to a child’s health, functioning, and sense of self.” Exactly what are the limits here? And who decides what’s unusual, and what level of risk is acceptable in “correcting” the this flaw? This is the kind of equivocation that makes ethicists ultimately inaccessible and even irrelevant to those – particularly parents, doctors, and others charged with making decisions – who simply want to do the right thing.

In preparing this review, I wrote to Alice Dreger and asked her opinion about circumcision. She referred me to

her commentary (with co-author Bruce Wilson, published in 2003 in the Hastings Center Report) regarding the case of a 13 year-old chromosomal and gonadal female with a male appearance and male gender role, whose father was seeking to have his developing breasts, seeking to have his developing breasts, uterus and ovaries removed. The father was of Middle Eastern background, from a culture, we are told, that “favors males.” Dreger and Wilson state “... we are unsympathetic to the idea that children’s sexual anatomies are an acceptable locale for cultural relativism.”

That will have to be good enough for now. One could wish Dreger to be less hesitant condemning forced surgical intervention on bodies satisfactory to their owners. But at least she’s willing to ask the questions. This, together with so much fascinating and persuasive evidence – evidence that supports a position far less equivocal than that indicated by her measured statements – give hope that, indeed, we may be on a roll in changing minds instead of bodies.

Circumcision Unethical and Illegal, Say Experts

Male circumcision is ethically inappropriate and unlawful says an article by M. Fox and M. Thomson, both in the School of Law, Keele University, UK, in a recent issue of the *Journal of Medical Ethics*. <http://jme.bmjournals.com/cgi/content/full/31/8/463>.

"We conclude that it is ethically inappropriate to subject children-male or female-to the acknowledged risks of circumcision and contend that there is no compelling legal authority for the common view that male circumcision is lawful." The article exposes circumcision proponents as evangelists and their continued commitment to mass circumcision "problematic in a number of respects." Ethical concerns for circumcision has come under increasingly harsh review as medical and cultural issues are labeled moot or insignificant compared to the child's human rights including that of self-determination.

