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## Time to change HIV criminalization laws

By Wendy Armstrong

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His name was Paul. I had cared for him for several years as he struggled to cope with his HIV infection. He had contracted HIV through unprotected sex. He'd been diagnosed a decade earlier when he first developed *Pneumocystis pneumonia*.

Paul hated taking pills. The sight of them made him retch, and it would take him hours to force down the pills that made up his treatment regimen. He would take them for months at a time but then tell me he needed a break. Once he could manage to think about swallowing pills again, he would restart his medications.

Then, suddenly, there he was in my office, crying. He had been indicted on charges, brought by a partner of several months, of having sex without disclosing his HIV status. Paul insisted he had disclosed the matter, and although the partner continued to test negative for HIV, the district attorney was determined to prosecute.

I was served with a subpoena requiring me to testify about Paul's HIV status and his care. Surely, I thought, naively, our conversations were protected by patient-client privilege laws. Weren't they? Wasn't my office a place where patients could talk frankly and safely to me about their personal lives and sexual practices, their bodies and their symptoms? I called the attorneys at the health care system where I work and was told that, in criminal cases involving HIV, I would have to testify.

The criminal charges against Paul shattered the safety of my office and our confidences. His name was released to the media. Friends found out about his HIV status and the criminal charges, increasing his shame. He was depressed, withdrawn, and in disbelief, but felt hopeful because there was nothing to support the claim against him. The case boiled down to his ex-partner's word against his.

On the day of the trial, I testified about his HIV infection and the details of our visits. Later, as I drove back to the hospital, I experienced a sense of betrayal to a patient that I'd never felt before. As I arrived at the hospital, the district attorney called me. Paul had been found guilty. The

prosecutor congratulated me on my testimony and told me I should be proud that I had put a “scumbag” behind bars that day. I felt nauseated.

That was my first experience with a patient being prosecuted for having sex while having HIV, but it was not to be my last. Nearly 30 percent of my colleagues confirm that they too have had criminal prosecutions invade their patient relationships.

In the 15 years I have practiced HIV medicine, I have seen medical advances happen at an historic rate. Today, the life expectancy of a newly diagnosed patient with HIV is nearly indistinguishable from his uninfected neighbor. The risk of transmission of disease from a patient taking effective medical therapy is close to zero.

But while advances in treatment have turned HIV from a death sentence into a treatable, chronic condition, the HIV criminalization laws in effect in 32 states reflect the fear, stigma and misconceptions of the earliest days of AIDS. Most states, including Georgia, make a felony out of actions that have long since been shown to carry little to no measurable risk of transmitting HIV.

The most important interventions to combat the spread of this epidemic are those that encourage personal responsibility for sexual health, reduce stigma and encourage testing, linkage and retention in care. Criminalization laws do none of these things; they embrace blame and corrupt the physician-patient relationship, which I believe is a powerful tool to improve individual and public health outcomes.

A new report — “A Roadmap for Change: Federal Policy Recommendations for Addressing the Criminalization of LGBT People and People Living with HIV” — may get policymakers thinking about the consequences of this kind of over-criminalization. The report, published by Columbia University’s Center for Gender and Sexuality Law, recommends practical steps government agencies can take to dispel myths about HIV, remove barriers to testing and treatment, and help modernize current laws and practices that criminalize HIV exposure and transmission.

Medical science has made tremendous strides in the treatment of HIV. Public health policy and criminal law need to keep pace.

*Wendy Armstrong is an infectious disease physician and associate professor of medicine at Emory University.*