Professor pushes for release of patents

By Joanne Townsend

Until September, the U.S. Department of Health, Education and Welfare had a policy of research censorship that kept many medical and technological discoveries of life-and-death importance from being developed for public use, an ASU professor of psychology said Thursday.

But in September, a bill was introduced that made Secretary Joseph Califano totally reverse that policy, said Dr. Barry Leshowitz, who claims partial responsibility for the legislation.

"Before this time, HEW had denied the release of all patent rights. But this bill and the outcry by the press put enough pressure on him (Califano) to totally reverse (the policy) and give all patent rights to the owners," he said.

Leshowitz said he was responsible for bringing the patent rights policy to the attention of Sen. Robert Dole, R-Kan., who introduced the bill into Congress.

Leshowitz said Califano stopped releasing patent rights in August 1977. Since then, he said, 30 cases of potentially cancer-detecting and cancer-curing drugs were discovered, but could not be developed and marketed for public use.

If litigation must be pursued to obtain patents, Leshowitz said, there could be a two- to three-year delay, which could mean life or death to some people, he said.

"This is not merely an academic matter. It is blood and guts for some people (with cancer). It is a matter of life or death for these people," he said.

Leshowitz said Califano has had an "inordinate preoccupation with the course of medical care."

"He attributes the increase in medical costs to new technology so HEW takes it upon itself to restrain or regulate the availability of medical technology.

"There is no evidence to substantiate this. That logic is absolutely bizarre," he said.

He said no one is sufficiently clairvoyant to determine what will be cost effective 10 years down the road, which is what HEW is saying in this claim.

Leshowitz said some opposition came about because of the anticipation of abuse, but that opposition could not be substantiated.

"There is no evidence that a government-supported invention has ever resulted in the exploitation of the public. They don't want to provide an undue advantage to private industry, but that has never happened before," he said.

Another argument is "anything the government funds, the government owns," he said.

The problem with this, he said, is that the government often provides only a small fraction of the cost of the research but still owns all rights to it. And, he said, the public does not benefit when the rights are not released.

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