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NIH workers angered by new ethics rules

Restrictions on outside income meet with derision at meeting

By Rick Weiss
The Washington Post

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WASHINGTON - National Institutes of Health Director Elias A. Zerhouni stood before hundreds of NIH employees yesterday to explain why it had become necessary for him to impose, in his words, "drastic" restrictions on stock ownership and other forms of outside income, which take effect today for all agency employees.

"What I'm asking you to do is hold your fire until you hear the details," he told the crowd assembled in an auditorium on the agency's Bethesda campus.

They held.

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And when he was done, they let him have it.

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One after another, scientists, doctors and other agency staffers stepped up to the microphones and raged against the new rules, made public Tuesday. By the time it was over, 90 minutes later, nary a positive word had been uttered about the new policy and there was more vented spleen around than a busy medical center like the NIH

might normally see in a year.

The goal, as Zerhouni repeatedly explained, was to save the venerable agency's reputation, which had become badly sullied after 14 months of embarrassing revelations about conflicts of interest among NIH scientists.

"This issue was standing between the prestigious history of the NIH and its future," Zerhouni told the restive crowd.

But the solution, many argued yesterday, was unjustifiably extreme, punishing virtually all of the agency's 18,000 employees for the bad actions of a few.

"Even my secretary is going to have to sell her stock. How much sense does that make?" fumed Ezekiel Emanuel, chairman of the agency's department of clinical bioethics.

Climax to a convoluted tale

The event, which NIH officials dubbed a "town hall meeting" for employees, marked an extraordinary climax to a convoluted tale of science, politics and money that had grown increasingly unmanageable

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in recent months. After trying to "stand up for his troops," Zerhouni said, he was "shot in the back" with the discovery, made by congressional investigators, that more than 100 NIH employees had not disclosed various relationships they had with pharmaceutical and biotech companies, in violation of government ethics rules.

From that point, Zerhouni said, he knew he had no choice but to put draconian measures in place -- measures he acknowledged were sure to have ripple effects on NIH's ability to recruit and retain talent for years to come but that he hoped would ultimately strengthen the institution.

A few attendees expressed a modicum of sympathy for Zerhouni, who was under intense congressional and Bush administration pressure to explain why the agency was still deserving of its \$28 billion budget. But the meeting was repeatedly punctuated by cheers and applause as questioners expressed their ire at the specifics of the new rules.

Most irritating, apparently, is the rule that will require thousands of employees -- and their spouses and dependents -- to divest themselves of all stock holdings in drug, biotech and other medically oriented companies. Even lower-ranking employees with no influence on grants or policies will be limited to individual holdings of \$15,000.

All are required to make those divestitures within 90 days, at a time, as one speaker put it, that much of that industry "is at the bottom of a cycle."

"This is going to make it difficult to participate in an ownership society," quipped David Levens, an investigator at the National Cancer Institute, to a burst of applause -- a not-so-subtle reference to President Bush's recent exhortations to revamp Social Security in ways that would get Americans more involved in the stock market, not less.

An angry audience

But seemingly less significant rule changes also drew jeers. One rule, for example, will place the vast majority of scientific and public service awards off-limits to employees. Explaining what they could still legally accept, NIH Ethics Office Director Holli Beckerman Jaffe said employees "may accept the 'honor' associated with an award" -- but not the cash.

The audience was hardly appeased when Jaffe added that they could also accept "plaques and trophies of little intrinsic value" and that Nobel Prizes will still be allowed.

Several attendees wanted to know why, if the goal is to restore public trust in the federal scientific enterprise, the rules are to be applied

solely to NIH.

"Does this apply to the Department of Energy? To the Department of Agriculture? To the Defense Department?" asked Elaine Jaffe, a pathologist who is chief of blood diseases at the National Cancer Institute, to cheers and applause.

"If we really want to reassure the public," Emanuel added, "why don't we apply these to everyone who gets an NIH grant?"

Again applause.

Another attendee noted that NIH employees are subject to periodic outside evaluations and reviews by nongovernmental scientists who are not subject to the same ethics restrictions -- a bizarre situation, the employee said, in which people with real conflicts of interest will be sitting in judgment of those with none.

Moreover, the NIH calls upon hundreds of outside scientists from academia and industry to judge grant proposals every year -- people who have far more power over purse strings than most employees but who will not be covered by the new rules.

That speaker was among several who refused to identify themselves to reporters because of fears of punishment by superiors at the Department of Health and Human Services. One told a reporter that employees were being "muzzled." Another said "there have been retributions." Neither would elaborate.

Still others complained that the stock restrictions will apply not only to themselves but to their spouses, as well.

"How can the U.S. government in 2005" define spouses as dependents? asked Abner Notkins, chief of experimental medicine in the National Institute of Dental and Craniofacial Research. "Spouses are independent people." He added that his wife has already contacted the American Civil Liberties Union to discuss the issue.

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