Australian Nursing & Midwifery Federation

# Submission to the Department of Health and the Communicable Diseases Network of Australia consultation on the Australian National Guidelines for the Management of Health Care Workers known to be infected with Blood-Borne Viruses

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## Introduction

Established in 1924, the Australian Nursing and Midwifery Federation (ANMF) is the largest professional and industrial organisation in Australia for nurses, midwives and assistants in nursing, with Branches in each State and Territory of Australia. The core business of the ANMF is the professional and industrial representation of our members and the professions of nursing and midwifery.

With a membership which now stands at over 258,000 nurses, midwives and assistants in nursing, our members are employed across all urban, rural and remote locations, in both the public and private health and aged care sectors.

The ANMF takes a leadership role for the nursing and midwifery professions by participating in the development of policy relating to: nursing and midwifery practice, professionalism, regulation, education, training, workforce, and socio-economic welfare; health and aged care, community services, veterans' affairs, workplace health and safety, industrial relations, social justice, human rights, immigration, foreign affairs and law reform.

As the largest professional and industrial organisation in Australia, the ANMF has, on behalf of our members, a genuine interest in all aspects relating to health care workers exposure to, and subsequent contracting of, blood borne viruses (BBVs). We welcome the opportunity to provide response to this consultation on the review of *the Australian National Guidelines for the Management of Health Care Workers known to be infected with Blood-Borne Viruses*. This review will have significant impact on nurses and midwives, who make up the largest sector of the health workforce and undertake Exposure Prone Practices (EPPs) Category 1 lower risk as part of everyday practice. Our feedback is provided against the questions posed in the discussion paper for the consultation.

## General Comments

The ANMF is pleased that the Communicable Diseases Network Australia (CDNA) is undertaking this consultation following revision of these guidelines.

The ANMF generally supports CDNA guidance to nurses and midwives for the management of BBVs. It is essential that nurses, midwives and employers clearly understand their responsibilities in this area and are provided access to information when changes occur. Changes must be based on sound evidence.

To date, the ANMF has supported these CDNA guidelines from both a professional and industrial perspective. However, the changes suggested in the revised version are extensive and will have significant impact on all health care workers, and in particular the 376,880[1] nurses and midwives currently on the national Register.

1 Available at: http://www.nursingmidwiferyboard.gov.au/About/Statistics.aspx. Accessed on 22 September 2016

It is the national policy of the ANMF, in relation to BBV exposure for nurses and midwives, that:

- All nurses and midwives have the right to be protected from blood and body substances and this protection includes:
    - effective personal protective equipment;
    - sharps products which are of safe design and protect nurses during their use, such as the use of needleless systems and retractable needles wherever possible; and
    - vaccination for infectious diseases where vaccines are available.
- Local infection control policies and protocols should address issues in relation to blood borne diseases.
- All health services must adopt and enforce safe practices for the handling of blood and body fluids by providing education, policies and resources to nurses and midwives, and applying standard and additional precautions for handling of both blood and body fluids.
- Employers should involve nurses and midwives in the development of infection control policies and effective mechanisms for policy implementation.
- Employers must provide the necessary resources to enable nurses and midwives to implement legislation, policies and procedures for effective infection control such as the use of standard and additional precautions.
- Voluntary testing and immunisation (where available) should be offered and paid for by the employer as a preventative measure.
- Health care practices should be based on scientific knowledge and evidence about disease transmission and levels of risk.
- Nurses and midwives have a duty of care towards clients with BBVs and the quality of nursing and midwifery care provided to people with BBVs should be the same as that provided to other people receiving nursing and midwifery care.
- Mandatory testing of nurses and midwives for BBVs is opposed.[2]

Consequently, the ANMF **does not support** the mandatory testing requirement introduced in the revised draft *Australian National Guidelines for the Management of Health Care Workers known to be infected with Blood-Borne Virus.*

The ANMF has supported the existing CDNA guideline, which encourages and supports those HCWs who perform Exposure Prone Procedures (EPPs) to know their BBV status and to undergo regular BBV testing. We consider this approach facilitates both health promotion for nurses and midwives themselves and assists in protecting the public.

In concluding the general comments, given the proposed change to mandatory testing for all HCWs undertaking EPPs, the title of the document is a misnomer as these guidelines are for all HCWs, regardless of BBV status.

2 ANMF policy Occupational Health and Safety. August 2015.

## General Comments

1. **Do you support the proposed changes to the revised guidelines for the following sections:**

   - **HCWs infected with HBV**
   - **HCWs infected with HCV**
   - **HCWs infected with HIV, and**
   - **Recommendations for public health authorities.**

   **If not, why?**

While the ANMF supports some of the proposed changes to the revised guidelines, we remain opposed to mandatory testing for HCWs.

The revised guidelines need to continue to find a balance between protecting the public and protecting HCWs. There may be a tendency to exaggerate the potential and actual risks of transmission of BBVs to clients and to unfairly and unnecessarily restrict or curtail the work practices of HCWs. This has the effect of potentially denying these HCWs the ability to practise in their profession and limit the care they may ordinarily provide to people. On the other hand, there may also be occasions where the risk of transmission of a BBV is real and, in the interests of client safety, appropriate measures should be taken to mitigate any risk to an acceptable level.[3] [4] [5]

The ANMF agrees with the first set of key recommendations for all HCWs made within the draft document, including:

- All HCWs should be encouraged to undertake regular testing for BBVs.
- All HCWs have the right to access confidential testing, counselling and treatment
- All HCW should be vaccinated against HBV.

All Australian health care services must have Standard Precautions and effective infection control strategies in place as per current National Health and Medical Research Council (NHMRC) guidelines. This is part of the employer's obligation to provide a healthy and safe working environment to prevent or reduce the risk of exposure to body fluids, secretions, sharps injuries and excretions and prevents the transmission of infections from person to person within the health service. The employer has a responsibility to provide resources, information, training and equipment to ensure a safe working environment and that includes testing, vaccinations and treatment where required.

3 The Canadian Medical Protective Association: *Physicians with blood borne viral infections: Understanding and managing the risks* https://oplfrpd5.cmpa-acpm.ca/-/physicians-with-blood-borne-viral-infections-understanding-and-managing-the-risks Accessed 01.09.14.
4 Scotland Health. *Blood Borne Viruses*. http://www.healthyworkinglives.com/advice/workplace-hazards/bbvs Accessed 01.09.14.
5 Australian Society of HIV Medicine [ASHM], 2012: *Emergency Service Providers and Blood Borne Viruses* http://www.ashm.org.au/images/PDFS/publications/1976963389_ESPBBV_booklet.pdf Accessed 01.09.14.

The ANMF supports a policy for employers to encourage their staff to be vaccinated against preventable BBV, including hepatitis B virus (HBV) where a nurse or midwife has no documented evidence of pre-existing immunity (from natural infection or prior vaccination) and for screening to ensure they are assessed for immunity post-vaccination. The ANMF also considers that employers should pay for the vaccinations.

As identified earlier the ANMF does not support the proposed change, outlined as the second set of key recommendations for HCWs who perform EPPs, to establish a requirement for mandatory testing. We argue, this is not required and that there is insufficient evidence to support this substantial and costly change. The ANMF recommends that, as this change will have significant implications for HCWs, employers and regulators, it is essential there is broader public consultation on the draft guidelines. It would also be necessary for the Australian Health Practitioner Regulation Agency (AHPRA) consultation processes under the National Law to be met, considering AHPRA and the National Boards will require regulated health practitioners to comply with these guidelines.

In addition, it is unclear how this mandatory testing requirement would work in practice. Is it the individual HCW or the employer who is responsible for ensuring those undertaking EPPs have been tested in line with the required schedule? The new requirement presumes that HCWs will never be called on to be involved in EPPs without sufficient notice for testing to occur.

The ANMF is concerned that in some health care settings, in particular some rural and remote facilities, or situations where there is only one health care practitioner, the requirement to cease performing EPPs immediately may be unlikely or impossible to achieve. Furthermore, this will require the HCW to disclose their BBV status to the employer, and potentially other employees, even if they are complying with the guidelines. The responsibility to complete the required EPPs in this scenario may then fall to another HCW who has chosen not to perform EPPs and does not want to disclose their BBV. There are significant concerns around confidentiality and potential discrimination for HCWs which need to be addressed in the guidelines.

The guidelines should address the equitable treatment of a HCW who may contract a BBV while at work. This would include: the importance of ensuring the HCW continues as a productive and valued employee; acknowledge that the diagnosis may have a detrimental impact on their career and advancement in their career; and the need for counselling and professional support.

Further, employers of nurses and midwives who have been exposed to a BBV through their work have a legal obligation arising from workers' compensation legislation to provide support, to cover the cost of treatment and vaccination, and to provide access to, and pay for, counselling. Employers should also provide paid leave if necessary.

In Section 2 – Guiding principles, and in Section 5.2 -Support of HCWs infected with a BBV, there should also be explicit reference to workplace health and safety and workers' compensation legislation.

In reference to Section 4.1 – Diagnosis and frequency of BBV testing, all HCWs should receive advice on measures to minimise the risk of infection at work and of avoiding non-occupational risks of infection', not just those mentioned in this section. In fact, the employer should not be just 'providing advice' but ensuring that there are safe systems of work. Risks of infection can arise from such factors as fatigue, inadequate staffing, and lack of safe design.

2. **Do you support the changes to the definitions and examples of EPPs? Do you agree with the recommendation that the relevant specialist Colleges provide more detailed advice about what constitutes an EPP and the category of the procedure?**

The definitions and examples of EPPs are confusing. There are a number of examples of non-EPPs included that do not meet the definition of a non-EPP. They would, however, more reasonably meet the definition of a Category 1 EPP. These include: insertion of intravenous or central lines; incision and drainage of abscesses; suturing skin lacerations; and risk from handling sharps. All of these examples constitute *'A procedure where the hands and fingertips of the HCW are usually visible and outside the body most of the time and the possibility of injury to the worker's gloved hands from sharp instruments and/or tissues is unlikely. If injury occurs it is likely to be noticed and acted upon quickly to avoid the HCW's blood contaminating a patient's open tissues'*. This is the definition of a Category 1 EPP not a non-EPP.

Given the definitions provided, specialist Colleges will no doubt find the provision of more detailed advice about what constitutes an EPP and the category of the procedure challenging. It is imperative that the definitions are clarified before any further advice can be provided.

The relevant specialist Colleges listed in Appendix 2 of the revised Guidelines are all medical and dental colleges. As these guidelines apply to all HCWs, those known to be infected with a BBV, and now all those who undertake EPPs regardless of category, it is unclear as to why advice would only be sought from medical and dental colleges. Nursing and midwifery professional and industrial organisations should also be consulted in relation to categorisation of EPPs as they pertain to nursing and midwifery practice.

3. **Are the relevant specialist Colleges (as listed in the guidelines) comfortable with providing more detailed advice to HCWs about which procedures in their specialties constitute an EPP and what category of EPP this procedure would be?**

When the definitions of an EPP and non-EPP are clarified, it would be appropriate for the professional and industrial organisations for the professions to provide education and support for HCWs in identifying what constitutes an EPP. These organisations should be able to access support and resources from a national body which has expertise on both BBVs and EPPs when required. Currently the suggested list of specialist Colleges are only relevant to doctors and dentists. It is essential that all HCWs have access to their relevant professional and industrial organisations to ensure context to their professions practice is considered in the advice provided.

**4. Do you support the proposed changes to the frequency of BBV testing for HCWs section?**

No. HCWs who perform EPPs should be encouraged and supported to know their BBV status and to undergo regular BBV testing. Testing for BBVs, however, should not be mandatory.

**5. Do you foresee any potential issues that will arise in the implementation of the guidelines?**

We are unclear how mandatory testing will actually work in practice. Implementing routine testing would appear to require a dedicated workforce to ensure adherence to these guidelines. This additional cost may well prove prohibitive and is questionable where there is no clear evidence for such an approach.

Employers need to be aware of the National Guidelines to ensure their local policies are consistent with the national requirements.

In addition to the above it should be noted that there is little if any detail regarding the equitable treatment of a worker who may contract the virus while at work. There is nothing in the guidelines about the importance of ensuring the HCW continues as a productive and valued employee, acknowledging that the illness may have a detrimental impact on their career and their advancement in their career, that the employee may be required to meet additional health care costs and other employment costs. The need for counselling and professional support is broadly ignored.

## Conclusion

The ANMF appreciates the opportunity to provide a submission to the consultation on the revised Australian National Guidelines for the Management of Health Care Workers known to be infected with blood-borne viruses.

The draft revised CDNA national guidelines are an important resource for all HCWs, employers and regulators. It is essential the guidelines find the critical balance between protecting the public and protecting the HCW. The ANMF does not support mandatory testing for all HCWs who complete EPPs. We recommend these guidelines are consulted upon more extensively than the list of organisations detailed in the discussion paper, to ensure the broader public have an opportunity to make comment on such a substantive change.

Further to the need for a public consultation, it is essential that once the revised guidelines have been finalised, a clear and wide reaching communication strategy be implemented ensuring all registered health practitioners are aware of revisions made. The guidelines should be readily accessible to all HCWs with links to the associated AHPRA guidelines.