



23 November 2020

Dr Brendan Murphy
Secretary of the Department of Health
GPO Box 9848
Canberra ACT 2601

By Email: brendan.murphy@health.gov.au

Dear Dr Murphy,

Follow-up to correspondence sent on 9 September 2020

On 9 September 2020 the Australian Nursing and Midwifery Federation (ANMF) wrote to you concerning the use of protective personal equipment (PPE) by health care workers in hospitals, aged care and other health settings. To date we have not received a response. We have attached a copy of this correspondence at the end of this letter. For brevity, we adopt the definitions used in that correspondence.

As per the attached, the ANMF wrote to you to express our concern about the Guidance Materials published by the Infection Control Expert Group (ICEG), namely the:

1. Hospital Guidance; and
2. Significant Community Transmission Guidance

Since the time we wrote to you materials published by the ICEG and DHHS have been updated. The ANMF notes that while the more recent Guidance Materials published are a step in the right direction, the issues we raised remain outstanding.

In particular, the ANMF continues to have the following concerns about the Guidance Materials:

1. **The Guidance Materials do not recognise the precautionary principles in work health and safety (WHS) laws and the evidence supporting airborne transmission of COVID-19.** The current Hospital Guidance advice that "Airborne transmission (via aerosols of small particles) is believed, by most authorities, to be rare..."¹ is not supported by evidence.

¹ [Guidance on the minimum recommendations for the use of personal protective equipment \(PPE\) in hospitals during the COVID-19 outbreak](#) (Hospital Guidance), p. 3

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ANMF Journals

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2. The Guidance Materials do not mandate fit-testing of particulate filter respirators (PFRs).

The current Hospital Guidance merely acknowledges that “...some jurisdictions have fit testing requirements and programs, refer to local policies (sic) Australian standards”².

This lack of mandated fit-testing is despite the fact an ICEG Fact Sheet states that “...fit-testing should be prioritised to health and care workers who frequently perform or assist with AGPs or work in situations where risk assessment has identified that a PFR is required.”³ The Fact Sheet appears to challenge the advice in the Hospital Guidance which downplays the role of fit-testing, stating that “...fit-testing of all health care workers who may need to use a PFR, will be difficult to accomplish due to limited supplies and range of types/sizes available.”⁴

In our previous correspondence the ANMF noted the following:

The Guidance Materials do not place enough emphasis on the basic doctrines of WHS laws. The Department of Health, as the ultimate publisher, should urgently review the Guidance Materials so that health employers recognise the importance of their WHS obligations to implement what is reasonably practicable to eliminate any health and safety risks in the workplace. Irrespective of what the ICEG recommends, the Department of Health must recognise broader WHS legal realities in its Guidance Materials and adjust them accordingly.

The Department of Health needs to urgently expand the membership of the ICEG to include WHS experts who have particular knowledge of WHS in health and aged care. The ANMF recognises that the infection control expertise on the group is excellent and highly knowledgeable however to operate at the best level for all stakeholders including workers, the ICEG needs to formally include the WHS perspective.

The ANMF also notes that the Fact Sheet specifically mentions WHS laws:

Employers or persons in control of workplaces have a responsibility to manage risks in accordance with work health and safety regulations, and jurisdictional occupational health and safety legislation. This includes ensuring that staff are a) trained in infection prevention and control (IPC) practices relevant to infection risks and their individual roles, including use of PPE if appropriate, and b) provided with working conditions and an environment that minimise risk and are conducive to compliance with appropriate IPC practices. (Footnotes omitted)⁵

In addition the Fact Sheet states:

...fit-testing should be prioritised to health and care workers who frequently perform or assist with AGPs or work in situations where risk assessment has identified that a PFR is required. Work health and safety regulations stipulate that it is the workplace responsibility to ensure that properly fitted PPE is available to staff as required. (Footnotes omitted)⁶

In light of the above, the ANMF requests that the ICEG:

1. Ensure that all publications concerning infection control provide the necessary information on how employers can meet their legal obligations under Australian WHS laws.
2. Expand the membership of the ICEG to include WHS experts who have particular knowledge of WHS in health and aged care.

² *Ibid.*, p. 7

³ [The use of face masks and respirators in the context of COVID-19](#) (Fact Sheet), p. 12

⁴ Hospital Guidance, p. 7

⁵ Fact Sheet, p. 2

⁶ Fact Sheet, p. 12

Thank you for your attention to this matter. Your timely acknowledgement of this, and our previous correspondence, would be greatly appreciated.

Should you require further information on any of the issues raised, please do not hesitate to contact

[REDACTED]

Yours sincerely

A handwritten signature in black ink, appearing to read "Annie Butler". The signature is fluid and cursive, with a large initial "A" and "B".

Annie Butler
Federal Secretary



9 September 2020

Dr Brendan Murphy
Secretary of the Department of Health
GPO Box 9848
Canberra ACT 2601

By Email: brendan.murphy@health.gov.au

Dear Dr Murphy,

**Re: Use of PPE by health care workers in hospitals,
aged care and other health settings**

The Australian Nursing and Midwifery Federation (ANMF) is Australia's largest national union and professional nursing and midwifery organisation. In collaboration with the ANMF's eight state and territory branches, we represent the professional, industrial and political interests of more than 295,000 nurses, midwives and carers across the country.

Our members work in the public and private health, aged care and disability sectors across a wide variety of urban, rural and remote locations. We work with them to improve their ability to deliver safe and best practice care in each and every one of these settings, fulfil their professional goals and achieve a healthy work/life balance.

Our strong and growing membership and integrated role as both a trade union and professional organisation provides us with a complete understanding of all aspects of the nursing and midwifery professions and see us uniquely placed to defend and advance our professions. Through our work with members we aim to strengthen the contribution of nursing and midwifery to improving Australia's health and aged care systems, and the health of our national and global communities.

The ANMF recognises that the COVID-19 pandemic is challenging for all involved in health care delivery and that the evidence regarding COVID-19 is continually evolving. For this reason, the ANMF urges the Federal Government and Department of Health to adopt a proactive and precautionary policy response to the provision and use of personal protective equipment (PPE) for health care workers.

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Recent data for cases of COVID-19 in nurses shows that 89 per cent of these cases in the second wave in Victoria were acquired by them at work. In total, at least 69 per cent of all health care infections have been determined as likely to have been acquired at work. Excluding cases where investigations are still ongoing, this number increases to 86 per cent. In completed investigations of health care worker cases only 6 per cent of infections were acquired outside the workplace.¹ In this context healthcare workers includes workers in aged care and disability.

PPE

Correct size, fit, use, and disposal of PPE is essential to safe, effective, and sustainable infection prevention and control activities in the context of responding to the COVID-19 pandemic.

The correct use of PPE must be combined with correct and consistently applied hygiene and infection control methods, organisational and point of care risk assessment, engineering and system controls, administrative controls, and patient accommodation in tandem for PPE to be effective.

The ANMF notes that the Department of Health's Australian Health Protection Principal Committee (AHPPC) has endorsed the following Infection Control Expert Group (ICEG) guidance materials (the **Guidance Materials**):

- [Guidance on the use of personal protective equipment \(PPE\) in hospitals during the COVID-19 outbreak \(Hospital Guidance\)](#)
- [Guidance on the use of personal protective equipment by health care workers in areas with significant community transmission \(Significant Community Transmission Guidance\)](#)

We note that the Hospital Guidance is under currently review.²

Like many other work health and safety bodies, professional organisations and trade unions, we have concerns with the Guidance Materials and what they mean for our members and other health care workers. In particular, the ANMF is concerned that these documents may be being used by employers and governments to undermine their legal responsibilities to ensure a healthy and safe workplace under relevant Work Health and Safety laws.³

The ANMF believes these Guidance Materials need to be redrafted as soon as possible in order to ensure that our members and the broader health care workforce are protected and that WHS is more prominent in all material produced by the Department of Health.

Under WHS laws, health employers around Australia are legally mandated to implement what is reasonably practicable to eliminate any health and safety risks in the workplace⁴. Whilst the evidence continues to evolve 'reasonably practicable' is not a reason to take a moderate approach to WHS. It means that the precautionary principle should be applied by policy makers in their approach to pandemic decision-making and healthcare worker safety.

¹ DHHS Victoria 'Protecting our healthcare workers' 28 August 2020 (accessed at https://www.dhhs.vic.gov.au/sites/default/files/documents/202008/2001628_COVID-19%20Protecting%20our%20healthcare%20workers_v9.pdf on 9 September 2020)

² <https://www.health.gov.au/resources/publications/guidance-on-the-use-of-personal-protective-equipment-ppe-in-hospitals-during-the-covid-19-outbreak> (accessed 9 September 2020)

³ The *Model Work Health and Safety Act* in most jurisdictions, the *Occupational Health and Safety Act 2004* in Victoria and the *Occupational Health and Safety Act 1984* in Western Australia.

⁴ *Model Work Health and Safety Act*, s.17

Here we define the ‘precautionary principle’ to be that where there is an activity that raises threats of harm to human health and safety, precautionary measures should be taken even if some cause and effect relationships are not yet fully scientifically established .

Specifically, the ANMF highlights the following necessary changes to the Guidance Materials:

Hospital Guidance

This guidance needs urgent revision so that the use of a P2/N95 mask or equivalent instead of a surgical mask is stipulated in all instances for use in routine care of patients with confirmed or potential COVID-19, irrespective of whether there are aerosol generating procedures (AGP) involved or not. To its credit, the Department of Health and Human Services in Victoria (DHHS) has issued guidance which states the following:

P2/N95 respirators

- ***Health Care Workers must wear a N95/P2 respirator:***
 - *in settings where suspected or confirmed coronavirus (COVID-19) patients are cohorted and where frequent, prolonged episodes of care are provided (i.e. providing care for a patient on a dedicated COVID-19 ward).*
 - *in uncontrolled settings where suspected or confirmed coronavirus (COVID-19) patients are cohorted, to avoid the need for frequent changes of N95/P2 respirators.*
 - *where suspected or confirmed coronavirus (COVID-19) patients are cohorted and there is risk of unplanned aerosol generating procedures (AGPs) and/or aerosol generating behaviours.*
 - *when undertaking an AGP on suspected or confirmed coronavirus (COVID-19) patient.⁵*

DHHS has taken these steps as a precautionary measure, arguably because the evidence around airborne transmission of COVID-19 is largely unknown. As the BMJ recently noted:

*Urgent research is needed to better understand airborne transmission and measure viral aerosol outputs during respiratory activity and medical procedures. In the meantime, international guidance must acknowledge the weight of evidence supporting airborne transmission of covid-19 and include recommendations to promote effective preventive measures...In the interim, healthcare workers require access to respirator masks for **all high risk encounters, not just during selected clinical procedures.**⁶ (Emphasis added)*

The ANMF believes the above DHHS guidance must become the very minimum standard throughout Australia and that the Department of Health has a vital role in ensuring that it does.

In addition, the Hospital Guidance should be amended to strengthen the wording around **fit-testing** of all health care workers who wear a P2/N95 mask to mandate fit-testing. The wording in the Hospital Guidance is inadequate. Whilst it recognises that it is an Australian/New Zealand Standard it then goes on to say that “fit-testing of all health care professionals...will be difficult due to limited supplies and range of types/sizes available”. This is unacceptable. Alleged PPE shortages are not a justification for healthcare workers to not have access to the maximum level of protection, especially with stocks increasing rapidly and governments shoring up supplies.

With respect to fit-testing, the New South Wales Clinical Excellence Commission (CEC) states:

*A risk-management approach should be applied to ensure that HWs routinely and regularly working in areas with **a significant risk of exposure to diseases transmitted via the airborne route are fit tested***

⁵ Personal Protective Equipment (PPE) - coronavirus (COVID-19), <https://www.dhhs.vic.gov.au/personal-protective-equipment-ppe-covid-19> (accessed 9 September 2020)

⁶ BMJ 2020; 370 doi: <https://doi.org/10.1136/bmj.m3206> (Published 20 August 2020)

*and are aware of how to perform a fit check. Fit testing will not negate the need for fit checking every time a P2/N95 respirator is put on.*⁷ (Emphasis added).

Now is the opportunity for the Department of Health to follow the CEC's lead and go further by adopting best practice with respect to requiring those who must wear a P2/N95 to undergo a systematic program of fit testing.

Significant Community Transmission Guidance

The ANMF is of the firm view that this guidance also needs to be reworded to come into line with WHS law and the precautionary principles as outlined above.

The material states "**There is little clinical or epidemiological evidence of significant transmission of SARS-CoV-2 (the virus that causes COVID-19) by aerosols.**"⁸ (Bold in original). Even if taken as true, this statement does not mean there is no clinical or epidemiological evidence of transmission of SARS-CoV-2 by aerosols, let alone significant transmission. This same material then goes onto recommend that P2/N95 masks be worn in the following circumstances:

1. *For the clinical care of patients/residents with suspected, probable or confirmed COVID-19, who have cognitive impairment, are unable to cooperate, or exhibit challenging behaviours (see below).*
2. *Where there are high numbers of suspected, probable or confirmed COVID-19 patients/residents AND a risk of challenging behaviours and/or unplanned aerosol-generating procedures (e.g. including intermittent use of high flow oxygen).*⁹

The ICEG has acknowledged that a P2/N95 mask may be needed in circumstances beyond those identified in the Hospital Guidance, however it has been overly cautious in stipulating its advice. The ANMF believes it is reasonably practicable for employers to use a P2/N95 in other circumstances beyond those mentioned above. There is no shortage of the masks available and the Federal Government has had ample to time to ensure the long-term viability of mask stocks.

The ANMF recognises that there may be some friction between the clinical/scientific perspective and the WHS stand point on this matter. Irrespective of this however, employers use the Guidance Materials as justification for implementing or not implementing WHS strategies to manage COVID-19 concerns in their workplaces.

The Guidance Materials do not place enough emphasis on the basic doctrines of WHS laws. The Department of Health, as the ultimate publisher, should urgently review the Guidance Materials so that health employers recognise the importance of their WHS obligations to implement what is reasonably practicable to eliminate any health and safety risks in the workplace. Irrespective of what the ICEG recommends, the Department of Health must recognise broader WHS legal realities in its Guidance Materials and adjust them accordingly.

The Department of Health needs to urgently expand the membership of the ICEG to include WHS experts who have particular knowledge of WHS in health and aged care. The ANMF recognises that the infection control expertise on the group is excellent and highly knowledgeable however to operate at the best level for all stakeholders including workers, the ICEG needs to formally include the WHS perspective.

⁷ Infection Prevention and Control – Application of PPE during COVID-19 (Version 2.3)

http://www.cec.health.nsw.gov.au/_data/assets/pdf_file/0006/590307/Application-of-PPE-in-COVID-19.pdf (accessed 9 September 2020)

⁸ Significant Community Transmission Guidance, page 1

⁹ Significant Community Transmission Guidance, page 2

Thank you for your consideration and urgent attention to the matters raised above. Should you or your colleagues require further information on any of the issues raised, please do not hesitate to contact [REDACTED].

Yours sincerely



Annie Butler
Federal Secretary