Medical Board of Australia

Draft guidelines for consultation

30 March 2011

Guidelines for medical practitioners and medical students infected with blood-borne viruses

Summary

This consultation paper seeks feedback on draft guidelines for medical practitioners and medical students infected with blood-borne viruses.

In releasing this consultation paper the Board is mindful that the current national standards for health care workers developed by the Communicable Diseases Network Australia (CDNA) is under review and will be re-published shortly, if not already, for public consultation.

The Board's role differs to that of the CDNA which is responsible for providing "*national public health co-ordination on communicable disease surveillance, prevention and control, and [offers] strategic advice to governments and other key bodies on public health actions to minimise the impact of communicable diseases in Australia and the region*."[1] The Board is mandated to protect the public by ensuring that only medical practitioners who are competent and safe to practice are registered. The draft guidelines therefore set out the Board's expectations of all registered medical practitioners and medical students in relation to knowing whether they are infected with a blood-borne virus. The draft guidelines also define the limits on the scope of practice of medical practitioners who are infected with a blood-borne virus to ensure safe practice. The draft guidelines are based on national standards for the management of blood-borne viruses in health care workers.

In the longer term, the Board considers that it would be preferable for the Board's guidelines to be consistent and complementary with those of the CDNA. The Board will consider whether it is necessary to update its guidelines when the updated CDNA national standards are approved.

Questions for stakeholders

The Board invites feedback on all aspects of the draft guidelines. The Board is also interested in specific comment from stakeholders about the following questions:

[1] CDNA Terms of Reference downloaded from http://www.health.gov.au/internet/main/publishing.nsf/content/cda-cdna-cdna.htm, 16 March 2011.

Question 1

Should medical practitioners with any level of viraemia be permitted to perform exposure prone procedures? If you believe that they can safely perform exposure prone procedures in some circumstances, define the circumstances (for example, which viruses and what maximum level of virus?)

Question 2
Is it reasonable to expect that medical practitioners and medical students infected with a blood-borne virus will comply with the Board's guidelines and their treating specialist doctors' advice, or should they have conditions imposed on their registration that prevent them from performing exposure prone procedures?

Question 3
Should these guidelines include details about the management of practitioners who appear to have cleared the HBV or HCV, whether that is the result of treatment or whether it is spontaneous? Should that be left to the treating specialist doctors' discretion?

Question 4
Which of the following groups of medical practitioners infected with a blood-borne virus should be monitored by the Board and if so, how? For example, should they be required to provide regular results of tests to the Board?

a. all registered medical practitioners; or
b. only registered medical practitioners who perform exposure prone procedures; or
c. only registered medical practitioners that may place the public at risk of harm because of their practice.

Question 5
Are there any other measures the Board should put into place (within the scope of its powers) to protect the public from potential infection by medical practitioners with a blood-borne virus?

Following public consultation, the Board will finalise the guidelines, taking into account feedback gathered through the consultation process, any updated national standards available and the Board's primary role of protecting the public.

Background

From 1 July 2010, the Medical Board of Australia (the Board) has been responsible for the registration and regulation of medical practitioners under the *Health Practitioner Regulation National Law Act* (the National Law), as in force in each state and territory.

Submissions

Section 39 of the National Law empowers the Board to develop guidance for the profession. Section 40 of the National Law requires the Board to ensure that there is wide-ranging consultation about any codes or guidelines that the Board develops.

The Board is now seeking feedback on these draft guidelines on management of blood-borne viruses and is interested in comments from a wide range of stakeholders.

Please provide written submissions by email, marked "Blood-borne Virus Guidelines" to medboardconsultation@ahpra.gov.au by close of business on **27 May 2011**. All submissions will be published on the Board's website unless requested otherwise.

The Board has previously developed and consulted on a range of registration standards, codes and guidelines that are now in place. These clarify the Board's expectations of medical practitioners and are published at www.medicalboard.gov.au.

A link to the National Law is available at www.ahpra.gov.au.

Draft guidelines

30 March 2011

Guidelines for medical practitioners and medical students infected with blood-borne viruses

1. Introduction

These guidelines has been developed under s. 39 of the *Health Practitioner Regulation National Law Act 2009* ('the National Law') as in force in each state and territory. It provides guidance to registered medical practitioners and registered medical students who are infected with blood-borne viruses about how to prevent the transmission of the infection to patients. The guidelines also confirm that practitioners and students who are infected with blood-borne viruses can continue to study and practise medicine, and it defines the safe limits on their practice.

2. Who needs to use these guidelines?

These guidelines apply to registered medical practitioners and registered medical students. Where the guidelines refer to a registered medical practitioner, it also means a registered medical student.

Treating doctors and employers may also use these guidelines.

3. Summary of these guidelines

In clinical practice, the primary concern of medical practitioners should be the care of their patients. Medical practitioners have a professional responsibility to practise medicine safely and effectively. However, it is important for medical practitioners to maintain their own health and wellbeing. This includes being immunised against infectious diseases where there is a vaccine available and taking the necessary steps if the practitioner has been exposed to a blood-borne virus.

Infected practitioners have the same rights of confidentiality as other patients.

If a medical practitioner knows or suspects that they have been infected with a blood-borne virus, they should consult an appropriately experienced, independent medical practitioner for their management. This includes seeking treatment, which may modify their illness to the extent that restrictions on practice can be lifted. It also includes obtaining advice on the need to modify their practice. It is not appropriate for a practitioner to rely on their own assessment of the risk that they pose to patients.

Medical practitioners should be aware of their infective status particularly if they perform exposure prone procedures. Medical practitioners who perform exposure prone procedures should be voluntarily tested for blood-borne viruses prior to the commencement of practice, following potential exposure to a blood-borne virus and on an annual basis.

A registered medical practitioner or registered medical student who is alleged to have breached these guidelines will be investigated by the Medical Board of Australia (Board) and if the allegations are found to be substantiated, the Board will take the necessary action to protect the public.

4. Background

These guidelines support "***Good Medical Practice: A Code of Conduct for Doctors in Australia***" and provide further specific guidance on doctors infected with a blood-borne virus and the importance of ensuring their health and well-being.

Section 9.2 of Good Medical Practice states that: "*Good medical practice involves*:

9.2.1 Having a general practitioner.
9.2.2 Seeking independent, objective advice when you need medical care, and being aware of the risks of self-diagnosis and self-treatment.
9.2.3 Making sure that you are immunized against relevant communicable diseases; and
9.2.7 If you know or suspect that you have a health condition or impairment that could adversely affect your judgment, performance or your patient's health:
- *not relying on your own assessment of the risk you pose to patients*
- *consulting your doctor about whether, and in what ways, you may need to modify your practice, and following the doctor's advice."*

5. Responsibilities of all medical practitioners and medical students

Medical practitioners and medical students should know their HIV, HBV and HCV antibody status. Medical students are strongly advised to undergo testing for blood-borne viruses at the commencement of their medical course and should be offered counselling about their career options if they are found to be infected. Medical practitioners should undergo testing prior to commencement of specialist training, where the scope of practice for that specialty includes exposure prone procedures.

Medical practitioners and students should be immunised against blood-borne viruses where a vaccine is available.

If a practitioner has potentially been exposed to a blood-borne virus they should follow post-exposure protocols, including reporting the incident if it was an occupational exposure, undergoing testing and if necessary, seeking specialist management, receiving post-exposure prophylactic treatment and follow up. It is not necessary for practitioners to stop performing exposure prone procedures after the exposure, unless they are found to have become infected with the blood-borne virus.

In general, there is a greater risk that a medical practitioner will be infected by a patient, than there is of a practitioner infecting a patient. Medical practitioners should therefore protect themselves and their patients by adhering to current infection control guidelines and protocols.

6. Medical practitioners and medical students who are infected with a blood-borne virus

Medical practitioners and students who are infected with a blood-borne virus have an ethical duty to review their practice of medicine, health risks and health status. They should obtain and follow the advice of their treating specialist doctor and must never rely on their own assessment of the risk that their condition may pose to patients.

Medical practitioners and students who are infected with a blood-borne virus have the same rights of confidentiality as other patients. The exception to this is if through their practice, they are putting the public at risk (for example, by breaching these guidelines) in which case, they should be reported to the Board via the Australian Health Practitioner Regulation Agency.

Medical practitioners who are infected with a blood-borne virus can practise medicine. However, they may need to modify their practice if they were previously performing exposure prone procedures.

Medical practitioners and medical students who are infected with a blood-borne virus must not perform any exposure prone procedures if they are:

- HIV antibody positive, even if virus levels become undetectable on appropriately monitored anti-retroviral therapy
- Hepatitis B e antigen (HBeAg) positive and/or hepatitis B DNA positive (by PCR test)
- Hepatitis C RNA positive (by PCR test)

A specialist medical practitioner must ascertain whether the infected practitioner or student is viraemic, using the most sensitive tests that are commercially available.

Medical practitioners or medical students should seek expert medical advice about their infectious status and whether it is appropriate for them to perform exposure prone procedures if they:

- test positive for Hepatitis B surface antigen (HBsAg) and are HBeAg and hepatitis B DNA negative or
- test Hepatitis C antibody positive and Hepatitis C RNA negative.

Question 1
Should medical practitioners with any level of viraemia be permitted to perform exposure prone procedures? If you believe that they can safely perform exposure prone procedures in some circumstances, define the circumstances (for example, which viruses and what maximum level of virus?)

Question 2
Is it reasonable to expect that medical practitioners and medical students infected with a blood-borne virus will comply with the Board's guidelines and their treating specialist doctors' advice, or should they have conditions imposed on their registration that prevent them from performing exposure prone procedures?

Question 3
Should these guidelines include details about the management of medical practitioners who appear to have cleared the HBV or HCV, whether that is the result of treatment or whether it is spontaneous? Should that be left to the treating specialist doctors' discretion? In particular, should the following advice be included?

1. An untreated HBsAg positive practitioner can perform exposure prone procedures if they are HBV DNA undetectable and HBeAg negative, if there is regular three monthly testing overseen by a specialist and the HBV DNA remains negative
2. A medical practitioner who was HBsAg positive and after treatment becomes HBsAg undetectable on two consecutive occasions at least three months apart, and becomes HBV DNA undetectable and HBeAg negative, can perform exposure prone procedures but must be tested annually.
3. A medical practitioner who was HBsAg positive and after treatment remains HBsAg positive but HBV DNA undetectable and HBeAg negative may perform exposure prone procedures if there is regular three monthly testing overseen by a specialist, and the HBV DNA remains undetectable.

7. The role of the Medical Board of Australia

All medical practitioners practising and medical students studying in Australia must be registered with the Medical Board of Australia.

The primary role of the Board is to protect the public by ensuring that only medical practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered.

The Board can investigate concerns about the professional conduct, professional performance or health of registered medical practitioners. It can also take a range of actions to protect the public.

In serious cases of unprofessional conduct or impairment the Board has the power to suspend registration and/or refer the matter to a Tribunal or Court where the medical practitioner's registration may be cancelled. In less serious cases the Board has the power to impose conditions on the doctor's registration, require the medical practitioner to undergo counselling, supervision, undertake further education, caution the practitioner or accept an undertaking from the practitioner.

8. Notifications about an impairment

The Board understands the issues facing medical practitioners and medical students infected with blood-borne viruses and the importance of confidentiality and their right to privacy. However these issues must be considered in the context of the Board's role to protect the public.

Medical practitioners, employers and education providers have an obligation to notify the Australian Health Practitioner Regulation Agency (AHPRA) if a medical practitioner or medical student has an impairment that places the public at substantial risk of harm. This would include a practitioner or student infected with a blood-borne virus whose health may impact on their ability to practise safely. However, it is not necessary to notify AHPRA where a practitioner or student who has a blood-borne virus is practising safely and is complying with these guidelines, and with the advice of their treating specialist doctor.

Medical practitioners are also required to declare if they have an impairment that impacts their ability to practice safely and effectively at the time of initial registration and annual renewal of registration. They are not required to inform the Board of their infective status if they are complying with these guidelines.

The Board would not impose conditions on the registration of a practitioner who is complying with these guidelines.

Question 4
Which of the following groups of medical practitioners infected with a blood-borne virus should be monitored by the Board and if so, how? For example, should they be required to provide regular results of tests to the Board?

a. all registered medical practitioners; or

b. only registered medical practitioners who perform exposure prone procedures; or

c. only registered medical practitioners that may place the public at risk of harm because of their practice.

Question 5
Are there any other measures the Board should put into place (within the scope of their powers) to protect the public from potential infection by medical practitioners with a blood-borne virus?

9. References

1. Australian Government Department of Health and Ageing. *Guidelines for Managing Blood-Borne Virus Infection in Health Care Workers*, Communicable Diseases Network Australia; 2005 and as updated from time to time.

2. Australian Government, National Health and Medical Research Council. *Australian Guidelines for the Prevention and Control of Infection in Healthcare*, Australian Commission for Safety and Quality in Health Care, 2010.

10. Definitions

Blood-borne virus for the purposes of this guideline means the following viruses: HBV, HCV and HIV.

DNA means Deoxyribonucleic acid.

Exposure prone procedure means procedures where there is a risk of injury to the practitioner resulting in exposure of the patient's open tissues to the blood of the practitioner. These procedures include those where the worker's hands (whether gloved or not) may be in contact with sharp instruments, needle tips or sharp tissues (spicules of bone or teeth) inside a patient's open body cavity, wound or confined anatomical space, where the hands or fingertips may not be completely visible at all times.

HBeAg means Hepatitis B e Antigen.

HBsAg means Hepatitis B surface Antigen.

HBV means Hepatitis B virus.

HCV means Hepatitis C virus.

HIV means Human immunodeficiency virus.

Impairment means, in relation to a person, means the person has a physical or mental impairment, disability, condition or disorder (including substance abuse or dependence) that detrimentally affects or is likely to detrimentally affect—

(a) for a registered medical practitioner or an applicant for registration, the person's capacity to practise the profession; or

(b) for a student, the student's capacity to undertake clinical training—

(i) as part of the approved program of study in which the student is enrolled; or

(ii) arranged by an education provider.

PCR means polymerase chain reaction

RNA means ribonucleic acid.

Review

These guidelines will begin on (a date to be advised after the consultation process is complete). The Board will review these guidelines within three years of that commencement date.