HEALTH SERVICES COMMISSIONER

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SUBMISSION IN RESPONSE TO THE MEDICAL BOARD OF AUSTRALIA GUIDELINES FOR MEDICAL PRACTITIONERS AND MEDICAL STUDENTS INFECTED WITH BLOOD-BORNE VIRUSES

DATE: 23rd May 2011

Introduction

Thank you for the opportunity to contribute to this important work. The Office of the Health Services Commissioner (OHSC) was created by the *Health Services (Conciliation and Review) Act 1987* (Vic) (HSCRA) to receive and resolve complaints from users of health services about health service providers with a view to improving the quality of health services. The OHSC also administers the health privacy legislation in Victoria, the *Health Records Act 2001* (Vic) (HRA).

The discussion paper is a comprehensive articulation of the issues.

The definitions in section 10 may benefit from being placed at the front of the guidelines to enable a shared understanding of what "exposure prone procedures" mean prior to starting to read the document. It may also need to be reworded to make it clearer that the components of what constitutes such a procedure are, working with sharps, gloved or not, unsighted fingertips or hands, in a body cavity.

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 circumstance, define the circumstances (for example, which viruses and what maximum level of virus?)*

There is now relatively good evidence to suggest the risk of transmitting HIV when viral load is undetectable is relatively low. The guidelines indicate medical practitioners and medical students must not perform exposure prone procedures even if they have an HIV viral load that is undetectable. We would support the restriction on practitioners and students where the procedure is invasive and the practitioner is unable to visualise their fingertips or hands in situations where their fingertips or hands may come in contact with sharps or bone fragments. Where the field of vision for the procedure is clear and unobstructed, there should be no restriction on a practitioner's practise.

Question 2 *Is it reasonable to expect that medical practitioners and medical students infected with 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?*

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In the context of the new national law and the mandatory reporting requirements, there may be no need to impose restrictions on practise. A balance needs to be stuck between protection of the public and a practitioner's privacy which does not unduly discriminate on the basis of their sero-status. We would not support placing restrictions on their registration on that basis.

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 HBxAg 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.*

The treating specialist doctor is in the best position to determine what types of exposure prone procedures can be performed in the types of cases outlined above. The practitioner themselves is not able to make that determination themselves as it constitutes a conflict of interest for them to do so. The advice proposed is sound and should be included.

Section 6 references viraemia and describes practitioners and students as viraemic. Perhaps a better way of describing this is having a detectable viral load or detectable virus?

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.*

Only those medical practitioners that perform exposure prone procedures should be monitored by the Board. Perhaps a declaration at the time of renewal to the effect that they are HIV/HBV/HCV negative is sufficient monitoring? The provision of test results to the Board would seem to be intrusive and not a guarantee of negativity.

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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?*

We have no further options to suggest in relation to this matter.

Prepared by G Davies
16 May 2011

Beth Wilson

Health Services Commissioner