



26 November 2023

The Hon. Sophie Cotsis MP
Code of Practice Consultation
SafeWork NSW
GPO Box 5341
SYDNEY NSW 2001

Sent by email: cop.consultation@safework.nsw.gov.au

Dear Minister

Re: Code of practice for the control of work-related exposure to hepatitis and HIV (blood-borne) viruses review

Thank you for the opportunity to provide feedback to the review of the *Code of practice for the control of work-related exposure to hepatitis and HIV (blood-borne) viruses* (“the Code of Practice”).

ACON is NSW’s leading health organisation specialising in community health, inclusion and HIV responses for people of diverse sexualities and genders. Established in 1985, ACON works to create opportunities for people in our communities to live their healthiest lives.

Positive Life is a non-profit, peer-led and driven community organisation working to promote a positive image of all people living with and affected by HIV in NSW with the aim of eliminating prejudice, isolation, stigma, and discrimination. Positive Life NSW provides information and targeted referrals, and advocate to change systems and practices that discriminate against all people with HIV, our friends, family, and carers in NSW.

We are aware that the HIV/AIDS Legal Centre (HALC) and the National Association for People with HIV Australia (NAPWHA) have made a joint submission to this consultation, which we strongly endorse. HALC have also endorsed our submission.

The control of work-related exposure to BBVs remains an important part of work health, and safety. It is essential that the management of this risk considers up-to-date evidence, does not increase stigma toward people living with BBVs, and does not infringe on anyone’s human rights. It is for these reasons that ACON and Positive Life have been vocal opponents of NSW’s *Mandatory Disease Testing Act*.

While the Code of Practice is distinct from the *Mandatory Disease Testing Act*, both documents seek to improve the safety of workers with regard to exposure to BBVs while at work. It is our view that a Code of Practice such as this is still relevant, and we would favour the broad use of a Code of Practice in settings where the *Mandatory Disease Testing Act* applies in lieu of the Act, to ensure safe work practices that do not infringe on the human rights of those involved.

However, the Code of Practice currently in use is almost 20 years old, and there has been significant change in the HIV landscape since this document was published, rendering it in need of a complete rewrite.

A new Code of Practice should be drafted, in consultation with the HIV and BBV sectors, including NSW Health, community organisations and representatives, legal experts, and academics, to ensure that the Code is evidence-based, does not further promote stigma, and does not infringe on anyone's human rights or rights to privacy.

The new Code of Practice must reflect current standards with regard to epidemiological risk of HIV, as well as biomedical interventions that can prevent seroconversion, such as post-exposure prophylaxis (PEP). NSW Health's guidelines for the management of health care workers potentially exposed to HIV, hepatitis B and hepatitis C¹ provides a strong guiding document for the development of a new Code of Practice as it is accurate and up-to-date.

Many of the risk statements about HIV in the current code of practice, including 1.3, 1.4 and 4.1.3, rely on outdated information. For example, contrary to what the Code of Practice indicates, recent expert consensus suggests there is no chance of transmitting HIV through contact with an HIV-positive person's saliva, and HIV is not able to live outside of the body for long periods of time.²

The risk of workers in NSW contracting HIV on the job is extremely low to non-existent. Effective treatments as well as improved infection protocols and early and appropriate PEP initiation, combine to mean that the risk of transmission of HIV in workplace settings is even further reduced.³

According to national surveillance data in Australia, there has been no reported instance of HIV transmission in any workplace since 2002.⁴ To put it in perspective, fewer than 0.1% of the Australian population has HIV, and HIV is not easily transmitted. Of the fewer than 0.1% of the population living with HIV, just 18% of those have a detectable viral load, and the remainder pose zero risk of onward transmission.⁵

Furthermore, a new Code of Practice must better understand and reflect the hazard that HIV poses in the workplace. NSW is on the verge of virtual elimination of HIV transmission. With advancements in biomedical prevention (including PrEP), treatment as prevention (TasP or U=U), and post-exposure prophylaxis (PEP), there are significant and effective ways to minimise the hazard of HIV transmission.

Any new Code of Practice must be careful not to conflate hepatitis B, hepatitis C and HIV. Each of these viruses are distinct: the risk of transmission of these viruses is different for each virus, and the risk mitigation strategies different. Conflating these viruses risks producing false or misleading information about the individual risk, and mitigation strategies, pertaining to each virus.

For example, the current code of practice states that "Treatment for exposure to HBV and HIV should begin as soon as possible after the exposure, preferably within 24 hours and no later than 7 days", however, it is recommended that PEP for HIV is commenced within 72 hours following exposure. The new Code of Practice should ensure general precaution protocols, but have a strong understanding of the distinct risks, hazards, and mitigation strategies for each BBV.

Further, the revised Code of Practice must be drafted in consultation with community groups and representatives to ensure that the principles of Greater and Meaningful Inclusion of People Living with HIV (GIPA/MIPA) are employed, and the document does not further promote stigma.

Ending HIV stigma is a goal of the *NSW HIV Strategy 2021-2025*, and key to this is ensuring the dissemination of accurate information about HIV transmission and prevention. HIV-related stigma hinders efforts to end HIV transmissions for all in NSW. It acts as a barrier to HIV testing, immediate treatment initiation and adherence.

Any efforts to minimise the risk of transmission of BBVs must also work to minimise the impact of HIV stigma. Language is important in this sense; phrases like “the full AIDS” are out of date, stigmatising, and inaccurate. Furthermore, referring to people living with a blood borne virus as “infected” is similarly stigmatising and not in keeping with best practice guidelines that recommend the use of person-centred language.⁶ The Code of Practice must be drafted alongside people living with HIV, hepatitis B, and hepatitis C.

Thank you again for the opportunity to provide a submission to this review. Should you require any further information, do not hesitate to contact Brent Mackie, ACON Director of Policy, Strategy, and Research at bmackie@acon.org.au or 0482189230.

Kind regards



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ACON CEO



Jane Costello
Positive Life NSW CEO

¹ NSW Health (reviewed 2022). HIV, Hepatitis B and Hepatitis C – Management of Health Care Workers Potentially Exposed. https://www1.health.nsw.gov.au/pds/activepdsdocuments/pd2017_010.pdf

² Barré-Sinoussi, F., Abdool Karim, S.S., Albert, J., Bekker, L.G., Beyrer, C., Cahn, P., Godfrey-Faussett, P, et al. (2018). Expert consensus statement on the science of HIV in the context of criminal law. *Journal of the International AIDS Society*, 21(7)

³ Horak, J., Venter, W. D., Wattrus, C., Papavarnavas, N., Howell, P., Sorour, G., ... & Bekker, L. G. (2023). Southern African HIV Clinicians Society 2023 Guideline for post-exposure prophylaxis: Updated recommendations. *Southern African Journal of HIV Medicine*, 24(1), 1522.

⁴ ACON et al. (2019) Let’s not weaken the NSW response to managing blood borne viruses: the case against mandatory testing and key legislative considerations if enacted.

⁵ NSW Ministry of Health (2020). The HIV Diagnosis and Care Cascade in the *NSW HIV Strategy 2021-2025*. <https://www.health.nsw.gov.au/endinghiv/Publications/nsw-hiv-strategy-2021-2025.pdf>, p. 8

⁶ <https://www.iasociety.org/language-matters>