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Australia Health Practitioner Regulation Agency
GPO Box 9958
MELBOURNE VIC 3001

Avant Mutual Group Limited
ABN 58 123 154 898
Registered Office
Level 28 HSBC Centre
580 George Street Sydney NSW 2000
PO Box 746 Queen Victoria Building
Sydney NSW 1230
DX 11583 Sydney Downtown
www.avant.org.au
Telephone 02 9260 9000 Fax 02 9261 2921
Freecall 1800 128 268 Freefax 1800 228 268

By email: Guidelinesconsultation@ahpra.gov.au

Consultation - Guidelines for the regulatory management of registered health practitioners and students infected with blood-borne viruses

Avant welcomes the opportunity to provide input into AHPRA's consultation on the blood-borne viruses guidelines.

General Comments

Health care workers ('HCW') with blood borne virus ('BBV') infections are a heterogeneous group of people who face complex challenges. Whilst protection of the public is of paramount importance, the inherent sensitive nature of these infections requires consideration of the practitioners' privacy and confidentiality. This is also complicated by increasingly complex and evolving treatment regimes. Further, as stated by the CDNA guidelines, there is a dearth of evidence surrounding the real risk of occupational transmission, with the only available evidence being based on "best practice" and consensus risk management advice.

We therefore agree that it is appropriate to rely on and defer to those with expertise of the management of healthcare workers infected with blood borne diseases. The Board needs to be satisfied that the CDNA is the appropriate expert in this area, and that the CDNA guidelines do represent best practice on the management of health care workers infected with blood borne diseases. Given the complex and fluid evidence base underpinning any guidelines in this area, our view is that the proposed Board guidelines should not supersede or exceed any guidance that is stated by the CDNA.

We provide the comments below on the assumption that the CDNA is in fact the relevant expert group on which to rely.

Comments on Consultation Questions

1. Is a guideline necessary?

It is not clear to us that a guideline on this issue is necessary, given the existence of the CDNA guidelines. Nevertheless, it is helpful for the Board to simply defer to the CDNA guidelines, whilst informing health practitioners about when they need to notify the Board of their infection. They are also useful in supporting delegated decision-



makers to make consistent decisions about the management of health practitioners or students with a BBV.

2. *Is the content of the guideline helpful, clear and relevant?*

The guidelines are particularly helpful in the clarification that:

“As long as a practitioner with a blood-borne virus is complying with the CDNA guidelines, they are not putting the public at risk and their capacity to practise the profession is not affected. Therefore they are unlikely to be considered to be ‘impaired’ and meet the threshold for Board action.”

Avant agrees with the risk-based and responsive regulatory approach taken to the issues in the guidelines, in line with AHPRA’s regulatory principles.

The guidelines are also helpful in clarifying the mandatory reporting obligations of treating practitioners – namely that practitioners treating a health practitioner or student with a BBV do not have an obligation to report their patient if the practitioner or student is complying with CDNA guidelines.

3. *Is there any content that needs to be changed, added or deleted in the guideline?*

The guidelines state:

“[registered health practitioners] must seek and accept their specialist’s advice on the safe limits of practice”.

We agree that it would be in the best interests of infected practitioners that they seek expert advice on the management of their infection. However, this statement exceeds the requirements of the CDNA guidelines, which state:

“HCWs have a professional obligation, on learning that they are infected with a BBV, to seek formal advice about ...work practices from a medical practitioner with appropriate expertise.”

Further, the Board’s statement gives absolute power to the treating specialist. What if the advice given by the specialist is incorrect? Are there avenues for the practitioner with the BBV to seek a second opinion? If it needs to be stated at all, it may be preferable for the sentence to mirror the CDNA guidelines:

“[registered health practitioners] have an obligation to seek and accept ~~their~~ advice on the safe limits of practice from a medical practitioner with appropriate expertise”.

The guidelines state:

“All registered health practitioners and students who may perform exposure prone procedures should be vaccinated against any blood-borne virus for which there is a commercially available vaccine....”

This broad statement exceeds in the requirements outlined in the CDNA guidelines, which currently only lists hepatitis B vaccine. It would be preferable for this sentence to state:

“...should be vaccinated in accordance with the recommendations made in the CDNA guidelines.”

The guideline indicates that the Board may seek additional information to assess the risk to the public if it receives a notification about a registered health practitioner with a BBV. Information about BBV status is highly sensitive and in some states and territories is subject to strict confidentiality requirements (eg under the NSW Public Health Act 2010). Release of this information in a notification, presumably without the consent of the health practitioner, may have significant detrimental effects (especially psychological and reputational) if there is in fact no risk of harm to the public. The inherent sensitivity of this information should be made clear in the guidelines.

The Board will *“not routinely publish any information...”* should be amended to *“The Board will not publish ...”* in the third last paragraph on page 11 before the heading “Treating practitioners”.

Publishing information about a practitioner’s scope of practice if there are conditions or undertakings may, by the very nature of the restrictions, indicate the practitioner (especially if a proceduralist) has a BBV, and may therefore breach privacy.

An addition to the guidelines is also suggested to in our answer to question 5.

4. *Do you agree with the proposal that Boards expect registered health practitioners to comply with CDNA guidelines for the management of health practitioners infected with a blood-borne virus? That includes following advice on their scope of practice based on the CDNA guidelines.*

Yes.

5. *Do you believe that there is any conflict between these guidelines and any other guidelines for the management of practitioners infected with a blood-borne virus? Is there any conflict with any obligations that may arise in the workplace?*

There may be conflict depending on the content of hospital, health service provider or health department policies or guidelines on practitioners with BBVs.

Because these policies and guidelines may be more prescriptive than the Board’s guidelines, it would be useful to add to the guidelines a comment that registered practitioners should be aware of and comply with any hospital, health service provider or health department policies that apply to them.

6. *Is it reasonable and appropriate for the Board to take regulatory action only if a practitioner who is infected with a blood-borne virus is placing the public at risk?*

Yes. This approach is consistent with the risk-based regulatory approach and with the notion that regulatory action should be proportionate to the risk of harm sought to be regulated.

7. *Do you have any other comments on the guideline?*

Reference to the CDNA guidelines suggests that the Board will have an obligation to monitor the CDNA guidelines and alert the profession to any changes.

Please contact me on the details below if you require any further information or clarification of the matters raised in this letter.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Georgie', followed by a long horizontal flourish.

Georgie Haysom
Head of Advocacy

Direct: (02) 9260 9185
Email: georgie.haysom@avant.org.au

About Avant

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