

25 February 2006

Dr Jacqueline Goodall  
Legislation and Policy Officer  
Legislation Review Unit  
Public Health  
Department of Human Services  
GPO Box 1670N  
MELBOURNE VIC 3001

Dear Dr Goodall,

**Re: Review of the Health Act 1958**

Thank you for the opportunity to comment on the Discussion Paper relating to the Review of the Health Act 1958. The revision of the Health Act provides an opportunity to include key issues such as evidence-based practice, health promotion and preventative medicine in the new provisions of the Act, and this intention is endorsed by Bayside Health.

Bayside Health is one of the major metropolitan public sector health services in Melbourne, and includes three hospitals, The Alfred, Caulfield General Medical Centre and Sandringham and District Memorial Hospital. The Alfred is a tertiary referral hospital with an extensive hospital-based infectious diseases service and the State HIV/AIDS Unit. The comments below reflect some of the key aspects of the discussion paper in relation to the provision of clinical services and patients care in the public hospital setting.

**Consultative Councils (Section 5.3)**

The work of the Consultative Councils has been directed towards enhancing quality and safety in the health system, and has mainly engaged the public sector and senior medical staff who work in it. Provisions outlined within the Act should take into consideration how the private sector may be increasingly engaged. The issue of communication between Councils is touched upon, and is a valid issue, not just in relation to child and maternal health, but also in relation to the Surgical Consultative Council and the Consultative Council on Anaesthetic Mortality and Morbidity, where there is also likelihood of commonality of issues. The need to protect confidentiality is supported strongly, however, there should be mechanisms in place to ensure that relevant exchange of concerns and issues can occur between the Councils where there are reasons for doing so, for example, in the interest of the public or for the purposes of better case review.

**Powers for Investigation and Control of Infectious Diseases (Section 8.)**

Clinicians in Bayside Health are involved in patient situations where contact tracing is identified as a key part of identifying other individuals who may be at risk of infection. The Discussion Paper considers the situation where the source patient is known and refuses to give information about potential contacts, and the concept of the least coercive power as the

first line of action is supported. However, it is not clear from the Discussion Paper exactly what should be the course of action in the event that the patient refuses, and claims the right of confidentiality. When this arises, there are often complex medicolegal and social issues for the patient and the health care practitioners, and there may be time-critical aspects that require avenues for prompt resolution. It is suggested that the process for escalation is further defined, and that the process includes identification of an authorized officer or forum to which the matter is to be referred. Also, in the event that the health professional considers that contact tracing is required, provision for protection and/or indemnity for the health professional should be provided if they report the matter in good faith.

#### **Incident Involving Care Giver (Section 8.4)**

There is strong support of the inclusion of provisions for non-consensual testing where consent cannot be given or is refused. In hospital-based practice it is not uncommon that when a staff member sustains a potential occupational exposure, the source patient is unable to give consent at the time (eg they may be intubated in Intensive care or in a state of confusion). Sometimes the exposed person is another patient, and there needs to be provision for non-consensual testing in this case also.

When an incident where there may have been the transfer of HIV or other infectious diseases occurs, it is important that prompt assessment occurs, to inform further medical intervention. This involves an assessment of the nature of the incident and may also require specific testing of the potential source patient. Prompt assessment and intervention, if indicated, is important since post exposure prophylaxis (PEP) is most effective when commenced early.

The Health Act in its latest form does not permit testing of patients who are unable to consent to the test where the person injured is not a doctor, dentist, nurse, ambulance officer or custodian. This means that if an allied health professional or an orderly were to be in such a situation, they are not covered by the provisions of the Act. This is not viable in practice, as occupational exposure may occur to any staff member who comes into contact with patients, and the same health care intervention should be provided to all staff independent of professional background or employment classification.

The provision should also be extended to apply to situations where the exposed person is another patient, and the source patient is unable to give consent, or refuses to do so.

#### **Public Health Orders and Management of Infected Persons (Section 8.5)**

In determining the preferred provisions of the Health Act of Victoria, there should be an understanding of the reasons for any differences in provisions between Australian States. If differences are to be retained, then it would be essential to have provisions for interstate recognition of orders, to avoid increased risk through a person subject to a State public health order moving to another jurisdiction.

#### **Notifiable Diseases (Section 8.6)**

Although the Act states that medical practitioners and pathology laboratories have the primary responsibility for notification, in public sector health service such as Bayside Health, this notification process is already seen as part of hospital processes and the Health Service's joint responsibility. From this Health Service's experience and practice, additional legislative provisions to support notification are not necessary, may lead to duplication of process, and would not change current practice or add anything new to the notification processes.

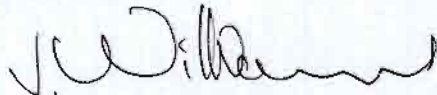
### **Human Immunodeficiency Virus (Section 8.7)**

The provision of best practice guidelines for pre- and post-test information and counselling for infectious diseases would be seen as a useful guide for practitioners who are in isolated practice, or who do not routinely care for patients with the particular infectious disease.

Requirement for participation in quality assurance programmes auspiced by VIDRL is supported, as is supply of data for epidemiological purposes.

I trust that this information is of assistance in your deliberations, and again thank you for the opportunity to comment. In addition to this submission, the Director of the Alfred Infectious Diseases Unit and the Head of the Victorian HIV Service, who are part of Bayside Health, have provided a submission dated 21 December 2006, a copy of which is attached for your information. If you have any enquiries regarding this submission, please contact Dr Kim Hill, Director Medical Services/Chief Medical Officer, Bayside Health, on telephone (03) 9276 3332.

Yours sincerely,



**Ms Jennifer Williams**  
**Chief Executive**

Cc Dr Kim Hill, Director Medical Services/Chief Medical Officer  
Mr Bill O'Shea, Corporate Counsel  
Professor Denis Spelman, Director, Microbiology  
Professor Sharon Lewin, Director, Infectious Diseases

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