

Standing Committee on Law and Justice
Parliament of New South Wales
law@parliament.nsw.gov.au

16 December 2020

Dear Committee

The Aboriginal Health & Medical Research Council of NSW (AH&MRC) would like to thank you for the opportunity to provide a submission for the **Inquiry into the Mandatory Disease Testing Bill 2020 (NSW)**.

We write to you as the state's lead voice for Aboriginal health and the peak organisation for 47 Aboriginal Community Controlled Health Organisations (ACCHOs) across New South Wales (NSW).

The AH&MRC cares deeply for the health and safety of our frontline workers, but we raise significant concerns about the Bill in its current form for your review.

Recommendations

1. Consult health stakeholders and consumers broadly on this health issue, including the non-government health sector.
2. Prioritise review of existing procedures to manage disease transmission to emergency service workers.
3. Revise the Bill with consideration of concerns raised below if existing procedures to manage disease transmission risk are insufficient.

We believe that this Bill will do more harm than good because this Bill:

1. is unlikely to protect emergency service workers.

- Existing procedures for managing transmission risk are successful, with no HIV transmission in emergency service workers for over 15 years. Similarly, transmission of any blood-borne virus (BBV) in the 14- to 18-year age group is very rare and treatment rates very high.
- Most incidents of exposure to bodily fluids, such as any exposure to saliva, pose no risk of transmitting HIV and other BBVs.
- Exposure risk should be assessed by a sexual health or infectious disease physician, not a senior officer who is unlikely to understand the latest evidence on BBV transmission. Similarly, testing should be recommended and interpreted by specialist physicians only.

2. inappropriately and unacceptably criminalises a health issue

- All people who encounter emergency service workers deserve our care and protection. This Bill is ambiguous on grounds for refusal or review, which means that mandatory disease testing could and will be used as a threat or as a punitive measure.
- Mandatory clinical testing is a medical procedure and, whatever the circumstance, in the absence of appropriate clinical advice by a clinician who is well placed to advise on transmission risk and testing, mandatory testing is an unacceptable violation of clinical liberties.

3. increases stigma and discrimination and thereby threatens to undo NSW's world-leading strategies to HIV and other blood borne viruses

- NSW is close to eliminating HIV and is on track to eliminate hepatitis C also. Hepatitis B incidence rates are also decreasing. NSW's successes to date have been built on encouraging access to prevention, testing, and treatment using evidence-based approaches, and focused on reducing the stigma and discrimination that people living with BBVs face on a regular basis.
- Using a health intervention as a policing tool, instead of existing risk management procedures, will undermine every progress that NSW has made to prevent onward transmission of HIV and other BBVs.

4. the proposed bill undermines our people's human rights

- There are both basic human rights and cultural considerations that have not been explored such as an individual's right to make free, prior, and informed consensual decisions relating to healthcare as well as cultural considerations relating to the storage and destruction of bodily fluids for Aboriginal people.

The AH&MRC, as the lead voice for ACCHOs in NSW recognises the importance of protecting front line workers across the state. However, for the reasons outlined above we strongly oppose this bill in its current form.

We would be glad to discuss this matter further. Please do not hesitate to contact Ms Margaret Cashman at mcashman@ahmrc.org.au on this matter.

Kind regards



Robert Skeen
Chief Executive Officer