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Provincial Council
College and Association of Registered Nurses of Alberta
11620 168 Street
Edmonton Alberta T5M 4A6

Dear Provincial Council,

Please accept this letter on behalf of the Alberta Community Council on HIV, (ACCH), and its membership. The ACCH is an umbrella organization of 15 HIV/AIDS community based services located across Alberta. Recognizing that social change is a necessary response to HIV, ACCH supports community-based responses and provides provincial leadership through collective action and a unified voice.

September 1, 2010 will mark the second year that member of the College & Association of Registered Nurses of Alberta (CARNA), will be required to self-report on blood-borne viral infections, including HIV, on renewal of registration. CARNA has stated that mandatory reporting by all members is necessary to protect the public interest by further reducing the risk of inadvertent transmission. Although ACCH acknowledges that CARNA is committed to ensuring a balance between minimizing the risk of transmission and protecting the privacy of its members, the ACCH membership have responded to the change in reporting policy with significant concern based on the following points:

- the lack of substantiated evidence supporting the decision,
- the challenge to the human rights of members living with HIV that such a decision presents,
- the belief that individuals participating in high risk behaviours are less likely to access testing for BBIVs if they are required by law to report,
- the genuine fear that a population that is already vulnerable to stigma and discrimination are marginalized once more in the pursuit of perceived public safety.

The data available from global patient notification reports clearly supports the conclusion that the overall risk of transmission of HIV from infected healthcare staff to patients is extremely low.¹ The level of risk of transmission for HIV positive members who do not engage in exposure-prone invasive procedures does not warrant the change in reporting requirement. The evidence indicates that there is a far greater risk of transmission of HIV from infected patients to healthcare workers than from infected workers to patients, ACCH suggests that improved guidance in the practice of universal precautions and proper and consistent use of safety devices and engineering controls should be followed to minimize the risk of bloodborne virus transmissions from both levels of transmissions.² Positive, rights-based responses to HIV/AIDS can successfully reduce the transmission of HIV and lessen the negative impact of HIV/AIDS on people and communities.

According to The Canadian Charter of Rights and Freedoms, “every individual is equal before and under the law and has the right to the equal protection and benefit of the law without discrimination and based on race, nationality, ethnic origin, colour, religion, sex, age or mental and physical disability.”³ According

to human rights law in Alberta, HIV/AIDS is considered a disability and, within certain areas (e.g. employment), discriminating against people on the basis of a disability is illegal.⁴ Despite this legal protection, people living with HIV/AIDS continue to experience stigma and discrimination. As emphasised by the Canadian HIV/AIDS Legal Network, “*Under international and Canadian law, any public health action by the state that limits human rights must be justified by demonstrating that it is rationally connected to achieving a pressing objective, infringes rights as little as possible, and finally, the benefit to society must be proportional to the harm done to individual human rights.*”⁵ As such, ACCH feels that the mandatory reporting required by CARNA does not meet these requirements.

“Stigma is a powerful and discrediting social label that radically changes the way individuals view themselves and are viewed as persons.” (Canadian HIV Legal Network). HIV/AIDS is generally associated with behaviours that are already stigmatized or considered deviant, particularly homosexual sex and injecting drug use. Discovering that one is HIV-positive brings with it a multitude of anxieties and fears particularly related to disclosure; to partners, family, employers, etc. However, the long term health benefits and the protection of sexual/injecting partners are major inducements for encouraging HIV counselling and testing. Testing is considered one of the key tools in HIV/AIDS prevention, particularly if it is both voluntary and confidential, and prompts changes in behaviour, such as practicing safer sex. Any disincentives or barriers to improving the uptake of HIV testing must be analyzed in terms of cost/benefits in relation to individual and community health. Accordingly, ACCH questions the consequences of CARNA members who participate in high-risk behaviours refusing HIV testing in order to avoid compulsory disclosure, particularly as ACCH is not aware of any other healthcare professional organization that requires mandatory self-reporting.

ACCH believes that CARNA has a critical role to play in raising awareness of the stigma and discrimination related to HIV by protecting the confidentiality and human rights of their membership by encouraging and supporting voluntary HIV testing and disclosure. Therefore, ACCH respectfully request CARNA rescind the change in policy on mandatory reporting.

Sincerely,

Brenda Yamkowy
Chair,
Alberta Community Council on HIV

REFERENCES

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2. Department of Health Publication Policy & Guidance UK HIV **Infected Health Care Workers: guidance on management and patient notification** 8th November 2007.
3. Section 1 of the *Canadian Charter of Rights and Freedoms* EQUALITY BEFORE AND UNDER LAW AND EQUAL PROTECTION AND BENEFIT OF LAW / Affirmative action programs. Being Part I of the *Constitution Act*, 1982 [Enacted by the Canada Act 1982 [U.K.] c.11; proclaimed in force April 17, 1982. Amended by the Constitution Amendment Proclamation, 1983, SI/84-102, effective June 21, 1984. Amended by the Constitution Amendment, 1993 [New Brunswick], SI/93-54, *Can. Gaz. Part II*, April 7, 1993, effective March 12, 1993.]
4. HIV, Disability & discrimination, making the links in international and domestic human rights law Richard Elliot, Leah Utyasheva and Elisse Zac Journal of the International AIDS Society 2009, 12:29 doi 10; 1186/1758-2652-12-29
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