



**Gay and Lesbian Association
of Doctors and Dentists**

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28 April 2003

Dr Linda Lazarus,
Department of Health,
Room 631B Skipton House,
80, London Road,
London,
SE1 6LH.

Dear Dr Lazarus,

Health Clearance for Serious Communicable Diseases: New Health Care Workers

I am delighted to enclose GLADD's response to the above consultation. We have consulted widely within our own membership, many of whom have interest and expertise in the areas covered by your proposed guidance. I hope our comments are helpful and would be delighted to discuss our response further if you feel this would be appropriate.

Yours sincerely,

Don Saunders

**Daniel Saunders, BSc, MRCP
Honorary Treasurer**

CC: Mrs Elisabeth Al-Khalifa,
Director – Equality Strategy Group,
Department of Health,
Room 737 Wellington House,
133-155 Waterloo Road,
London. SE1 8UG.

Consultation on draft guidance on health clearance for serious communicable diseases: new health care workers

GLADD welcomes the opportunity to comment on the above draft guidance as well as the associated report from the *ad hoc* risk assessment expert group. GLADD was founded in 1995 with the following main aims:

- To provide professional and social support for gay, lesbian and bisexual doctors, dentists and medical and dental students
- To combat discrimination against gays, lesbians and bisexuals particularly if expressed by or towards doctors and dentists
- To collect and disseminate information on gay, lesbian and bisexual issues relevant to the practice of medicine and dentistry

We have had an interest in the effects of serious communicable diseases and health care workers, as well as medical and dental students for some time and have previously written expressing concern about the effects of such screening on medical and dental students¹.

Summary of GLADD's response

- The DoH document is seriously deficient in that there is no discussion of the moral, social, ethical or resource implications of testing healthcare professionals for HCV and HIV and how any of these issues are going to be dealt with. Given the serious implications of the proposed strategy, it is not acceptable to omit these other issues from Departmental guidance.
- **GLADD therefore recommends that the proposals contained in this document are not issued in a final form until these other matters have been addressed satisfactorily through wide consultation.**
- We particularly welcome the statement that there is no requirement for medical students to perform exposure-prone procedures (EPPs) in order to graduate.
- **GLADD therefore recommends that future documentation makes it clear that medical students should not perform EPPs under any circumstances.**
- We are extremely concerned about the implications of testing students who are still at school for HCV and HIV.
- **GLADD therefore recommends that there must be clarification as to who is going to take responsibility for the organisation of testing for HCV and HIV in school leavers and students as well as dealing with the consequences of the results.**
- We are concerned that professionals may be slow to present for testing at appropriate times if they feel that a positive test result may jeopardise their future career and they are not clear that they will be dealt with in a fair, professional and non-discriminatory way.
- The proposals introduce the potential for discriminatory practice. **GLADD therefore recommends that it is essential that new procedures are introduced sensitively and with appropriate local educational support and that effective arrangements are put in hand for reporting, monitoring and dealing with any discrimination which may arise.**
- **GLADD further recommends that appropriate new resources should be made available to support implementation.**
- **Overall GLADD recommends that if these proposals are to be introduced then a substantial amount of further work needs to be done.**

¹ See <http://www.gladd.dircon.co.uk/publications.htm#medstud>

Response in detail

Completion of undergraduate medical education

We particularly welcome the clear statement there is no requirement for medical students to perform exposure-prone procedures (EPPs) in order to graduate, and that the curriculum should be sufficiently flexible to allow HCV or HIV positive medical students to complete their undergraduate course, including their pre-registration year, without needing to perform EPPs. We hope that these statements will be made clear in any future documentation, as it has been GLADD's experience in the past that a much more negative interpretation has been placed on the existing guidelines by a variety of regulatory bodies. This interpretation has led some medical schools to place overtly discriminatory statements within their undergraduate prospectuses.

Although it may not be a requirement for medical students to perform EPPs in order to qualify, it is possible that they may be asked to perform such procedures either to *help out* or *for educational purposes*. Such requests may put some students into a potentially difficult or embarrassing situation. In addition, most EPPs are difficult procedures and patients deserve to have these performed by experienced health-care professionals and be reassured that performing the procedure does not put them at risk of contracting a blood-borne virus. It is therefore essential that documentation in the future makes it clear **to all medical schools** that medical student **must not** perform EPPs under any circumstances. A system for monitoring that Medical Schools abide by this guidance will need to be put in place and a strategy for action in the event that they do not agreed.

Dental students

As it is a requirement for dental students to perform EPPs in order to complete their training, we appreciate the importance of appropriate screening for communicable diseases. However, it is not clear within any of the documentation as to who would take responsibility for administration of testing for blood-borne viruses nor for appropriate counselling and advice which is extremely important (see below). GLADD is also extremely concerned that dental students (and potentially medical students as well if they are to be offered testing prior to their course) will be required to consent to having these tests done when they are still very young and may not appreciate the full implications of either having the test or receiving a positive or negative test result.

It is also not clear as to who would take responsibility for dealing with test results. Potential dental students would still be at school when they underwent testing and would be very vulnerable indeed at a time when they were starting to work hard towards passing 'A' level examinations. The potential stigmatisation from both peers at school and parents should not be underestimated. There needs to be some clear guidance as to who takes responsibility for offering appropriate and high quality career advice under these circumstances.

Patients

This document focuses on the importance of protecting patients from transmission of blood-borne viruses from health-care workers to patients. There is no acknowledgement in the document that it is possible for patients to transmit blood-

borne viruses to health-care workers with potentially catastrophic consequences. There is no quoted transmission rate for any of the blood-borne viruses for patient to health-care worker nor an estimate of the relative risk of this happening. The document would be stronger if it discussed the personal health risks of working as a healthcare professional and also discussed ways of reducing those risks.

Validity of single-point testing

In a document which focuses exclusively on the technicalities (rather than the professional and personal issues and their ethical basis) of introducing testing for HCV and HIV, we are surprised that there is no mention of the time window beyond which the tests are not valid. For example, the window period between HIV infection and a positive antibody test can be as long as 6 weeks. Exposure to HIV in the six weeks prior to testing may be negative, unless a second test is carried out. Even then the test is only valid if the person being tested has totally abstained from all *at risk* behaviours during that period.

Existing professional requirements

Once pre-employment screening has been performed, this document implies that future testing would remain the responsibility of the healthcare professional, should they feel that they had been at risk of contracting a serious communicable disease. Although all healthcare professional regulatory bodies²³⁴ have a requirement that an individual seeks appropriate advice if they believe that their own health may put the health of their patients at risk, GLADD is concerned that professionals may be slow to present for testing at appropriate times if they feel that a positive test result may jeopardise their future career and they are not clear that they will be dealt with in a fair, professional and non-discriminatory way. It is essential that any proposals contain documented evidence of the success, or otherwise, of existing occupational health arrangements with regard to serious communicable diseases before this remit is extended to include compulsory HCV and HIV testing.

Implications of testing

This is an extremely technical document, which seems to suggest that screening for HCV and HIV is as simple as doing a routine blood test. This is simply not the case and GLADD is extremely disappointed that this has hardly been addressed in the draft document. The implications of undergoing a test for HIV or HCV, let alone receiving a positive result, are pervasive and can lead to difficulties receiving mortgages, insurance, other financial difficulties and potential social stigmatisation. In addition there is an emotional burden of undergoing such testing. This burden is simply not acknowledged. The implications for partners, families and friends of receiving a positive result are not discussed. There is a particular problem for potential NHS employees who may be perceived as belonging to a 'high risk' group, for example, those who have worked in parts of the world or in this country where HIV prevalence is high, or who, regardless of their own safe practices, are construed as *at high risk* such as gay men, of whom many work at all levels of the NHS.

² Serious Communicable Diseases, General Medical Council, London, 1997

³ Maintaining Standards Guidance to dentists on professional and personal conduct, General Dental Council, London, 1997

⁴ AIDS and HIV Infection – the Council's position statement, Nursing and Midwifery Council, London, 1994

The Department of Health⁵ and professional regulatory bodies have very clear and strict guidelines about how tests for blood-borne viruses are performed and the relevant counselling for patients, which needs to have taken place. Anybody who carries out clinical work and who requests an HIV test for a patient, even on an occasional basis, will be aware of the complexities and the time needed for this process and the necessity to obtain fully informed consent and to maintain appropriate confidentiality. Although this draft document does discuss confidentiality to some extent, it does not really discuss who will obtain fully informed consent and implies that this may be left to the occupational health service; indeed there is an acknowledgement that HCV and HIV testing have resource implications for occupational health services. Although the document states that people testing positive for HCV or HIV should be afforded the same degree of confidentiality as patients who are not staff, there is little mention of staff being offered either the same high quality pre-test counselling or the appropriate post-test follow-up and care. It is unprofessional (and immoral) not to provide high quality counselling and information, which is clearly seen to be confidential and independent of the employer, and it would be against professional guidance not to do so. If these tests are to be performed, then this document must address these issues in a practical and reassuring way, as well as to address the career implications of receiving a positive test result and who is responsible for overseeing appropriate support and re-training should this be necessary or appropriate.

Effects on recruitment

This document attempts to focus on restricting newly appointed healthcare workers with blood-borne viruses from performing EPPs. However, there is a real danger that the actual result will be to deter people from working in, and making a valuable contribution to, the NHS. Such a deterrent effect will be particularly likely if employers decide to test all new recruits 'just in case they are called upon to perform an EPP' or try to select, in a discriminatory way, those who they insist have an HCV/HIV test because they are perceived to be 'high risk'. The practical implementation of the recommendations needs to be thought through more explicitly.

Extension to existing staff

In addition, the document has not discussed the implications of the proposed testing regime for existing staff, although it does acknowledge that there may be implications. The implications could be quite extreme. For example, employers may simply decide, as a result of this document, to introduce compulsory HCV/HIV testing for all existing staff (either involved in EPPs or not). It would be far better for the document to address this issue specifically, and, if compulsory testing is anticipated eventually to provide clear guidance, apart from existing professional guidelines, as to how this might occur. It could also be construed as discriminatory to apply an apparently new set of rules for new employees.

Monitoring of discrimination

Many of the proposals introduce the potential for discrimination within the NHS, even though the remit of the guidelines specifically states that the intention is not to introduce discriminatory practice. This being the case it would be essential (especially under forthcoming European and UK law) to outline procedures for reporting and monitoring such discrimination and defining procedures for dealing with such issues.

⁵ Guidelines for pre-test discussion on HIV testing, Department of Health, London, 1996
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Summary

Overall GLADD is very disappointed that this important document has focused on the technical aspects of providing testing for HCV and HIV in healthcare workers new to (or returning to) the NHS. It is deeply regrettable that such a document has not attempted to address the ethical or moral implications of providing these tests for staff, which are currently addressed if HCV or HIV testing is offered to patients. It has not addressed the need for appropriate and timely follow-up after the tests have been carried out, nor has it addressed the issues of providing tests for existing healthcare professionals who perform EPPs. The proposals introduce the potential for discrimination into NHS employment practice and the consequential effects have not been dealt with adequately within the report. Although we welcome some of the clarification with regard to HCV and HIV testing for medical students, there is no acknowledgement that it is unlikely that students will appreciate the implications of being tested for HCV and HIV.

If these guidelines are to be introduced, a considerable amount of work needs to be done before they are acceptable.