



Aboriginal and Torres Strait
Islander health practice
Chinese medicine
Chiropractic
Dental
Medical
Medical radiation practice
Nursing and Midwifery
Occupational therapy
Optometry
Osteopathy
Pharmacy
Physiotherapy
Podiatry
Psychology

Public consultation

24 July 2014

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

Please provide feedback by email to guidelinesconsultation@ahpra.gov.au by close of business on 26 September 2014.

Public consultation

The 14 National Boards in the National Registration and Accreditation Scheme (the National Scheme) are releasing for public consultation the attached draft guidelines on the regulatory management of registered health practitioners and students infected with blood-borne viruses.

The National Law requires the National Boards to ensure there is wide-ranging consultation on the content of any proposed code or guideline.

The National Boards are now seeking feedback on the draft guidelines and are interested in comments from stakeholders.

The National Boards are seeking general feedback on the proposed guidelines for the regulatory management of registered health practitioners and students infected with blood-borne viruses, as well as on the following questions:

1. Is a guideline necessary?
2. Is the content of the guideline helpful, clear and relevant?
3. Is there any content that needs to be changed, added or deleted in the guideline?
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.
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?
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?
7. Do you have any other comments on the guideline?

Please provide written submissions by email, marked 'Consultation – Guidelines for the regulatory management of registered health practitioners and students infected with blood-borne viruses' to guidelinesconsultation@ahpra.gov.au by close of business 26 September 2014.

Please send submissions in Word format so that we can conform to W3C's Web Content Accessibility Guidelines (WCAG) 2.0 when we publish submissions.

The views expressed in the submissions to this consultation are those of the individuals or organisations who submit them. Their publication does not imply any acceptance of, or agreement with, these views by the National Boards.

The Boards also accept submissions made in confidence. These will not be published on the website or elsewhere. Submissions may be confidential because they include personal or other sensitive information. Any request for access to a confidential submission will be determined in accordance with the Freedom of Information Act 1982 (Cth), which has provisions designed to protect personal information and information given in confidence.

Please let us know if you do not want us to publish your submission, or want us to treat all or part of it as confidential.

All submissions will be distributed to Board members, AHPRA staff and contractors. These people will use the feedback in the submissions to review and revise the guidelines. If the submissions were made confidentially, they will keep them confidential.

Background information

A number of the National Boards have received feedback from employers, some practitioners and members of the public, as well as Board members who make decisions about individual cases, that there is a need to publish guidelines for health practitioners who are infected with a blood-borne virus. These guidelines aim to meet this need by:

1. informing all practitioners that they are required to comply with CDNA (Communicable Diseases Network Australia) guidelines for health practitioners infected with a blood-borne virus, to ensure that their practice does not compromise public safety¹
2. explaining when a treating practitioner may have a responsibility to notify the relevant Board of their patient's infective status, when the patient is a registered health practitioner or student, and
3. providing information on the range of actions that a Board may take if it receives a notification that a registered health practitioner or student is infected with a blood-borne virus.

The proposed National Board guidelines will also support delegated decision-makers to make consistent decisions about the management of health practitioners and students who are infected with a blood-borne virus.

The guidelines are explicit that a health practitioner infected with a blood-borne virus can continue to practise their profession if they comply with the CDNA guidelines. However, they may have to modify their practice. For example, they may not be able to perform certain procedures such as exposure-prone procedures² if the CDNA guidelines preclude them from doing so.

Rather than trying to reproduce advice in the current AHMAC-endorsed CDNA guidelines titled *the Australian National Guidelines for the Management of Health Care Workers known to be infected with blood-borne viruses* (the CDNA guidelines), the National Boards have decided to refer to the guidelines and to inform practitioners that they are required to comply with them, including to modify their practice if necessary. This has been done because:

1. The National Boards acknowledge the considerable expertise of the CDNA, which has produced the current guidelines based on international best practice and the latest available evidence.
2. The Boards are regulators, not experts in the transmission of blood-borne viruses.
3. Consistency between the National Boards' requirements and other authoritative guidelines will reduce confusion, uncertainty and anxiety for practitioners who are infected and will make it clearer for treating practitioners and others who need to refer to the guidelines.
4. This is a rapidly evolving area of practice and the Boards need long lead times to amend guidelines. By requiring practitioners to comply with the CDNA guidelines, the National Boards' guidelines can remain up-to-date, and changes to the CDNA guidelines can be effective as soon as they have been endorsed.

By way of illustration, the United Kingdom has recently announced that they will change their guidelines on practitioners infected with HIV. They intend to take a less risk-averse stance in relation to practitioners with HIV who are on stable treatment and who have no recordable viral load. The CDNA is examining whether it is necessary to change the current CDNA guideline which does not

¹ The current CDNA guidelines are the *Australian National Guidelines for the Management of Health Care Workers known to be infected with blood-borne viruses* and can be found at <http://www.health.gov.au/internet/main/publishing.nsf/Content/cda-cdna-bloodborne.htm>

² The current CDNA guidelines define an exposure prone procedure as a procedure where there is a risk of injury to the healthcare worker resulting in exposure of the patient's open tissues to the blood of the worker. These procedures include those where the worker's hands (whether gloved or not) may be in contact with sharp instruments, needle tips or sharp tissues (spicules of bone or teeth) inside a patient's open body cavity, wound or confined anatomical space where the hands or fingertips may not be completely visible at all times.

allow a practitioner with HIV to perform exposure prone procedures, regardless of treatment or viral load. Under the National Boards' proposed guidelines, any changes made to the CDNA guidelines would take immediate effect through the Boards guidelines.

5. The National Boards have not issued guidelines on the management of practitioners with any other specific health conditions. They rely on the clinical expertise of independent experts. The way that the National Boards are proposing to manage practitioners who are infected with a blood-borne virus is therefore consistent with the way that they manage practitioners with any other health condition, including mental health issues, substance abuse and other physical impairments.

These guidelines focus on the regulatory response to a practitioner who is infected with a blood borne virus. This will give practitioners and their treating practitioners, information about how a Board is likely to manage a notification about a practitioner who is infected with a blood-borne virus.

Is infection with a blood-borne virus an 'impairment' under the National Law?

Impairment under the National Law³ is defined as:

in relation to a person, means the person has a physical or mental impairment, disability, condition or disorder (including substance abuse or dependence) that detrimentally affects or is likely to detrimentally affect—

- (a) *for a registered health practitioner or an applicant for registration in a health profession, the person's capacity to practise the profession; or*
- (b) *for a student, the student's capacity to undertake clinical training—*
 - (i) *as part of the approved program of study in which the student is enrolled; or*
 - (ii) *arranged by an education provider.*

The definition requires that the person has a disability, condition or disorder such as infection with a blood-borne virus AND that infection affects or is likely to detrimentally affect their capacity to practise (if they are a practitioner), or their capacity to undertake clinical training (if they are a student).

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

Issues that arose during preliminary consultation

The National Boards recognise that this consultation is likely to generate significant debate in the professions and the community. The National Boards welcome discussion, debate and feedback.

Consistent with the published process for consultation by National Boards, the draft guidelines were provided to a small group of stakeholders. This enabled the Boards to 'road test' the proposed content ahead of a public consultation process.

We received valuable feedback during preliminary consultation, including the advice to refer to the CDNA guidelines rather than trying to develop and maintain a parallel set of consistent guidelines. That change has been incorporated into the current draft.

Some of the feedback that we received highlighted that issues about infected practitioners are contentious and there is debate about the degree of regulatory force that the Boards should use.

We have responded to the issues that were raised during the preliminary consultation as they are also likely to arise in this public consultation stage. In responding, the Boards have taken into consideration their powers and functions under the National Law, the objectives and guiding principles of the National

³ The National Law refers to the Health Practitioner Regulation National Law, as in force in each state and territory

Registration and Accreditation Scheme (National Scheme), the Council of Australian Government (COAG) principles for best practice regulation and privacy legislation and principles.

The Boards' role in monitoring compliance with guidelines

Some stakeholders expressed a view that the Boards should have an active role in monitoring compliance with the guidelines.

The National Law under which we operate states that National Boards develop guidelines *to provide guidance to health practitioners registered in the profession*⁴. The National Law also states *that a guideline approved by a National Board is admissible in proceedings under this Law or a law of a co-regulatory jurisdiction against a health practitioner registered by the board as evidence of what constitutes appropriate professional conduct or practice for the health profession*⁵.

The National Boards agree that there should be monitoring of compliance with the guidelines.

All National Boards publish regular newsletters. Boards can raise practitioner awareness about their responsibilities in preventing transmission of blood-borne viruses and they can provide information to practitioners who are infected with a blood-borne virus through regular reminders in newsletters.

Section 109 of the National Law requires practitioners to declare when they renew their registration that they do not have an impairment. Boards can explain as part of the renewal process that a practitioner with a blood-borne virus who is not complying with the CDNA guidelines falls within the definition of impairment and applicants should declare their impairment when they apply to renew their registration. National Boards can look more closely at practitioners who make a positive declaration (e.g. by seeking additional information and if necessary, requiring a health assessment and taking further protective action). They can also take action under the National Law if a practitioner makes a false declaration.

National Boards that regulate practitioners who perform exposure-prone procedures have the power to ask applicants for registration and practitioners when they renew their registration, to confirm that they are aware of their infection status for blood-borne viruses and to confirm they will comply with the CDNA guidelines and with any requirements in the relevant Board's Infection Control Guidelines in relation to blood-borne viruses. National Boards that decide to ask applicants to make this declaration, will develop additional resource material to support practitioners to answer this question, as it is likely to lead to many inquiries including: Do I have to have regular tests even if I don't perform exposure-prone procedures? I don't perform exposure-prone procedure and have never had an exposure to a blood borne infectious disease but I don't have a recent result etc.

There was a suggestion that practitioners who perform exposure prone procedures should provide the date, result and source laboratory of blood tests and consent to the release of information for audit by AHPRA. This is a very intrusive approach and it is difficult to find a power for the National Boards to compel a practitioner to provide this consent, in the absence of possible or known impairment. It may also not be consistent with the COAG principle for best practice regulation that states that *action should be effective and proportional to the issue being addressed* and consistent with the principles in the Privacy Act 1988 (Cth).

Should the Boards impose conditions on the registration of practitioners who are infected with a blood-borne virus?

The National Boards have powers under the National Law to take action in relation to a practitioner if the practitioner is or may be impaired. That includes the power to accept undertakings and impose conditions on their registration.

⁴ S.35(1)(c)(iii) of the National Law

⁵ S. 41 of the National Law

If a practitioner is infected with a blood-borne virus but is complying with the CDNA guidelines, including by restricting their practice as recommended by the guidelines, they are not likely to be 'impaired'. Conversely, if a practitioner is infected and is not complying with the CDNA guidelines, they may be impaired and the Boards can take protective action under the National Law.

There was also feedback that the National Boards should impose conditions on infected practitioners whose scope of practice might include procedures that are associated with a risk of transmitting the virus. Again, in the absence of impairment, there is no trigger for Boards to impose conditions about a practitioner's health.

However, the Boards may need to obtain additional information to be assured that the practitioner is complying with the guidelines and is therefore not impaired.

Many stakeholders recognised that it was in the interest of the public if the guidelines encourage practitioners to know whether they have an infection and if they are infected, to not impose unnecessary barriers to them seeking expert advice. For example, some practitioners may not consult an infectious diseases physician if the treating doctor was required to routinely notify their patient to the Board.

Should the Boards have an active role in defining the scope of practice for an infected practitioner?

The current CDNA guidelines contain an appendix in which exposure-prone procedures are listed for some professions. This is a useful guide for practitioners who are infected and their treating practitioners.

Some Boards may decide that it is necessary for them to develop supplementary lists of exposure-prone procedures to support practitioners who have an infection and their treating doctors, when the list in the CDNA guideline can be expanded.

Release of information that a practitioner is infected with a blood-borne virus

Some stakeholders expressed a view that the National Boards should inform the state health department on learning that a health practitioner is infected with a blood-borne virus.

The Boards have to comply with privacy legislation and the provisions on the release of information in the National Law.

The National Law provides that the Boards can give written notice to an entity of the Commonwealth or a State or Territory (a health department would fall into this description) that a registered health practitioner poses, or may pose a risk to public health if the Board considers that it may be necessary for the entity to take action in relation to that risk.⁶ A practitioner with a blood-borne virus who had failed to comply or is refusing to comply with the CDNA guidelines, has or is placing the public at risk and could therefore be notified to the health department on the basis that the department may need to take further action.

Issues for consultation

The National Boards are interested in your feedback about the draft guidelines.

Specific questions that you might also want to address are:

1. Is a guideline necessary?
2. Is the content of the guideline helpful, clear and relevant?
3. Is there any content that needs to be changed, added or deleted in the guideline?

⁶ S. 220 of the National Law

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



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Podiatry
Psychology

Draft Guidelines

24 July 2014

The regulatory management of registered health practitioners and students infected with blood-borne viruses

About the National Boards and AHPRA

The 14 National Boards regulating registered health practitioners in Australia are responsible for registering practitioners and students (except for in psychology, which has provisional psychologists), setting the standards that practitioners must meet, and managing notifications (complaints) about the health, conduct or performance of practitioners.

The Australian Health Practitioner Regulation Agency (AHPRA) works in partnership with the National Boards to implement the National Registration and Accreditation Scheme, under the Health Practitioner Regulation National Law, as in force in each state and territory (the National Law).

The core role of the National Boards and AHPRA is to protect the public.

About these guidelines

These guidelines have been developed jointly by the National Boards under section 39 of the National Law. The guidelines are developed to provide guidance to registered health practitioners, registered health practitioner students and treating practitioners about the regulatory management of registered health practitioners and students infected with blood-borne viruses.

The relevant sections of the National Law are attached.

Who needs to use these guidelines?

These guidelines are relevant to:

- health practitioners registered under the National Law
- students registered under the National Law, and
- practitioners who are treating health practitioners or students who are infected with a blood-borne virus.

Education providers and employers may also bring the guidelines to the attention of their students and employees respectively.

What is the purpose of these guidelines?

These guidelines:

1. inform all practitioners that they must comply with the CDNA (Communicable Diseases Network Australia) guidelines as current and as revised in the future (the CDNA guidelines) for health practitioners infected with a blood-borne virus
2. explain the circumstances when a practitioner treating a registered health practitioner or student may have a responsibility to notify the relevant Board of their patient's infective status

3. provide information on the range of actions that a Board may take if it receives a notification that a registered health practitioner or student is infected with a blood-borne virus.

These guidelines take a risk-based approach to the regulatory management of practitioners with a blood-borne virus. Practitioners who are not impaired as defined in the National Law can continue to practise their profession as long as they comply with the CDNA guidelines that are in place at the time.

Impairment under the National Law is defined as:

in relation to a person, means the person has a physical or mental impairment, disability, condition or disorder (including substance abuse or dependence) that detrimentally affects or is likely to detrimentally affect—

- (a) *for a registered health practitioner or an applicant for registration in a health profession, the person's capacity to practise the profession; or*
- (b) *for a student, the student's capacity to undertake clinical training—*
 - (i) *as part of the approved program of study in which the student is enrolled; or*
 - (ii) *arranged by an education provider.*

The definition requires that the person has a disability, condition or disorder such as infection with a blood-borne virus AND that infection affects or is likely to detrimentally affect their capacity to practise (if they are a practitioner) or their capacity to undertake clinical training (if they are a student).

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.

The Boards recognise that registered health practitioners and students with a blood-borne virus have the same right to privacy as other individuals with an infectious disease or other illness. Registered health practitioners and students who comply with these guidelines are unlikely to need to be notified to the Board. Even if a notification is made, the Boards are unlikely to take any regulatory action if they are assured that the registered health practitioner or student has complied and will continue to comply with the CDNA guidelines and is therefore not placing the public at risk.

What is not covered in these guidelines?

These guidelines are about registered health practitioners and students infected with blood-borne viruses. They do not include guidance for registered health practitioners and students with other infectious diseases. Registered health practitioners and students will know that infections can be transmitted in other ways and they should refer to, and comply with relevant current infection control guidelines produced by the National Health and Medical Research Council.⁷

Guidance for all registered health practitioners and students

- Registered health practitioners and students have a responsibility to prevent the transmission of blood-borne viruses from themselves to their patients.
- Registered health practitioners and students have a responsibility to protect themselves from transmission of blood-borne viruses.

⁷ For example, the current guidelines are titled *Prevention and Control of Infection in Healthcare* (<http://www.nhmrc.gov.au/node/30290>).

- All registered health practitioners and students must comply with the CDNA guidelines for health practitioners infected with blood-borne viruses. The current guidelines are at <http://www.health.gov.au/internet/main/publishing.nsf/Content/cda-cdna-bloodborne.htm>>
- All registered health practitioners and students should know their blood-borne virus status. If they have a blood-borne virus, they must seek and accept expert advice on the safe limits of their practice and must comply with the CDNA guidelines.
- 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. Vaccination should be done at the start of employment or studies if the practitioner or student does not have documented evidence of pre-existing immunity.
- All registered health practitioners and students should be tested for blood-borne viruses following every sharps injury and/or exposure to body fluids, secretions and excretions, and must follow current post exposure protocols for the management of sharps injuries and/or exposure to body fluids, secretions and excretions.
- Health practitioner students and trainees who are likely to be required to perform exposure prone procedures as part of their studies⁸ or training⁹ must undergo testing for blood-borne viruses before, or on entry to the program of study or training. If the student or trainee is found to be infected with one or more blood-borne viruses, they should be assessed by a suitably qualified medical practitioner and if they are potentially infectious, should seek counseling on career options.
- Students enrolled in dental programs are required to perform exposure prone procedures during their course of study. Dental students with a blood-borne virus would not be able to undertake these procedures and therefore could not meet the minimum requirements of an approved program of study that leads to registration. They are therefore not able to continue with the program of study.
- Registered health practitioners and students who perform exposure-prone procedures¹⁰ must be tested for blood-borne viruses as described in the CDNA guidelines.

Registered health practitioners and students with blood-borne viruses

- Registered health practitioners who are infected with a blood-borne virus can continue to practise their profession if they comply with the CDNA guidelines. However, the guidelines may require that the infected practitioner reviews and changes their scope of their practice, for example, to not perform exposure-prone procedures.
- All registered health practitioners and students who are infected with a blood-borne virus should be under the regular care of a suitably qualified specialist medical practitioner, such as a specialist infectious diseases physician, specialist gastroenterologist and hepatologist or similar. They must seek and accept their specialist's advice on the safe limits of practice. If the infected practitioner does not comply with the treating doctor's advice, the treating doctor may have a mandatory obligation to report the infected practitioner to the Board.

⁸ For example, dental and midwifery students

⁹ For example, trainees in dentistry, midwifery, some medical specialties and podiatric surgery

¹⁰ The current CDNA guidelines *Australian National Guidelines for the Management of Health Care Workers known to be infected with blood-borne viruses* at <http://www.health.gov.au/internet/main/publishing.nsf/Content/cda-cdna-bloodborne.htm> define an exposure prone procedure as a procedure where there is a risk of injury to the healthcare worker resulting in exposure of the patient's open tissues to the blood of the worker. These procedures include those where the worker's hands (whether gloved or not) may be in contact with sharp instruments, needle tips or sharp tissues (spicules of bone or teeth) inside a patient's open body cavity, wound or confined anatomical space where the hands or fingertips may not be completely visible at all times.

The Board's response to a registered health practitioner or student with a blood-borne virus

- There is no requirement for registered health practitioners or students with blood-borne viruses to notify the Board that they are infected with a blood-borne virus if they are following their treating practitioner's advice have complied with and are continuing to comply with the CDNA guidelines.
- Unless there is another condition (e.g. cognitive impairment associated with HIV), a registered health practitioner or student with a blood-borne virus who is practising within the limits defined by the CDNA guidelines and is following accepted infection control measures, is not placing the public at risk and therefore does not need to be notified to the Board.
- If the Board receives a notification about a registered health practitioner or student with a blood-borne virus, it may seek additional information to assess the risk to the public that the practice of the practitioner or student poses. This additional information might include:
 - asking the practitioner or student whether they are willing to obtain a report from their treating medical practitioner. The Board would seek advice on whether the registered health practitioner or student poses a risk to the public, given their status and their scope of practice and/or
 - asking the practitioner or student to undergo a health assessment with a suitably qualified independent specialist/s who will report to the Board. The registered health practitioner or student would be given a copy of the report in accordance with the relevant provisions of the National Law¹¹.
- After an initial risk assessment that might include seeking independent reports, the Board will not usually seek undertakings or impose conditions if a registered health practitioner or student is complying with the CDNA guidelines and is therefore not placing the public at risk. In these circumstances, the Board will not routinely publish any information related to the practitioner or student's health on the register of practitioners.
- If a practitioner or student does not comply with the CDNA guidelines, the Board will take the necessary action under the National Law to protect the health and safety of the public. This could include taking immediate action (suspension, imposition of conditions or accepting undertakings), investigating further, referring to a panel hearing or referring to a tribunal.
- If the Board suspends a practitioner's registration, imposes conditions or accepts undertakings, it will publish relevant information on the register of practitioners, as required by the National Law. The Board will not publish information on the register of practitioners that states that a practitioner has a blood-borne virus. However, it will publish the fact that the practitioner has conditions imposed or has accepted undertakings related to their health, and it may publish information about the practitioner's scope of practice.

Treating doctors

- Treating practitioners who are treating a registered health practitioner or student with a blood-borne virus do not have an obligation to report their patient to the relevant Board if the practitioner or student is complying with the CDNA guidelines. In deciding whether it is necessary to notify the Board, treating practitioners should take into consideration a range of factors including whether the:
 - practitioner or student is infectious
 - practitioner's or student's practice is likely to include procedures that the CDNA guidelines preclude them from performing (e.g. in some cases, practitioners are not permitted to perform exposure-prone procedures)
 - practitioner or student has changed their scope of practice to comply with the CDNA guidelines
 - practitioner or student has another condition that may affect their ability to comply with the CDNA guidelines.

¹¹ Section 176 of the National Law

- If a registered health practitioner or student with a blood-borne virus is not complying with the CDNA guidelines (e.g. by performing procedures that the guidelines preclude them from performing), they are engaging in notifiable conduct because they have "...placed the public at risk of substantial harm in the practitioner's practice of the profession because the practitioner has an impairment"¹². Treating practitioners have a mandatory obligation to notify the Board (through the Australian Health Practitioner Regulation Agency) of the notifiable conduct (except for Queensland and Western Australia). In addition to the mandatory reporting obligations, treating practitioners have an ethical obligation to report that their registered health practitioner or student patient is placing the public at risk by not complying with the CDNA guidelines.¹³
- Treating practitioners who are treating a registered health practitioner or student with a blood-borne virus should refer to the National Law and the Boards' guidelines on mandatory reporting notifications to help them decide whether it is necessary to make a mandatory notification.

Other relevant regulatory aspects

- When applying for registration and for renewal of registration, all practitioners are required to declare that they do not have an impairment. A registered health practitioner with a blood-borne virus who is not complying with the CDNA guidelines falls into the definition of impairment and should make a positive declaration. The Board will assess positive declarations, including by seeking additional information. It will take the necessary action under the National Law to protect the public. The Board will also take action under the National Law if a practitioner makes a false declaration.
- Boards who regulate practitioners who may perform exposure-prone procedures may ask practitioners when they apply for registration or renewal of registration to declare that they are aware of their infection status for blood-borne viruses and to declare that they will comply with the CDNA guidelines and with any requirements in the relevant Board's Infection Control Guidelines in relation to blood-borne viruses.
- The Board will inform the relevant department of health if a health practitioner is infected with a blood-borne virus and has not complied with the CDNA guidelines, therefore placing the public at risk.

Definitions

Blood-borne viruses are typically HIV (Human immunodeficiency virus), HBV (hepatitis B virus) and HCV (hepatitis C virus)

CDNA is the Communicable Diseases Network Australia

CDNA guidelines are the *Australian National Guidelines for the Management of Health Care Workers known to be infected with blood-borne viruses* published by the CDNA

Exposure prone procedure - The current CDNA guidelines *Australian National Guidelines for the Management of Health Care Workers known to be infected with blood-borne viruses* at <http://www.health.gov.au/internet/main/publishing.nsf/Content/cda-cdna-bloodborne.htm> define an exposure prone procedure as a procedure where there is a risk of injury to the healthcare worker resulting in exposure of the patient's open tissues to the blood of the worker. These procedures include those where the worker's hands (whether gloved or not) may be in contact with sharp instruments, needle tips or sharp tissues (spicules of bone or teeth) inside a patient's open body cavity, wound or confined anatomical space where the hands or fingertips may not be completely visible at all times.

¹² Section 140 of the National Law

Health assessment means an assessment of a person to determine whether the person has an impairment and includes a medical, physical, psychiatric or psychological examination or test of the person.

Registered health practitioner means a person who is registered by one of the 14 health practitioner boards under the Health Practitioner Regulation National Law, as in force in each state and territory. In the case of this guideline, it also includes registered students.

Impairment means:

in relation to a person, means the person has a physical or mental impairment, disability, condition or disorder (including substance abuse or dependence) that detrimentally affects or is likely to detrimentally affect—

- (a) for a registered health practitioner or an applicant for registration in a health profession, the person's capacity to practise the profession; or
- (b) for a student, the student's capacity to undertake clinical training—
 - (i) as part of the approved program of study in which the student is enrolled; or
 - (ii) arranged by an education provider.

Acronyms

CDNA	Communicable Diseases Network Australia
HBV	Hepatitis B virus
HCV	Hepatitis C virus
HIV	Human immunodeficiency virus

Extracts of the National Law

140 Definition of notifiable conduct

In this Division—

notifiable conduct, in relation to a registered health practitioner, means the practitioner has—

- (a) practised the practitioner's profession while intoxicated by alcohol or drugs; or
- (b) engaged in sexual misconduct in connection with the practice of the practitioner's profession; or
- (c) placed the public at risk of substantial harm in the practitioner's practice of the profession because the practitioner has an impairment; or
- (d) placed the public at risk of harm because the practitioner has practised the profession in a way that constitutes a significant departure from accepted professional standards.

176 Copy of report to be given to health practitioner or student

- (1) The National Board must, as soon as practicable after receiving the assessor's report, give a copy of the report to—
 - (a) the registered health practitioner or student to whom it relates; or
 - (b) if the report contains information the Board considers may, if disclosed to the practitioner or student, be prejudicial to the practitioner's or student's physical or mental health or wellbeing, to a medical practitioner or psychologist nominated by the practitioner or student.
- (2) If a medical practitioner or psychologist is given a copy of a report about a registered health practitioner or student under subsection (1)(b), the medical practitioner or psychologist must give a copy of the report to the practitioner or student as soon as it will no longer be prejudicial to the practitioner's or student's health or wellbeing.
- (3) After the registered health practitioner or student has been given a copy of the report under subsection (1)(a) or (2), a person nominated by the Board must—

- (a) discuss the report with the practitioner or student; and
- (b) if the report makes an adverse finding about the practitioner's practice of the profession or states that the assessor finds the practitioner has an impairment, discuss with the practitioner ways of dealing with the finding, including, for a practitioner, whether the practitioner is prepared to alter the way the practitioner practises the health profession.

220 Disclosure to protect health or safety of patients or other persons

- (1) This section applies if a National Board reasonably believes that—
 - (a) a registered health practitioner poses, or may pose, a risk to public health; or
 - (b) the health or safety of a patient or a class of patients is or may be at risk because of a registered health practitioner's practice as a health practitioner.
- (2) The National Board may give written notice of the risk and any relevant information about the registered health practitioner to an entity of the Commonwealth or of a State or Territory that the Board considers may be required to take action in relation to the risk.