CMA POLICY

Blood-borne pathogens in the health care workplace

This policy is based on and replaces two CMA policies: Prevention of transmission of hepatitis B in the health care context and HIV infection in the workplace. Some sections are applicable to all health care workers, whereas others are applicable only to those who are involved in certain types of invasive procedures.

Background

The prevention of transmission of blood-borne pathogens is an important public health goal. Blood-borne pathogens may be transmitted in a variety of situations in which the body fluids of one person intermingle with those of another, including sexual activity, needle-sharing and certain medical procedures. Any policy in this area should be based on respect for human rights and ethical, scientific, epidemiologic and occupational health and safety principles. Vaccinations should be administered in accordance with current public health recommendations. Risk reduction for patients and health care professionals, public health goals and good medical practice all require health care professionals to be immunized against transmittable diseases. Patients and health care workers have the right to be protected through the use of appropriate infection prevention and control procedures.

Key points

Physicians (which includes medical students and physicians in training) who are at risk of infection with a blood-borne pathogen through personal or work activities have a moral obligation to know their serologic status, be retested after exposure and take appropriate steps to reduce the risks of transmission to their patients. Based on the ethical principle of non-maleficence, health care providers have a moral duty not to subject patients and other health care professionals to undue levels of risk of harm.

Routine testing of all physicians should not be considered to be mandatory. Routine disclosure of positive serological status is not mandatory. Disclosure of serologic status to patients as part of pretreatment discussion is mandated only if the risk to the patient is material to their decision making.

The CMA supports and recommends the application of routine practices that enhance the protection of patients and health care workers against infections that may be acquired in the health care workplace. For example, vaccination is the most effective measure for preventing hepatitis B in the health care workplace.

Physicians (including medical students and physicians in training) should be aware of their
jurisdiction’s legal and regulatory requirements regarding immunization, serological status, medical practice and reportable transmittable diseases.

**Human rights**

All individuals have fundamental human rights, including the right to privacy, personal autonomy and access to treatment without discrimination. These rights must be respected when selecting measures to reduce the risk of disease transmission.

No right is absolute and, in appropriate circumstances, any right may be infringed. The extent to which a fundamental human right can be justifiably infringed will depend on the specific circumstances, including the level of the risk, the degree to which the right will be infringed, the ability to address the risk using other means and the ability to accommodate the infected individual to the point of the employer’s undue hardship.1

**Ethical principles**

Traditionally, health care services have been provided even when they might pose a risk to the health care worker. Health care workers have an ethical responsibility to provide appropriate services to seropositive patients or to those whose serologic status is unknown. In the case of infection, this risk can be further reduced by the rigorous application of infection control guidelines and routine practices. Health care workers have the right to be protected and supported by the institution and government with the appropriate information, policies, procedures, supplies and equipment.

Applicable articles in the *CMA Code of Ethics* include:

1. Consider first the well-being of the patient.

14. Take all reasonable steps to prevent harm to patients; should harm occur, disclose it to the patient.

15. Recognize your limitations and, when indicated, recommend or seek additional opinions and services.

21. Provide your patients with the information they need to make informed decisions about their medical care, and answer their questions to the best of your ability.

35. Disclose your patients’ personal health information to third parties only with their consent, or as provided for by law, such as when the maintenance of confidentiality would result in a significant risk of substantial harm to others or, in the case of incompetent patients, to the patients themselves. In such cases take all reasonable steps to inform the patients that the usual requirements for confidentiality will be breached.

48. Avoid impugning the reputation of colleagues for personal motives; however, report to the appropriate authority any unprofessional conduct by colleagues.

49. Be willing to participate in peer review of other physicians and to undergo review by your peers.

53. Seek help from colleagues and appropriately qualified professionals for personal problems that might adversely affect your service to patients, society or the profession.

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1 Section 15(2) of the *Canadian Human Rights Act* says that undue hardship exists when “accommodation of the needs of an individual or a class of individuals affected would impose undue hardship on the person who would have to accommodate those needs, considering health, safety and cost.” According to the Canadian Human Rights Commission, “When considering the impact of an accommodation on health and safety, look at the extent of the risk and identify anyone who would bear that risk. However, balance this risk against the right of employees to participate fully in the workplace. The goal is not absolute safety, but reasonable safety” (*Preventing discrimination: undue hardship*. Available: [www.chrc-ccdp.ca/preventing_discrimination/page3-en.asp#11](http://www.chrc-ccdp.ca/preventing_discrimination/page3-en.asp#11) [accessed 2006 Dec 20]).
Infection prevention principles

The level of risk of infection depends on the pathogen one is exposed to and the nature of the exposure. Post-exposure testing is recommended for both patients and health care workers and prophylactic treatments are warranted when these have been proven to be effective.

As a general measure to minimize the risk of infection, physicians should take appropriate precautions when at work. However, because of its nature, the health care workplace carries a greater risk of occupational exposure to blood-borne pathogens than the general workplace. A health care worker may be directly exposed to the blood or bodily fluids of a seropositive patient during routine work or through a work-related incident, such as a needle-stick injury. If a patient is the source of exposure, they may be tested only if he or she grants informed consent for testing or if testing is directed by law.

Health care workers must take appropriate care not to place patients at undue risk of transmission of any pathogen. Patients must be informed if they have been exposed to a blood-borne pathogen (Article 14 and 21 of the Code of Ethics). The identity of the exposure source may remain anonymous. An infected health care worker’s right to privacy and confidentiality should not be breached. Their identity may only be disclosed to the patient with the consent of the health care worker or as required by law (Article 35 of the Code of Ethics).

Vaccination and screening for hepatitis B

All health care providers who work or will work in a situation in which patients could be exposed to their body fluids are strongly encouraged to be vaccinated against HBV, unless a medical contraindication exists.

All health care providers who work or will work in a situation in which they could be exposed to the body fluids of patients are strongly encouraged for their own protection to be vaccinated against HBV, unless a medical contraindication exists.

As part of the vaccination protocol, serologic testing should be performed on all health care providers who have been vaccinated. Health care providers who do not respond to the vaccine (those who remain negative for antibodies to hepatitis B surface antigen [HBsAg]) should be tested for HBsAg and, if negative, receive an additional series of the vaccine. Health care providers who remain seronegative despite two series should be referred to an infectious disease or occupational health specialist for further advice.

Health care providers who are seronegative for both HBsAg and its antibodies and the few who remain seronegative for both despite concerted efforts to achieve seroconversion through vaccination should have periodic tests for potential conversion to HBsAg or antibody positive status.

Periodic testing of health care workers

Routine testing is not mandatory. People are tested only after they have given adequately informed consent and received counseling or as directed by law.

After exposure, health care workers have an ethical obligation to be tested and monitored for seroconversion. Monitoring times vary according to the disease etiology.

Principles of occupational health

Any policy that addresses the testing of health care workers must be consistent with the following general principles of occupational health.

- To protect their patients and themselves, all health care providers who perform exposure-prone procedures, by which they or their patients could be exposed to bodily fluids, are strongly encouraged to be vaccinated against transmittable diseases, unless a medical contraindication exists.

- A health surveillance program should result in the effective prevention or treatment of
disease or provide evidence about qualification for workers’ compensation benefits.

- Any component of an occupational health service program may be considered essential if it is directed toward the protection or improvement of the health of the worker and if it is unlikely to be available in an adequate form from another source.

- For the purposes of evaluating an employee’s ability to do a job, a disability or other condition is only relevant if it (1) significantly impairs or can reasonably be expected to significantly impair the worker’s ability to perform the functions of that job or (2) would create an undue risk to other health care workers or to the public. The employer is required to accommodate a worker’s needs arising from a disability or condition to the point of undue hardship. The employer can only conclude that a person is incapable of performing the job’s essential functions if that person is unable to do so despite appropriate accommodation measures.

**Seropositive health care professionals**

Health care professionals should receive post-exposure testing and voluntary counseling. The infected health care professional should consult an infectious disease specialist, a hepatologist or his or her family physician for medical evaluation, management and treatment. What constitutes appropriate management varies according to level of risk and whether a cure or other effective therapies exist. Those responsible for the provision of advice should keep abreast of current knowledge regarding the risks of exposure and transmission. The family physician should seek advice from medical or public health experts regarding the current knowledge of risks of transmission to patients, as well as regulatory or legislative reporting requirements.

In the limited circumstances where fundamental human rights may justifiably be infringed, the following conditions must also be met:

- fundamental human rights, including but not limited to privacy rights, must be infringed to the most limited degree possible

- all reasonable efforts must be made to accommodate individuals so that they will not be burdened by the measures adopted

- if accommodation cannot be achieved, individuals burdened by the adopted measures must be fairly compensated

Physicians who perform exposure-prone procedures have an ethical obligation to know their serologic status and whether they may be placing their patients at undue risk (Article 1 of the CMA Code of Ethics: Consider first the well-being of the patient [and] Articles 14 of the CMA Code of Ethics: Take all reasonable steps to prevent harm to patients; should harm occur, disclose it to the patient). Patients have a right to know the risks to which they may be subjected in the course of the delivery of health care services (Article 21 of the CMA Code of Ethics: Provide your patients with the information they need to make informed decisions about their medical care, and answer their questions to the best of your ability).

The standard of disclosure should be consistent with the standard of informed consent, a standard that requires disclosing material risks. Disclosure of serologic status as part of pretreatment discussion is mandated only if the risk to the patient is material to their decision making.

**Support and retraining for infected health care professionals**

Infected health care workers must be accommodated to the point of the employer’s undue hardship. Appropriate accommodation measures will depend on the circumstances and the level of risk to patients and other health care workers, and may include modifying the nature of the worker’s practice as well as periodic reassessment of ability and risk.

If a physician is classed as an employee, then the usual workplace protections will apply. In
instances where a physician is on contract and is not classed as an employee but must modify his or her practice, the organization and the physician’s colleagues should accommodate (to the point of undue hardship) the change in their scope of practice. This accommodation should be made regardless of the source of infection. Where possible, hospital by-laws should be amended to extend protection to non-employee physicians.

In some jurisdictions physicians are required to report their serologic status to the College of Physicians and Surgeons. Physicians should be aware of the specific requirements of their College.

Most provinces have designated an independent expert review committee to make recommendations about the professional practices of infected physicians. The CMA recommends independent expert review committees be established by all regulatory authorities and that they operate at arm’s-length from these authorities. Regulatory authorities may be required to monitor physicians’ compliance to any restrictions suggested by the expert committee and in that case disclosure to the regulatory body will be required. As with all health information, there is the presumptive duty to maintain privacy and confidentiality unless the physician acts in ways that place patients at undue risk of infection.

Infected physicians are strongly encouraged to report their status to the review committee. However, in the very rare case in which an infected physician performs exposure-prone procedures and refuses to self-report, treating physicians are morally obligated to report the infected physician to the appropriate regulatory agency (Articles 35 and 48 of the Code of Ethics).

All health care professionals who are infected with a blood-borne pathogen and whose practices are restricted as a result should receive appropriate and ongoing counseling and support services.

The CMA believes that options for retraining infected physicians whose practice has been limited should be readily available and calls on the Provincial and Territorial medical organizations, including regulatory and representative associations, to facilitate and where appropriate fund opportunities for re-training. The details of this retraining will by necessity differ based on individual circumstances and locales.

Prior to the establishment of a review committee framework, re-training and support programs should be developed to ensure that the issues of disability, retraining and insurance of infected physicians are properly addressed. This is consistent with the ethical principle of reciprocity, whereby individuals placed at higher risk of infection, such as physicians performing exposure-prone procedures, are provided with mechanisms to address harm in the rare circumstances where this should occur.