



30 October 2018

NSW Department of Justice
160 Marsden St
Locked Bag 5111
Parramatta NSW 2124

Via email: mdtsubmissions@justice.nsw.gov.au

Re: Mandatory disease testing in NSW of people whose bodily fluids come into contact with police and emergency services personnel

Please accept this short submission from the Australasian College for Emergency Medicine (ACEM) in relation to the Options Paper on Mandatory Disease Testing, dated September 2018. ACEM is the peak body for emergency medicine in Australia and New Zealand, with responsibility for educating and training emergency physicians and setting standards for the provision of safe and high quality emergency medical care to the community.

In July 2016, ACEM made a submission to the New South Wales (NSW) Legislative Assembly Committee on Law and Safety's Inquiry into Violence against Emergency Services Personnel. ACEM's submission supported the Zero Tolerance to Violence in the NSW Health Workplace policy, including mandatory requirements for work systems and environments that enable, facilitate and support a "zero tolerance" approach to violence in emergency departments, including violence prevention programs.

ACEM has considered the NSW Department of Justice's Options Paper, including the option for a mandatory disease testing scheme for emergency personnel, and provides the following feedback.

- Options One and Two are supported because they set a minimum standard for providing the necessary policy environment for occupational health and safety for employees of emergency services personnel.
- Options Three and Four are not supported because they remove the autonomy of individuals to consent or withhold consent to tests or medical treatment. Such a measure would be an extreme change in the legal and ethical framework for emergency physician's medical practice.

Currently, emergency physicians override consent in only the most limited circumstance related to mental illness, or other extreme situations under duty of care provisions. Removal of autonomy to provide a small benefit such as psychological support for emergency service personnel is neither a necessary nor proportional change in the legislative environment governing clinical practice in NSW.

If legislation enabling mandatory testing is introduced into the NSW parliament, the relevant agencies will need to develop external pathways for testing that do not involve emergency physicians, as this work is outside the role of already under-resourced and over-burdened emergency departments. This would be just one of a number of legal, ethical, clinical, operational and financial implications that ACEM would need to consider if disease testing was mandated in NSW.

Thank you for the opportunity to provide comment on the Options Paper. If you require further information, please do not hesitate to contact Helena Maher, Manager Policy and Advocacy, on Helena.Maher@acem.org.au or 03 9320 0423.

Yours sincerely



John Kennedy
Deputy Chair, NSW Faculty



Simon Judkins
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cc: Andrea Cornish, Senior Policy Advisor, AMA NSW, andrea.cornish@amansw.com.au,