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Submission: SafeWork NSW adoption of National code of practice for the control of work-related exposure to hepatitis and HIV (blood-borne) viruses

About SWOP NSW

The Sex Workers Outreach Project (SWOP NSW) has been working for over 35 years to provide NSW sex workers with the same access health, safety, human rights, and workplace protections as all other Australian workers. We provide direct support and peer education to sex workers across the state by outreaching regularly to a broad range of sex industry work places (including street based, home based, brothels and massage parlours), as well as providing services at our office and via phone, email and a variety of online platforms. We collaborate extensively with community members, researchers and clinicians, and government and non-government organisations from a range of disciplines to ensure that NSW sex workers receive the services and support vital to sustaining low rates of STIs, BBVs and virtual elimination of HIV. We are a non-government organisation, and are currently primarily funded by the NSW Ministry of Health.

About Scarlet Alliance, Australian Sex Workers Association

Formed in 1989, Scarlet Alliance is the national peak sex worker organisation. Our membership includes state and territory-based and national sex worker organisations and individual sex workers across unceded Australia. Scarlet Alliance uses a multifaceted approach to strive for equality, justice and the highest level of health for past and present workers in the sex industry. We achieve our goals and objectives by using best practices including peer education, community development, community engagement and advocacy.

National Code of practice for the control of work-related exposure to hepatitis and HIV (blood-borne) viruses & Sex Work

Thank you for the opportunity to share with you our expert opinion on NSW's adoption of the National Code of Practice for the Control of Work-related Exposure to Hepatitis and HIV (Blood-borne) Viruses [NOHSC:2010(2003)] (hereafter referred to as 'the Code').

Our submission outlines concern with the accuracy and validity of the content of the Code, and its application in relation to the sex industry.

4.4 Risk control strategies for certain occupations (sex industry workers)

We do not consider the following sentence to remain relevant, or in line with current and emerging work practices and technologies, and strongly recommend against its continued application:

Sex industry workers should require the use of condoms and dental dams at all times. Sex industry workers should be fully informed about the transmission risks of HBV, HCV, HIV and other sexually transmissible infections. They should also have immunisation for HBV and regular screening for sexually transmitted diseases, including HBV, HCV and HIV. p 21

It is widely understood that condoms and dental dams are not the only viable method for preventing the transmission of HIV, and other effective prevention strategies exist¹. Since this code of practice was developed, there have been significant scientific and medical advances relating to the transmission and treatment of HIV, including Pre Exposure Prophylaxis for HIV negative people, and the science demonstrating that people living with HIV who maintain an undetectable viral load are not able to transmit the virus². Obligating the use of condoms and dental dams for all sex workers, without regard for individual sexual practices, the wide variety of services offered, and advances in treatment and prevention prophylaxis may act as a barrier to the uptake of more effective and appropriate safety strategies.

Similarly, sex workers must be allowed to make their own assessments about the risk of HBV or HCV transmission associated with their work activities, which vary considerably throughout the sex industry, and select the most practicable method of risk mitigation for their unique situation. We note both that HCV is not considered to be a sexually transmitted infection³, and that treatment options for HCV have also increased and improved

¹ Zablotska, Iryna, and John McAllister. "Biomedical Prevention of HIV Infection." *HIV Management Guidelines*, Australasian Society for HIV, Viral Hepatitis and Sexual Health Medicine (ASHM), hivmanagement.ashm.org.au/biomedical-prevention-of-hiv-infection/. Accessed 20 Nov. 2023.

² World Health Organisation. "The role of HIV viral suppression in improving individual health and reducing transmission: policy brief." World Health Organisation (WHO), who.int/publications/i/item/9789240055179. Accessed 20 Nov. 2023.

³ "Hepatitis C, Sex & Transmission." Hepatitis NSW, www.hep.org.au/hep-c/sex-and-hep-c-transmission/. Accessed 20 Nov. 2023.

considerably since the Code was developed. We stress that regular sexual health screening, may be appropriate for many sex workers, but is not necessary for all, and that this blanket approach to a very diverse population reduces the chances of meaningful engagement with the Code by the full spectrum of NSW sex industry workers.

We do agree that sex industry workers should be fully informed about the transmission risks associated with BBVs and STIs in order to select and implement the most suitable workplace health and safety strategies for their practices, including use of PPE such as condoms and dental dams, other biomedical interventions, testing, treatment and/or immunisation. However, when evidence clearly demonstrates that stigma and discrimination are obstacles to sex workers accessing health services⁴, it is imperative that peer education is specified as a best practice approach. The Scarlet Alliance Red Book⁵, updated regularly with funding from the Federal Department of Health, is a comprehensive, sex industry specific guide to BBVs and STIs. Scarlet Alliance, the Australian Sex Workers Association, also administers SANTAP⁶, a training and assessment program for peer educators utilised by state based sex worker organisations such as SWOP NSW to improve their own service delivery. We recommend that SWOP NSW outreach services and the Red Book should be listed as optimal sources of STI/BBV education to which all sex industry workers should have access. Although outside of the scope of SafeWork NSW and the Code, it is essential that sex workers have access to appropriate BBV and STI testing and treatment options; including access to free and anonymous BBV and STI testing, treatment and immunisation services. This is essential due to the stigma and discrimination that sex workers face, which have well-documented effects on access to health.⁷

Recommendations:

1. Sex workers should be provided with access to quality peer education about STIs/BBVs, including SWOP NSW outreach services and the Scarlet Alliance Red Book.
2. Sex Workers should have access to free and anonymous STI/BBV testing, treatment and immunisation services.
3. Sex industry workplaces should provide free PPE, such as condoms, dental dams, gloves and lube, as well as information about other methods of STI/BBV transmission prevention where appropriate.

1.3 Human Immunodeficiency Virus (HIV)

There have been substantial gains made in the understanding of HIV since the Code was written. The current section 1.3 Human Immunodeficiency Virus (HIV) contains outdated

⁴ Broady, T., et al. *Stigma Snapshot: Sex Workers 2022*. 2023, <https://doi.org/10.26190/fw6j-0m39>.

⁵ Red Book Online, Scarlet Alliance, Australian Sex Workers Association, redbook.scarletalliance.org.au/. Accessed 20 Nov. 2023.

⁶ Peer Educator Training, Scarlet Alliance, Australian Sex Workers Association, scarletalliance.org.au/peer-educator-training/. Accessed 20 Nov. 2023

⁷ Broady, T., et al. *Stigma Snapshot: Sex Workers 2022*. 2023, <https://doi.org/10.26190/fw6j-0m39>.

and stigmatising language, and treats the progression of (untreated) HIV as the norm. With effective treatment, people living with HIV now have a life expectancy similar to that of their HIV negative peers.

4.6 Exposure incidents

4.6.4 Testing, monitoring and informed consent

The Code states that “[a]fter some exposure events, it is appropriate to test the infectious status of the person (source) from whom the blood or body fluid came (if this is known). The source of the exposure has the right to refuse to be tested.” We note the widespread community concerns associated with the 2021 implementation of the Mandatory Disease Testing Act in NSW, and the continuing calls for its full repeal by a range of health and advocacy organisations, for reasons including but not limited to the negative impacts this has on public health outcomes⁸. We hope that SafeWork NSW will consider all available evidence, and formally recognise that BBV testing should only occur on a voluntary basis.

4.6.6 Record keeping and Notification

The Code outlines the legal requirement for employers to notify the relevant State or Territory occupational health and safety agency if an employee contracts viral Hepatitis or HIV, or in some cases, is exposed to the virus. Whilst we recognise the importance of Employers reporting injuries, we are concerned that the nature of HIV and Hepatitis discrimination may result in workers who acquire the infection being negatively impacted when there is a requirement of disclosure.⁹

Summary

In order for NSW to continue to adopt the National Code of Practice for the Control of Work-related Exposure to Hepatitis and HIV (Blood-borne) Viruses [NOHSC:2010(2003)], it must be updated in-line with current Hepatitis and HIV science and in consultation with the national peak HIV and BBV organisations, as acknowledged by the federal government in the HIV and Hepatitis National Strategies.

Yours Sincerely,

Joanna Megan



Chief Executive Officer

Sex Workers Outreach Project Inc.

Mish Pony



Chief Executive Officer

Scarlet Alliance, Australian Sex Workers Association

⁸ Cameron, S. *The System is Broken: Audit of Australia’s Mandatory Disease Testing Laws to Test for HIV*, HIV Justice Network and the National Association of People with HIV Australia, 2019.; *Let’s Not Weaken the NSW Response to Managing Blood Borne Viruses: The case against mandatory testing and key legislative considerations if enacted*, ACON, Positive Life NSW, Hepatitis NSW, Bobby Goldsmith Foundation, AFAO, NAPWHA and NUAA, 2019.

⁹ Treloar, Carla, et al. *Stigma Research Stream*, Centre for Social Research in Health, unsw.edu.au/research/csrh/our-projects/stigma-research-stream. Accessed 20 Nov. 2023.