



June 1, 2011

Premier Christy Clark
Office of the Premier
Victoria, BC
VIA FAX: (250) 387-0087

Mr. Adrian Dix, MLA
Leader of the Opposition
Victoria, BC
VIA FAX: (250) 387-4680

Dear Premier Clark and Mr. Dix:

RE: Emergency Intervention Disclosure Act

I write to you in my position as President of the B.C. Civil Liberties Association. We write to you concerning the draft bill proposed by Mr. Norm Letnick, MLA for Kelowna-Lake Country, entitled the *Emergency Intervention Disclosure Act*.

Although this Act is not currently posted online, the intent appears clear based on media commentary by Mr. Letnik. The Bill proposes to “protect” emergency workers who are exposed to bodily fluids while working by forcing the third party involved, via court order, to participate in an HIV and/or Hepatitis screening test if that individual does not willingly agree to participate in such testing.

Our first responders are heroes in the risks they take every day. As a society, we must support them with both the highest quality education on proper response in the event of exposure and top quality treatment if they are exposed. In our view, the proposed bill does neither of these. Instead, it offers what is likely a well-intentioned, but ultimately meaningless piece of legislation that erodes rights and creates the prospect of unnecessary and unhelpful legal wrangling.

The principle that the state should not force citizens to participate in any medical procedure except in the most extreme circumstances is well established. Further, the principle that an individual’s medical test results should remain confidential as between physician and patient is also well entrenched. One would expect that a law that breached such well protected and carefully guarded principles of individual autonomy, bodily integrity and medical treatment and care would be addressing a critical issue that could not be addressed any other way. Unfortunately, that is not the case here.

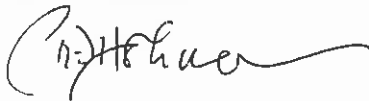
The standard for treatment for a high risk workplace exposure to bodily fluids is immediate highly active anti-retroviral prophylaxis therapy commenced within 2 to 4 hours of exposure for four weeks. This treatment is matched with vaccination for Hepatitis A and B as soon as possible. There is no treatment for Hepatitis C. In short, all treatment in high risk exposure begins immediately regardless of the outcome of any test result, forced or otherwise, and long before such a test could even voluntarily be completed.

Further, even if a test result could be obtained by court order within the window of time necessary for a determination of whether or not to initiate treatment, current HIV and Hepatitis testing is not 100% accurate, and “window periods” for infection mean that an individual who has recently been infected may not screen positive for either disease, despite being positive for that disease. Here too, in high risk exposures, treatment should continue despite a “negative” screening test.

The best that could be said is that forcing a third party to be tested may alleviate some of the concern of the individual exposed and his or her family; however, the reality is that such relief may be false reassurance, and could lead to risky behaviour such as discontinuation of prophylaxis HIV treatment or engaging in unprotected sexual activity before being fully cleared after a six month monitoring period.

In our view, the proposed bill is likely unconstitutional because it violates rights and is not demonstrably justifiable on any apparent basis. In any event, the proposed bill is bad public policy and ought not be made into law. We urge you to support the highest quality prevention and protective training, treatment and equipment for our first responders – not this Bill.

Yours Truly,

A handwritten signature in black ink, appearing to read 'R. Holmes', with a long, sweeping flourish extending to the right.

Robert Holmes, Q.C.
President

cc: Mr. Norm Letnick, MLA, VIA FAX: (250) 387-9100