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MANITOBA FORCED HIV TESTING LAW BASED ON FLAWED RATIONALE

Ill-conceived legislation creates potential for human rights violations

Toronto, April 16, 2008 — Legislation introduced today by the Manitoba Minister of Health to authorize the forced testing of people for HIV and other infections in situations of possible occupational and non-occupational exposure to blood or other bodily fluids is based on a flawed rationale and raises serious human rights concerns, said the Canadian HIV/AIDS Legal Network.

“The risk of a paramedic, firefighter or healthcare worker contracting an infection such as HIV from an occupational exposure is extremely low. However, forcing someone to undergo blood tests, and then to disclose the results of those tests, is a serious violation of their human rights,” said Executive Director Richard Elliott. “This legislation is not an appropriately balanced response to the issue of occupational HIV exposure and should not be passed.”

Forced testing legislation offers little benefit to those who may have been exposed. It takes time to make an application to a Justice of the Peace for a testing order, hear any objections to that testing order, then to perform the test and deliver the results. Decisions regarding post-exposure treatment to help reduce the risk of infection would need to be taken before the test results are available. Moreover, it can take several weeks or even a few months before a confirmatory test produces a definite diagnosis.

“The government of Manitoba needs to provide proactive education to emergency responders so that they do not overreact if they are exposed to bodily fluids in the line of work,” said Elliott. “Many people seem to think that emergency responders are at constant risk of infection, but in reality there is only one confirmed occupational HIV infection in Canada since the beginning of the epidemic.”

Elliott called on the Ministry of Health to do more to protect workers from occupational exposures in the first place, and to ensure they have the services and support they need in the event of an exposure.

“To provide real peace of mind, the Ministry of Health should be taking measures to protect the confidentiality of all test results, provide accurate information and protective equipment to emergency responders, and ensure access to voluntary testing and treatment to everyone in the province who needs it.”

For more information, see the Legal Network’s submission to the Government of Manitoba, as well as “Forced HIV Testing: Questions and Answers”, both available at www.aidslaw.ca.

– 30 –

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