



Ontario

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of de  
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March 22, 1993

MEMO TO: Steering Committee on Non-Nominal  
HIV Testing

FROM: J.A. Browne  
AIDS Coordinator

RE: Status/Progress Report on the  
Regulation Changes and Guidelines for  
Non-nominal HIV Testing

I wanted to bring you up-to-date on this project.

- . In December, we revised the guidelines to reflect the discussion at our last meeting.
- . Early in January, we made a presentation to Deputy's Committee on the project and discussed the guidelines as well as the outstanding legal issues. At that time, it was decided to:
  - meet with staff of the ministry's Women's Health Bureau to discuss and consider any problems/questions they might have about non-nominal testing. I met with the staff of the Women's Health Bureau, as instructed, and they would like to participate in our future meeting(s). A member of the Women's Health Bureau has been invited to our next meeting;
  - organize a meeting with Ministry lawyers, lawyers from the OMA and lawyers familiar with the Canadian Medical Protective Association to explore the outstanding legal issues.
- . In February, the lawyers met and recommended some changes to the proposed regulation amendments which must of course be reflected in the guidelines. I would like to stress that the intent of the regulation changes remains the same, and that the revisions are designed to make the program more practical for physicians to implement.

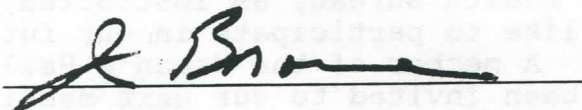
The re-worked regulation is attached for your consideration and we will discuss it at our next meeting. The changes to the regulation are as follows:

- 1.1 Change "will expose" to "is likely".
- 1.2 This is new and allows for the patient to request the physician to make a report if the patient so desires.
- 1.3.1 Change "has no reason" to "has reason", and "likely" to "unlikely".
- 1.3.2 Delete "identifiable" in first line.

At the February meeting of the lawyers, it was also quite clear that because of the heavy legislative agenda, the government cannot at this time open the statute as some of us had suggested.

The guidelines will be revised in light of these new changes to the regulation. When the guidelines have been changed, we will mail them to you separately or have them ready for our next meeting which will be held Wednesday, April 14th, 2 p.m. to 4 p.m., ADMS Boardroom, 8th Floor, Hepburn Block.

If you have any questions about this process, please do not hesitate to call me.



JB:gmh  
Attachment

c.c. Gilbert Sharpe, Director, Legal Branch  
Cezarina Wysocki, Counsel  
Michael Ennis, ADM, Population Health & Community  
Services System Group

**DRAFT ONLY**

REGULATION TO AMEND  
REGULATION 569 OF REVISED REGULATIONS OF ONTARIO, 1990  
MADE UNDER THE  
HEALTH PROTECTION AND PROMOTION ACT

1.-(1) Section 5.1 of Regulation 569 of Revised Regulations of Ontario, 1990, as made by section 1 of Ontario Regulation 749/91 and amended by section 1 of Ontario Regulation 233/92, is further amended by adding the following subsections:

(1.1) A physician who forms an opinion that a patient is or may be infected with an agent of AIDS is exempt from reporting the patient's name and address under section 26 of the Act to a medical officer of health for sixty days following the time the physician formed the opinion unless the physician has reason to believe that the patient is likely to expose others to infection with an agent of AIDS.

(1.2) A physician is not exempt under subsection (1.1) if the patient consents to the physician making a report.

(1.3) After the sixty days mentioned in subsection (1.1), the physician is exempt from reporting the patient's name and address to the medical officer of health under section 26 of the Act if the following conditions are satisfied:

1. The physician has reason to believe that the patient is unlikely to expose others to infection with an agent of AIDS.
2. For each person who may have been exposed to the risk of infection with an agent of AIDS by the patient through sexual intercourse, the sharing of needles used for injections or any other way and who has been identified to the physician, either,
  - i. the physician has notified the person of the risk of infection and of the availability of counselling about preventing the transmission of HIV infection,

- ii. the physician is satisfied that the patient has so notified the person, or
  - iii. the physician has identified the person to the medical officer of health who has agreed to ensure that the person is so notified.
3. The physician is satisfied that the patient has received counselling about preventing the transmission of HIV infection.
  4. The physician reports the patient's initials, sex and date of birth, including year of birth, to the medical officer of health.

(2) Subsection 5.1(3) of the Regulation, as made by section 1 of Ontario Regulation 749/91, is revoked.

(3) Subsection 5.1(4) of the Regulation, as made by section 1 of Ontario Regulation 749/91 and amended by section 1 of Ontario Regulation 233/92, is further amended by striking out that portion before paragraph 1 and substituting the following:

(4) The following are the clinics referred to in subsection (2):

(4) Section 5.1 of the Regulation, as made by section 1 of Ontario Regulation 749/91, is amended by adding the following subsection:

(5) The operator of a laboratory is exempt from reporting, under section 29 of the Act, the name and address of a person who has tested positive for an agent of AIDS.