

Workcover NSW Reporting Requirements: Occupational Exposures to Blood-Borne Pathogens

Document Number PD2005_354

Publication date 27-Jan-2005

Functional Sub group Personnel/Workforce - Occupational Health & Safety

Summary Reporting requirements related to occupational exposures to blood borne pathogens.

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Applies to Area Health Services/Chief Executive Governed Statutory Health Corporation, Board Governed Statutory Health Corporations, Affiliated Health Organisations - Non Declared, Affiliated Health Organisations - Declared, Community Health Centres, Public Hospitals

Distributed to Public Health System, Community Health Centres, NSW Ambulance Service, NSW Department of Health, Public Hospitals

Review date 27-Jan-2010

File No. 02/574

Previous reference 2004/26

Issue date 04-Jun-2004

Status Rescinded

Rescinded By PD2008_021

Director-General

This Policy Directive may be varied, withdrawn or replaced at any time. Compliance with this directive is **mandatory** for NSW Health and is a condition of subsidy for public health organisations.

CIRCULAR

File No	02/574
Circular No	2004/26
Issued	4 June 2004
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**WORKCOVER NSW REPORTING REQUIREMENTS:
OCCUPATIONAL EXPOSURES TO BLOOD-BORNE PATHOGENS****1.0 INTRODUCTION**

This document is a compliance support policy developed to assist Health Services meet WorkCover NSW reporting requirements under the following:

- Section 44 (2) of the *Workplace Injury Management and Workers Compensation Act 1998* (WIMWC Act)
- Section 86 of the *NSW Occupational Health and Safety Act 2000* (OHS Act)
- Clause 341 of the *NSW Occupational Health and Safety Regulation 2001* (OHS Regulation).

In particular, it covers reporting requirements related to occupational exposures to blood-borne pathogens, and should be read in conjunction with:

- The sections of the legislation listed above
- WorkCover NSW publication *Notification Requirements for Occupational Exposure to Human Blood-Borne Pathogens 2003* (Catalogue No. 4430)
- *Exemption Order No 003/03 Occupational Health and Safety Regulation 2001* (Appendix One).

2.0 RELATED NSW HEALTH POLICIES

C2002/45 Infection Control Policy

C2002/104 Infection Control Program Quality Monitoring

C2003/75 NSW Health Policy and Procedures for Injury Management and Return-to-Work

C2002/19 Effective Incident Response – A Framework for Prevention and Management in the Workplace

C2001/22 Workplace Health and Safety – A Better Practice Guide (under review)

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In accordance with the provisions incorporated in the Accounts and Audit Determination, the Board of Directors, Chief Executive Officers and their equivalents, within a public health organisation, shall be held responsible for ensuring the observance of Departmental policy (including circulars and procedure manuals) as issued by the Minister and the Director-General of the Department of Health.

3.0 RELEVANT NSW LEGISLATION

Section 86 of the OHS Act outlines broad notification requirements to WorkCover NSW, with more detailed requirements being outlined in Clause 341 of the OHS Regulation. In addition, section 44 (2) of the WIMWC Act requires employers to notify their insurer (Treasury Managed Fund) of any work related employee illness or injury ie where compensation is or may be payable.

General WorkCover NSW reporting requirements are covered in detail in circular 2003/75 *NSW Health Policy and Procedures for Injury Management and Return-to-Work*.

Of particular relevance to this circular are the following notification requirements under the OHS Regulation:

- Any injury or illness to a person occurring at or in relation to a place of work, supported by a medical certificate, that results in the person being unfit, for a continuous period of at least 7 days, to attend the person's usual place of work, to perform his or her usual duties at his or her place of work or, in the case of a non-employee, to carry out his or her usual activities [Clause 341 (a) and (b)]
- Exposure to bodily fluids presenting a risk of transmission of blood-borne diseases [Clause 341 (h)].

4.0 GUIDELINES FOR NOTIFYING WORKCOVER NSW

At the request of the Department of Health, WorkCover NSW established a working party in 2003 to develop guidance material about the reporting requirements under Clause 341 (h) of the OHS Regulation, and to consider whether any exemptions in NSW Health were warranted.

Membership of the working party included representatives from WorkCover NSW, the Department, NSW Nurses' Association, the NSW Infection Control Resource Centre and metropolitan and rural Health Services.

WorkCover NSW subsequently released the *Notification Requirements for Occupational Exposure to Human Blood-Borne Pathogens Guide 2003*. The publication was developed to assist employers and occupiers of workplaces in NSW to make notifications about incidents that occur in their workplace involving potential or actual exposure to human bodily fluids that presents a risk of transmission of blood- borne diseases.

The document provides detailed information about WorkCover NSW reporting requirements for such exposures, covering employees and non-employees eg patients, visitors.

5.0 EXEMPTION ORDER NO: 003/03 OCCUPATIONAL HEALTH AND SAFETY REGULATION 2001

On 9 January 2004 WorkCover NSW issued Exemption Order No: 003/03 pursuant to Clause 348 of the Occupational Health and Safety Regulation 2001 (see Appendix 1). This exemption addresses the potential for duplication of existing Departmental reporting requirements in this area.

The Exemption provides details about those public health organisations that are eligible for exemption, the conditions the Exemption is dependent upon, and the components of the notification requirements to which the Exemption relates.

5.1 Facilities Covered by the Exemption

Specifically, the Exemption extends to public health organisations described by the *NSW Health Services Act 1997* as an area health service or a statutory health corporation or an affiliated health organisation in respect of its recognised establishments and recognised services that meet all the conditions required by the Exemption Order.

5.2 Conditions Required by the Exemption

Organisations referred to in Exemption Order No. 003/03 must meet the conditions set out in Schedule 3 of the Exemption:

- Organisations must have in place a comprehensive system for the reporting, recording, and follow-up of incidents where there is a risk of occupational exposure to blood-borne diseases in accordance with the relevant NSW Health policies and circulars; **and**
- Organisations must comply with the reporting requirements of NSW Health circular 2002/104 *Infection Control Program Quality Monitoring* and the *NSW Health Infection Control Program Quality Monitoring Indicators Users Manual* in regard to reporting of occupational exposures to the NSW Department of Health.

The Exemption is based on the requirement that the NSW Department of Health must provide aggregated occupational exposure data by health care facility in six monthly reports to WorkCover NSW covering the following information that is captured under the above reporting requirements:

- Total number of parenteral exposures over the total number of occupied bed days for the period
- Total number of non-parenteral exposures over the total number of occupied bed days for the period.

Refer to the *NSW Health Infection Control Program Quality Monitoring Indicators Users Manual* for a list of those types of health facilities covered by the above reporting requirements (and thus able to meet the second condition of the Exemption) and for a definition of parenteral and non-parenteral exposure.

5.3 Exempted Reporting Requirements

The Exemption only applies to the reporting requirements under Clause 341 (h) of the OHS Regulation. Therefore, should an occupational exposure result in an injury or illness leading to a person being unfit, for a continuous period of at least seven days, to attend the person's usual place of work, to perform their usual duties at their place of work or in the case of a non-employee, to carry out their usual activities, the reporting requirements under Clause 341 (a) and (b) of the OHS Regulation must still be met.

The Exemption applies to employee exposures only, and does not apply to patients, visitors or other (non employee) users of the premises.

5.4 Facilities not Covered by the Exemption

The Exemption does not include the NSW Corrections Health Service, Ambulance Service of NSW, psychiatric institutions, rehabilitation facilities and mothercraft facilities, because the Infection Control Program Quality Monitoring system does not collect data from these organisations.

Similarly, as only those facility types identified in the *Infection Control Program Quality Monitoring Indicators Users Manual* report under the Quality Monitoring system, the Exemption does not apply to services delivered outside of these facilities eg community health clinics etc, unless the particular service reports all their occupational exposures to one of the listed facility types, and that facility in turn includes the data in its Departmental reporting.

The reporting requirements of those organisations not covered by the Exemption remain unchanged, and are therefore required to report every individual exposure to WorkCover NSW as required under Clause 341 (h) of the OHS Regulation.

Similarly, if a public health care organisation does not comply with its reporting requirements under the Infection Control Program Quality Monitoring system regarding occupational exposure data, the organisation is required to report every individual exposure to WorkCover NSW under Clause 341 (h) of the OHS Regulation.

Queries regarding the Department's reporting requirements or the Exemption should be referred as appropriate to facility Infection Control Professionals or OHS Risk Management personnel.

Robyn Kruk
Director-General

EXEMPTION ORDER NO 003/03

OCCUPATIONAL HEALTH AND SAFETY REGULATION 2001

I, John Watson, Acting General Manager of the Occupational Health and Safety Division, under the delegation assigned by WorkCover NSW and pursuant to Clause 348 [exemptions for classes of persons or things] of the *Occupational Health and Safety Regulation 2001* (the Regulation), being satisfied that the application of the provision in Clause 341(h) of the Regulation is unnecessary and unreasonable in the circumstances hereby exempt the organisations described in **Schedule 1** from their duties to comply with Clause 341(h) specified in **Schedule 2**, subject to the conditions specified in **Schedule 3**.

SCHEDULE 1

1. Public health organisations described by the *NSW Health Service Act 1997* as:
 - (a) an area health service, or
 - (b) a statutory health corporation, or
 - (c) an affiliated health organisation in respect of its recognised establishments and recognised services.

Excluding Corrections Health Service, Ambulance Service of NSW, psychiatric institutions, rehabilitation facilities and mothercraft facilities.

SCHEDULE 2

Exemption from the requirement under Clause 341(h) to notify WorkCover NSW of each individual incident where there has been occupational exposure of an employee to bodily fluids that presents a risk of transmission of blood-borne diseases.

SCHEDULE 3

1. Employer/Occupier referred to in Schedule 1 must have in place a comprehensive system for the reporting, recording, and follow-up of incidents where there is a risk of occupational exposure to blood-borne diseases as per Schedule 2 in accordance with the NSW Health Department policies issued by the Minister and the Director-General of NSW Health.
2. Employer/Occupier referred to in Schedule 1 must comply with the reporting requirements of NSW Department of Health Circulars relating to Infection Control Program Quality Monitoring and NSW Department of Health Infection Control Program Quality Monitoring Indicators Users' Manual in regard to reporting of occupational exposures to NSW Department of Health.

3. NSW Department of Health must provide WorkCover NSW with aggregated occupational exposure data by health care facility twice each year for the periods January to June (report due 1 December) and July to December (report due 1 June). The NSW Department of Health must forward the report to the Team Manager, Health and Community Services Team, WorkCover NSW, Locked Bag 2906 Lisarow NSW 2252 or provide the data by electronic means in a format agreed by WorkCover NSW.
4. Employer/Occupier referred to in Schedule 1 must notify each individual incident to WorkCover NSW in accordance with Clause 341(a) and Clause 341(b) of the OHS Regulation 2001 if an injury or illness results in a person being absent or unfit to perform their usual duties for a continuous period of at least 7 days.

Commencement

This exemption commences on the date that it is published in the New South Wales Government Gazette, and has effect for a period of two years from that date.

John Watson
Acting General Manager
Occupational Health and Safety Division