

Dr Jacqueline Goodall
Legislation and Policy officer
Legislation Review
Public Health
Department of Human Services
GPO Box 1670 N
MELBOURNE VIC 3001

September 29, 2004

Dear Dr Goodall

Re: Review of Health Act 1985

We have read with interest the Discussion Paper *A new legislative framework for public health in Victoria* and commend the Department on its initiative to ensure that the state has a modern legislative framework to support current and future directions for public/population health.

Much of the Health Act does not relate to the core business in which Royal District Nursing Service is involved i.e. providing nursing care at home to people in the Melbourne metropolitan area and on the Mornington Peninsula. However, the section on notifiable diseases has some relevance as we regularly care for clients in this category (126 in the last financial year). Whilst it is not our responsibility to notify the authorities of these diseases, we do need to be aware of the legislative requirements that govern our practice.

The only area of the Discussion Paper that we want to comment on is Section 8.4 (page 66) *Incident involving care giver*.

Over the past year we have reduced our staff needle-stick injury rate to an average of two a month and we have a comprehensive testing and treating procedure in place that complies with the requirements of the current Health Act.

To date we have not had a client who has refused to be tested, but nonetheless we support the proposal (Question 83) for the new Act to continue to outline procedures for non-consensual testing orders where consent for testing has been refused.

We have, however, recently had a client who lacked capacity (and had no legal authorised representative) to give consent to testing in an incident where one of our staff was injured by needlestick. The office of the Secretary of DHS was apparently unable to make an Order since the Act only allows an Order where there is a "refusal". The matter had to be taken to the client's general practitioner for a decision pursuant to the Emergency Medical Treatment provisions of the Guardianship & Administration Act. We, therefore, strongly support the proposal in Question 84 that the new Act should introduce a system of authorization (by the treating Senior Medical Officer) of non-consensual testing in circumstances where the client/patient is incapable of giving consent for testing, especially in a situation where testing is necessary for rapid diagnosis and treatment of one of our staff.

In summary, the Health Act should provide one expeditious process for circumstances where consent cannot be obtained for whatever reason eg refusal, incapacity. The process should allow for home nursing care and other nursing environments as well as the acute sector.

Thank you for the opportunity to comment on the Discussion Paper.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Dan Romanis', with a stylized flourish at the end.

Dan Romanis
Chief Executive Officer