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5<sup>th</sup> November, 2004

Mr Stephen Lodge  
Manager  
Legislation Review (Public Health)  
Department of Human Services  
GPO Box 1670N  
MELBOURNE VIC 3001



WERRIBEE MERCY  
HOSPITAL

Dear Stephen,

Thank you for the opportunity to comment again on the discussion paper relating to the changes to the Health Act 1958. On behalf of both Werribee Mercy Hospital and Mercy Hospital for Women I offer the following:

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We acknowledge that a discussion paper is already in place to address some of these issues and that the Department of Human Services wishes to make interim changes to address current issues.

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We are aware that under Section 120A of the Health Act 1958 the Secretary is already authorised to order testing for specific infectious diseases whereby a caregiver or custodian may have been exposed to a specified infectious disease and the potential source has been offered counselling and refused to consent to a test.

We maintain significant concern about an individual patient's rights and the issue of informed decision making. We also acknowledge that current practice is to wait until the person regains consciousness to obtain consent which in many situations is quite adequate. However, we also recognise the need for prompt diagnosis of exposure to specific infectious diseases and the evidence supporting the earliest possible treatment, particularly with HIV.

Thus, given the Secretary already has the authority to order testing when people refuse consent (in the event of exposure to an infectious disease), it seems logical that if a person is unable to give (or refuse) consent that the Secretary has the capacity to consent to testing. We would require post test counselling be provided as soon as possible after the event.

For pragmatic purposes we would support the outlined procedure being applied which allowed the Chief Executive Officer to implement an authorisation system for non consensual testing. Such a process should be independently assessed from the clinical area where the exposure potentially occurred.

I trust these comments are of assistance and if you require further information, please do not hesitate to contact me.

Yours sincerely,

Stephen Cornelissen  
General Manager

CC: Mr Ian Hobbs – Acting Chief Executive Officer MHAC  
Ms Julie Collette – Acting Chief Executive Officer MHW

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