



Social Services Legislation Amendment (Drug Testing Trial) Bill 2019

Submission to the Senate Community Affairs Legislation Committee

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St Vincent's Health Australia Ltd

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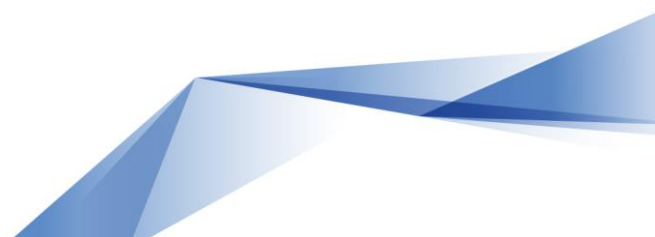
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1. Introduction

1.1 Our commitment to people with substance use disorders

St Vincent's Health Australia has been providing health care in Australia since our first hospital was established by the Sisters of Charity in Sydney in 1857. The first five Sisters arrived in Australia in 1838 with the vision of Mary Aikenhead, founder of the Order, to serve all in need of care with a particular commitment to the poor and vulnerable.

We believe every person has an inherent dignity. We are committed to advocating for those who are marginalised, facing poverty and vulnerable to poor health outcomes including people with addictions.

Based on our mission, the expertise of our clinicians, and our commitment to excellence through evidence-informed practice, we:

- treat substance use disorders through a health framework;
- encourage people with substance use disorders to access treatment by creating an environment free from stigma and discrimination; and
- support efforts to enable people with substance use disorders to attain stability and security, as this assists them in their treatment, rehabilitation and reconnection with society.

As part of our holistic care for people with substance use disorders, we welcome and share the Government's desire to address disadvantage and unemployment experienced by people with substance use disorders.

1.2 Our experience in addiction medicine

St Vincent's Health Australia has a long history of working with people with substance use disorders. Its founders, the Sisters of Charity, pioneered the first combined clinical and academic program for the treatment and study of alcohol dependence at St Vincent's Hospital in Melbourne in 1964 and at St Vincent's Hospital Sydney in 1971.

Our public hospitals are now recognised leaders in health service provision to people with substance use disorders.

St Vincent's Hospital Sydney's Alcohol and Drug Service (ADS) comprises nearly 100 staff who work across dedicated specialist inpatient, outpatient and consultation liaison services. The service is well recognised for its high calibre clinical academic leaders, leadership and innovation in alcohol and other drug use research and service delivery.

The ADS provides an extensive range of treatment options and support for clients, both in house and across the state through its contact centre support services. Key aspects of the service include withdrawal management, pharmacotherapy treatment for opioid dependence, counselling, group programs, specialist outpatient services and hospital consultation liaison service.

The ADS' services include:

- Multidisciplinary care for inpatients, outpatients and via hospital liaison.

- *Gorman Unit*, a 20-bed medically-supervised detoxification ward with a new assertive community outreach care programme.
- *Rankin Court*, an outpatient opioid pharmacotherapy treatment and psychosocial support service to 320 people at any one time.
- *A Stimulant Treatment Program* and *S-Check Clinic* which provides counselling and support services, group therapy and screening services.
- Specialist telephone-based counselling and referral services.

St Vincent's Hospital Melbourne's Department of Addiction Medicine (DoAM) is one of the largest addiction medicine specialist units in Victoria. The DoAM offers a range of services designed to help patients overcome dependence on alcohol and other drugs (both illicit and prescription) and other addictions (eg: gambling).

The DoAM provides consultation to inpatients via a clinical liaison service, outpatient consultation services, acute inpatient withdrawal services and support to the Emergency Department over the critical weekend period. It also provides consultation and education and training sessions via telehealth and face to face with regional health services.

With expertise in the medical treatment of addiction, SVHM's DoAM is recognised for its ability to manage patients at the severe end of the addiction spectrum who often experience concomitant complex mental health issues and socioeconomic barriers that impact their ability to engage with treatment.

The DoAM's services include:

- Multidisciplinary care for inpatients, outpatients and via hospital liaison.
- *Depaul House*, a 12-bed medical-residential withdrawal unit.
- Addiction Medicine Outpatient Clinic.
- The longest-running Drink Drug Driver education program in Australia.
- *Recovery and Support Program* (RaSP) – an eight week day program for people with alcohol or other drug and comorbid mental health conditions.
- Tele-support to rural and regional Victoria

1.3 Our submission

This submission addresses our concerns regarding the *Social Services Legislation Amendment (Drug Testing Trial) Bill 2019*.

This submission has been developed with the input and support of our addiction medicine services in NSW and Victoria. Our addiction medicine services are led by addiction medicine specialists, who are Fellows of the Royal Australasian College of Physicians (RACP) Chapter of Addiction Medicine.

St Vincent's Health Australia also supports the submission from the RACP.

1.4 Our position

St Vincent's Health Australia does not support the *Social Services Legislation Amendment (Drug Testing Trial) Bill 2019*. We urge the Senate not to support this bill.

This measure was originally put forward to the Senate as Schedule 12 of the *Social Services Legislation Amendment (Welfare Reform) Bill 2017* and which was ultimately removed from the bill because of lack of support.

It was then reintroduced into the Parliament via the *Social Services Legislation Amendment (Drug Testing Trial) Bill 2018* and again failed to find support in the Parliament.

The Senate Community Affairs Legislation Committee's previous inquiry into the *Social Services Legislation Amendment (Drug Testing Trial) Bill 2018* received 46 submissions.

Forty-two of the submissions – from organisations including St Vincent's Health Australia, the Australian Medical Association, the Royal Australasian College of Physicians, the Public Health Association of Australia, the Kirby Institute, the Royal Australian and New Zealand College of Psychiatrists, the Salvation Army, Anglicare, St Vincent de Paul, Mission Australia, and Uniting – opposed the trial and called on the Government to reconsider. Three submissions reached no conclusion.

Only one submission to the inquiry was in favour of the drug testing trial, and that was from the Department of Social Services, the department tasked with overseeing the trial.

Just as we articulated in our submission to the Senate Committee's inquiry into that bill, we have strong concerns about the impact these changes will have on a very vulnerable patient group of St Vincent's.

St Vincent's Health Australia believes the drug testing trial as proposed by the Bill:

- reflects a misunderstanding about the nature of substance use disorders in that it fundamentally fails to recognise addiction as a health issue;
- is not evidence-based and is likely to exacerbate addiction issues rather than improve rehabilitation outcomes;
- appear to be punitive in intent rather than supportive – despite claims to the contrary – and will further stigmatise people with addictions, a known barrier to treatment uptake;
- could lead to increased financial hardship for this vulnerable group, who already face multiple and entrenched disadvantage; and
- could have unintended consequences for the community, such as further entrenching addiction and dependence, with all the associated repercussions of such a development.

We note the Government's comments in the media that they have been engaging with stakeholders from the health, alcohol and other drug, and welfare sectors. However this engagement occurred after the policy was announced and no policy changes have been made of substance to reflect the widespread and unanimous concerns of these sectors.

The measures themselves have been developed without an appropriate level of clinical and expert input. We offer our expertise in addiction medicine to develop alternative policies that are supported by the evidence to assist people with substance use disorders to access treatment and reengage with employment.

Indeed, St Vincent's Health met with the then Minister for Social Service's office when the government began down this path in 2017, and offered to work together on an evidence-based, clinically appropriate, and less stigmatising approach to address their stated ambition to help people with addiction issues into treatment and stay in touch with the workforce, but to no avail.

We also pointed out that there are existing flags within the welfare payments system that someone is struggling with their drug and alcohol use and which could be harnessed more effectively to direct

people to appropriate health services. For example, when there is a pattern of a number of temporary exemptions and/or reasonable excuses attributable to drug and alcohol misuse, a jobseeker could be referred to a drug and alcohol treatment service provider.

2. Our concerns with the legislation

2.1 Lack of evidence, cost and technical challenges

Evidence

St Vincent's Health Australia is concerned that there is no evidence base to support this policy and no expert advice appears to have been sought in its development.

In 2013, the Australian National Council of Drugs – the Commonwealth's key independent advisory body on alcohol and drug issues at that time – reviewed the evidence for drug testing and concluded:

'There is no evidence that drug testing welfare beneficiaries will have any positive effects for those individuals or for society, and some evidence indicating such a practice could have high social and economic costs.

*'In addition, there would be serious ethical and legal problems in implementing such a program in Australia. Drug testing of welfare beneficiaries ought not be considered.'*¹

The bill's Second Reading Speech by the Assistant Minister to the Prime Minister and Cabinet, representing the Minister for Social Services, described its intent as being to identify 'jobseekers with substance abuse issues that may be preventing them from finding a job, and supporting them to address these barriers through interventions such as income management and referral to the appropriate treatment that they require' and 'together, these measures recognise that supporting jobseekers to address their substance abuse issues through appropriate treatment is a critical first step on the path to employment. This will benefit not just the jobseekers themselves but also their families and the wider community.'

However, the clinical advice of our addiction medicine specialists is that the assumption that people with substance abuse disorders will change their behaviour to meet new welfare compliance arrangements is not evidence-based. Part of the clinical definition of substance use disorder is that people continue to misuse drugs or alcohol despite knowing there will be negative consequences, which in the case of the 2019 bill is having their income support quarantined.²

¹ ANCD, 2013, *ANCD Position paper: Drug testing*, accessible at <http://www.atoda.org.au/wp-content/uploads/DrugTesting2.pdf>

² National Institute on Drug Abuse: Understanding Drug Use and Addiction.
<https://www.drugabuse.gov/publications/drugfacts/understanding-drug-use-addiction>

Alignment with the National Drug Strategy 2017-2026

The current *National Drug Strategy 2017-2026*, outlines what constitutes evidence-based practice to reduce demand for drug and alcohol (in box on the following page). This strategy was released in July 2017 after an extensive consultation process with the alcohol and drug treatment sector, research institutes and governments. The *National Drug Strategy* does not recommend drug testing as evidence-based approach, nor does it recommend it be considered.

Evidence of Good Practice

Demand reduction requires a comprehensive approach involving a mixture of regulation, government initiatives, community services and treatment services.

Strategies that affect demand include:

- reducing the availability and accessibility (such as price mechanisms for alcohol and tobacco);
- improving community understanding and knowledge, reducing stigma and promoting help seeking;
- restrictions on marketing, including advertising and promotion;
- programs focused on building protective factors and social engagement;
- treatment services and brief intervention;
- targeted and culturally appropriate approaches to high prevalence population groups and regions at increased risk of exposure to and harm from alcohol, tobacco and other drugs;
- addressing underlying social, health and economic determinants of use; and
- diversion initiatives.

(National Drug Strategy 2017-2026, p 10)

Increasing stigma and impacts

St Vincent's Health Australia is concerned that the proposed trial will increase stigma towards people with substance abuse disorders who will experience increased anxiety which will exacerbate addiction issues rather than address them.

The impact of stigma on drug users' willingness to engage in treatment and other health services is well documented.³ It is also recognised in the *National Drug Strategy* which notes the importance that 'any responses do not inadvertently or unintentionally further marginalise or stigmatise people who are at higher risk of experiencing alcohol, tobacco and other drug related harm.'⁴

We are concerned that the trial could reduce access to treatment services through anxiety among drug users – even outside the trial locations – that their income support payments may be affected if they seek help. The proposed trial arrangements are complex and will be challenging for some

³ The effectiveness of interventions for reducing stigma related to substance use disorders: a systematic review. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3272222/>

⁴ National Drug Strategy 2017-2016, p.26 https://www.health.gov.au/sites/default/files/national-drug-strategy-2017-2026_1.pdf

jobseekers with particular barriers to understand, for example, people with cognitive impairments or low literacy. Misunderstanding among jobseekers, drug users and the community is likely to be high.

Further, the anxiety around drug testing itself may increase problematic drug use. Anxiety is associated with, and a known contributor to, substance abuse disorders. We note that the stress and anxiety that drug testing may provoke in some drug users is likely to increase aggression and anti-social behaviour towards Department of Human Services' staff administering this program.

Poor cost-effectiveness

We note that the financial implications of this bill have not been disclosed by the Government, although media reports indicate that the trial's cost is \$5.6m.⁵

The costs of the proposed testing followed by expert medical assessments will be very significant for a poorly targeted program. There is international evidence of low cost-effectiveness of drug testing. As an example, in 2015 the NZ government spent NZD\$1m testing 8,001 people, with only 22 testing positive (0.27%).

Further, St Vincent's Health Australia notes that the testing will not identify people with alcohol use disorders. Alcohol is by far Australia's biggest substance-related harm issue, and the most significant contributor to lost productivity and unemployment.

We believe that those funds would be better spent on early intervention and drug and alcohol treatment services which remain underfunded relative to need.⁶

An analysis prepared for the Federal Department of Health in 2014 estimated that fewer than half of those seeking alcohol and drug treatment in Australia are currently able to access appropriate treatment. This means between 200,000 and 500,000 Australians are estimated to need treatment but cannot access it.⁷

Technical challenges

All on-site drug testing methodologies have known reliability issues and can return false positives⁸. Some further examples of reliability issues are:

- Some prescription drugs such as anti-depressants show up in drug tests with a positive reading for methamphetamines.
- Cannabis can be detected in a person's system for many weeks. This means they could test positive as part of the trial (on first or repeat tests), even if they had taken action to cease their use.

⁵ The Guardian, *Testing welfare recipients for drugs still on agenda, Coalition insists*, June 2019

⁶ Ritter, Alison, and Mark Stooze. "Alcohol and other drug treatment policy in Australia." *Med J Aust* 2016; 204 (4): 138.

⁷ Ritter. A et al 2014, *New Horizons: the review of alcohol and other drug treatment services in Australia*, Drug Modelling Program at National Drug and Alcohol Research Centre.

⁸ *Workplace drug testing: evidence and issues*.

http://nceta.flinders.edu.au/files/9814/1145/2032/EN455_NCETA_2011.pdf

For these reasons, interpretation of drug testing results should be undertaken by an appropriately qualified medical professional.

We note the provision in the legislation for drug testing companies engaged as part of the trial to change their result where there is evidence of a person having been legally prescribed a drug that has shown up in the testing.

However, we are concerned at the prospect of trial participants being required to provide confidential medical information about their medications to the Department of Human Services or third party private providers. These arrangements for identifying false positives appear to be burdensome for jobseekers and raise genuine privacy issues.

We are also concerned that people who are placed in the trial will substitute with drugs that cannot be tested for to avoid detection. For example, cannabis users may seek out synthetic cannabinoids which are readily available and highly dangerous⁹, but cannot be easily tested for.

2.2 Proposed role of health professionals and health services in the trial

Assessments

Assessing whether a person has a substance use disorder, making a recommendation for treatment, and developing a treatment plan all require specialist expertise.

However, there is no requirement in the legislation for Department of Human Services 'contracted medical professional' to have any specific qualifications relevant to addiction medicine and mental health. As such, we are concerned that these assessments would be undertaken without adequate levels of clinical expertise. This is particularly concerning as compliance with an inappropriate recommendation would become mandatory for that person to continue to receive their income support payment.

We are also concerned that it appears an employment services provider would determine which activities recipients will be required to complete to address their substance use as part of their Job Plan (eg: rehabilitation, counselling, etc). Employment service providers are not health professionals and are not qualified to make these determinations.

In addition, we note that the legislation (Sub-section 123UFAA(1B)) allows the Secretary to make a determination to continue a person's period of income management beyond 24 months where they believe it would be beneficial to their rehabilitation outcome. We are concerned that this appears to a significant discretionary power with no requirement that such a determination would be made on the advice of an appropriately qualified medical professional.

⁹ BuzzFeed News, *Two Deaths And 56 Cases Of Severe Bleeding Have Been Linked To Synthetic Marijuana*, 3 April 2018: https://www.buzzfeed.com/theresatamkins/death-bleeding-synthetic-marijuana-cannabinoid?utm_term=.ft5RraOyp#.yfWER4MdY

Monitoring compliance with the treatment plan

Under the proposed legislation, if a person fails to meet mandatory requirements to participate in treatment, they will be subject to the jobseeker compliance framework.

It is expected that this would require drug and alcohol treatment services to monitor and report compliance. Our drug and alcohol clinicians reject any such involvement in monitoring and reporting compliance under this trial. It would undermine the therapeutic relationship and trust that is critical to successful drug and alcohol treatment. In addition, monitoring and reporting compliance would be burdensome on already-overstretched public treatment services.

2.3 Punitive compliance arrangements

There are a number of compliance measures in the proposed trial arrangements that we believe could increase the financial hardship faced by this group, compound existing disadvantage, and make it harder for people to overcome substance use disorders.

These include:

- A person who refuses to take a test will have their payment cancelled automatically – ‘with effect from the day on which the refusal occurred’ – and cannot apply again for four weeks. This is a strongly punitive measure that does not take into account the anxiety that testing could provoke for some participants – particularly those with comorbid substance use and mental health problems – and does not allow the person to make a decision to reengage sooner than four weeks. Even if a person decided to come back even the same or next day for testing, they would lose four weeks of payment.
- If a trial participant fails to turn up for any appointment with Centrelink during the trial their payment will be suspended and not back-paid even when they re-engage. This represents a significant departure from established social security policy for other income support recipients who fail to attend appointments.
- There are no provisions to financially support jobseekers to engage in treatment – for example, assistance with travel costs.

3. About St Vincent’s Health Australia

St Vincent’s Health Australia (SVHA) is the nation’s largest not-for-profit health and aged care provider. We operate two public hospitals, 10 private hospitals and 19 aged care facilities in Queensland, New South Wales and Victoria. Along with three co-located research institutes – the Victor Chang Cardiac Research Institute, the Garvan Institute of Medical Research and St Vincent’s Institute of Medical Research – we work in close partnership with other research bodies, universities, and health care providers.

SVHA has been providing health care in Australia since our first hospital was established in Sydney in 1857 by the Sisters of Charity.

SVHA employs over 19,000 staff and operates more than 2,600 hospital beds and 1,100 residential aged care places. In our hospitals, we provide more than 1 million episodes of care for patients each year.

We are a clinical and education leader with a national and international reputation in medical research. Our areas of expertise include mental health; drug and alcohol services; homeless health; prisoner health; heart lung transplantation; bone marrow transplantation; cardiology; neurosurgery; cancer; clinical genomics; HIV medicine; palliative care; respiratory medicine; and aged psychiatry.