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4 June 2015

The Hon. Philip Cummins AM
Chair
Victorian Law Reform Commission
GPO Box 4637
Melbourne Vic 3001
Via email: law.reform@lawreform.vic.gov.au

Dear Mr Cummins,

RE: Victorian Law Reform Commission Medicinal Cannabis Issues Paper March 2015

Further to our participation in the recent Victorian Law Reform Commission Community Consultations, we welcome the opportunity to respond to the *Victorian Law Reform Commission, Medicinal Cannabis Issues Paper March 2015*.

The Australian Nursing and Midwifery Federation (ANMF) was initially established in 1924 and is the largest industrial and professional organisation in Australia for nurses and midwives, with branches in each state and territory of Australia. The ANMF (Victorian Branch) represents in excess of 72,000 nurses, midwives and personal care workers (the latter predominantly in the private residential aged care sector).

As outlined in the attached policy titled the *ANMF (Vic Branch) Policy - Legal Status of Medicinal Use of Cannabis in Victoria*, ANMF (Vic Branch) supports the legalisation of cannabis for the treatment of terminal and life threatening illnesses and in palliative care.

In developing this policy position, ANMF (Vic Branch) consulted with ANMF members in September 2014. Members were asked whether they supported the legalisation of cannabis for the treatment of terminal and life threatening illnesses and a palliative care. Ninety-five per cent responded in the affirmative.

Our policy outlines the distinction between the use of cannabis for recreational purposes and its use for medical purposes and highlights that ANMF supports the legalisation of cannabis for medical purposes only.

Importantly, our policy states there must be a comprehensive scheme regulating the importation, cultivation, manufacture, processing, distribution and use of medicinal cannabis. ANMF (Vic Branch) supports a clear legislative and regulatory framework to ensure quality, efficacy and reliability of the end product and is necessary for the protection of patients who are prescribed medicinal cannabis.

In addition to providing a copy of the *ANMF (Vic Branch) Policy - Legal Status of Medicinal Use of Cannabis in Victoria*, we are pleased to make a written response regarding the *Consultation Questions* outlined in pages 170 and 171 of the *Victorian Law Reform Commission, Medicinal Cannabis Issues Paper March 2015*. In doing so, we are responding to matters relevant to our registered nurse and midwife membership.

1. Which of the following considerations should determine whether there are exceptional circumstances for medicinal cannabis to be made available to a patient:

- a) the circumstances of the patient
- b) the state of clinical knowledge about the efficacy or potential efficacy of using cannabis in treating the patient's condition
- c) both of the above?

ANMF (Vic Branch) submits that both of the factors identified in points a) and b) are relevant considerations in respect of enabling access to medical cannabis.

2. For what conditions is there sufficient knowledge of the therapeutic benefits, dangers, risks and side effects of cannabis to justify allowing sufferers to use it lawfully in Victoria?

ANMF (Vic Branch) notes on page 3 of the *Victorian Law Reform Commission, Medicinal Cannabis Issues Paper March 2015* (the Issues Paper) that a medical advisory committee has been established comprising experts in the therapeutic use of cannabis and current clinical research in the area. ANMF acknowledges the committee's expertise and sees merit in their recommendations informing question 2 above and in being made available to the public as part of consultation on this important issue.

In the interim, ANMF is supportive of sections 3.88 and 3.90 of the Issues Paper which consider a scheme that is driven by compassionate grounds and which provides treatment options that are not wholly established by orthodox double blind, placebo controlled trials that makes cannabis an available a scheme for persons.

3. What special considerations, if any, justify access to medicinal cannabis for:

- a) patients who are under 18 years of age
- b) patients who lack capacity by reason of age or another disability (other than youth) to consent to using medicinal cannabis?

ANMF (Vic Branch) considers access to medicinal cannabis should not be denied by age or reason of capacity or another disability per se.

Access should be enabled according to the clinical need and potential therapeutic benefit as comprehensively and expertly assessed by the registered health practitioner who would be authorised under the Drugs, Poisons and Controlled Substances Act 1981 - and who is therefore educationally prepared - to prescribe medicinal cannabis.

Prescription in these circumstances must occur within the protections of the existing legislative framework applying to the provision of medical treatment to persons who are under 18 years of age or who lack the capacity by reason of age or disability to provide informed consent to using medicinal cannabis.

4. On which of the following should the law creating a medicinal cannabis scheme base a person's eligibility to use medicinal cannabis:

- (a) a list of medical conditions
- (b) a list of symptoms
- (c) a list of symptoms arising from certain medical conditions
- (d) evidence that all reasonable conventional treatments have been tried and failed?

ANMF believes a), b), and c) are relevant considerations to assess the clinical need and therapeutic benefit for treating a patient with medicinal cannabis. Importantly, however, we do not believe that its use should be restricted to situations where all reasonable conventional treatments have been tried and failed, particularly where contemporaneous evidence would support its use. We are concerned that being required to meet this threshold may cause unnecessary delay in patients receiving effective treatment and result in prolonged and avoidable suffering. Additionally, it is unclear who would determine the length of time that would be required to decide that conventional treatments have failed and what criteria would be used to assess them as having failed.

ANMF (Vic Branch) considers that alleviation of pain and the effective relief of adverse effects of treatment and symptoms of medical conditions should be provided in a timely way and not obstructed by a requirement to exhaust other treatment options.

5. Should there be a way to allow for special cases where a person who is otherwise ineligible may use medicinal cannabis? If so, what should that be?

ANMF (Vic Branch) supports access to medicinal cannabis according to the clinical need and potential therapeutic benefit to the user as comprehensively and expertly assessed by the registered health practitioner who would be authorised under the Drugs, Poisons and Controlled Substances Act 1981 and the Drugs, Poisons and Controlled Substances Regulations 2006 (Vic) to prescribe medicinal cannabis.

With this in mind we are unclear in what circumstances a patient would be *ineligible* to use medicinal cannabis.

6. If Victoria acted through a state agency, in what circumstances would it be legally entitled to establish a medicinal cannabis scheme which manufactured cannabis products without breaching the terms of the *Therapeutic Drugs Act 1989 (Cth)* or the *Narcotic Drugs Act 1967 (Cth)*?

Medicinal cannabis must be regulated under the Drugs, Poisons and Controlled Substances Act 1981 and the Drugs, Poisons and Controlled Substances Regulations 2006 (Vic).

7. Are the regulatory objectives identified by the Commission appropriate? What changes, if any, would you make to them?

ANMF (Vic Branch) broadly supports the regulatory objectives outlined in section 7.5 of the *Victorian Law Reform Commission, Medicinal Cannabis Issues Paper March 2015*. Principally, we support that medicinal cannabis be accessible to persons according to their clinical need and potential therapeutic benefit as comprehensively and expertly assessed by the registered health practitioner who is authorised under the Drugs, Poisons and Controlled Substances Act - and therefore educationally prepared - to prescribe medicinal cannabis.

8. Would the creation of a defence to prosecution for authorised patients and carers in possession of small amounts of dried cannabis or cannabis products be an adequate way of providing for people to be treated with medicinal cannabis in exceptional circumstances?

Family members who are involved in the care of a family member at home who has been prescribed medicinal cannabis would have justifiable reasons for storing medicinal cannabis and should suffer no detriment as a consequence.

As already detailed, ANMF (Vic Branch) supports the view that medicinal cannabis must be regulated under the Drugs, Poisons and Controlled Substances Act 1981 and the Drugs, Poisons and Controlled Substances Regulations 2006 (Vic). Under this legislative and regulatory framework medicinal

cannabis would be prescribed by a registered health practitioner who is authorised to prescribe medicine. The prescription and dispensing of medicinal cannabis under this framework would protect the authorised patients and carers for having possession of small amounts of dried cannabis or cannabis products. Furthermore, if medicinal cannabis was supplied to authorised pharmacists or health services with the required jurisdictional authority to supply medicinal cannabis prepared for sale in accordance with the requirements of the Therapeutic Goods (Victoria) Act 2010, this concern would be further negated.

9. What mechanism should Victoria use to regulate the cultivation of medicinal cannabis?

Please refer to question 11.

10. What approach, or approaches, should Victoria take to regulating how medicinal cannabis is processed and distributed?

Please refer to question 11.

11. How should the Victorian medicinal cannabis scheme interact with the national arrangements for the control of therapeutic products under therapeutic goods legislation and narcotic drugs legislation?

ANMF (Vic Branch) is of the view that there must be a comprehensive scheme regulating the importation, cultivation, manufacture, processing, distribution and use of medicinal cannabis. A clear legislative and regulatory framework will ensure quality, efficacy and reliability of the end product and is necessary for the protection of patients who are prescribed medicinal cannabis.

12. What responsibilities should be given to health practitioners in authorising a patient's use of medicinal cannabis?

The overarching responsibilities that are already extending to authorised prescribers of medicines in Victoria would prevail in this circumstance. That is, registered health practitioners would prescribe medicinal cannabis in accordance with their professional and regulatory obligations and in accordance with relevant legislation including the Drugs, Poisons and Controlled Substances Act 1981 and the Drugs, Poisons and Controlled Substances Regulations 2006 (Vic).

Importantly, registered health practitioners are required to practise within the various Professional Codes, Guidelines and Standards that apply to their registration under the *Health Practitioner Regulation Agency National Law (Victoria) Act 2009* and which provide protection to the public.

13. Who should have the authority to assess whether a patient is an appropriate candidate to be treated with medicinal cannabis:

- (a) all registered medical practitioners
- (b) certain designated specialist medical practitioners
- (c) registered health practitioners who have prescribing entitlements
- (d) a subset of these?

ANMF considers all registered health practitioners who are authorised to prescribe medicine under the Drugs, Poisons and Controlled Substances Act 1981 and the Drugs, Poisons and Controlled Substances Regulations 2006 (Vic), must be extended authorisation to prescribe medicinal cannabis, provided this is within their individual scope of practice.

14. What requirements, restrictions, guidance or other assistance should health practitioners be given in monitoring a patient's use of medicinal cannabis?

Clinical Practice Guidelines should be developed to assist all registered health practitioners who have prescribing entitlements and those who are involved in the care of patients receiving medical cannabis.

15. What additional restrictions, if any, should apply to patients who are vulnerable by reason of age or lack of capacity, so far as to provide adequate protection for their welfare?

Please see question 3.

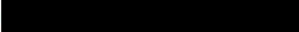
16. In what form(s) should medicinal cannabis be permitted to be supplied and used?

ANMF (Vic Branch) supports that medical cannabis be accessible in multiple forms and prescribed in accordance with assessed clinical need and requirements of the treating registered health practitioner.

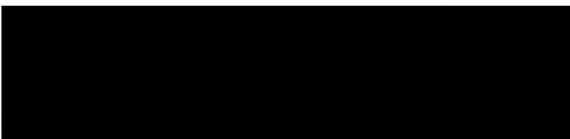
17. In what ways could Victoria's medicinal cannabis scheme keep pace with, and contribute to, clinical research into the therapeutic uses of cannabis and other changes in scientific knowledge, medical practices and technology?

Legalising the prescribed use of medicinal cannabis may provide an immediate and rich source of research to be generated in order to assist government and policy makers to evaluate and inform its ongoing use.

ANMF (Vic Branch) supports ongoing research into the therapeutic benefits, risks and side effects of medicinal cannabis use in the Australian population and its application to a wide range of health conditions. At the same time, we do not support that the quantum and quality of existing research should limit, delay or prohibit the legalisation of medical cannabis.

We are grateful for the opportunity to participate in the consultation process regarding this important matter. Should you wish to further explore matters suggested herein, please do not hesitate to contact Ms Belinda Clark – Professional Officer on 9273 9333 or email 

Yours sincerely,



Lisa Fitzpatrick
Secretary ANMF (Vic Branch)



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ANMF (Vic Branch) Policy

LEGAL STATUS OF MEDICINAL USE OF CANNABIS IN VICTORIA

Preamble

The ANMF (Vic Branch) represents over 70,000 nurses, midwives and personal carers in Victoria and supports our members in advocating for best practice in patient care.

In recent years, there has been much discussion of research showing the benefits for patients with various health conditions, including cancer and AIDS, of using cannabis or cannabis-based medicines as treatment or to alleviate side-effects of treatment. Alongside this discussion, there has been national debate over the legal status of cannabis. Use of cannabis for any purpose is illegal throughout Australia but in some states – ACT, SA and the NT – possession of a small amount for personal use attracts a civil penalty. The current legal position around the medical use of cannabis is not supported by 70 per cent of Australians.¹

In July 2014, ANMF (Vic Branch) was contacted by Tamworth resident Lucy Haslam, a former nurse whose son, Dan, was diagnosed with bowel cancer four years ago at the age of 20. Lucy and her husband, a former police officer, had come to support their son's use of cannabis for pain relief, weight gain and to alleviate the nausea associated with his cancer treatment. Lucy has been campaigning for use of cannabis for medical purposes to be legalised throughout Australia. The Haslams' efforts have borne fruit, with the NSW Government announcing a clinical trial of medical cannabis.

In Victoria, Premier Daniel Andrews and the Victorian Labor Party support the legalisation of cannabis for medical purposes and have referred the issue to the Victorian Law Reform Commission. A private members' bill has been introduced to the federal Senate that would see the formation of a regulator to oversee the growing and distribution of cannabis for people with, for example, terminal illnesses or patients undergoing chemotherapy.

The ANMF (Tasmanian Branch) strongly supports the decriminalisation of cannabis and cannabinoids for medical use and the NSW Nurses and Midwives Association has also declared its support for the decriminalisation of cannabis for medical use. The Cancer Council of NSW strongly supports the use of cannabis under medical supervision to treat pain, nausea and weight loss.

¹ Australian Institute of Health and Welfare. *2010 National Drug Strategy Household Survey report* Canberra: AIHW, 2011.

The Australian Medical Association states:

'Cannabis extracts and synthetic formulations have been licensed for medicinal use in some countries, including Canada, the USA, Great Britain and Germany, for the treatment of severe spasticity in multiple sclerosis, nausea and vomiting due to cytotoxics, and loss of appetite and cachexia associated with AIDS.

'There is a growing body of evidence that certain cannabinoids are effective in the treatment of chronic pain, particularly as an alternative or adjunct to the use of opiates, when the development of opiate tolerance and withdrawal can be avoided. Controlled trials have also shown positive effects of cannabis preparations on bladder dysfunction in multiple sclerosis, tics in Tourette syndrome, and involuntary movements associated with Parkinson's disease.'²

The AMA advocates 'therapeutic cannabinoids that are deemed safe and effective should be made available to patients for whom existing medications are not as effective'.

ANMF (Vic Branch) members' consultation

In September 2014, we conducted a consultation of members, emailing them a background paper about the medical use of cannabis, which outlined the legal status of cannabis use in Australia, research supporting its efficacy in treating particular health conditions and the positions taken by key health, medical and political organisations in Australia.

ANMF (Vic Branch) asked members to answer 'yes' or 'no' to the question 'Do you support the legalisation of cannabis for the treatment of terminal and life-threatening illnesses, and palliative care?' Ninety five per cent of the members who responded voted 'yes'.

There is a clear distinction between use of cannabis for recreational purposes and use for medical purposes. ANMF (Vic Branch) supports the legalisation of cannabis for medical purposes only.

ANMF (Vic Branch) policy position

In view of the broad and convincing research evidence for the efficacy of cannabis in treating cancer, AIDS and other life-threatening illnesses and alleviating treatment side-effects, ANMF (Vic Branch) has adopted a policy of support for the legalisation of cannabis for the treatment of terminal and life-threatening illnesses, and palliative care.

ANMF (Vic Branch) also supports appropriate regulation for sourcing, prescribing and administering cannabis for medical use.

² Australian Medical Association website (www.ama.com.au)