

# Hepatitis factsheet:

## Viral hepatitis workplace issues



**For more information about anything in this factsheet, phone the Hepatitis Infoline on 1800 803 990 or go to [www.hep.org.au](http://www.hep.org.au)**

### Infection risk

Transmission of viral hepatitis occurs when blood from someone with the virus enters the bloodstream of someone else. The virus is not passed on through general contact between people. Because of this, there is negligible risk in the workplace – except for certain sectors such as tattooing, body piercing and medical fields involving “exposure prone procedures” (work procedures where there is potential contact between a health care worker’s fingers or thumbs and sharp surgical instruments or bone splinters in body cavities or confined body spaces).

In line with Occupational Health & Safety legislation, all workplaces must provide readily accessible first aid and infection control measures. Any blood or body fluid spill in the workplace should be considered potentially infectious, whether or not a person is known to have any infectious disease.

### Employee obligations

Except for special circumstances, employees do not have to inform anybody whether they have viral hepatitis or not – including workmates, employers or customers.

Health care workers involved in exposure prone procedures are obliged to inform their employer. These workers should refer to guidelines from their state or territory health authority on the performance of exposure prone procedures (do a web search for [Management of health care workers with a blood borne virus and those doing exposure prone procedures](#) (Ministry of Health, June 2019)

Defence Force personnel who are diagnosed with hepatitis C should be aware their base doctor will inform the ADF. If personnel receive a diagnosis while “off base”, they are obliged to inform the ADF.

### Employer obligations

In line with Federal Privacy legislation, employers must not disclose the viral hepatitis status of any employee, contractor, customer or client to anybody else.

### Pre-employment medicals

Many employers routinely use pre-employment medical tests (“medicals”) as part of their selection process for advertised jobs. These tests can be a valid and useful for employers but they are obliged to protect the privacy of job applicants. Employers are also obliged not to use the medical results to discriminate against individual applicants.

Some examples of misuse of medicals include using medicals as a pre-interview culling process, asking jobseekers at the interview about past injuries such as back injuries, repetitive strain injuries or previous workers compensation claims or letting employees know the results of another employee’s medical.

A pre-employment medical test should relate solely to the particular responsibilities and duties of the advertised job. Any special physical attributes required for the job should be appropriate, reasonable and clearly spelt out.

In order not to misuse their tests, employers should ensure the doctor or person who is in charge of carrying out the medical is aware of the anti-discrimination laws and understands that the tests must relate to the specific job requirements, and ensure that for applicants with a disability, only the attributes relating to the essential duties of the job can form part of the medical.

Medical tests used to determine whether an employee can join a superannuation fund should not take place before a person is given the job. These tests should be carried out after the applicant has accepted the job offer. Such tests cannot be used for other purposes and should not be allowed to affect an applicant's chances for getting the job.

## **Anti-discrimination law relating to the workplace**

In general, discrimination against someone because they have viral hepatitis is against the law. Within a larger range of circumstances, this includes, for example, when someone is applying for a job, when they are in a job or when they are leaving a job. Employers should not prevent someone from getting a promotion or dismiss them because they have viral hepatitis. Employers also have a legal duty to provide employees with any special facilities or services they need to help them do the job, as long as it won't cause the employer 'unjustifiable hardship'.

## **Legal advice**

The HALC legal centre is an accredited community legal centre that provides free advocacy and advice on a range of issues including viral hepatitis related discrimination, privacy, and health care complaints. For more information, visit <http://halc.org.au/> or call 9206 2060 (Sydney & NSW).

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**This factsheet was developed by Hepatitis NSW. It was reviewed by the Hepatitis NSW Medical and Research Advisory Panel.**

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