Nurses Board of Victoria

Nurses Board of Victoria response to the Inquiry into Health Legislation Amendment (Midwives and Nurse Practitioners) Bill 2009 and two related Bills December 2009

The Nurses Board of Victoria (NBV) welcomes the opportunity to make this submission to the Senate Community Affairs Committee in regards the Government's proposed collaborative arrangements amendments to the Health Legislation Amendment (Midwives and Nurse Practitioners).

The Nurses Board of Victoria is a self-funded statutory authority incorporated under the *Health Professions Registration Act 2005*. Now in its 14th year of operation, nurses have been regulated in Victoria for more than 80 years.

The Board regulates and promotes nurses and midwives in the interests of the Victorian public and the nursing and midwifery profession as a whole. All our functions are open and transparent, showing ethical, responsible and accountable management of our role. We take a leadership role and are actively involved with projects around Australia and overseas, particularly those relating to education and regulation. We continually support nursing research for the betterment of the profession and public.

We protect the Victorian public by regulating all fields of nursing, ensuring those using the healthcare system can be confident that anyone bearing the title of registered nurse (RN) or registered midwife is educated and competent, meeting the high standards required by us for registration.

The NBV acknowledges the terms of reference for the committee and will be making comments on three key areas:-

1. The need to split the legislation to separate the areas concerned with arrangements for home births with the arrangements providing access for nurse and midwife practitioners to rebates under the Medicare Benefit Schedule and Pharmaceutical Benefits Scheme;
2. The anti-competitive nature of the collaborative arrangements in regards to the potential practice opportunities for nurse practitioners;
3. The conflict with and unnecessary duplication of collaborative arrangements required by the Commonwealth with existing state and territory regulatory arrangements that provide for autonomous nurse practitioner practice.

The purposes of the original amendments were to improve access for consumers to PBS medicines and MBS items, and also increasing the efficiency and effectiveness of the workforce. One of the intended outcomes was to provide an 'appropriate range and choice of antenatal and care, birthing services and postnatal care.'[i] The NBV recognises the stated outcome as a valuable one but believes the contention that exists between some key stakeholders around access to home birth arrangements in Australia has become the dominant focus in the passage of the Health Legislation Amendments and associated Bills through the Committee and Senate processes. This has been to the detriment of the key issue of nurse practitioner access to PBS and MBS outlined in the Budget Statements. Any further delay in the passage of the nurse practitioner specific amendments will delay the improved access for consumers.

NBV **recommends** that the legislative items specific to the home birth arrangements be split from the legislative arrangements for nurse practitioner access to clarify the different outcomes to be gained by each.

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One of the key items this committee has been asked to consider is 'whether the Governments' amendments' influence on the health care market will be anticompetitive.'[ii] If the original intent of the Budget items was to maximise the effectiveness and efficiency of the workforce, then binding nurse practitioners to collaborative arrangements before consumers can gain rebates for their services will reduce this capacity and by its very nature is anticompetitive.

Nurse practitioners are clinical and professional leaders who are educated and authorised/endorsed to function autonomously and collaboratively in an advanced and extended clinical role.[iii] Collaborative relationships are based on provider equality. The relationships are not hierarchical, nor are they dependent upon the supervision of one professional group by another. Likewise, collaborative practice is neither a "physician replacement" nor "physician extender" model. The model recognizes the strengths and integrity of each of the professional partners' approach to care delivery.[iv]

All nurse practitioners practice in accordance with his or her scope of practice. This scope defines the service need to be met by the practice, the legislative and clinical governance framework in place to support this practice; the education and ongoing credentialing required to undertake the activity and the competence of the nurse to undertake the activity. It is the nurse practitioner's professional responsibility to practice within his or own scope. They are accountable to themselves, the regulator and the people for whom they provide care.

The proposed collaborative arrangements as well as being anticompetitive can be seen to be in direct conflict with the authorisation for autonomous practice granted them by the applicable nursing regulatory authority[1]. Current regulatory arrangements acknowledge nurse practitioner's own professional autonomy and accountability. Both initial endorsement requirements and regulatory maintenance requirements demand the practitioner to demonstrate his or her practice at the autonomous level. This is both in regulatory legislation and also the prescribing authority granted through endorsement. A nurse practitioner cannot be endorsed without demonstrating collaborative models of care. To require these collaborative models to be restructured again to allow MBS and PBS access would be both a direct conflict to and unnecessary duplication of state and territory processes. These collaborative arrangements introduce a hierarchical structure that undermines this autonomy. The NBV are concerned with the potential legal uncertainty created by these collaborative arrangements whereby lines of accountability are blurred.

As a regulator that is mandated to safeguard the public, the NBV welcomes the inclusion of nurse practitioners into the auditing and monitoring structures of the Professions Service Review. These safety mechanisms that support the PBS and MBS are an important mechanism to monitor and evidence the safe autonomous practice of nurse practitioners that strengthen existing regulatory structures.

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[1] State and territory endorsement/authorisation processes will be replaced by the Nursing and Midwifery Board of Australia as of 1 July 2010

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The NBV recognises the challenges for the Government in incorporating these measures into the legislative structures that have been essentially based on the domain of one professional group. It needs to be recognised that the principles on which the *Health Insurance Act 1973* (the Act) is based reflected the scope of practice of health professionals at the time. There needs to be recognition of the changes in the education and regulation of nurse practicing at an advanced and extended level since this time. [v] These advancements need to be reflected in these current amendments so as to confirm the status of nurse practitioners as clinically and legally autonomous professionals. The changes that have occurred through regulation should not be weakened and unnecessarily complicated by these current amendments.

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[i] Budget Statements - Department of Health and Ageing May 2009
[ii] Community Affairs Legislation Committee Reference, Extract from Journals of the Stated no. 101, 23 November 2009
[iii] National Competency Standards for the Nurse Practitioner
http://anmc.org.au/userfiles/file/competency_standards/Competency%20Standards%20for%20the%20Nurse%20Practitioner.pdf
[iv] Way D, Jones L, Busing N. Implementation Strategies: "Collaboration in Primary Care - Family Doctors & Nurse Practitioners Delivering Shared Care" Discussion paper. Ontario College of Family Physicians
v Cashin A, Carey M, Watson N, Clark G, Newman C, Waters, CD. Ultimate doctor liability: A myth of ignorance or myth of control? Collegian 2009 16(4): 125-129