

AUSTRALIAN PEAK NURSING and MIDWIFERY FORUM



30 April 2009

The Secretary
Senate Community Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Re: Inquiry into the National Registration and Accreditation Scheme for Doctors and Other Health Workers

The Australian Peak Nursing and Midwifery Forum (APNMF) welcomes the opportunity to contribute to the Senate Inquiry. The APNMF is a coalition of the peak nursing and midwifery organisations in Australia, which exists to work collaboratively on issues of national importance to nursing and midwifery. The APNMF identifies areas of common interest and significance relating to nursing and midwifery and attempts to work towards a position of consensus. The APNMF also takes joint action in areas of importance to nursing and midwifery, and develops joint position statements which provide recommended policy directions for government and other relevant stakeholders.

The APNMF is comprised of the:

- Australian Nursing and Midwifery Council
- Congress of Aboriginal and Torres Strait Islander Nurses
- Australian Nursing Federation
- Royal College of Nursing, Australia
- Council of Deans of Nursing and Midwifery
- Australian College of Midwives

The nursing and midwifery professions are the largest constituent of the regulated health workforce in Australia. Currently there are some 300,000 nurses and midwives registered and enrolled in Australia, employed in every health care setting, working around the clock and, in constant contact with the Australian community. The Australian community recognises the importance of nursing and midwifery and consistently vote nurses and midwives as the most trusted of all the professions.

The nursing and midwifery professions are committed to national regulation. This commitment is based on ensuring the protection of the public through maintaining the highest standards of nursing and midwifery care to the Australian community. This includes a

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commitment to ensure that whatever national regulation scheme is developed is best practice in terms of protection of the public, supports the professions to practice competently and safely and is implemented meticulously, consistently and transparently, and consequently that any timeframe for introduction of the scheme not compromise this fundamental requirement.

(a) the impact of the scheme on state and territory health services

A national registration and accreditation scheme, if implemented well, has the potential to have a positive impact on state and territory health services by delivering national consistency in the fundamental aspects of the regulation of health professionals i.e. registration/licensure, education/accreditation, professional standards and management of breaches of professional standards. It will also facilitate the mobility of the workforce through the issuing of a national license to health professionals, benefiting both practitioners and the community, particularly in times of natural disasters. It is important, however, to highlight that, whilst national registration will enable nurses and midwives to practice in all jurisdictions, this increased potential for mobility will not solve the current workforce shortages which beset the health care system, and the scheme should not be viewed as a panacea for this.

(b) the impact of the scheme on patient care and safety

The purpose of statutory regulation of health professionals is to ensure protection of the public through regulation of health practitioner education and practice, and by ensuring that access to registration, and subsequent access to Australian health care consumers is limited to those practitioners who meet the required standards for registration as a health professional in Australia. Regulation of the health professions is a vital element in the quality and safe delivery of health care for consumers.

A key element in the capacity of regulators to set standards that meet this single outcome of protection of the public is its independence and impartiality of policy decision making. Statutory regulation should continue to provide National Boards with the capacity and powers to regulate in the public interest without further oversight by the agency/health bureaucrats or the approval of Ministers. The development of health professional standards for defining professions and their scopes of practice is the role of the National Boards.

Through regulation *“the profession and its members are defined; the scope of practice is determined; standards of education and of ethical and competent practice are set; and systems of accountability are established through these means”* (International Council of Nurses 1998). It is the view of the APNMF that the rationale for the implementation of national registration and accreditation should be on achieving these objectives above all else. A national scheme which addresses these objectives has the potential to achieve a positive impact on patient care and safety through the implementation of national standards and consistency in their application. A scheme focused on workforce management will negatively impact on patient care and safety.

There is one significant area in which we believe the scheme has the unintended potential to negatively impact on patient care and safety. The scheme will provide for all health professionals to hold professional indemnity insurance (either through their own policy or vicariously through an employer) as a condition of renewal of their annual registration. APNMF supports this requirement as a consumer protection measure. However, since 2001, midwives who practice privately have been unable to purchase professional indemnity

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insurance due to a market failure in the insurance industry. Unless access to professional indemnity insurance is ensured for registered nurses, midwives and nurse practitioners in independent practice ahead of the advent of the national registration scheme, these practitioners will be unable to renew their registration. In the case of independently practising midwives this has the grave implication that women who choose to engage private midwives, particularly women planning homebirth, will be unable to access a registered midwife. It is inevitable that some women will continue to exercise the choice to birth at home. Without access to registered midwives, we fear some women will give birth unattended, with potentially tragic consequences as was recently highlighted in the media for a family in NSW, who chose to birth at home unattended by either a midwife or doctor, the outcome of which was the catastrophic death of the newborn. It is essential that private midwives be given access to professional indemnity insurance if this is to become a condition of registration under the new scheme, in the interests of the safety of mothers who choose to birth at home and their babies.

(c) the effect of the scheme on standards of training and qualifications of relevant health professionals

The establishment and maintenance of appropriate standards of education is absolutely critical to ensure protection of the public. For this reason the approval of standards for the accreditation of courses must be independent of external influences such as governments whose competing interests may be seen to negatively influence such standards. The APNMF is of the view that, in a national scheme, the Nursing and Midwifery Board of Australia must assume responsibility for approval of the standards for the accreditation of nursing and midwifery courses consistent with international best practice. The Ministerial Council has no role in the accreditation of courses, and the APNMF does not accept a situation where professional standards of practice or education, accreditation of courses or related professional issues are decided by an organisation or body that is not based in the professions.

(d) how the scheme will affect complaints management and disciplinary processes within particular professional streams

There is the potential for a national scheme to improve the management of registered practitioners who may be attempting to avoid detection regarding misconduct, unacceptable practice or impairment issues; however, there are currently substantial differences between the states and territories in terms of the existing systems to manage complaints and disciplinary processes. The systems are very complex and involve many other state and territory bodies (such as Health Complaints Commissioners and Tribunals) and multiple pieces of state and territory legislation (for example Drugs and Poisons Acts). To develop a national approach will take a considerable amount of time, resources and preparation, none of which are built into the current implementation, consultation and transition schedule for the national scheme. It is absolutely critical that sufficient time and resources are devoted to the development and implementation of this aspect of the scheme to ensure protection of the public.

(e) the appropriate role, if any, in the scheme for state and territory registration boards

In order to effectively manage the number of practitioners, the geographical spread of the country, and the associated volume of work required, the Nursing and Midwifery Board will be reliant upon state and territory bodies to manage registration, complaints and accreditation. These bodies (currently named committees under the proposed scheme) would operate under

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a delegation from the national board. It is crucial that they are adequately resourced in order to fulfil their statutory obligations.

(f) alternative models for implementation of the scheme

The National Board must have access to, and control over, sufficient and suitable financial and human resources (including its' own professional staff) to allow it to fulfil its regulatory responsibilities appropriately. The APNMF is of the opinion that to achieve this the National Nursing and Midwifery Board should be established as a statutory authority with perpetual succession, a common seal, the capacity to sue and be sued in its corporate name, the power to enter into contracts, acquire, hold, deal with and dispose of property, conduct general banking, and make financial investments.

Financial provisions

Section 12 of the Intergovernmental Agreement (IGA) establishes the funding provisions for the scheme. This is a process whereby the National Boards for each of the professions agree on a single national set of fees with the national agency. In response to concerns expressed by the professions, the Health Practitioner Regulation (Administrative Arrangements) National Law Act 2008 (Bill A) expands this concept into Health Profession Agreements (section 20 of Bill A). The APNMF is not satisfied that section 20 of Bill A addresses a very significant concern. This concern relates to section 20 which states that the national agency is not obliged to negotiate such agreements; rather the legislation states the agency **MAY** negotiate agreements. Assurances from bureaucrats that the use of the word "may" rather than "should, must or will" as simply a technical issue are not sufficient to provide the level of certainty the APNMF is seeking on this matter. Furthermore, the proposed health profession agreements are confined to the fees payable by the profession, the annual budget of the National Board and the services to be provided to the Board by the Agency.

As previously stated, the nursing and midwifery professions consider it to be of critical importance that the National Board must have independent authority in terms of funding. This financial independence is necessary to allow the National Board the capacity to communicate policy changes to registrants which impact on their practice, establish extremely worthy schemes such as that established in Victoria to assist drug and alcohol affected professionals, provide educational grants, research grants and scholarships to registrants and continue to be involved in international regulation activities. The APNMF is very clear that it will not tolerate a situation where the National Nursing and Midwifery Board has funding and budget powers which are restricted, and as such we strongly advise there be changes to allow the National Board to have independent powers in terms of funding. This includes the National Board having access to all the revenue raised from nurses and midwives to use in the regulation of nursing and midwifery.

In addition the APNMF will not accept any cross subsidisation of other health professionals by nursing and midwifery, or any increase in the fees charged to nurses and midwives in order to fund additional bureaucratic structures. Additional governance structures such as the Advisory Council and the National Agency should be independently funded by government.

Human resources

The current proposed staffing structure for the national scheme does not allow the National Board sufficient control of the human resources to adequately ensure sufficient appropriately

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qualified staff to regulate effectively as the Board is not able to recruit the staff it deems necessary and appropriate. It is clear from section 31 of Bill A that the National Agency will employ the staff it considers necessary and appropriate. The APNMF has constantly expressed the need for the National Board to have control over human resources through the employment of appropriate expertise, including of nurses and midwives, in the cross professional secretariat offices at the national and state and territory level both during the transition phase and on an ongoing basis. This issue is of critical importance for nursing and midwifery, most importantly the national board requires complete control over employment of professional staff, to ensure maintenance of standards and quality and prevent a loss of essential existing corporate knowledge.

Conclusion

As previously stated, the APNMF remains committed to the implementation of national regulation on the proviso that the system developed is focused on maintaining the highest standards of nursing and midwifery care to the Australian community. To design such a system takes time, with any required retrospective amendments to legislation also taking considerable time. In the interim, of critical importance is the recognition that if the legislation is flawed the system will fail the community it seeks to serve. If insufficient time is allowed for legislative drafting and consultation with stakeholders on the development of the scheme it will have let the community down.

The APNMF seeks your support to ensure that the national registration and accreditation scheme developed is best practice in terms of protection of the public and regulation of health professionals and is implemented carefully, thoughtfully and transparently.

Yours sincerely



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Chief Executive Officer
Australian Nursing and Midwifery Council



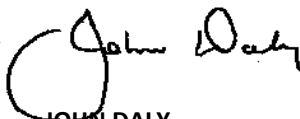
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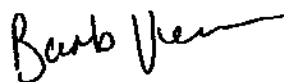
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ADDENDA

Summary of issues of concern

- The purpose of the scheme must be protection of the public through the development of a system of regulation which supports nurses, midwives and other health professionals to practice safely and competently.
- The Nursing and Midwifery Board of Australia must assume responsibility for approval of the standards for the accreditation of nursing and midwifery courses consistent with international best practice.
- The Nursing and Midwifery Board of Australia must have access to, and control over, sufficient and suitable financial and human resources (including its' own professional staff) to allow it to fulfil its regulatory responsibilities appropriately.
- Nurses and Midwives must be given access to professional indemnity insurance if this is to become a condition of registration under the new scheme.
- Considerably more resources and time must be taken to consult, develop and implement the scheme.