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australian nursing federation

24 November 2009

Attention: Chair
Ms Anne Copeland
Nursing and Midwifery Board of Australia
natboards@dhs.vic.gov.au

Dear Ms Copeland

Re: Consultation Paper on Registration Standards and Related Matters

The Australian Nursing Federation (ANF) was established in 1924. The ANF is the national union for nurses, midwives and personal care assistants however titled, with Branches in each State and Territory of Australia.

The ANF is the largest professional and industrial organisation in Australia, with a membership of over 170,000 members employed in a wide range of enterprises in urban, rural and remote locations in both the public and private sectors. The ANF's core business is the industrial and professional representation of our members and of the industry of nursing and midwifery.

The ANF participates in the development of policy in nursing, nursing regulation, health, community services, veteran's affairs, education, training, occupational health and safety, industrial relations, immigration, foreign affairs and law reform.

We refer to your paper of 27 October 2009 inviting comments on the registration standards and related matters.

The nursing and midwifery professions continue their strong support for the establishment and implementation of a national regulation and accreditation scheme, ensuring protection of the public and maintaining the highest standards of nursing and midwifery services through a transparent and well designed model.

Our eight state and territory Branches have reached a consensus view in relation to the matters raised in your correspondence and we are pleased to provide the following comments.

We note that throughout the consultation document reference is made to guidelines, in many respects it is difficult to make fully informed decisions regarding aspects of the paper without seeing the guidelines, despite this and the extremely short time frame for responses given the size and scope of the paper we have responded but in the future would appreciate both more time and information.

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Mandatory registration standards

2.1 Criminal History Checks

Currently the requirement for criminal history checks is varied from state to state with a standard requirement nationally in aged care and some other industries such as child care.

The ANF has been concerned for some time that criminal history checks are not the most effective way of determining suitability for employment or registration, we do however want to ensure that any processes required for the purposes of registration are not duplicated for the purposes of employment.

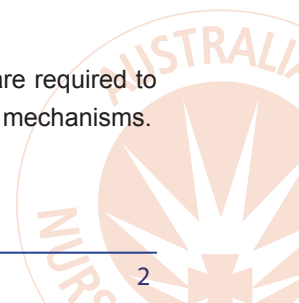
We acknowledge there seems little doubt that criminal history checks will become a mandatory requirement for new registrants and ad hoc for those already registered and as a result there are some checks and balances that should be inserted in to the registration standard to make criminal history checks more acceptable.

1. A self declaration for renewing registrants should be sufficient to determine changes to criminal history in the previous 12 months.
2. Convictions, pending charges and findings of guilt should be the only types of criminal history to be considered. Non conviction charges such as minor traffic offences or parking fines, must not be considered.
3. The charges must be relevant to the practice area.
4. Mitigating factors relevant to criminal history must be considered for each individual as part of the determination process, including consideration of convictions and guilty pleas.
5. Determinations must be appealable and transparent.
6. Each matter should be considered on its merits, however providing guidance on identifying which charge is sufficiently serious to warrant consideration of non registration would be useful.
7. Only elements of criminal history information which are relevant to an individual's suitability and capacity for practice should be considered.
8. The existence of spent convictions should not be sufficient to warrant non registration.
9. For some registrants the ability to make undertakings with respect of their criminal history similar to which already occurs in Queensland should be considered.
10. Irrespective of the above the cost of history checking including the use of CrimTrac should be borne by the agency requesting the check. This includes new or renewing registrants.
11. There must only be one criminal history check required for all registrants irrespective of which health care sector they are employed that incorporates the following:
 - working in residential or community aged care
 - working with children
 - National Registration Criminal History Check
12. The requirement for criminal history checks should not apply to student registrants.

2.2 English Language Proficiency

The ANF welcomes the opportunity to discuss our long standing concerns regarding a range of matters in relation to English language proficiency and IELTS requirements.

Currently, when seeking registration, international and occasionally domestic students are required to demonstrate an English language proficiency at particular levels, using various arbitrary mechanisms.



The ANF has significant concerns that replicating a similar system to that already in place will perpetuate the current problems associated with testing. Despite the wide recognition of these tests, there is significant discrepancy in the IELTS results.

An example that demonstrates our concern is an applicant may have achieved the required score 18 months ago and continued working in their country of origin during which time their proficiency may decline significantly. Conversely an applicant may have attained the required score 2.5 years ago and spent the entire time working and living in an English speaking environment therefore demonstrating the arbitrary nature of the test.

Notwithstanding the above, accessibility to testing centres is widely recognised to be limited and often confined to metropolitan areas.

Consequently the ANF has formed the view that IELTS should be evaluated in the workplace to determine whether or not it should be used as the primary measure for determining English language proficiency.

We are also of the view that it is important the National Board consider other forms of demonstrated proficiency should it be available.

In addition there currently exists an inconsistency between the achieved score required for entering university, as opposed to entering the Vocational Education and Training (VET) sector for nursing education. The ANF is of the view there must be consistency between entry scores for both of these educational institutions.

With respect to part 1(a) in the exemptions we recommend the list of countries should be removed on the basis the introductory paragraph describes '*where English is the native or first language*' rendering the listing of the countries redundant.

Part 1(b) should be removed as even in periods of limited registration demonstration of English language proficiency by legitimate methods is an important standard to maintain.

2.3 Professional Indemnity Insurance

The ANF acknowledges the extent of the national law s284 with respect of professional indemnity insurance and we support the two year exemption for homebirth midwives.

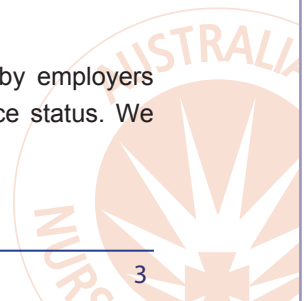
We consider the Board must provide a clear distinction between the employer's vicarious liability obligations under common law (a TORT); the legislative requirement under national law; and situations where the Board specifies certain registrants are required to carry their own Professional Indemnity Insurance.

Insofar as new and renewing registrants are concerned there is an expectation that the registrant must declare that 'appropriate' professional indemnity insurance cover will be in place while they are engaged in professional practice.

This requirement is highly problematic and indeed not at all practicable for most registrants to achieve. Unless the Board is prepared to specify what they deem to be 'appropriate' professional indemnity cover according to risk, we doubt the ordinary registrant will be able to make such an assessment.

We are concerned that for some registrants in ongoing employment situations or casual employment relationships the employer's insurance may not suffice for this purpose.

For existing registrants, working in traditional employment models, who are covered by employers insurance should not be required to provide the Board with evidence of their insurance status. We



support the requirement that for registration renewal it is appropriate to make an annual declaration that professional indemnity insurance arrangements are in place.

Finally, we seek clarification from the Board regarding the requirements for those nurses and midwives self-employed but not covered by the s284 exemption.

With respect to requirements in part 3 we recommend it should be re-worded in the following manner:

“Nurses and midwives in a genuine employment relationship must be covered by the employers, unions or education...”

In addition we recommend that parts 5, 6 and 7 in the requirements section are removed.

2.4 Continuous professional development (CPD)

The requirement for registered and enrolled nurses and midwives to demonstrate participation in CPD activities is a new addition to their professional practice, albeit nurses and midwives have been and continue to achieve such an outcome in a less formal way. Thus, it is essential the requirement has clear boundaries that are nationally standardised and achievable for all registrants.

Requirement 4 of the standard is too prescriptive. The very small number of complaints and notifications currently made to NMRA regarding the practice of nurses and midwives relative to the numbers working indicates that nurses and midwives are competent professionals able to assess the requirements for their own continuing competence.

The overly prescriptive documentation requirements of this section need to be removed. Other professions' National Boards require that CPD activities must be relevant to the practitioner's area of practice and have clear learning aims and objectives that meet the individual's requirements. This should provide sufficient expectation and detail for the standard for nurses and midwives.

We would recommend the Board adopts the Australian Nursing and Midwifery Council (ANMC) examples of effective CPD activities contained within the Continuing Competence Framework as a minimum list of acceptable CPD activities.

We note the standard indicates 20 hours of annual CPD which does not include mandatory education. The ANF will only support 20 hours annually on the proviso that mandatory education is included.

Furthermore, we note in the current standard nurses will participate in 20 hours as will midwives, thereby indicating that if a registrant is noted on both registers they will need to complete 40 hours of CPD per year. We seek clarification on this matter. Notwithstanding such clarification, we strongly assert that a standard of 40 hours per year is potentially unachievable for a large number of registrants. We are convinced such an additional requirement may adversely impact on registrants who are registered in both nursing and midwifery and who by virtue of the area in which they work (rural and remote for example) are effectively penalised.

Consequently we strongly recommend the standard reflect a more realistic and achievable outcome of 20 hours per annum, including mandatory in service education with additional consideration put in place for registrants that are temporarily absent from practice for periods of up to five years. For example, an absence of up to twelve months – there be no requirement to participate in any CPD activities; for an absence of between twelve (one year) and sixty months (five years) – complete one years quota of CPD activities relevant to the intended scope of practice prior to recommencement of employment, designed to maintain and update clinical skills and knowledge.

Consideration must be given to the Scope of Application and needs to be clear it excludes non-practising registrants as does the standards of other professions' National Boards. Section 109 (2) of

the National Law states that *requirements for CPD do not apply to applicants renewing non-practising registration*. This needs to be reflected in the standard for nurses and midwives.

Given the Board's decision to audit registrants with respect of their participation in relevant CPD, we seek clarification from the Board as to the percentage of annual audits the Board intends to carry out as well as the time frames registrants will be given to comply with such request. The ANF recommends the following additions to the standard:

1. Registrants must be given six weeks advance notice of the date of the audit.
2. Should registrants need to re-submit following initial audit a further three months should be allowed.
3. A transition period of at least 12 months is allowed post 1 July 2010, particularly for registrants in those jurisdictions in which audit procedures are not currently in place.

We also recommend that part 5 is removed from the standard.

2.5 Recency of Practice

We note the recency of practice requirement of five years for renewing registrants and two years from graduation for new registrants is an improvement on previous proposals.

However, the ANF continues to support that a defined time frame is at odds with demonstration of continuing competence at any point during a professionals working life.

S 38 (1) (e) of the National Law provides for National Boards to develop standards relating to recency of practice. The Law provides for the standards to have regard to the *nature, extent, period and recency of practice*. However, *recency* is the only element reflected in the NMBA's proposed standard.

Recency of practice standards proposed by other National Boards have less arbitrary requirements than that proposed for nurses and midwives but provide for the Boards to give due consideration to all elements related to previous practice as outlined above. For example the MBA's standards proposes differing requirements for those registrants with less than or greater than two years' experience.

The NMBA's standard should provide for consideration of these elements of practice in accordance with the provisions of the National Law.

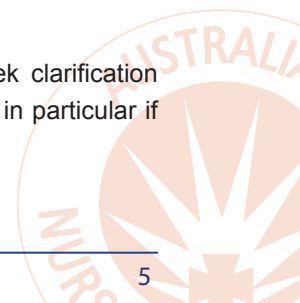
The ANF does not support the requirement for all nurses and midwives who are returning to practice after a break of more than five years to complete a re-entry to practice program. This should be recommended as a requirement only once it has been assessed as necessary following consideration of the nature, extent, period and recency of an individual's previous practice. In addition, where re-entry to practice programs is required, they must be widely available both in terms of availability and affordability.

The Scope of Application of the standard needs to be clear that it excludes non-practising registrants as do the standards of other professions' National Boards. Section 109 (2) of the National Law states that *requirements for recency of practice do not apply to applicants renewing non-practising registration*. This needs to be reflected in the standard for nurses and midwives.

Proposals for Board-specific standards.

3.1 Requirements for nurse practitioners; and 3.2 Requirements for midwife practitioners

We concur with the standard as set out in the consultation paper. However, we seek clarification regarding the definitions of 'advanced nursing practice in a clinical leadership role' and in particular if



the standard is intended to include an hour's based system. Notwithstanding our point of clarification we believe that hours based systems are not indicative of meeting the requirements for advanced clinical practice at a leadership level in all circumstances.

Specifically in relation to 3.2 we recommend the *addition of a new point*:

(d) "competency in the competency standards for midwife practitioners as defined and developed in accordance with the Australian Nursing and Midwifery Council – National Competency Standards for the Midwife Practitioner in collaboration with relevant stakeholders in the profession.

3.3 Assessment against the Procedures for Development of Registration Standards

The ANF agrees the proposed standard generally meets the objectives and guiding principles of the proposed legislation. However, the recent amendment to the Health Legislation Amendment (Midwives and Nurse Practitioners) 2009 proposes that nurses and midwives must work in collaborative arrangements with medical practitioners is unnecessarily restrictive and prohibitive if not defined in the regulations.

The definition needs to accommodate all practice settings and should be reworded in the following manner:

So far as the eligible midwife or eligible nurse practitioner renders a service in a collaborative arrangement or collaborative arrangements of a kind or kind specified in the regulation, with one or more medical practitioners or one or more health services of a kind or kinds specified in the regulations.

The requirements will also need to ensure that access to PBS is available to those employed in the public sector and the recent suggested amendment risks decreasing access to health services and affordability of health care.

4.1 Endorsements

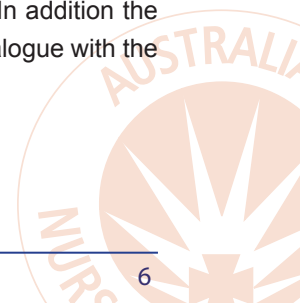
The ANF support the proposals for endorsement for immunisation, remote area nursing, sexual and reproductive health scheduled medicines for registered nurses and midwives, however we would recommend adding endorsements for mental health nurses and maternal and child health nurses.

The proposal not to endorse ENs but to place restrictions on the practice of those ENs who are not endorsed is problematic. In at least one State this restriction will lead to very probable adverse industrial outcomes for the non endorsed EN. While it is true that it has become an entry to practice standard for ENs, conditions on practice can be difficult for ENs (or any nurse or midwife) in gaining or continuing employment. This proposal risks disenfranchising a great number of currently practising enrolled nurses. There also appears to be no precedent for this proposal. Hospital trained RNs did not have conditions placed on their registration when education moved to the tertiary sector for example. Possible benefits of this proposal are not apparent.

In addition, a nationally consistent level of medication administration by ENs must firstly be determined and accreditation standards which reflect a nationally consistent minimum entry to practice level developed.

4.2 Area of practice

In respect of mental health nurses the ANF object as a matter of principle to the proposed decision without consultation not to deal with the issue of endorsement for that class of worker. In addition the ANF has a position in opposition to credentialing. Given the foregoing we seek further dialogue with the National Board on this matter.



In addition the ANF recommend that mothercraft nurses be added to the enrolled nurse (EN) Register (possibly with restrictions to practice in certain areas of practice).

4.3 Acupuncture

We have concerns in relation to registrants on the register in Victoria that are already endorsed as acupuncturists who may lose their entitlement to endorsement under the new Standard. We are concerned that under the principle of mutual recognition, a registered professional has the right to be registered upon application in any Australasian jurisdiction to practice in a like profession. Some registered nurses (Div 1) will lose their endorsement to practice acupuncture as part of their nursing and/or midwifery practice.

Consultation paper on draft accreditation standards for nursing and midwifery

General comments on package as a whole

With respect to the above standard we concur the proposed standard is largely consistent with the COAG guiding principles. However until a decision is made regarding the independent accreditation authority for nursing and midwifery it is impossible to comment any further.

The ANF does think however it is important to reflect in the standards contemporary international benchmarks which currently are not articulated. Therefore we believe it is in the professions best interest to include the following:

- a. nursing and midwifery education providers who design curricula and deliver programs should take into account workforce planning flows and national and international health-care policies;
- b. the extent to which nursing and midwifery education providers enable the development of clinical reasoning, problem solving and critical thinking;
- c. the extent to which nursing and midwifery education providers are required to develop partnerships with other healthcare disciplines;
- d. that nursing and midwifery education providers should have student retention systems in place; and
- e. nursing and midwifery education providers should uphold global standards related to student type and intake as follows:
 - admit students with backgrounds in basic science and mathematics who can demonstrate skills in the language of instruction and in dealing with clients;
 - nursing or midwifery schools admit students who have the ability to meet the requirements of the programme;
 - nursing and midwifery schools admit students who meet the institutions health and any other requirements as well as any national requirements for the selection; and
 - nursing and midwifery schools admit students who demonstrate the will to serve in health and the ability to be independent learners.

The ANF supports the work being undertaken at a global level *“towards university-level education for all professional nurses and midwives”*; and the principle of the global standards for the initial education of professional nurses and midwives that *“an inter-professional approach to education and practice is critical”*.

Nurses and midwives are recognised as professionals in their own right largely due to their undergraduate and postgraduate education at universities. The mechanism for engaging in *“an inter-professional approach to education”* can best be facilitated in the university sector in which other health professionals are educated.



The ANF therefore support the proposed accreditation framework and its standards which mandate university education as the minimum for registered nurses and midwives in accordance with international expectations and trends, and with majority of practice within Australia. This level of education prepares nurses and midwives to assume responsibilities, exercise critical thinking skills and to be prepared to undertake lifelong learning and the educational contexts most appropriate to achieving those aims.

National accreditation framework (A1)

The ANF supports the national framework and the purpose statements and principles, however, a more succinct version would be desirable. The framework will need to be amended to reflect the implementation of a national regulatory system for RNs, ENs, midwives and nurse practitioners.

We have some concern regarding how all components will be achieved under the national arrangements – most particularly “site visits to education providers”. This will need to be explained by the NMBA and the national accreditation authority.

The ANF supports the logic and organisation of the nine discrete standards that are common to each of the four draft accreditation standards – for registered nurses, nurse practitioners, midwives and enrolled nurses. Apart from the specific areas previously outlined, the standards generally address the required areas for nursing and midwifery education in Australia to produce competent and safe beginning practitioners and largely meet global benchmarks.

However, there are some inconsistencies and some matters that need to be addressed.

The definition of *professional experience placement* common to all standards needs to be clear that, whichever environment an individual student may be in, the *professional experience placement* involves the practice of nursing.

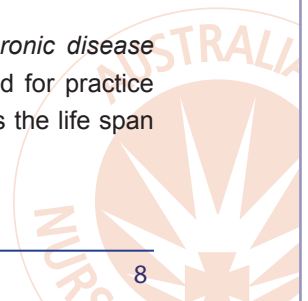
The standards’ preambles state that the nine standards developed to provide specific indicators for assessment of a course for accreditation are common to all. However, the domain “curriculum” becomes “course” for in the standard for enrolled nurses even though it is referred to as the same common standard in the explanatory notes. Although, the national standard is a training package qualification, predominantly delivered in the VET sector, education providers would be required to develop a curriculum for delivery against the qualification’s competency units. This is indicative of some further inconsistencies, which are outlined below.

It is unclear why some elements and areas are singled out in some standards but not all, for example, *medication management* and the concept of ‘*pharmacology competence*’. These concepts are both discussed in the RN standards; pharmacology competence is discussed in both RN and NP standards but medication administration is not discussed at all in the enrolled nurse standards. This is despite the NMBA’s acknowledgement that medication administration by ENs is now a requirement for entry to practice.

Standards and procedures for assessment of those standards, for the education of nurses and midwives to administer medication need to be developed. These standards need to be consistent and demanding the same of students (e.g. 100% accuracy in drug calculations) while remaining appropriate to the commencing scope of practice of the nurse or midwife.

Standards and procedures for assessment of those standards, for the education of NPs and midwives to supply and prescribe medications also need to be developed consistent with their roles and areas of practice.

It is unclear why the standards for ENs single out requirements for *mental health* and *chronic disease self-management* but no other area. All nurses, registered and enrolled, should be prepared for practice in a contemporary and changing environment providing care to individuals and groups across the life span



and the continuum of health. This care should be appropriate to their commencing scopes of practice as determined by the respective competency standards.

The standards for ENs need further development so that they reflect the competency standards for ENs more accurately. This is particularly pertinent given that the standards propose a diploma qualification as the minimum entry requirement for ENs. Currently the standards, most particularly standard five, do not reflect a diploma level qualification.

We also see the need for inclusion of industrial/professional organisations on committees or authorities, however, structured to review accreditation processes given that those organisations have a particular contribution based on their experience and knowledge.

Accreditation standard-registered nurse

Generally supported, however, some language needs amendment under criterion 4 in standard 5 where *planning and implementing a consumer's health need* are discussed.

Other matters have been discussed above.

Accreditation standard-enrolled nurse

Generally supported, with the comments above and the following additional comments noted.

The RN standard requires that elective units must be complementary to *nursing* but the EN standard requires electives to be complementary to *health* – the reason for this differentiation is unclear.

The standards describe the VET sector as the only providers of EN education where the training package qualification must be used. In NSW there is an approved exit point from a university's accredited Bachelor of Nursing program which leads to eligibility for enrolment. It is unclear how this type of program will be accommodated in the future.

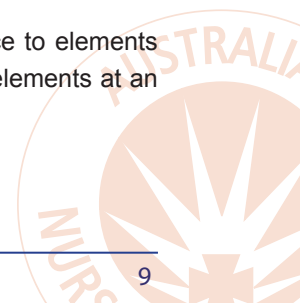
As discussed above, the standards should require courses to address foundation, professional and contemporary knowledge and skills at a level appropriate for enrolled nursing.

The standards discuss the need for transition to diploma as a minimum requirement for entry to practice. The discussion bases this need on recognition that only one jurisdiction does not have diploma as minimum entry level. This is not currently accurate. Victoria, New South Wales and Northern Territory continue to accept Certificate IV as the minimum requirement for eligibility for initial enrolment. The ANF recommends that the Certificate IV remain the minimum requirement for a time limited period of five years to allow those aforementioned states to move to a diploma qualification and for the Board to properly address the issue of the regulation of current Certificate III and IV workers in hospitals, residential and community health services who are currently required to deliver nursing care. There is most obviously a role for workers at the Certificate IV level delivering nursing care and to simply move the entry level of a EN to diploma and try to pretend all else is NOT nursing is to deny reality and abandon the Boards role of protection of the public through nursing standards.

If the NMBA, and the accreditation authority however structured, decide that enrolled nurse education will move to diploma as the minimum requirement, they must ensure adequate time for the transition for those standards still accepting Certificate IV.

Accreditation standard-nurse practitioner

Generally supported. It is unclear why standard 5 has as a mandatory requirement reference to elements for pre-registration courses. NPs are already registered nurses; requirements should reflect elements at an advanced level.



Accreditation standard-midwife

Generally supported.

Transition arrangements

Courses which are currently accredited with the Nursing and Midwifery Regulatory Authorities in the states and territories need to be recognised by the NMBA as being accredited and permitted to transfer to the national scheme for the duration of the accredited period after the commencement of the national registration and accreditation scheme on 1 July 2010. This will enable a gradual staggered process of transition to the NMBA accreditation standards. The proposed standards include provision for this transition period and for approval of conditional accreditation enabling transition by the provider to the implementation of the new standards.

Yours sincerely



Ged Kearney
Federal Secretary



Lee Thomas
Assistant Federal Secretary

