

23 November 2009

Ms Anne Copeland
Chair
Nurses and Midwifery Board of Australia
PO Box 16085
Collins Street
WEST MELBOURNE VIC 8007



Dear Anne

Consultation on draft registration standards and related matters

Thank you for providing the Australian Nursing and Midwifery Council (ANMC) with the opportunity to comment on the draft registration standards and related matters for the nursing and midwifery professions.

The ANMC, through its constituent members the NMRA's and Council's Registration Standards Committee has extensive experience of the development of registration standards nationally and is very pleased to have the opportunity to offer the benefit of that experience to the Nursing and Midwifery Board of Australia (NMBA).

The ANMC was established in 1992 to facilitate a national approach to nursing and midwifery regulation. It is the peak body that works with state and territory Nursing and Midwifery Regulatory Authorities (NMRAs) in evolving standards for statutory nursing and midwifery regulation. These standards are flexible, effective and responsive to the health care requirements of the Australian population.

The ANMC's primary function is to safeguard the healthcare interests of the community by formulating and promoting high standards of nursing and midwifery practice.

2.1 Criminal history

ANMC agree that the wording 'or clients' should be inserted wherever there is a reference to patients.

ANMC agree that the standard would be more flexible if it referred to: convictions, findings of guilt, pending charges and non-conviction charges, that is charges that have been resolved otherwise than a conviction or finding of guilt.

We note further that it is possible that a registrant will require more than one history check to satisfy the regulatory and employer requirements in different settings. This cost will be prohibitive to many registrants and as a result the ANMC seeks to clarify how registrants can avoid such a cost outlay.

In addition we need to highlight the issue of spent convictions. In Victoria (and potentially other states) there is no legislation that deals with spent convictions. Therefore some registrants may have convictions on their records from years ago that are completely unrelated to their employment but will surface and potentially be used when it is in fact a spent conviction.

2.2 English language skills

The ANMC position is that the definition of "international student" is inadequate and that the standard should be applied to all entry to practice applicants.

The English language skills standard summary should read:

'An internationally qualified applicant or an applicant who is an international student must have the necessary English language skills for registration purposes by achieving a score of 7 in all four bands IELTS academic module, OET or specified alternatives (see 'Definitions' below).'

The ANMC disagree with English language skills standard requirement 4. ANMC position is that any English language test result that is more than two years old is invalid for assessment purposes.

The ANMC disagrees with English language skills standard requirement 7. Applicants must arrange for results to be sent directly to the Board – a secure internet log- in is not acceptable and should only be performed by the Board as a further security measure.

English Language Skills Standard: Exemptions

Current ANMC standards do not provide for any exemptions of the provision of English Language Proficiency by internationally trained nurses / midwives. ANMC acknowledges that the document states "The Board **may** grant exemptions" indicating that this may not happen and thus remove all countries. ANMC, in alignment with the Department of Immigration and Citizenship, does not accept South Africa or Canadian French speaking provinces as countries where English is the native or first language.

2.3 Professional Indemnity

The ANMC note that this is a very broad standard and that the issue of Professional Indemnity Insurance for independently practicing midwives delivering homebirth service, have yet to finalised.

Although the current *Health Practitioners Regulation National Law Act 2009* provides a period of exemption from the requirement for professional indemnity insurance coverage as a component of eligibility for continued registration for those midwives practicing independently, there is no apparent provision for moving forward with a solution to the issue of midwives practicing independently providing a service where women elect to labour and birth at home.

The ANMC again reiterate the risk associated within the potential eventual exclusion of qualified regulated independently practicing midwives from the delivery of a service to those women who choose to labour and birth at home.

It is clear that, although currently in Australia only a minority of women chooses homebirth, women will continue to make this choice. Application of an insurance requirement that cannot be met by a midwife practicing homebirth is likely to result in women giving birth without a registered midwife in attendance.

Unregulated birth attendants, without accountability to professional standards of competence, ethics and conduct, and without obligations regarding maintaining emergency skills, are likely to fill the vacuum created by the forced withdrawal of registered midwives from homebirth. This will make homebirth very dangerous, even for low risk, healthy women for whom homebirth is currently a safe option.

The ANMC is also concerned that in a sector such as nursing and midwifery where the overwhelming majority of practicing registrants are employees, there is clarity in the registration standards as to the individual practitioner responsibility regarding the employers professional indemnity insurance coverage for all practitioners in their employ. It is not currently clear in the draft registration standards whether the obligation to ensure insurance protection will be on the employer or on the registrant. If the onus to ensure a registrant has indemnity insurance is on the health practitioner then the ANMC has serious concerns as to how this will operate.

Furthermore, in some states of Australia it has been found that vicarious liability is not afforded automatically to employees. This discovery is particularly problematic to nurses and midwives who may believe they are covered by insurance through their employer and find once the insurance is required that the employer withdraws their support.

2.4 Continuing Professional Development

The ANMC agrees with the draft Registration Standard 'Continuing Professional Development'

2.5 Recency of Practice

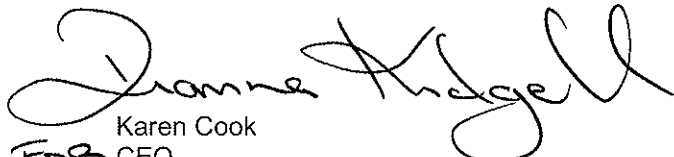
The ANMC acknowledges that the draft standard includes six months (full time equivalent) practice within the last five years which is consistent with the Nursing Council of New Zealand's standard for recency of

**RELEASED UNDER THE
FREEDOM OF INFORMATION ACT 1982 (Cth)**

practice. The Australian regulatory jurisdictions do not currently include a prescribed period as constituting recency of practice for two reasons. Firstly, there is no evidence base that supports a consistent link between a prescribed period of practice and competency to practice. Secondly, the prescription of a specific number of hours limits the Boards flexibility and capacity to deal with variable circumstances of applicants.

The ANMC again thanks the Nursing and Midwifery Board of Australia for the opportunity to comment on these critically important standards and would be very pleased to offer any further advice as requested by the Board.

Yours Sincerely


For Karen Cook
CEO
Australian Nursing and Midwifery Council