

Submission by the Australian Nursing and Midwifery Federation

NMBA public consultation on the proposed *Guidelines for privately practising nurses*

11 April 2024



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Introduction

The Australian Nursing and Midwifery Federation (ANMF) is Australia's largest national union and professional nursing and midwifery organisation. In collaboration with the ANMF's eight state and territory branches, we represent the professional, industrial, and political interests of more than 326,000 nurses, midwives, and carers across the country.

Our members work in the public and private health, aged care, and disability sectors across a wide variety of urban, rural, and remote locations. We work with them to improve their ability to deliver safe and best practice care in each and every one of these settings, fulfil their professional goals and achieve a healthy work/life balance.

Our strong and growing membership and integrated role as both a professional and industrial organisation provide us with a complete understanding of all aspects of the nursing and midwifery professions and see us uniquely placed to defend and advance our professions.

Through our work with members, we aim to strengthen the contribution of nursing and midwifery to improving Australia's health and aged care systems, and the health of our national and global communities.

The ANMF appreciates the opportunity to provide feedback to the Nursing and Midwifery Board of Australia (NMBA) for the public consultation on the proposed *Guidelines for privately practicing nurses*, designed to provide regulatory support to nurses in private practice.

Registered nurses and midwives are free to establish themselves in a business, in or related to nursing and/or midwifery, where they are self-employed or in private practice.¹

It is the position of the ANMF that it is the responsibility of the registered nurse and/or midwife to seek expert advice or investigate all the requirements of setting up an ethical and professional business that is consistent with professional obligations as a nurse and/or midwife. This includes having the necessary management skills, industry expertise, technical skills, finance and a long-term vision and plan to grow and achieve the goals.²

It is the responsibility of these registered nurses and/or midwives to ensure that they comply with all professional registration requirements. They also need to comply with other legislative requirements such as taxation, registration of business name and other obligations in the establishment of their business.³

The provision of comprehensive guidance for privately practising nurses (PPNs) to ensure they are aware of their clinical and corporate governance obligations is supported.



However, we seek further clarification as to whether this document is intended to be a guideline, a resource providing information for PPNs, or a compliance tool against which PPNs would be held to account.

The ANMF offers the following feedback in response to the consultation questions.

Consultation Questions

1. Is the updated content of the proposed Guidelines for privately practising nurses helpful, clear, and relevant? If no, please explain why.

No.

The first section of the guidelines, regulatory obligations, covers requirements for all nurses. This repetition is unnecessary. The purpose of the guidance should be to ensure safe practice. The focus of the document should be on the additional obligations of PPNs for both clinical and corporate governance, two areas that may require PPNs attention, as these would be the responsibility of self-employed or independent contractor nurses.

Information provided in Section 1 under Regulatory obligations covers requirements for all nurses – 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 1.7 and 1.9. This is unnecessary repetition and should be removed. Supervision requirements for enrolled nurses including process, documentation, and insurance, should be included in section 2 under clinical governance.

In the interests of person-centred care, the ANMF supports the use of the term 'person' or 'people' rather than 'patient', 'client' or 'consumer' throughout the draft guidelines. These terms can be used to refer to both a person receiving healthcare services and a person who has used or may use a healthcare service. The term patient infers a passive, 'sick' role. In all contexts of practice, a person-centred approach and language is essential. Person-centred language puts people first and respects the dignity, worth, qualities and strengths of every individual.⁴

The Purpose of the Guidelines for privately practicing nurses should be amended as follows:

The Guidelines for privately practicing nurses (the guidelines) provide best practice for nursing services delivered in private practice settings. They are intended to provide privately practicing nurses (PPNs) with current, evidence-informed regulatory information to ensure nursing practice in this setting is delivered safely and in accordance with the NMBA's standards, codes, and guidelines. PPNs must practice in accordance with their regulatory requirements and demonstrate their commitment to the safety and quality of their practice.



The Responsibilities of privately practicing nurses, paragraph 1 should be amended as follows:

PPNs practice within a variety of clinical and non-clinical areas with numerous professional responsibilities. As such a PPNs practice could be independent of the support offered by an established health service, where clear governance structures, multidisciplinary teams and embedded safety and quality frameworks are established and implemented.

2. Is there any content that needs to be changed, removed, or added in the proposed Guidelines for privately practising nurses? If yes, please provide details.

Yes.

Section 1: Regulatory obligations

- 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 1.7 and 1.9 are the same for all nurses. This is duplication and should be removed. Hyperlinks to these documents should be provided.
- Supervision requirements for enrolled nurses including process, documentation, and insurance, should be included in section 2 under clinical governance.

Section 2: Clinical governance: safety and quality improvement

- 2.1 - should provide guidance as to the legislation that governs the management and storage of health records; recommend providing a link to the Ahpra document [Managing health records: Practitioner's obligations](#).
- 2.3 - no indication for what is meant by 'skilled and current'. How is this determined?
- 2.3 - no indication for what is 'appropriate medical equipment' or how this would be determined in order to comply with this requirement.
- 2.3 - no reference to PPNs who don't provide direct clinical care in their role.
- 2.4 – Evidence-based practice reference unnecessary given repeated references contained within the Code of Conduct and Standards for practice.
- 2.5 – Would be appropriate to include the safe storage and disposal of images here too.
- 2.6 - Adverse events are defined in this section but a sentinel event isn't. Link to the glossary definition could be provided.

Glossary:

The definition of health service in the glossary is narrow and should be removed. This definition creates confusion by potentially inferring that health services are limited to those listed. Health service should be taken to have its normal meaning (a broad definition), and not included in the glossary.



A definition of supervision consistent with the wording in the supervised practice framework should be included in the glossary. This is not, in ANMF's experience, well understood by employers or practitioners. Supervision should be one definition with the link to the supervised practice framework document.

3. Would the proposed guidelines result in any potential negative or unintended effects for consumers, clients or patients including vulnerable members of the community who may choose to access PPN services? If yes, please explain why.

Yes.

Potential negative effects are possible. There is potential for enrolled nurses (ENs) to misinterpret the draft guidelines and to practice without appropriate delegation and supervision as PPNs.

4. Would the proposed guidelines result in any potential negative or unintended effects for Aboriginal and/or Torres Strait Islander Peoples? If yes, please explain why.

Yes.

Potential negative effects are possible. There is potential for enrolled nurses (ENs) to misinterpret the draft guidelines and to practice without appropriate delegation and supervision as PPNs providing care for Aboriginal and Torres Strait Islander Peoples.

5. Would the proposed guidelines result in any potential negative or unintended effects for PPNs? If yes, please explain why.

Yes.

The draft guidelines (page 14 of consultation document) refer to 'practice contrary to the guidelines'. The content then refers to the guidelines being 'best practice guidance' for nursing services. There is a notable difference between 'guidance' (for example, an informative resource) and 'guidelines' which are enforceable as evidence in a tribunal 'as evidence of what constitutes appropriate professional conduct or practice for the health profession' in accordance with s41 of the *Health Practitioner Regulation National Law* (as enacted in each state and territory). The reference to 'failure to comply' indicates an intention for the guidelines to be used in a manner consistent with the application of s41 in proceedings in which the practitioner is the subject. Referring to the document as 'best practice guidance' indicates information rather than strict requirement. This is not consistent with the language used throughout, for example 'must'. 'Must' implies strict compliance is required by the PPN, despite the written requirement in the document potentially being inapplicable or inappropriate for the PPN's individual context of practice or where this is unclear.



6. Are there any other potential regulatory impacts that the NMBA should consider? (refer to the NMBA statement of assessment at Appendix B) If yes, please explain why.

Yes.

See question 5.

7. Do you have any other feedback on the proposed Guidelines for privately practising nurses?

The ANMF welcomes the NMBA creating a resource that will guide and assist PPNs focusing on the additional obligations they will be responsible for without duplicating the requirements expected of all nurses. This document appears to be supportive in its guidance. This guideline reduces ambiguity as NMBA documents can be considered confusing by registrants who do not work with them regularly.

Conclusion

Thank you for this opportunity to provide feedback to the NMBA for the public consultation on the proposed *Guidelines for privately practising nurses*. The ANMF is supportive of the provision of comprehensive guidance for PPNs to ensure they are aware of their clinical and corporate governance obligations. However, we do not support the guidelines being published in their proposed form for the reasons detailed. The guidelines should be revised to ensure that all references to 'patients', 'clients' and 'consumers' are removed. Links to the professional practice framework documents should be included, however, duplication of information that is either applicable to all nurses or contained in other standards, codes or guidelines should be removed. The guidelines, when finalised, should be helpful, clear, and relevant to PPNs, only focusing on the additional obligations necessary for safe PPN practice.

References

¹ Australian Nursing and Midwifery Federation. (2024). ANMF Position Statement Self-employment/private practice. Available at: <https://www.anmf.org.au/resources/policies-guidelines-position-statements>

² Ibid

³ Ibid

⁴ Hyams, K, Prater, N., Rohovit, J., Meyer-Kalos, P.S. (2018). Person-centered language. Clinical Tip No.8 (April 2018): Center for Practice Transformation, University of Minnesota. Available at: <https://practicetransformation.umn.edu/practice-tools/person-centered-language/>