

Australian Nursing and Midwifery Federation submission

**Nursing and Midwifery Board of
Australia public consultation for the
draft proposed Registration standard:
General registration for internationally
qualified registered nurses**

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**Australian
Nursing &
Midwifery
Federation**



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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 320,000 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 draft proposed *Registration Standard: General registration for internationally qualified registered nurses*.

Given the overwhelming and pressing nursing and midwifery workforce challenges in Australia, re-examination and update of the current regulatory requirements for internationally qualified nurses and midwives is welcomed and supported. Evidence-based solutions and reform are essential to address the challenges of registering, orientating and supporting internationally qualified practitioners, whilst maintaining public safety.¹ The ANMF strongly recommend the implementation of the recommendations made to National Cabinet in the Interim Report for the Independent review of overseas health practitioner regulatory settings.²

The provision of more efficient, affordable and attractive pathways to general registration for internationally qualified nurses and midwives who have been registered for practice in overseas jurisdictions will assist with the ever increasing health workforce demand.

The pathways for internationally qualified nurses and midwives need to be simple, fair, equitable and very clearly outlined for all applicants and for national nursing and midwifery organisations advising members on the requirements and process.



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

CONSULTATION QUESTIONS

1. Do you support the proposed approach in the registration standard? Why or why not?

No, the ANMF does not support the proposed approach in the registration standard. We do not agree with the assertion that there are only two options open to the NMBA, being the status quo or draft standard, as outlined in the consultation paper.

The draft document has been styled as a “registration standard” with no transparent reasoning for this decision. The ANMF is aware that in the past, the NMBA has developed guidelines and criteria which have served as an aid to decision-making as well as delegated decision-making to Ahpra. The National Law requires that the Board must develop registration standards for professional indemnity insurance (PII), criminal history, continuing professional development (CPD), English language skills and recency of practice, but gives the discretion under s38(2)(c) of the National Law that the Board *may* develop one for ‘*any other issue relevant to the eligibility of individuals for registration in the profession or the suitability of individuals to competently and safely practice the profession*’.

One of the requirements for eligibility for registration under s52(e) is that “*the individual meets any other requirements for registration stated in an approved registration standard for the health profession.*” It is for this reason that our members largely understand a “registration standard” as a standard they must comply with to be able to continue to hold registration. Whilst this isn’t strictly the case for the *Criminal History Registration Standard*, it is a helpful principle for our members to apply to understand the importance of compliance with these documents. By introducing a ‘registration standard’ that is only intended to apply to a particular cohort of applicant, it may diminish the significance or understanding of the application of registration standards to nurses and midwives.

The ANMF encourage the NMBA to create a framework that covers all pathways for IQRNs, one which is consistent with the National Law, but also introducing reform that has a focus on achieving substantial improvements to the number of successful applicants and reducing the timeframe for the processing of applications. Adding a limited use standard into an already convoluted system for IQRNs is only going to increase confusion. This confusion is further exacerbated when faced with comprehending a system where the documents and information are so fragmented and English is an additional language.



2. Is the information in the draft proposed registration standard clear? If no, please explain why.

No. If the NMBA is going to proceed with a registration standard under s38(2)(c) regarding pathways for registration for IQRNs it should comprehensively provide for **all** the available pathways for registration for IQRNs.

The draft document provides for only two types of pathways. It is silent on the other pathways and no guidance is provided as to how (or if) it is intended to operate alongside the current system (Streams A-C). The document on its face purports to provide for all IQRNs, however in its current form its utility would be extremely limited and confusing to those seeking information about the actual pathways to registration.

The draft registration standard completely ignores arguably the largest category of applicant, someone with a 'relevant qualification' from a non-comparable jurisdiction. There is no guidance or indication in the draft document about the Outcomes Based Assessment (OBA) pathway for those applicants. For those with a relevant qualification from a non-comparable jurisdiction contemplating applying for registration in Australia, it implies that there is no pathway for them.

At the other end of the pathway, the draft Registration Standard is silent on the category of applicant who would be eligible by virtue of s53(b) (currently referred to as 'Stream A'). Such applicants' qualifications are prohibited from being considered 'relevant qualifications' under s53(c).

If an applicant who has a substantially equivalent qualification (but is not familiar with the interpretation of the legislative terminology) reads this document, they could easily assume that they fall into Pathway 1. At best they may assume additional hurdles than what currently is outlined in Stream A. At worst, if they did not obtain registration following their qualification, they could easily assume they are not eligible for registration in Australia.

Example: imagine you have just completed a Bachelor of Nursing in the UK and you decide to travel to Australia for a gap year. After your gap year, you decide that you wish to stay and work as an RN in Australia. You go to the NMBA website and find a document entitled 'General Registration for internationally qualified nurses' and read the two pathways. Although you have a recent qualification from a 'comparable jurisdiction' which is surely 'relevant' (in the ordinary definition of the word) you read the document and assume that you need to return to the UK, obtain registration and work there for a year before being able to be registered in Australia.

The only clue in the document that there might be another pathway is buried in the definition of 'relevant qualification'. This is not clear enough. There must be central and complete information easily accessible to all IQRN applicants that outlines all available pathways.



3. Are the proposed pathways clear and workable? If no, please explain why.

The approach proposed is not consistent with the powers conferred on the NMBA under section 53 of the National Law. Section 53(c) provides that someone is qualified for general registration if they hold a 'relevant qualification' and have completed an examination or other assessment required by the National Board for the purpose of general registration.

The draft proposes that the NMBA will deem those with a 'relevant qualification' as qualified so long as they have obtained registration and completed 1800 practice hours in a comparable jurisdiction. Whilst it is understood that the intention is to divert those applicants away from the OBA pathway and enable expedient processing of registration, there is no ability under the National Law for the NMBA to add requirements of overseas registration and/or experience to the test under s53(c). The NMBA has acknowledged this on page 6 of the consultation paper and yet continue to propose this. In the decision of *Krause v Medical Board of Australia*³ it was held that "*such experience and performance does not and was never intended to constitute an eligible pathway to general registration*".

The NMBA should facilitate a more direct pathway for those applicants, but it must be one that is consistent with the power conferred on them under s53(c). To that end, the NMBA has no restriction on their authority to determine what the appropriate examination or assessment to be completed for an applicant with a 'relevant qualification'.

It is acknowledged that qualifications that fall within the category of 'relevant qualification' are diverse, and clearly the NMBA have a different view of these qualifications depending on which jurisdiction they were obtained in. The NMBA is not required to apply the same examination/assessment process to all applicants whose qualifications fall within that category. It is open to the NMBA to develop a framework around which relevant qualifications might indicate an OBA assessment and which qualifications might only require a theoretical assessment.

In addition to experience not being a basis on which qualification for general registration can be determined, no clear rationale has been given for the number of practice hours proposed. Nor has any rationale been provided in relation to the near doubling of the proposed practice hours from 1000 in the preliminary consultation to 1800 in the public consultation. The only information provided is that 1800 hours equates to approximately 1 year FTE factoring in the minimum annual leave entitlements.

This requirement appears to be wholly superfluous given that all applicants must also meet the recency of practice registration standard to be eligible for registration. If an applicant has recency, why too do they need to be able to demonstrate 1800 practice hours?



The proposed requirement for someone to have obtained registration in a comparable jurisdiction implies a degree of delegation of regulatory decision-making power to those jurisdictions, rather than focusing on the independent exercise of the NMBA determining eligibility for registration in Australia under the National Law.

4. Do you support the requirement for successful completion of a regulatory examination process for internationally qualified registered nurses in an NMBA-approved comparable international regulatory jurisdiction? Why or why not?

There is no definition of 'regulatory examination process' provided in the draft standard. There may be comparable jurisdictions whereby the pathway for registration for that applicant did not include an 'examination'. The inclusion of this criteria is wholly unnecessary due to the requirement for current or previous registration in a comparable jurisdiction. If applicants were able to obtain registration in that jurisdiction, how can we dictate that they must have also completed an 'examination' in that jurisdiction to obtain that registration?

5. Do you support the requirement for 1,800 hours of practice in an NMBA-approved comparable international regulatory jurisdiction/s prior to application for registration in Australia? Why or why not?

No. As noted in response to question 3 above, in addition to experience not being a basis on which qualification for general registration can be determined, no clear rationale or evidence base has been given for the number of practice hours proposed. It remains unclear how has it been determined that 1800 hours of practice or 1-year full-time equivalent is 'sufficient time to consolidate practice in an international regulatory jurisdiction that is comparable to Australia and to possess the necessary experience to competently and safely practice in the profession at the same or similar standard as expected in Australia'. As all applicants must also meet the recency of practice registration standard to be eligible for registration, if an applicant has recency, why too do they need to be able to demonstrate 1800 practice hours?

6. Do you support the draft registration standard being extended to internationally qualified midwives from the NMBA-approved list of comparable international regulatory jurisdictions where midwifery has a comparable educational standard/framework and is regulated as a separate profession, i.e. the United Kingdom, Ireland and relevant Canadian provinces? Why or why not?

No. If the NMBA plans to proceed with a registration standard under s38(2)(c) regarding pathways for registration for IQRNs then it should comprehensively provide for all the available pathways for registration for IQRNs. The same should apply for internationally qualified midwives. All available pathways should be included.



7. Do you have any other feedback to the draft proposed registration standard?

Beyond the draft standard, the current Stream A pathway includes a 3-criterion assessment which purports to assess “substantially equivalent qualifications or those based on similar competencies” for the purpose of determining qualification under s53(b). These are two distinct and separate categories under s53(b). They are separated by the word “or” and yet only one framework at a time has ever been applied by the NMBA to assess qualifications under this subsection.

Applicants from comparable jurisdictions whose qualifications pre-date the requirement of an AQF7 equivalent to obtain registration as a nurse will not likely have a ‘substantially equivalent’ qualification to those qualifications that currently lead to registration in Australia. However, these applicants are very likely to possess qualifications that should be considered to be based on similar competencies to an approved qualification without the need for them to meet the threshold of an AQF7. The lack of framework in this area creates a barrier to the migration and registration for the most experienced applicants.

There is an example given on page 6 regarding an AQF6 from a comparable jurisdiction – that qualification should be assessed as ‘based on similar competencies’, especially given how many Australian RN’s are currently registered based on a qualification that would be considered AQF5 or lower (hospital-based certificate). The categorisation of an AQF6 from a comparable jurisdiction as a ‘relevant qualification’ is unreasonable.

The ANMF recommends that the NMBA consider and incorporate the key findings of the Interim Report from the [Independent review of overseas health practitioner regulatory settings](#) conducted by Robyn Kruk.

The Report recommends fast tracking cohorts of applicants from trusted countries through competent authority pathways and recommends changes to the National Law to enable better recognition of the experience and skills of health practitioners to better facilitate the introduction of IQRNs to Australia.

While changes to the National Law would be required for experience to be considered in an assessment of qualification, in the absence of that there is much that can be done to reduce the regulatory barriers created by the frameworks that guide the application of decisions made under s53(b) and (c), without acting beyond the power conferred.

It is difficult to comment on the likely impact of the proposed registration standard as no information has been provided about how many applicants could have been diverted from away from an OBA assessment pathway (say in the last 12 months) and what percentage of all applicants that cohort would represent.



The current OBA pathway for assessing those who hold relevant qualifications from non-comparable jurisdictions is supported, however we know that there are substantial delays associated with the limited capacity of the assessment centre.

CONCLUSION

Thank you for this opportunity to provide feedback to the public consultation on the draft proposed *Registration Standard: General registration for internationally qualified registered nurses*. The ANMF supports the development of a registration standard that comprehensively provides for **all** the available pathways to registration for IQRNs. We do not support the draft standard as proposed and the seemingly arbitrary requirement for practice hours in both pathways and the requirement for successful completion of a regulatory examination process in pathway 2. The new pathways should provide a more affordable, efficient and attractive pathway for suitably qualified IQRNs. The development of a similar pathway for internationally qualified midwives is also supported.

REFERENCES

1. Cooper, Melissa, Philippa Rasmussen, and Judy Magarey. "Regulation, Migration and Expectation: Internationally Qualified Health Practitioners in Australia—a Qualitative Study." *Human resources for Health* 18, no. 1 (2020): 1-8.
2. Kruk, Robyn. Independent review of overseas health practitioner regulatory settings – Interim Report. April 2023. Available at: <https://www.health.gov.au/our-work/independent-review-of-health-practitioner-regulatory-settings>
3. *Krause v Medical Board of Australia (Review and Regulation)*. 2013. VCAT 1009 at [64]