



Consultation paper on registration standards and related matters

**Issued by the Nursing and Midwifery Board of Australia
under the authority of Anne Copeland, Chair**

27 October 2009

If you wish to provide comments on this paper, please lodge a written submission in electronic form, marked 'Attention: Chair, Nursing and Midwifery Board of Australia' to natboards@dhs.vic.gov.au by close of business on 24 November 2009.

Please note that your submission will be placed on the Board's website unless you indicate otherwise.

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FREEDOM OF INFORMATION ACT 1982 (Cth)**

At the time of issuing this consultation paper the Board is operating under the *Health Practitioner Regulation (Administrative Arrangements) National Law Act 2008* (the Act). However, the approach to the paper and consultation has been informed by the proposed provisions of the Health Practitioner Regulation National Law Bill 2009 (the Bill, the proposed national law), which was introduced in the Queensland Parliament on 6 October 2009. Nothing in this paper is intended to pre-empt consideration of the Bill in that parliament. A copy of the Act and a link to the proposed national law are available at www.ahpra.gov.au.

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1 Introduction

1.1 Legislative requirements

This consultation paper has been developed under the requirements of the *Health Practitioner Regulation (Administrative Arrangements) National Law Act 2008* (the Act), taking into account a requirement of the Health Practitioner Regulation National Law Bill 2009 (proposed national law). The Act empowers national boards to oversee the development of health profession standards. The proposed national law includes a requirement for national boards to undertake wide-ranging consultation on proposed registration standards, codes and guidelines.

Other matters needing ministerial approval also require consultation to ensure that boards take into account stakeholder views and so ministers know that consultation has occurred when they consider board proposals.

1.2 Contents of the consultation paper

This consultation paper covers proposals from the Nursing and Midwifery Board of Australia on the following issues:

- Section 2 Proposals for mandatory registration standards (required by all boards).
- Section 3 Proposals for board-specific standards.
- Section 4 Proposals for endorsements.

2 Mandatory registration standards (all boards)

The proposed national law provides for national boards to develop registration standards for approval by the Australian Health Workforce Ministerial Council (the Ministerial Council). Under the legislation, boards must develop a registration standard on each issue shown in Table 2.1.

Table 2.1 Mandatory registration standards

Issues for mandatory standards	Common or individual board standard
Criminal history	Common standard for all boards
English language	Common standard for all boards
Professional indemnity insurance	Specific to individual boards
Continuing professional development	Specific to individual boards
Recency of practice	Specific to individual boards

Common standards across all boards are proposed for criminal history matters and English language requirements.

The proposed national law will require a national board to undertake wide-ranging consultation on its proposed registration standards before they are submitted to the Ministerial Council for approval.

2.1 Criminal history

The following draft common registration standard on criminal history is proposed to be used by all registration boards.

The Nursing and Midwifery Board of Australia seeks advice on the draft standard and specifically on:

- whether the types of criminal history information listed should be specified in the standard to be considered in descending order of relevance, or whether the standard would be more flexible if it merely referred to: convictions, findings of guilt, pending charges and nonconviction charges, that is charges that have been resolved otherwise than a conviction or finding of guilt without suggesting that there is a descending order of relevance
- whether the words ‘or client’ should be inserted wherever there is a reference to patients, on the basis that nurses and midwives work with clients who are not necessarily patients.

Nursing and Midwifery Board of Australia Criminal history standard

Summary

In deciding whether a health practitioner’s criminal history is relevant to the practice of their profession, the Board will consider the 10 factors set out in this standard. While every case will need to be decided on an individual basis, these 10 factors provide the basis for the Board’s consideration.

Scope of application

This standard applies to all applicants seeking registration or renewal of registration and registrants.

Requirements

In deciding whether a health practitioner’s criminal history is relevant to the practice of their profession, the Board will consider the following factors.

The nature and gravity of the offence or alleged offence and its relevance to health practice.

- The more serious the offence or alleged offence and the greater its relevance to health practice, the more weight that the Board will assign to it.

The period of time since the health practitioner committed, or allegedly committed, the offence.

- The Board will generally place greater weight on more recent offences.

Whether a finding of guilt or a conviction was recorded for the offence or a charge for the offence is still pending.

- In considering the relevance of the criminal history information, the Board is to have regard to the type of criminal history information provided. The following types of criminal history information are to be considered, in descending order of relevance:
 1. convictions
 2. findings of guilt
 3. pending charges
 4. nonconviction charges; that is, charges that have been resolved otherwise than by a conviction or finding of guilt.

The sentence imposed for the offence.

- The weight the Board will place on the sentence will generally increase as the significance of the sentence increases, including any custodial period imposed. The Board will also consider any mitigating factors raised in sentencing, where available, including rehabilitation.

The ages of the health practitioner and of any victim at the time the health practitioner committed, or allegedly committed, the offence.

- The Board may place less weight on offences committed when the applicant is younger, and particularly under 18 years of age. The Board may place more weight on offences involving victims under 18 years of age or other vulnerable persons.

Whether or not the conduct that constituted the offence or to which the charge relates has been decriminalised since the health practitioner committed, or allegedly committed, the offence.

- The Board will generally place less or no weight on offences that have been decriminalised since the health practitioner committed, or allegedly committed, the offence.

The health practitioner's behaviour since he or she committed, or allegedly committed, the offence.

- Indications that the offence was an aberration and evidence of good conduct or rehabilitation since the commission, or alleged commission of the offence, will tend to be a mitigating factor. However, indications that the offence is part of a pattern of behaviour will tend to have the opposite effect.

The likelihood of future threat to a patient of the health practitioner.

- The Board is likely to place significant weight on the likelihood of future threat to a patient of the health practitioner.

Any information given by the health practitioner.

- Any information provided by the health practitioner such as an explanation or mitigating factors will be reviewed by the Board and taken into account in considering the health practitioner's criminal history.

Any other matter that the Board considers relevant.

- The Board may take into account any other matter that it considers relevant to the application or notification.

Definitions

Criminal history is defined in the Health Practitioner Regulation National Law Bill 2009 (the proposed national law) as:

- every conviction of the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this Law,
- every plea of guilty or finding of guilt by a court of the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this Law and whether or not a conviction is recorded for the offence
- every charge made against the person for an offence, in a participating jurisdiction or elsewhere, and whether before or after the commencement of this Law.

Under the proposed national law, spent convictions legislation does not apply to criminal history disclosure requirements.

Health practitioner means an applicant for registration or a registrant under the proposed national law.

Review

This standard will commence on 1 July 2010. The Board will review this standard within three years of operation.

2.2 English language skills

The following draft common registration standard on English language requirements is proposed to be used by all registration boards.

The Nursing and Midwifery Board of Australia seeks advice on the draft standard, including on:

- whether the definition of ‘international student’ is adequate and whether this standard should apply to entry-to-practice students and postgraduate students
- whether OET should be accepted as a test of English language
- whether IELTS (or approved equivalent) more than two years old should be accepted as current
- whether the references under 1(a) should be amended to
 - clarify the secondary education to ensure that English is the medium of instruction
 - remove the list of countries.

Nursing and Midwifery Board of Australia English language skills standard

Summary

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 minimum score of 7 in the IELTS academic module, OET or specified alternatives (see ‘Definitions’, below).

Test results will generally need to be obtained within two years, but preferably within 12 months prior to applying for registration. The Board may grant an exemption in specified circumstances.

Scope of application

This standard applies to all internationally qualified applicants and applicants who are international students seeking registration in Australia.

Requirements

An applicant who is an internationally qualified applicant or an international student must submit evidence, or arrange for evidence to be provided, to the relevant Board of competency in English language skills as demonstrated by having completed the IELTS examination (academic module) to the following standard:

1. The applicant must have achieved a minimum score of 7 in each of the four components (listening, reading, writing and speaking).
2. Alternative English proficiency tests that will be accepted are:
 - (a) completion and an overall pass in the OET with grades A or B only in each of the four components; or
 - (b) other tests as approved by the Board (to be specified in the standard).
3. Results must have been obtained within two years prior to applying for registration.
4. An IELTS (or approved equivalent) Test Report Form more than two years old will be accepted as current if accompanied by proof that a candidate has actively maintained employment as a registered health practitioner using English as the primary language of practice in a country where English is the native or first language. Test results must comply with the current requirements of this policy.
5. Results from any of the abovementioned English language examinations must be obtained in one sitting.

6. The applicant is responsible for the cost of English tests.
7. The applicant must make arrangements for test results to be provided directly to the Board by the testing authority; for example, by secure internet login.

Exemptions

1. The Board may grant an exemption where :
 - (a) the applicant provides evidence of successful secondary education in English, and that the applicant's tertiary qualifications in the relevant professional discipline were taught and assessed in English, in one of the countries listed below, where English is the native or first language:
 - Canada
 - Republic of Ireland
 - New Zealand
 - United Kingdom
 - United States of America
 - South Africa
 - Australia.
 - (b) an applicant applies for limited registration in special circumstances, such as:
 - to perform a demonstration in clinical techniques
 - to undertake research that involves limited or no patient contact
 - to undertake postgraduate study or training while working in an appropriately supported environment that will ensure patient safety is not compromised.These special circumstances exemptions will generally be subject to conditions requiring the use of a translator and/or supervision by a registered health practitioner.
2. The Board reserves the right at any time to require an applicant who has been granted an exemption to undertake a specified English language test.

Definitions

IELTS means the International English Language Testing System developed by the University of Cambridge Local Examinations Syndicate, The British Council and IDP Education Australia. The test is administered at least once a month by IELTS Australia and The British Council at over 230 centres worldwide.

OET means Occupational English Test (OET) administered by the Centre for Adult Education.

An **internationally qualified applicant** means a person who qualified as a health practitioner outside Australia.

An **international student** is a person who completed their secondary education outside Australia in any country other than those specified in exemption 1.

Review

This standard will commence on 1 July 2010. The Board will review this standard within three years of operation.

2.3 Professional indemnity insurance

The following draft professional indemnity insurance registration standard puts forward the proposed requirements of the Nursing and Midwifery Board of Australia.

Nursing and Midwifery Board of Australia Professional indemnity insurance arrangements standard	
Summary	All registered nurses and midwives must be covered in the conduct of their practice by appropriate professional indemnity insurance arrangements that meet certain minimum requirements.
Scope of application	The following health practitioners are covered by this standard: registered and enrolled nurses; registered nurses endorsed as nurse practitioners; registered midwives and registered midwives endorsed as midwife practitioners; and student nurses and midwives, unless exemptions apply under clause 284 of the proposed national law.
Requirements	<ol style="list-style-type: none">1. When applying for registration or renewal of registration, nurses and midwives will be required to declare that appropriate professional indemnity arrangements are or will be in place while they practise nursing or midwifery.2. Nurses and midwives who hold private insurance cover in their own name are required to retain documentary evidence of their insurance and to provide it to the Board on request. Privately practising midwives must provide full disclosure on their level of PII to their clients.3. Nurses and midwives in a genuine employment or student relationship would be covered vicariously by the employer's, union or education institution's insurance. Nurses and midwives to whom this applies may be required by the Board in a limited number of circumstances (such as in the handling of a notification) to seek documentation from their employer, union or education institution to verify professional indemnity insurance (PII) cover.4. Nurses and midwives, unless exempted under clause 284 will require professional indemnity insurance to cover their full scope of practice whether employed or self-employed.5. Different nurses and midwives will require different levels of professional indemnity cover according to risk.6. The Board encourages practitioners who are assessing whether they have appropriate professional indemnity arrangements in place to consider:<ul style="list-style-type: none">• the practice setting and the type of services and care delivered• the patient or client group• advice from professional indemnity insurers, professional associations and unions• current employment status.7. Self-employed nurses and midwives are also required to have run-off cover.

Definitions

Exemption for midwives practising private midwifery refers to the detailed provisions set down in clause 284 of the proposed national law.

Professional indemnity insurance arrangements means insurance against liability incurred by, or loss arising from, a claim that is made as a result of negligent act, error or omission in the conduct of the insured nurse or midwife's practice or business.

Run-off cover means insurance that protects an insured nurse or midwife who has ceased a particular practice or business against claims that arise out of activities that occurred when he or she was conducting that practice or business. (This type of cover may be included in a PII policy or may need to be purchased separately).

Review

This standard will commence on 1 July 2010. The Board will review this standard within three years of operation.

2.4 Continuing professional development

The following draft continuing professional development registration standard puts forward the proposed requirements of the Nursing and Midwifery Board of Australia.

Nursing and Midwifery Board of Australia Continuing professional development standard	
Summary	
All nurses and midwives must meet the continuing professional development (CPD) standards. This standard sets out the minimum requirements for CPD; CPD must be relevant to the nurse or midwife's practice.	
Scope of application	
All nurses and midwives are covered by this standard.	
Requirements	
<ol style="list-style-type: none">1. Nurses on the nurses' register will participate in at least 20 hours of continuing nursing professional development per year.2. Midwives on the midwives' register will participate in at least 20 hours of continuing midwifery professional development per year.3. One hour of active learning will equal one hour of CPD. It is the nurse or midwife's responsibility to calculate how many hours of active learning have taken place. If CPD activities are relevant to both professions those activities may be counted in each portfolio of professional development.4. Nurses and midwives must keep written documentation of CPD that demonstrates evidence of completion of a minimum of 20 hours of CPD per year. The details should include dates, a brief description of the outcomes and the number of hours spent in each activity. The CPD must be relevant to the nurse or midwife's context of practice, in either a self-directed learning program or a formal CPD program that meets the guidelines published by the Board, including a minimum of three different types of activities.	
Documentation of self-directed CPD must demonstrate that the nurse or midwife has:	
<ol style="list-style-type: none">(a) identified and prioritised their learning needs, based on an evaluation of their practice against the relevant Australian Nursing and Midwifery Council (ANMC) competency standards(b) developed a learning plan based on identified learning needs(c) participated in effective learning activities relevant to their learning needs(d) reflected on the value of the learning activities or the effect that participation will have on their practice.	
<ol style="list-style-type: none">5. Participation in mandatory skills acquisition, such as Basic Life Support or manual handling, should not be counted as CPD unless active learning of new higher level knowledge or skills has taken place.6. The Board's role includes monitoring the competence of nurses and midwives; the Board will therefore conduct an annual audit of nurses and midwives registered in Australia. The audit process, including the proportion of practitioners audited, will be published in the Board's guidelines and may be reviewed from time to time.	

Definitions

Context of practice refers to the conditions that define an individual's nursing or midwifery practice. These include the type of practice setting (e.g. healthcare agency, educational organisation, private practice); the location of the practice setting (e.g. urban, rural, remote); the characteristics of patients or clients (e.g. health status, age, learning needs); the focus of nursing and midwifery activities (e.g. health promotion, research, management); the complexity of practice; the degree to which practice is autonomous; and the resources which are available, including access to other healthcare professionals (ANMC, 2009).

Continuing professional development (CPD) is the ongoing, systematic, learning process that nurses and midwives undertake to maintain their competence to practise and to enhance their professional and personal skills and knowledge. The CPD cycle involves reviewing practice, identifying learning needs, planning and participating in relevant learning activities, and reflecting on the value of those activities (ANMC, 2009).

References

Nursing and Midwifery Board of Australia: *Guidelines for Continuing Professional Development*.

Review

This standard will commence on 1 July 2010. The Board will review this standard within three years of operation.

2.5 Recency of practice

Recency of practice requirements ensure that registrants maintain an involvement with practice. The standard may also cover practitioners returning to practice after a period of not practising.

The following draft recency of practice registration standard puts forward the proposed requirements of the Nursing and Midwifery Board of Australia.

Nursing and Midwifery Board of Australia Recency of practice standard	
Summary	<p>Nurses and midwives must have undertaken sufficient practice to demonstrate competence in their professions within the preceding five years.</p> <p>Nurses and midwives who are returning to practice after a break of more than five years will be required to demonstrate satisfactory completion of a re-entry to practice program that is approved by the Board.</p>
Scope of application	<p>This standard applies to nurses and midwives seeking registration, endorsement of registration or renewal of registration. It does not apply to new graduates from a nursing program in Australia applying for registration for the first time if they have graduated within the last two years.</p>
Requirements	<ol style="list-style-type: none">1. Nurses and midwives must demonstrate, to the satisfaction of the Board, that they have undertaken sufficient practice in their professions within the preceding five years to maintain competence.2. Nurses and midwives will fulfil the requirements relating to recency of practice if they can demonstrate at least one of the following:<ol style="list-style-type: none">(a) practice in their profession within the last five years for a period equivalent to a minimum of six months full time(b) successful completion of an approved re-entry to practice program(c) successful completion of a supervised practice experience approved by the Board.3. Practice hours are recognised if:<ol style="list-style-type: none">(a) the nurse or midwife held a valid registration with nursing or midwifery regulatory authority in the jurisdiction (either Australian or overseas) when the hours were worked;(b) the role involved the use of nursing and/or midwifery knowledge and skills in some capacity, or(c) the time was spent undertaking post-graduate education leading to an award or qualification that is relevant to the practice of nursing and/or midwifery.4. Extended time away from practice due to illness or any type of leave may not be counted as practice.

Definitions

Practice can include any role in which the individual uses their nursing or midwifery skills and knowledge. It should be noted that for the purposes of the registration standard, practice is not restricted to the provision of direct clinical care only. Being 'in practice' includes using nursing or midwifery knowledge in a direct relationship with clients, and working in nursing or midwifery management, administration, education, research, professional advice, regulatory or policy development roles, and any other roles that impact on safe, effective nursing or midwifery service delivery.

References

Australian Nursing and Midwifery Council: *Continuing Competence Framework for Nurses and Midwives* (adapted from Nursing Council of New Zealand, 2004).

Review

This standard will commence on 1 July 2010. The Board will review this standard within three years of operation.

2.6 Assessment against the Procedures for Development of Registration Standards

The Nursing and Midwifery Board of Australia has used a process to develop these proposed standards consistent with the requirements set out by the Australian Health Practitioner Regulation Agency in the document *Procedures for the Development of Registration Standards* (see www.ahpra.gov.au). The Board has made the following assessments, against the three elements outlined in the procedures.

The proposal takes into account the objectives and guiding principles in the legislation

Board comment

The Board considers that its proposal on mandatory standards meets the objectives and guiding principles of the proposed legislation, and the requirements in the legislation for five mandatory standards.

The proposal meets the consultation requirements in the legislation

Board comment

In accordance with the consultation requirements in the Act, the Board is using the current consultation process (including the publication of this paper on its website) to ensure that there is public exposure of the proposal and opportunity for public comment. The Board has specifically drawn this paper to the attention of State and Territory Nursing and Midwifery boards, professional associations, governments and other national boards.

The development of the proposal takes into account the COAG principles for best practice regulation

Board comment

In developing the proposal, the Board has taken into account the Council of Australian Government (COAG) guiding principles. The Board has been careful not to impose unnecessary regulatory burdens that would create unjustified costs for the sector or the community. In particular, the Board draws attention to the following factors:

- The PII arrangements standard does not create a minimum quantitative requirement for the level of cover required for private practitioners; the standard therefore avoids raising market costs to a new national level (there are currently differences between jurisdictions), which would eventually drive up the overall costs of private practice.
- In the PII arrangements standard, the Board has avoided imposing onerous documentation requirements on employed practitioners that could increase costs for employers and practitioners. (In an extreme case, the Board could have created a requirement for around 300 000 new documents annually across the country.)
- The CPD standards will benefit both practitioners and the public by ensuring public safety and confidence in the profession, and best professional standards through continuing professional development.
- The CPD standards reflect generally accepted current standards and will not impose extra burdens on the majority of practitioners.
- The recency of practice standard is based on current standards and policies and therefore should not impose extra burdens on practitioners.
- Any costs likely to be accrued by nurses or midwives as a result of these standards are outweighed by the benefits of ensuring a competent and skilled profession.

3 Proposals for board-specific standards

The Nurses and Midwives Board of Australia has decided that the five mandatory registration standards proposed earlier in this document will also apply to nurse practitioners and midwife practitioners.

The proposed national law provides for endorsements for nurse practitioners and midwife practitioners (clauses 95 and 96).

The following draft nurse practitioner standard specifies the proposed requirements of the Board in relation to nurse practitioners; the draft midwife practitioner standard specifies the proposed requirements of the Board in relation to midwife practitioners.

Under clauses 95(1)(b) and 96(1)(b), the proposed national law requires the Board to develop and have approved a registration standard setting out any requirements that an applicant must meet to be endorsed as being qualified for the endorsement.

The proposed national law will require these registration standards to undergo wide-ranging consultation before they are submitted to Ministerial Council for approval.

The case for the two registration standards proposed here lies primarily in the protection of the public. Since both nurse practitioners and midwife practitioners have an extended scope of practice, it is important that the Board is able to ensure that practitioners achieve certain standards (in addition to the qualifications required) if they are to receive the endorsement.

3.1 Requirements for nurse practitioners

The following registration standard puts forward the proposed requirements of the Nursing and Midwifery Board of Australia for nurse practitioners.

This standard sets out the Board's requirements for endorsement in addition to the approved qualifications under clause 95(1)(a) of the proposed national law.

Nursing and Midwifery Board of Australia Registration requirements standard for nurse practitioners	
Summary	To be eligible for endorsement, an applicant must be able to demonstrate experience in advanced nursing practice in a clinical leadership role in the area of practice in which he or she intends to practise as a nurse practitioner, within the five-year period preceding the application.
Scope of application	The following health practitioners are covered by this standard: applicants for endorsement as nurse practitioners.
Requirements	<ol style="list-style-type: none">1. To be eligible for endorsement as a nurse practitioner, the nurse must be able to demonstrate all of the following:<ol style="list-style-type: none">(a) general registration as a registered nurse with no restrictions on practice(b) advanced nursing practice in a clinical leadership role in the area of practice in which they intend to practise as a nurse practitioner, within the last five years(c) competency in the competency standards for nurse practitioners(d) completion of the requisite qualification under clause 95(1)(a) of the proposed national law.2. Further information will be included in detailed guidelines and published on the Board's website.
Definitions	<p>Competency standards are those standards outlined in Australian Nursing and Midwifery Council (2006), National Competency Standards for the Nurse Practitioner.</p> <p>General registration as a nurse means a person whose name is entered on the Register of Nurses in the Division of registered nurses in the general category.</p> <p>Nurse practitioner means a nurse whose registration has been endorsed by the Nursing and Midwifery Board of Australia as a nurse practitioner under clause 95 of the proposed national law.</p> <p>Qualifications means a master's degree approved by the Nursing and Midwifery Board of Australia under clause 49 of the proposed national law and included in the approved list of programs for endorsement as nurse practitioners, published by the Australian Health Practitioner Regulation Agency (AHPRA).</p>
References	Nursing and Midwifery Board of Australia (2010): <i>Guidelines for endorsement as a Nurse Practitioner</i> .
Review	This standard will commence on 1 July 2010. The Board will review this standard within three years of operation.

3.2 Requirements for midwife practitioners

The following registration standard puts forward the proposed requirements of the Nursing and Midwifery Board of Australia. It has been based on the requirements for endorsement as a midwife practitioner in New South Wales.

This standard sets out the Board's requirements for endorsement in addition to the approved qualifications under clause 96(1)(a) of the proposed national law.

Nursing and Midwifery Board of Australia Registration requirements standard for midwife practitioners	
Summary	To be eligible for endorsement, applicants must be able to demonstrate experience in advanced midwifery practice in a clinical leadership role, within the five-year period preceding the application.
Scope of application	Applicants for endorsement as midwife practitioners.
Requirements	<ol style="list-style-type: none">1. To be eligible for endorsement as a midwife practitioner, the applicant must:<ol style="list-style-type: none">(a) hold general registration as a midwife with no restrictions on practice(b) be able to demonstrate advanced midwifery practice in a clinical leadership role, within the five-year period preceding the application., encompassing the full scope of midwifery(c) completion of the requisite qualification under clause 96(1)(a) of the proposed national law.2. Further information will be included in detailed guidelines and published on the Board's website.
Definitions	<p>General registration as a midwife means a person whose name is entered on the Register of Midwives in the general category.</p> <p>Midwife practitioner means a midwife whose registration has been endorsed by the Nursing and Midwifery Board of Australia as a midwife practitioner under clause 96 of the proposed national law.</p> <p>Qualifications means a master's degree approved by the Nursing and Midwifery Board of Australia under clause 49 of the proposed national law and included in the approved list of programs for endorsement as midwife practitioners, published by the Australian Health Practitioner Regulation Agency (AHPRA).</p>
References	Nursing and Midwifery Board of Australia (2010): <i>Guidelines for endorsement as a Midwifery Practitioner</i> .
Review	This standard will commence on 1 July 2010. The Board will review this standard within three years of operation.

3.3 Assessment against the Procedures for Development of Registration Standards

The Nursing and Midwifery Board of Australia has used a process to develop this proposal consistent with the requirements set out by the Australian Health Practitioner Regulation Agency in the document *Procedures for the Development of Registration Standards* (see www.ahpra.gov.au). The Board has made the following assessments, against the three elements outlined in the procedures.

The proposal takes into account the objectives and guiding principles in the legislation

Board comment

The Board considers that the proposed standards meet the following objectives and guiding principles of the proposed legislation:

Objectives

- (a) to provide for the protection of the public by ensuring that only health practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered (and in this case endorsed)
- (e) to facilitate access to services provided by health practitioners in accordance with the public interest
- (f) to enable the continuous development of a flexible, responsive and sustainable Australian health workforce and to enable innovation in the education of, and service delivery by, health practitioners.

Guiding principle

- (c) restrictions on the practice of a health profession are to be imposed under the scheme only if it is necessary to ensure health services are provided safely and are of an appropriate quality

The Board considers that these objectives and guiding principles are met.

- The proposed requirements for nurse practitioners reflect the current agreed standard.
- The endorsement of nurse practitioners as prescribed in clause 95 of the proposed national law provides a flexible workforce for the community. Nurse practitioners have authorisations for scheduled medicines under most jurisdictions' drugs and poisons legislation, including prescribing, so it is important to set a minimum quality standard to ensure that only experienced nurses can be endorsed as nurse practitioners.
- Under Commonwealth initiatives, nurse practitioners and experienced midwives will be able to prescribe medications listed on the Pharmaceutical Benefits Scheme [Health Legislation Amendment (Midwives and Nurse Practitioners) Bill 2009]. This initiative is expected to increase access to health services and make health services more affordable. The standards proposed set a minimum quality standard to ensure that applicants have sufficient advanced practice experience to enable them to practise safely.
- The standards for midwife practitioners have been taken directly from those pertaining in New South Wales, the only jurisdiction to currently authorise midwife practitioners.

The proposal meets the consultation requirements in the legislation

Board comment

The Board considers that it is meeting these requirements by ensuring through the current consultation process, (including the publication of this paper on its website) that there is public exposure for the proposal and opportunity for public comment. The Board has specifically drawn this paper to the attention of State and Territory nursing and midwifery boards, professional associations and governments.

The development of the proposal takes into account the COAG principles for best practice regulation

Board comment

In developing the proposal, the Board has taken into account the Council of Australian Government (COAG) guiding principles. The Board has been careful not to impose unnecessary regulatory burdens that would create unjustified costs for the sector or the community. In particular the Board draws attention to the following factors:

- The draft standards are set at a level that will not create unreasonable barriers to nurses or midwives seeking endorsement as nurse or midwife practitioners.
- The draft standards are based on the registration standards that already exist.
- The draft standards do not impose significant costs on nurses and midwives. The practice requirement for a specified amount of experienced or advanced practice will be able to be met through normal employment and there will be no added costs. The standards set a benchmark of minimum experience prior to qualifying as a nurse practitioner or midwife practitioner.
- It is necessary to restrict access to the endorsements to very experienced practitioners in the interests of public safety.

4 Proposals for endorsements

The board has the option of developing endorsements of a health practitioner's registration in the following areas:

- scheduled medicines
- area of practice
- acupuncture.

Endorsements for scheduled medicines or area of practice require prior Ministerial Council approval, on the recommendation of a national board, before the endorsement is available for a particular profession. Boards should engage in wide-ranging consultation about any proposals for the availability of endorsements for scheduled medicines and/or area of practice.

Where there is a requirement for a class of registered nurse or midwife or an enrolled nurse to have greater authority than otherwise provided to that type of registrant under a jurisdiction's health drugs and poisons laws, there are currently various mechanisms in operation to provide for this. Endorsement of registration, standing orders and drug therapy protocols (or a combination of these) are used to provide the additional authorisation in relation to scheduled medicines.

The proposed national law provides for ministerial council to approve, on the recommendation of a national board, the endorsement of a class of registrants as qualified in relation to administering, obtaining, possessing, prescribing, selling, supplying or using a scheduled medicine or class of scheduled medicines.

The endorsement of a health practitioner's registration under the proposed national law will indicate that the practitioner is qualified to administer, obtain, possess, prescribe, sell, supply or use the scheduled medicine or class of scheduled medicine but will not authorise the practitioner to do so. The authorisation of a health practitioner to administer, obtain, possess, prescribe, sell, supply or use scheduled medicines in a particular jurisdiction will be provided for by or under legislation of that jurisdiction.

The important relationship between State and Territory legislation pertaining to drugs and poisons and the Health Practitioner Regulation National Law Bill 2009 is described above. Endorsements under the proposed law are only required where special qualifications are required for extended roles. For example, all registered nurses and midwives can administer medications and don't need endorsements to do this. The requirements for such endorsements are usually specified in the drugs and poisons legislation but administered under the health practitioner regulation scheme.

In the case of scheduled medicines, the proposed national law states that the Ministerial Council approval must specify:

- whether the national board may endorse the registration of all health practitioners, or a class of health practitioners, registered by the national board
- whether the national board may endorse the registration of the health practitioners or class of health practitioners as being qualified in relation to a particular scheduled medicine or a class of scheduled medicines
- whether the national board may endorse the registration of the health practitioners or class of health practitioners in relation to administering, obtaining, possessing, prescribing, using, selling, supplying or using the scheduled medicine or class of scheduled medicines.

Current arrangements for scheduled medicines

The arrangements with respect to nurses and midwives are relatively complex, due to the various levels of registrations, the various mechanisms used to authorise and constrain use, the differing levels of authority that apply across jurisdictions (to administer, supply or prescribe), and the various constraints imposed. In all cases, State and Territory drugs and poisons legislation provides the authority.

Registered nurses and midwives

All jurisdictions make provision in some form for registered nurses and midwives to administer medicines to patients; for example, on the written order of an authorised prescriber. This takes the form of specific authorities conferred on these groups, combined in many jurisdictions with facility-based permits that capture the settings in which nurses are employed. In these circumstances there is no requirement for an endorsement as it is part of the routine practice of a registered nurse.

Most jurisdictions also make provision for limited authorisation to supply prescription-only medicines without a doctor's order; for example, in accordance with 'standing orders', under a 'health services permit' or as indicated under 'drug therapy protocols'. Such authorisations are most common in rural hospitals or other areas where medical support or access is limited, such as in remote areas, although this role is expanding to a range of other settings. In some cases, these authorities are conferred only after accredited training and endorsement of a nurse's registration.

In Queensland, for example, registered nurses may be endorsed by the Queensland Nursing Council as qualified for the following types of drug therapy protocol related endorsements:

- immunisation
- remote and isolated practice
- sexual and reproductive health.

Currently, there is significant interest from other jurisdictions in adopting the Remote and Isolated Practice programs that operate in Queensland with the Primary Clinical Care Manual (PCCM). The PCCM provides clinical care guidelines and health management protocols in accordance with the Health (Drugs and Poisons) Regulation 1996, especially for endorsed registered nurses and authorised Indigenous health workers.

Instead of developing new protocols and systems, a number of other jurisdictions, notably New South Wales and more recently Victoria (in process), have adopted the Queensland clinical protocols for use in their health facilities, along with the training program that equips nurses to apply these protocols in their practice.

Enrolled nurses

Enrolled nurses are authorised under State and Territory legislation to administer scheduled medicines to patients, but not to supply or prescribe. Most legislation specifies that administration must be in accordance with an oral or written instruction from an authorised prescriber (although the terminology differs) and some require the administration also to be under the supervision of an authorised prescriber or registered nurse. In some jurisdictions, only a subgroup of enrolled nurses is authorised to administer medicines, the remainder are not.

Nurse practitioners and midwife practitioners

While every jurisdiction has authorities for nurse practitioners to supply or prescribe scheduled medicines, most of these authorities are given under the jurisdiction's drugs and poisons legislation, usually with some involvement of departmental officials or ministers in determining the scope of the authorisation.

Only New South Wales legislation makes provision for midwife practitioners, and the mechanism through which authorities to administer, supply and prescribe scheduled medicines are governed is the same as for nurse practitioners.

Proposals

In order to circumvent a range of specific and detailed endorsements that will require recurrent updating to keep pace with the rapid changes in this area of service provision, the Board has decided to propose endorsements for scheduled medicines for eligible registered nurses and eligible midwives.

The Board has decided not to propose a scheduled medicines endorsement for nurse practitioners and midwife practitioners on the basis that such endorsements already exist under clauses 95 and 96 of the proposed national law and a further endorsement under the scheduled medicines provisions is unnecessary.

From 1 July 2010, enrolled nurses will not require an endorsement to administer medications as this endorsement has tended to become the entry standard for enrolled nurse practice and preparation, rather than an additional authority required for enrolled nurses into the future. Where enrolled nurses were qualified under a previous regime and do not have appropriate training, they will need to have a condition on their registration stating that they are not qualified to administer medications.

The proposals are set out below. The approach taken in defining the scope of each proposal is that they encompass the widest possible scope of practice. It is then the State and Territory legislation that defines the extent of the practitioner's authority.

4.1 Scheduled medicines

In relation to registered nurses, the Board would like, if possible, to enable the transition of nurses with existing endorsements to a single national endorsement. The Board's initial thinking is that it would prefer to propose two new national endorsements: one for registered nurses and one for midwives than to continue the current specific ones. The Board would establish the qualifications required for these endorsements. Once established, registered nurses and midwives who have these qualifications would be eligible to transition or apply for these endorsements.

The Board considers this approach would create a genuinely national endorsement. It would be open to State and Territory governments and the Australian Government to use this endorsement should they so choose as the basis for authorisations or funding programs.

The Board has not had the opportunity to discuss this proposal with governments at this time. It would be important for governments to see merit in this proposal in terms of their other operations for the endorsements to add value. It is inevitable whatever proposals the Ministerial Council accepts, that States and Territories will have to make adjustments to their drugs and poisons legislation.

The Board has not developed the proposal very far prior to consultation on the principle. The Board has not yet formed a view as to whether it would be practical to have the endorsements widely available on 1 July 2010. It may, for example, be possible to develop the qualifications on which the endorsements will be based but then it might take some time for all registered nurses and midwives seeking the endorsement to be considered. Depending on the qualifications set, it may be possible for some nurses and midwives in some jurisdictions to transition with endorsements on 1 July 2010.

Set out below are the outlines of possible endorsements for registered nurses and midwives on which the Board is seeking views.

Nursing and Midwifery Board of Australia

Endorsement in relation to scheduled medicines (registered nurses)

Wording to appear on the register

Endorsement for scheduled medicines — eligible registered nurses

Scope of endorsement

This endorsement applies to a class of registered nurses and not to all registered nurses.

Registered nurses who have completed at least three years of practice in their area of practice and successfully completed an approved program of study determined by the Board or one that is substantially equivalent to an approved program of study may apply for this endorsement of their registration.

An approved program of study is one that has been accredited by the accrediting authority for the Board and approved by the Board for the purpose of qualifying the registered nurse for this endorsement.

A list of approved programs of study will be available on the Board's website.

Particular scheduled medicine or class of scheduled medicines

The endorsement relates to limited Schedule 2, 3, 4 or 8 medicines appropriate to the eligible nurse's scope of practice within the meaning of the current poisons standard under the *Therapeutic Goods Act 1989* (Cwlth), s. 52D, to the extent necessary to practise nursing in a particular area and described and listed under the relevant drug therapy protocol, chief health officer standing order or health services permit that must be compliant with relevant State and Territory legislation.

Further information will be included in detailed guidelines and published on the Board's website.

Endorsed actions

The endorsement relates to administering, obtaining, possessing, supplying and using the scheduled medicines described above.

Review

This endorsement will commence on 1 July 2010. The Board will review this endorsement within three years of operation.

Nursing and Midwifery Board of Australia

Endorsement in relation to scheduled medicines (midwives)

Wording to appear on the register

Endorsement for scheduled medicines — eligible midwives

Scope of endorsement

This endorsement applies to a class of registered midwives and not to all registered midwives.

Registered midwives who have practised for at least three years and who have successfully completed an approved program of study determined by the Board or one that is substantially equivalent to an approved program of study may apply for this endorsement of their registration.

An approved program of study is one that has been accredited by the accrediting authority for the Board and has been approved by the Board for the purpose of qualifying the registered midwife for this endorsement.

A list of approved programs of study will be available on the Board's website.

Particular scheduled medicine or class of scheduled medicines

The endorsement relates to Schedule 2, 3, 4 or 8 medicines appropriate to the eligible midwife's scope of practice within the meaning of the current poisons standard under the *Therapeutic Goods Act 1989* (Cwth), s. 52D, to the extent necessary to practise midwifery and described and listed under the relevant drug therapy protocol, Chief Health Officer standing order or health services permit that must be compliant with relevant State and Territory legislation.

Endorsed actions

The endorsement relates to administering, obtaining, possessing, supplying and using the scheduled medicines described above.

Review

This endorsement will commence on 1 July 2010. The Board will review this endorsement within three years of operation.

4.2 Area of practice

No endorsements are proposed under clause 98 of the proposed national law ('area of practice'). An endorsement for mental health, currently authorised, endorsed or recognised in five jurisdictions has been considered, but the Board has decided not to propose a mental health endorsement.

Under the proposed law, the purpose of an endorsement in an area of practice is to allow for endorsed registrants who are qualified to expand their scope of practice to practise in an area where practitioners without the endorsement may not practise. This situation does not apply to mental health as nurses can practise in mental health without an endorsement. There is, therefore, no identifiable purpose for an endorsement.

The Board notes that there are other mechanisms for recognition of advanced practice, such as the Australian College of Mental Health Nurses (ACMHN) credentialing process and the availability of endorsements for mental health nurses as nurse practitioners.

4.3 Acupuncture

Under the proposed legislation, restrictions on the use of titles relating to acupuncture do not come into force until 1 July 2012 so there is no need to consider any requirements for endorsement for acupuncture at this time. The Board intends to give further consideration to this issue prior to 1 July 2012.

4.4 Assessment against the Procedures for Development of Registration Standards

The Nursing and Midwifery Board of Australia has used a process to develop these proposed endorsements consistent with the requirements set out by the Australian Health Practitioner Regulation Agency in the document *Procedures for the Development of Registration Standards* (see www.ahpra.gov.au). The Board has made the following assessments, against the three elements outlined in the procedures.

The proposal takes into account the objectives and guiding principles in the legislation

Board comment

The Board considers that the proposed standards meet the following objects and guiding principles of the proposed legislation:

Objectives

- (b) to provide for the protection of the public by ensuring that only health practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered
- (f) to enable the continuous development of a flexible, responsive and sustainable Australian health workforce and to enable innovation in the education of, and service delivery by, health practitioners. to facilitate access to services provided by health practitioners.

Guiding principles

- (c) restrictions on the practice of a health profession are to be imposed under the scheme only if it is necessary to ensure health services are provided safely and are of an appropriate quality.

The Board considered that these objectives and guiding principles are met.

- The proposed endorsements do not restrict the practice of practitioners, but rather expands their practice. Expanding practice in this way increases the flexibility of the workforce and increases access to health services.
- The proposal helps to protect public safety by ensuring that only nurses and midwives who are qualified will be able to expand their practice to possess, supply and obtain scheduled medicines.
- The endorsement is required to ensure that nurses and midwives who are authorised under State and Territory legislation in relation to administering, obtaining, possessing, and supplying Schedule 2, 3, and 4 drugs can transition into the scheme and continue supplying services.

The proposal meets the consultation requirements in the legislation

Board comment

The Board considers that it is meeting the consultation requirements by ensuring through the current consultation process (including the publication of this paper on its website) that there is public exposure for the proposal and opportunity for public comment. The Board has specifically drawn this paper to the attention of State and Territory Nursing and Midwifery boards, professional associations and governments.

The development of the proposal takes into account the COAG principles for best practice regulation

Board comment

In developing the proposal the Board has taken into account the COAG guiding principles. The Board has been careful not to impose unnecessary regulatory burdens that would create unjustified costs for the sector or the community. In particular the Board draws attention to the following factors:

- The proposal supports consumer access to services and is likely to provide a foundation for increased access in nursing and midwifery services as the new national endorsements are used more widely.
- The proposal for a scheduled medicines endorsement for eligible midwives will provide a clear regulatory mechanism for implementing the proposed amendments to Commonwealth health legislation to increase access to midwifery services.
- The proposal is in no way restrictive to competition. On the contrary, it enables access to services in geographic areas and fields where health services might otherwise be more limited.
- While the new national endorsements could be described as an increase in regulation, the Board considers the endorsements could be more properly described as a source of national workforce flexibility.