

20 October 2023

Adjunct Professor Veronica Casey AM
Chair
Nursing and Midwifery Board of Australia

By email: nbmafeedback@ahpra.gov.au

Dear Veronica

Draft Registration standard: General registration for internationally qualified registered nurses

In responding to this draft registration standard, I recognise the Nursing and Midwifery Board of Australia's (NMBA) commitment to streamlining pathways to registration for internationally qualified registered nurses (IQRNs).

I also note that the NMBA has sought to provide clarifying information to my office regarding the assessment of IQRNs as part of my office's review of accreditation processes in the National Registration and Accreditation Scheme (National Scheme).

I continue to be concerned, however, that there is a lack of clarity regarding the roles and responsibilities of the NMBA and other bodies involved in the assessment of IQRNs, and certain associated processes. I have sought to outline some of these concerns as they relate to the draft registration standard below, though they will be more thoroughly addressed in my aforementioned review.

In addition, as I have previously discussed with representatives of the NMBA, I believe there is a need for greater transparency about the rationale for the stated number of practice experience hours IQRNs must demonstrate to meet the requirements of the registration standard, and the list of comparable international regulatory jurisdictions. The evidence base for these requirements has not been well articulated and appropriate provision for discretion to consider the unique circumstances of applicants has not been described.

Framework for the assessment of overseas qualified practitioners

I have found that there is a lack of clarity regarding the roles and responsibilities of the NMBA, the NMBA's accreditation authority (the Nursing and Midwifery Accreditation Committee (NMAC)) and Ahpra regarding the assessment of IQRNs. Both the NMBA and NMAC have the stated responsibility of overseeing the assessment of overseas qualified nurses and midwives under the National Scheme. However, documentation I have

considered does not appear to clearly distinguish the roles of each entity in relation this function. Without clearly articulated roles and responsibilities, there is a lack of transparency for stakeholders and a greater likelihood of inconsistent decision-making. I therefore suggest that the NMBA, NMAC and Ahpra determine and clearly communicate their respective roles and responsibilities in relation to the assessment of IQRNs.

I am also concerned that, despite the NMBA noting complexities associated with the application of the Health Practitioner Regulation National Law (the National Law) regarding the assessment of overseas qualified practitioners, some of the complex questions appear to remain unresolved in the consultation paper for the draft registration standard. For example, the consultation paper outlines that:

“...the National Law currently only enables the NMBA to consider the qualification/s of an IQNM and whether the qualification/s meets the requirements of section 53(b) of the National Law, (in that is it equivalent or based on similar competencies to an NMBA-approved qualification).”

However, as outlined in the draft registration standard, the NMBA’s proposed approach to the assessment of IQRNs is not solely qualification-based. Instead, it allows for consideration of a certain number of practice experience hours in a comparable jurisdiction. It is vital that the legislative basis for decision making regarding whether an applicant is qualified for registration is clear and well-articulated. This issue will be further addressed in my review of accreditation processes.

The importance of evidence-informed standards

The NMBA should ensure that there is an evidence-informed rationale for all relevant registration standards. I do not believe, however, that the NMBA has sufficiently outlined why 1,800 hours of practice experience in a comparable jurisdiction is an accurate measure of competency. For example, there is significant diversity in how members of the International Nurse Regulator Collaborative (INRC) approach the assessment of overseas qualified practitioners:

- British Columbia College of Nurses and Midwives accepts graduates from approved registered nurse programs in Australia, New Zealand, the United Kingdom or the United States that led to registration within the last five years, or if they have practised 1,125 hours as a nurse (confirmed by the employer)¹
- College of Nurses of Ontario requires that applicants must meet a recency of practise requirement and all applicants must complete an examination²

¹ British Columbia College of Nurses and Midwives website, ‘How to apply.’ Accessed October 2023: www.bccnm.ca/RN/applications_registration/how_to_apply/InternationalEN/Pages/IENs_educated_in_AUS_NZ_UK_US.aspx

² College of Nurses of Ontario website, ‘Registration requirements for RNs and RPNs.’ Accessed October 2023: www.cno.org/en/become-a-nurse/new-applicants1/outside-canada/registration-requirements-for-rns-and-rpns/

- Nursing and Midwifery Council (United Kingdom) generally requires that applicants undertake a Test of Competence³
- Nursing Council of New Zealand requires applicants to provide evidence of having practised nursing for at least two years (including 2,500 hours) within the last five years.⁴

As such, the requirement to provide evidence of 1,800 hours of practice experience does not appear to be consistent with other INRC members' approaches to considering practice experience. This is not surprising given the diversity in how IQRNs are assessed. However, the NMBA has stated that the required practice experience requirement is based on research and benchmarking undertaken by the INRC, which suggests that there is a clear evidence base available when considering comparable regulators in the INRC. However, based on the examples outlined above, this does not appear to be the case.

I also note that the NMBA recently confirmed to my office that it approved a policy position in December 2022 to already allow applicants to progress to registration through Pathway 1 of the draft registration standard, though the requirement was initially for applicants to demonstrate practice experience of 1,000 hours, not 1,800 hours, in a comparable jurisdiction. However, following preliminary inquiries by my office, on 28 September 2023 the NMBA updated its policy position to align with the draft registration standard's proposal of 1,800 hours of practice experience. I was advised that this was due to feedback that 1,800 hours was more aligned with one-year of full-time equivalent practice. My office continues to consider issues arising from the policy position, though I note that in this context, it appears that the requirements of practice experience when assessing IQRNs has shifted significantly within a short period of time, which suggests the evidence-base for the requirements has not been decided upon. I recognise that the NMBA has acknowledged that it is consulting on the required practice experience hours to ensure it is fit-for-purpose. As noted, however, it is unclear why one year of practice experience has been decided upon as the relevant requirement and why it is being already applied when the NMBA has not yet formed a firm position on the issue. I therefore suggest that the NMBA ensures it has a clear evidence-base for any decision it makes in relation to the practice experience component of assessing IQRNs.

Similarly, there does not appear to be a stated standard against which the comparable jurisdictions have been assessed to determine comparability. The list of comparable jurisdictions comprises members of the INRC. I note that the NMBA is a member of the INRC, and it is through membership of this collaborative that comparability has been recognised. However, it is not clear whether the NMBA has sought to assess other countries not within the INRC to establish comparability. While membership of a collaborative may indeed be cause for recognition, I would argue that for the process to be fair, it must be based on a set of objective and evidence-informed requirements. Otherwise, the process could be

³ Nursing and Midwifery Council (UK) website, 'Information for internationally trained applicants.' Accessed October 2023: www.nmc.org.uk/registration/information-for-internationally-trained-applicants/

⁴ Nursing Council of New Zealand website, 'Guidance for Internationally Qualified Nurses.' Accessed October 2023: www.nursingcouncil.org.nz/IQN/H5.aspx?WebsiteKey=fa279da8-a3b1-4dad-94af-2a67fe08c81b

unnecessarily exclusionary, and subject to conflict of interest concerns. For decision-making to be transparent, it is important that the NMBA clearly establishes the standard against which comparable jurisdictions have been assessed to gain recognition as a comparable country for the purposes of the draft registration standard.

Clarity regarding the standard's implementation

Given the NMBA is already applying Pathway 1 of the draft registration standard when assessing IQRNs, more should be done to set the parameters for the requirement of completing 1,800 hours of practice experience in a comparable jurisdiction. The complaints my office has managed in relation to the NMBA's English Language Skills Registration Standard, for example, have demonstrated the importance of clear guidance for both Ahpra staff and applicants about how specific requirements will be interpreted through the assessment process. In regard to the draft registration standard, it is not clear, for example, whether the required 1,800 hours of practice experience in a comparable jurisdiction must be completed:

- within a specific timeframe
- continuously (or whether there can be gaps between periods of practice)
- while practising full-time (or whether part-time hours will be considered)
- within one specific jurisdiction (or whether hours practising in different jurisdictions can be aggregated to meet the requirement).

It is similarly important that the NMBA describes how applicants can demonstrate they have practised the required hours in a comparable jurisdiction. This may include, for example, by providing a statement of service from their previous employer.

Setting these parameters is important because we know that applicants bring different and varied experiences in their applications for registration. A lack of clarity about requirements can leave applicants unsure about whether they meet the relevant standards, or why their application has been rejected when they believe they have met the requirements.

I also encourage the NMBA to ensure that it is appropriately empowered to exercise its discretion when applying the registration standard. As I have previously reiterated, applicants bring a diversity of experiences to the regulator and in some cases it may be necessary for the NMBA to consider the applicant's unique circumstances. It cannot be assumed that the registration standard will account for the diversity of applicants' work experiences, or address the assumptions about practice that underpin the registration standard's requirements. It is therefore important that the NMBA can use its discretion to ensure a fair decision is made based on the circumstances of registration applications.

Relevance to the English Language Skills Registration Standard

As noted in my submission regarding the English Language Skills Registration Standard in September 2022, the Boards should ensure that English language requirements are considered in the context of assessments of overseas qualified practitioners. To this end, if the draft registration standard is approved, I suggest that the NMBA review the English Language Skills Registration Standard in light of these changes. I note, for example, that the NMBA is considering including Singapore as a comparable country under the draft registration standard but does not include it as a recognised country under the English Language Skills Registration Standard.

Transitional arrangements

In light of existing workforce shortages and the need to ensure Ahpra and the NMBA's approaches are accessible, I also encourage consideration of the transitional arrangements if the registration standard is approved by Health Ministers. Until December 2022, applicants were required to undertake the outcome-based assessment (OBA) pathway if their qualification was not deemed substantially equivalent (irrespective of their registration and practice experience in a comparable country). The OBA pathway can lead to significant costs for applicants, including fees to undertake the relevant regulatory exams, and associated travel and accommodation costs. I urge the NMBA to consider how it will fairly and reasonably manage concerns raised by previous applicants who have undertaken the OBA but would be eligible for registration without having to complete the OBA if the registration standard is approved.

Consultation process

As previously noted, it was only recently brought to my office's attention that the NMBA had been assessing applicants in line with the requirements of Pathway 1 of the draft registration standard since December 2022. This policy position was not made publicly available and was not referenced in the consultation paper on the draft registration standard. I also note that at the time that the consultation paper was produced, the NMBA had been assessing IQRNs against the 1,000-hour requirement, rather than the proposed 1,800-hour requirement outlined in the consultation paper.

I acknowledge that on 28 September 2023 the NMBA agreed to update its Policy reference guide for applicants assessed under Pathway 1 to reflect the requirements of the draft registration standard for IQNMs and to publish information about Pathway 1 on the relevant webpages. However, I am very concerned about the lack of transparency in the NMBA's approach to assessing applicants under this pathway, including the effect of this decision on the consultation process for the draft registration standard. In particular, I believe that it was not reasonable that the NMBA did not explain that it had already approved and was assessing applicants in accordance with Pathway 1 when consulting on the draft registration standard. There was also no mention in the consultation paper of the NMBA's decision to propose that requirements for practice experience in a comparable jurisdiction should be increased from 1,000 to 1,800 hours. In the interests of transparency, I suggest that the NMBA considers how it can correct any misapprehension that Pathway 1 of the draft registration standard was not already in use. The NMBA must ensure that it is transparent

about its processes associated with assessing IQRNs to ensure trust and accountability in its decision-making.

Yours sincerely



Richelle McCausland
National Health Practitioner Ombudsman
National Health Practitioner Privacy Commissioner