

30 June 2009

Australian Health Ministers' Advisory Council
National Registration and Accreditation Implementation Project
PO Box 2089
Woden ACT 2606

Submission:

**Australian Health Ministers' Advisory Council
National Registration and Accreditation Implementation Project
Exposure Draft – Health Practitioner Regulation National Law 2009**

I write to provide comment in relation to issues associated with the Exposure Draft - Health Practitioner Regulation National Law 2009. These comments relate to the safety and quality of maternal and infant health services in Australia, specifically the requirement that practitioners have suitable professional indemnity insurance during the period of their registration.

This submission confines itself to some of the issues associated with and arising from the restriction of public access to private midwifery services. It is noted that the legislation provides that registrants who are covered by their employers insurance policy will meet the compulsory professional indemnity requirements of the scheme (refer clauses 69, 73, 75, 80, 83, 101, 125).

Specifically, the submission seeks to bring to the attention of the Health Ministers' Advisory Council the impact that withdrawal of professional indemnification has had on private providers of midwifery services. Withdrawal of market access to indemnification for midwives in 2001 effectively disabled existing clinical privileging and visiting hospital access arrangements for accredited midwives in private practice. This situation has remained without remedy for the past eight years. During this time women and their local communities have been denied access to a range of quality midwifery service options and over 200 midwifery practitioners across the nation have been disabled from working to the full scope of practice in their professional discipline resulting in significant workforce attrition, deprivation of livelihood and significant financial hardship for many families.

The first reading of two new Bills to enable access to indemnification arrangements for midwifery professionals was undertaken by the Federal Health Minister, the Honorable Nicola Roxon on 24/6/2009: Midwifery Professional Indemnity (Commonwealth Contribution) Scheme Bill 2009 and Midwifery Professional Indemnity (Run-off Cover Support Payment) Bill 2009. This initiative is to be commended and is one that is long overdue. However, constraining this legislative initiative is its current limited application to institutionalized birth settings, ie: hospital environments.

Given the obvious codependence between the new national health practitioner legislation and midwifery indemnification I request a response be made to how federal and state

governments, health ministers, health bureaucrats and regulators will address the following outstanding legal, social and human rights issues in relation to the health, safety and wellbeing of childbearing women and their infants in Australia:

1. The maintenance of cultural safety, quality and equity for women and their families choosing to birth their babies at home to access an appropriately qualified, registered health professional (midwife) in accordance with current international scientific evidence and parity with comparable western health systems;
2. The upholding of respect, rights and responsibilities associated with common law principles of informed consent and the bodily autonomy of childbearing women in Australia who choose to birth babies at home as supported by international conventions such as CEDAW, the United Nations International Declaration on Human Reproductive Rights and the International Initiative on Maternal Mortality and Human Rights (IIMMHR);
3. The prevention of health service monopolies, restrictive trade practices and anti-competitive principles currently operating in public and private sectors. These activities continue to impede the competitive market supply of a range of safe, quality childbirth services in accordance with fee-for-service principles stated by the current government in its National Maternity Review (2009), and for which there is identified and unmet demand in the Australian community;
4. The guarantee of justice, public interest and freedom associated with a liberal democracy in ensuring public and private access to the full scope of midwifery practice / services is met, in accordance with professional, legislated and ethically identified standards as articulated in the International Definition of the Midwife, which includes:

“A midwife may practice in any setting including the home, community, hospitals, clinics or health units.”

(ICM Adopted 19 July 2005: supersedes ICM The International Definition of the Midwife 1972 and its amendments of 1990)

These international standards and duty of care are currently enshrined in the Australian Nursing & Midwifery Council (ANMC) Australian National Midwifery Competency Standards (2006), ANMC National Midwifery Code of Ethics (2008) and the ANMC National Midwifery Code of Professional Conduct (2008), the latter two documents having been recently launched at Parliament House in 2008 by the Commonwealth Chief Nurse and Midwife at the invitation of the Federal Health Minister’s Office.

Thank you for your consideration of these matters and your response regarding the proposed strategies for managing each of these complex and challenging issues in

relation to changing health workforce regulation that aims to improve quality and safety for all Australians.

Yours Sincerely
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