

NURSING BOARD OF TASMANIA



RESPONSE TO THE EXPOSURE DRAFT OF THE HEALTH PRACTITIONER REGULATION NATIONAL LAW 2009

The Nursing Board of Tasmania (the Board) is pleased to provide the following recommendations/comments in regard to the exposure draft of the *Health Practitioner Regulation National Law 2009*.

1. Clause 35: recommend that the role of the Public Interest Assessor be clarified. The late addition of this position does not promote trust in the transparency or good faith in the process of consultation.
2. Clause 45 (5): One of the Board's greatest concerns is in relation to this clause which effectively means Tasmania as a State within the Federal model will not have its own representative on the National Board. This decision effectively disenfranchises a substantial number of health professionals, as an example in excess of 20,000 nurses and midwives located within Tasmania, the ACT and the Northern Territory. At a time when collaboration across the states and territories and across the professions is of paramount importance this decision potentially creates disharmony and discontent.

The Board seeks an immediate amendment to the Bill to include eight practitioner members, one from each participating State and Territory, and four community members. A Board comprising a total of 12 members meets the requirements of c 45(4). Nursing and midwifery is the largest professional group covered by the scheme and it is important that every state and territory is represented on the Board. Furthermore, the volume of registrants means that the professions can sustain a board of this size in terms of suitable candidates as well as the associated costs such as sitting fees.

3. Part 6 Accreditation: The Board notes that whilst some previously raised concerns have been addressed in this draft there are still uncertainties and concerns relating to the the power of the Ministerial Council to ultimately place workforce issues over educational standards and this remains a significant concern. The clauses of concern are:

- the appointment of the accreditation authority c 60(1)
- control of the approval of registration standards c 11& c 69(i)(f); and
- the ability to influence under conditions outlined in c 10(3)(d) and 10(4).
- Recommend that the ability for the national board to appoint an accreditation committee (clause 62) be removed as this is the least independent of the two pathways.

4. Clause 74: recommend that the period of registration coincide with the 30 June/1 July financial year.
5. Clause 75(2): recommend that nursing and midwifery are excluded from the area of need provisions.
6. Clause 96: Crim Trac or police have discretion under this clause to comply with a request for a criminal history. This may lead to differing arrangements within each jurisdiction thereby creating non-uniform reporting processes. Recommend that it be a mandatory requirement that criminal reports be provided. In addition, it is not clear who must pay for the report.
7. Clause 96: The definition of "criminal history" requires applicants to disclose "charges". While this requirement may be designed to oblige nurses to disclose when they are the subject of criminal proceedings, the wording is clumsy and may lead to an applicant being prejudiced.
8. Clause 94: recommend that it be made explicit a requirement for English language proficiency to be demonstrated as is currently required by all Nursing and Midwifery Regulatory Authorities (NMRAs).
9. Clause 97(1)(c)(i)&(ii): recommend that the recency of practice requirements remain at 5 years as is currently the case across the majority of NMRAs. There is no evidence to suggest that 5 years is too long out of practice and reducing to 3 years would increase dramatically the requirement for re-entry programs.
10. Clause 106: recommend that students be required to pay a registration fee. Given the large number of nursing and midwifery students this will require significant new administrative processes to be implemented and if no provisions are made for funding this new process and associated costs, then it should not be included. Without a fee the burden will be unfairly carried by the registered health practitioners.
11. Clauses 122 & 123: recommend that these periods of grace be limited to 1 month, three months is an excessive time with increased administrative requirements and little return to public in terms of protection.
12. Clause 161: it is unclear as to the exact nature of this - does it mean that they can deal with separately but concurrently or do they mean can deal together, i.e. in same report -at first instance this may raise issues the ability of the investigator to not make inferences and or may prejudice a body from making a decision with the other conduct in the back or foreground.
13. Clause 168 -the suspension power. The Board's experience is that the suspension power is a valuable public protection mechanism for both impairment and disciplinary complaints. Recommend that the power not be confirmed to disciplinary matters and be extended to impairment matters.
14. Clause 266(1): The requirement under this to publish conditions of registration errs on the prejudicial side of disclosure of information. The same result can be achieved by endorsing the practicing certificate with "conditions apply; contact the Board for further information".

15. Clause 269: recommend the removal of Division 1 and Division 2 in brackets after Registered Nurse and Enrolled Nurse. This is incongruent with the table under c 129 *Restriction on use of titles* and should be removed from the legislation because the recognised terms in seven out of the eight states and territories is Registered Nurse, and Enrolled Nurse.

16. Clause 271 (2) (b) &c 272(2)(b): recommend that the requirement for the publication of the suburb and postcode of mailing address be removed from the public register and remain accessible only to the Board. The rationale for or how the safety or protection of the public is promoted by this inclusion remains unclear.