

ANF (SA BRANCH) - incorporation



Flinders
UNIVERSITY



September 10, 2008

Bronwyn Nardi
Chair
Practitioner Regulation Subcommittee
Of the Health Workforce Principle Committee

Dear Ms Nadi,

National Registration and Accreditation Scheme for Health Professions (National Regulation)

The ANF (SA Branch), Nurses Board of South Australia, Royal College of Nursing Australia (SA Chapter), Australian College of Midwives (SA Branch), Australian College of Mental Health Nurses (SA Branch), Flinders University: School of Nursing & Midwifery, UniSA: School of Nursing and Midwifery have reviewed the Intergovernmental Agreement and 'Consultation Paper on Issues Supplementary to the Intergovernmental Agreement on National Registration and Accreditation Scheme for the Health Professions'. This submission represents our mutually agreed position on four key issues.

1. Standards and Professional Self Regulation

It is our position that any model of national regulation must uphold the primacy of self-regulation in the public interest. This means standards for each profession must be determined by the relevant profession.

The structure proposed by the Inter-Governmental Agreement (IGA) proposes to subvert this. In particular, the capacity of the Ministerial Council to refer matters to the Australia's Health Workforce Advisory Council (AHWAC) means that the standards set by the nursing and midwifery professions can be subject to the views of a council that does not contain representatives of the professions. The proposed ongoing role of the AHWAC in a regulatory/review function in this way is not acceptable.

Given the above, it is our position that the AHWAC should only exist for the purposes of establishing the national regulatory scheme. Following the establishment of the scheme, the AHWAC should discontinue any role in the regulatory scheme. If there are unnecessary obstacles created by the manner in which a Board is exercising its role in

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the adoption of policies and standards or regulating, the Ministerial Council is able to take advice generally on how they should act rather than limit this to the AHWAC as the proposed model suggests.

2. Governance and Powers

The Inter-Governmental Agreement proposes that all 'fees, fines and penalties' are payable to, and all staff are appointed by, the Agency Management Committee. This raises two issues.

First, the National Boards have no effective capacity to direct those providing administrative / support services. It is our position that the National Boards have the capacity to direct and deal with staff/services in a timely and effective manner.

Second, the funding entitlement of the National Boards, National Committees and State Committees is unclear. It is our position that arrangements must be such that these bodies are funded in a manner that enables them to properly execute their functions.

Given the above, we propose that the Agency Management Committee (AMC) and subsidiary structures should exist for a finite period for two purposes only.

First, to establish a national register. Once established, oversight of the national register (a role that would have otherwise been undertaken by the AMC) would become the role of a new National Board Group / Executive, comprising representatives of each National Board.

Second, to assist Boards that request assistance with resources, structure or administrative services. Under this model, the National Boards will be established as statutory authorities, with perpetual succession, a common seal, the capacity to sue and be sued in their corporate names, the power to enter into contracts, acquire, hold, deal with and dispose of property, conduct general banking and make financial investments. Each National Board would be funded by the fees, fines and penalties of the relevant professional group. There will be no subsidisation of any profession to the National Board of a different profession. The role of the AMC will end once those National Boards that require preliminary assistance are able to function independently.

We consider that the arrangement outlined above will enable the National Boards to function effectively and eliminate unnecessary duplication.

3. Structures for Local Determination

We hold deep reservations as to the effect of the proposed disciplinary / determination structures on nurses and midwives in South Australia. The IGA/consultation paper states that local committees can settle 'non-serious' matters and National Boards can determine 'non-serious' matters.¹ All 'serious' matters must be referred to an external

¹ Non-serious matter means those matters that would not result in suspension or cancellation of registration.

entity.² An external entity is not defined, but it is likely to constitute some form of tribunal chaired by a District Court Judge.

We support the principle of alternate dispute resolution underlying the use of informal mechanisms (i.e. committees). However, it is our view that the proposed arrangements are seriously flawed in two material respects. First, there is no ability to determine at the outset whether a matter may warrant suspension or cancellation of registration. This is likely to result in most matters being referred to the 'external entity'. Second, nurses and midwives in South Australia are not presently subject to a tribunal type process.

The elevation of 'serious' matters to an 'external' body is likely to have serious implications for nurses and midwives in South Australia, including increased stress, costs and timeframes. It is our view that the proposed structures are a significant, and unnecessary, departure from the existing, and anticipated, disciplinary processes for nurses and midwives in South Australia and would have a significant deleterious effect.

Given the above, it is our position that the Australian Nurses and Midwives Board and National Committees (or otherwise named) and State/Territory Committees ought to have power to both settle and determine all matters.

4. Accountability and Representation

We support the principle of accountability and representation in Board/Committee positions. It is our view that neither are provided for under the proposed national scheme.

The IGA/Consultation paper makes clear that the Ministerial Council will select National Board members from nominations of individuals and professional organizations. It is understood that the same principle will be used in order to appoint members to National and State/Territory Committees. This proposal does not support accountability of committee members. It is our position that a proportion of State/Territory committee members should be elected by members of the relevant profession in the relevant State/Territory. These arrangements would be analogous to existing NBSA election arrangements.

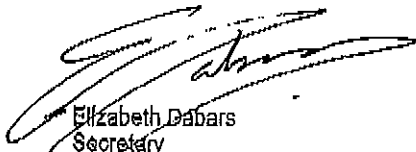
Further, the IGA/Consultation paper does not provide any clarity as to the representation of the professions on Boards or Committees. It is our position that both Boards and Committees must specifically preserve positions for at least one Registered Nurse, one Enrolled Nurse and one Midwife. Composition should also ensure the Chair is a nurse or midwife and provide that the majority of members are nurses and/or midwives.

Further to the above, we note the limited timeframes for consultation. We are aware that a series of consultation papers will require response over the next few months. Given the importance of this task, we believe adequate time is required to enable adequate consultation and feedback from the professions.

² Serious matters are those which may result in a suspension or cancellation of registration.

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Yours sincerely,



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