

AUSTRALIAN PEAK NURSING and MIDWIFERY FORUM



5 September 2008

Bronwyn Nardi
Chair
Practitioner Regulation Subcommittee
of the Health Workforce Principal Committee

Email: NRAIP@dhs.vic.gov.au

Dear Ms Nardi

Re: Submission to consultation paper on issues supplementary to the Intergovernmental Agreement on a national registration and accreditation scheme for the health professions to be included in the first bill

The Australian Peak Nursing and Midwifery Forum (APNMF) is a coalition of the peak nursing and midwifery organisations in Australia, which exists to work collaboratively on issues of national importance to nursing and midwifery. The APNMF identifies areas of common interest and concern relating to nursing and midwifery and attempts to work towards a position of consensus. The APNMF also takes joint action in areas of importance to nursing and midwifery and develops joint position statements which provide recommended policy directions for government and other relevant stakeholders.

The APNMF is comprised of the:

- Australian Nursing and Midwifery Council;
- Council of Aboriginal and Torres Strait Islander Nurses;
- Australian Nursing Federation;
- Royal College of Nursing, Australia;
- Council of Deans of Nursing and Midwifery; and
- Australian College of Midwives.

We refer to your letter of 13 August 2008 inviting participants to the 4 September forum on the implementation of the IGA for the National Registration and Accreditation scheme to submit written comments in addition to raising key issues at the forum. We note the extension to the time frame for consultation and are pleased about this as the APNMF is concerned about the short time frame for consultation, but also the significant time lag between the signing of the IGA and the commencement of the formal consultation processes. The commitment of nursing and midwifery to national regulation is based on ensuring the protection of the public and on maintaining the highest standards of nursing and midwifery care to the Australian community. This includes a commitment to taking the time necessary to

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ensure that the scheme developed is best practice in terms of protection of the public and is implemented carefully, thoughtfully and transparently.

The questions in your letter regarding size and composition of National Board, accreditation model and accreditation committee have been anticipated for some time and the APNMF conducted a workshop on 11 August to develop a consensus response to those questions. This will be submitted in accordance with your timeframes. Unfortunately no prior notice was received about the questions posed in this first consultation paper and this, together with the response timeframe of three weeks, has limited our capacity for due consideration of the questions and development of a consensus response from the professions. Notwithstanding those matters, this submission provides a consensus on the issues raised in the consultation paper and highlights other matters which are of concern to nursing and midwifery.

Please note the numbering used in this submission reflects that of the consultation paper. Also where this paper says 'National Board' we mean the National Nursing and Midwifery Board (however named).

2. Australian Health Workforce Ministerial Council

2.1 Publication of decisions

In certain circumstances, for example where the issue is one of protection of the public, it is imperative for Ministerial decisions to be published within a specified period of time. Similarly, where the Ministerial Council overrides a decision of the National Board this should also be published within a specified period of time.

As a general rule we do not believe that the Ministerial Council should have any ability to override a decision of the national board where that decision relates to professional standards, professional registration or accreditation.

3. Australian Health Workforce Advisory Council

There is no clarity around the role and purpose of this council in relation to protection of the public. The APNMF believes the AHWAC should be renamed to accurately reflect its role in terms of regulation if indeed it is to have one.

We note that there will be an approach made regarding the composition of the AHWAC shortly and the APNMF is keen to commence further discussions regarding this issue. If indeed this body is to be established and maintained APNMF strongly recommends one of the Council members to be a nurse and/or midwife.

3.5 Resignation and removal

This proposal is supported. Provisions may need to be included to address the situation where a health professional member is subject to allegations of serious misconduct and/or temporarily suspended pending the outcome of the investigation and disciplinary hearing. This may also arise with a public member in a civil matter and a process by which the member stands down until the matter is resolved may need to be included. It is suggested that the same provisions are made for members of other bodies established under the scheme.

3.6 Coverage for legal liability – indemnities and immunities

This proposal is supported.

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3.8 Reporting requirements

We support the publication of an annual report however we suggest that rather than “*as soon as possible after 30 June each year*” the legislation should stipulate a timeframe for example the professions would support “*as soon as possible after June 30 and no later than 30 September*”.

The National Board should also have the capacity to issue an annual report for the benefit of the community and the professions.

In addition we do not agree to the Ministerial Council having the power to make directions regarding matters to be reported if that includes a right of veto. Therefore we would want to see an amendment to the proposition ...*and the Ministerial Council to have capacity to make directions concerning the matters to be reported, however, that power does not extend to the right of veto over matters.*

4. National Agency

4.1 Corporate structure

The IGA proposes that all fines, fees and penalties are payable to, and all staff are appointed by the Agency Management Committee. This raises a number of issues.

Firstly this would imply that national boards have no effective capacity to direct those staff providing services; and secondly the funding entitlement of the national board remains under the control of the agency.

The APNMF is adamant that national boards must have access to and control over sufficient financial and human resources to allow it to regulate appropriately.

The APNMF acknowledges there is a range of ways this could be achieved, for example,

- making the national board a statutory authority;
- making clear in Bill A that the national board must have access to and control over all financial and human resources through the identification of clear and relevant powers for the boards;
- making the role and function of the Agency Management Committee for a transition period only to establish a national register; and
- to assist Boards that request assistance with resources, structure or administrative services.

The APNMF is keen to have further discussion to determine a satisfactory outcome to this issue as agreed by Dr Louise Morauta at the National consultation on 4th September.

4.2 Terms of office – length of appointments, sitting fees and allowances

We support three year terms of office. Sitting fees and allowances paid should be the same for each profession and community members in each body established under the scheme.

4.6 Coverage for legal liability – indemnities and immunities

Agreed.

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4.9 Staffing arrangements – capacity to employ, set terms and conditions

The National Board must have access to, and control over, sufficient and suitable financial and human resources to allow it to fulfil its regulatory responsibilities appropriately. The current staffing structure outlined in the IGA does not allow the National Board sufficient control over any of the resources required to regulate appropriately. As stated in 4.1 it is our considered opinion that the National Board should have equivalent powers to the National Agency in this regard.

We have previously expressed our strong support for employment of appropriate expertise in the cross professional secretariat offices at the both the national and state/territory level on an ongoing basis. We are also committed to retention of appropriate expertise in the cross professional secretariat offices at the national and state/territory level during the transition phase which will extend beyond the 1 July 2010 implementation date. It is important that staff with expertise are retained to finalise outstanding matters whilst implementing new systems to ensure that no matters are overlooked. This will be imperative on an ongoing basis for both the national and state and territory offices to provide appropriate professional expertise through the employment of nurses and midwives.

Finally, it is important from an industrial perspective that staff employed under the various current schemes that transfer to the new scheme do so without disadvantage.

4.10 Financial provisions

As previously stated the view of nursing and midwifery is that the National Board must have access to, and control over, sufficient and suitable financial and human resources to allow it to regulate appropriately. The information provided to date does not allay the significant concerns expressed on this critical issue.

The only decision making allows the National Board under the model proposed is the setting of fees in conjunction with the National Agency. Nursing and midwifery consider it to be of critical importance that the National Board must have the same range of powers in terms of funding as are currently accorded to the National Agency. The APNMF is very clear that it will not tolerate a situation where the National Board has powers which are restricted and as such we strongly advise there be changes in the IGA to allow the National Board to have the same range of powers in terms of funding as currently accorded to the National Agency. This includes the National Board having access to all the revenue raised from nurses and midwives to use in the regulation of nursing and midwifery. In this way the National Board has the capacity to establish extremely worthy schemes such as that established in Victoria to assist drug and alcohol affected professionals.

In addition the APNMF will not accept any cross subsidisation of other health professionals by nursing and midwifery or any increase in the fees charged to nurses and midwives in order to fund additional bureaucratic structures. Additional governance structures such as the proposed Advisory Council and the National Agency should be government funded.

Furthermore, the APNMF want to again assert our view that all fees will be payable to the National Board allowing them to self fund their activities.

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4.12 Reporting requirements for agency

It is the view of the APNMF that the National Board should prepare an annual report each financial year, and that it should be submitted to the Ministerial Council, and tabled in the Houses of Parliament for each jurisdiction.

5. National Boards

As previously stated the APNMF strongly supports the national board having access to and control over sufficient and suitable financial and human resources to allow it to regulate appropriately, how this is achieved is explored in further detail at 4.1 of this submission

5.1 Names of boards

The APNMF acknowledges the proposed names for the Boards. Nurses and Midwives Board of Australia is preferred.

5.3 Sitting fees and allowances, and length of appointment

The APNMF agrees that three year terms are acceptable with a maximum of two consecutive terms and a partial rotation of board members to maintain expertise and continuity. We would also seek opportunity for members of the professions to become involved in the work of the Board through mechanisms such as election to standing committees. As previously stated the sitting fees and allowances paid to all health professionals and community members should be equivalent.

5.6.1 Resignation and removal

Agreed.

5.7 Coverage for legal liability - indemnities and immunities

Agreed.

5.8 Reporting requirements

It is our preference that the National Board prepares its own annual report on its functions and operations for the information of the community and the professions.

5.10 Arrangements for Ministerial Council to review composition of boards

We agree that the Ministerial Council should review the composition initially following that only under specific circumstances as indicated by the professions.

5.11 Responsibility for developing accreditation standards (accreditation committee or bodies)

Nursing and midwifery is continuing, through the ANMC, state and territory nursing and midwifery regulatory authorities and APNMF to work on the detail of how national accreditation of nursing and midwifery courses might be conducted using the IGA structures. The APNMF will not accept a situation where professional standards, accreditation of courses or related professional issues are decided by an organisation that is not based in the professions. In addition this is an area in which we would not support the Ministerial Council having the capacity to override the National Board.

These are critical issues that the APNMF believe require further in depth discussion with the project team. Critical to this is a consideration of transitional processes. We anticipate being able to provide further information in our next submission.

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OTHER ISSUES

Confidentiality, information sharing and privacy issues

We note the intent to provide for these issues in the legislation (3.7, 4.7, and 5.4) but must reiterate that it is critical that the National Board is able to share information in the public interest. The legislative provisions must not be so restrictive as to prevent this. In some states and territories the privacy legislation prevents the sharing of information in the public interest and the APNMF is strongly of the view that this must change.

Hearing of disciplinary matters

There are numerous issues relating to the hearing of disciplinary matters about which the APNMF seeks clarification.

Firstly, there is reference to less serious and serious matters being referred to various bodies for resolution. We support the proposal that less serious matters should be resolved by the state or territory boards and this may include informal counselling and the provision of non binding recommendations.

However, clarification is required as to what constitutes a 'serious' matter. We note the advice that the IGA definition is one that incurs suspension or cancellation of registration; however, we contend that such a decision is not always apparent at the outset of a matter. We are of the opinion that as a matter of urgency there must be further discussion regarding what constitutes more or less serious for the purposes of referral.

The APNMF has previously sought clarification on what the relationships will be between the Boards and other bodies such as state health complaints commissions, tribunals, district courts and the Crime and Corruption Commission in WA. This is another matter that we believe requires urgent attention from both a procedural and legislative perspective.

Finally, whatever processes are determined for disciplinary matters they must be underpinned by the principles of procedural fairness and natural justice for both the community and individual nurses and midwives.

Proposed Register to be managed by the Nursing and Midwifery Board

Table 1 in the IGA lists proposed registers and divisions of registers to be administered by each profession Board. The APNMF insists that there be provision made for two distinct registers to be managed by the Nursing and Midwifery Board - a Register of Nurses and a Register of Midwives, as shown below:

Profession	Proposed Register	Proposed Divisions of the Register
Nursing and Midwifery	Register of Nurses	Registered Nurses Enrolled Nurses
	Register of Midwives	

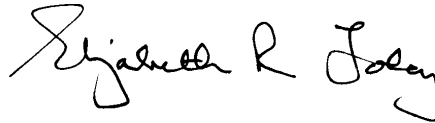
The midwifery profession is widely recognised as distinct from nursing, with legislation reflecting this in five of the eight states and territories, and in bill form in another state (SA). It should therefore have the status of a profession, with a distinct register. This will not preclude some individuals maintaining registration as both a nurse and a midwife where this is

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important for their professional responsibilities and role. However, with direct entry education programs for midwives now available in universities in all states and territories (except Tasmania), and with huge unmet demand for places in these courses, it is likely in the next ten years that this route for entry to the profession will become the dominant pathway. APNMF is strongly of the view that it is essential there be distinct registers for the professions of nursing and midwifery. This is in keeping with the regulation of midwifery in other OECD countries, where midwifery is a completely separate profession from nursing. As direct entry graduates grow as a proportion of the Australian workforce in future years, it may become necessary to establish a separate Professional Board for Midwives.



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Australian Nursing and Midwifery Council



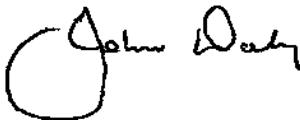
ELIZABETH FOLEY
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Royal College of Nursing Australia



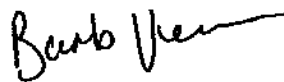
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