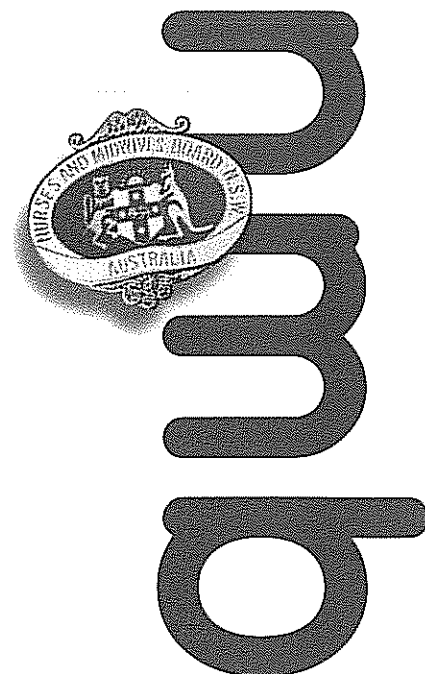


23 March 2010

Mr Mal Keenan
Committee Manager
Parliamentary Committee on the HCCC
Parliament of New South Wales
Macquarie Street
SYDNEY NSW 2000



Dear Mr Keenan

I refer to your correspondence, dated 4 March 2010, requesting the Nurses and Midwives Board to respond to questions raised in relation to a public hearing held on 4 March 2010 concerning the Health Care Complaints Commission.

Thank you for allowing an extension of time for the responses to be forwarded to you.

Please find attached the comments of the Board in relation to the questions raised.

If you have any further inquiries, please contact Maureen Giddins Blues, Executive Director on telephone 9219 0202 (direct line).

Yours sincerely,


Professor Jill White
President

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NSW Nurses and Midwives Board Questions

1. Could you please explain to the Committee the role, if any, which the Association and the Board had in the development of the national scheme? What is your view of the effectiveness of the consultation process and the proposed model?
2. What do you consider to be the key elements of the scheme in terms of its impact on the Board, and on nurses and midwives generally?
3. Do you have any general observations to make on the efficacy of lines of communication between the Board and the Health Care Complaints Commission?
4. The NSW Medical Board has raised concerns that the principle of co-regulation underlying the Act is not applicable at the conclusion of an investigation, and proposed that there should be either consensus, or a replication of the requirement under s 13 of the Act that the more serious course of action should be followed. Given that the Commission states that disagreements between registration boards and the Commission are rare, is this an issue for the Nurses and Midwives Board?
5. With respect to fairness of proceedings, the Commission has suggested that where a Board's handling of a complaint against a practitioner becomes protracted, the Board should be required to give reasonable progress reports to the complainant. What is your response to this proposal, and how do you think it might impact upon the Nurses and Midwives Board?
6. What, if any, has been the Board's experience of the introduction of mandatory notification of practitioners under the recent amendments to the *Medical Practice Act*?
7. In its submission, the Nurses Association notes that it is the Association's experience that there has been a continual rise in the number of complaints made against nurses, specifically registered nurses, registered midwives and enrolled nurses. To what would you attribute this increase, and do you consider that the processes of the health care complaints system in NSW contributes to this?
8. The Dental Technicians Board contends that the issue of the Health Care Complaints Commission notifying an Area Health Service with respect to a complaint has to an extent been dealt with by the Service Check Register for NSW Health Services; and is concerned that an Area Health Service would take the view that the practitioner is 'guilty before being proven innocent'.

As the Nurses and Midwives Board does not support Issue 28, do you have any comment to make on this concern?

9. Are there any other comments that you would like to make with respect to the Inquiry's Terms of Reference?
10. Is there anything the Board would like to suggest which would assist the Committee in the exercise of its oversight role?

**PARLIAMENTARY COMMITTEE DISCUSSION PAPER
NURSES AND MIDWIVES BOARD COMMENTS**

QUESTION NUMBER	COMMENTS
1	<p>In relation to the role of the Nurses and Midwives Board in the development of the national registration and accreditation scheme and the effectiveness of the consultation process and the proposed model.</p> <p>The Board has worked with the other nursing and midwifery regulatory authorities in Australia and in conjunction with the Australian Nursing and Midwifery Council (ANMC) to provide comment on consultation papers and refer the administrators of the process to the high standard of nursing and midwifery professional practice which should be maintained in the national scheme.</p> <p>The Board has had discussions with the Legal and Legislative Services Branch of the Department of Health regarding the co-regulatory model to be used in NSW, on several occasions.</p> <p>The remaining issue not yet resolved is the appointment by the Ministerial Council of an independent accrediting body for nursing and midwifery. This issue is of great consequence to the Board as the Nursing and Midwifery Board is the only health professional board moving into the national scheme that does not have an independent accreditation body. The Board is of a similar view to other nurse/ midwifery regulation authorities that ANMC should take on this role. The PEAK Nursing and Midwifery Forum has stated this on many occasions during the last two years. The Board would welcome any influence on the outcome of this that the Parliamentary Committee might have.</p>
2	<p>In relation to the key elements of the scheme in terms of its impact on the Board, and on nurses and midwives generally.</p> <p>The Nurses and Midwives Board welcomes the concept of a national scheme for registration and accreditation of health professionals, and the potential for consistency in assessment of international qualifications. The Board applauds the retention of the HCCC in NSW and the maintenance of the current rigorous complaints handling system.</p> <p>A main concern of the Board is the accreditation of educational programs and the independence of the process. The Board also has some concerns regarding the way in which registrants with conditions may be monitored between NSW and the national board and the national Agency.</p> <p>Communication channels that ensure registrants with conditions are compliant will need to be in place for this co-regulatory model to function effectively.</p>
3	<p>In relation to efficacy of lines of communication between the Board and the HCCC.</p> <p>The Board is of the view that this depends on whether current consultation processes continue. These have worked well in the past and have proved efficient. The Board hopes that in the co-regulatory model that the new bodies will have a similar system of communication.</p>
4	<p>In relation to the NSW Medical Board concerns.</p> <p>The Nurses and Midwives Board does not anticipate disagreements in terms of course of action. The principle of the more serious view being paramount in the decision-making process has held up in the current system and the consultative process the Board has with the HCCC ensures that full</p>

	<p>discussion of complaints takes place.</p> <p>The Board is of the opinion that there should be an audit process in place in the national scheme so that outcomes at the national and state (NSW) level are similar. It is assumed that a decision to suspend or place conditions on a registrant in NSW will be applied across state and territory borders in the national scheme.</p>
5	<p>In relation to issues of protracted handling of a complaint by the Board and the HCCC.</p> <p>The Board has expressed concerns in the past regarding lengthy investigations and the time a registrant is suspended pending completion of the investigation, in the past. Both the complainant and the respondent should be informed of the progress of the complaint and the Board is of the view that this is more appropriately the purview of the HCCC who is investigating the matter.</p>
6	<p>In relation to the introduction of mandatory notification of health care providers, the Board noted that this is not required by the current <i>Nurses and Midwives Act 1991</i> but would be required from 1 July 2010.</p>
7	<p>In relation to the rise in the number of complaints made against nurses in recent years (graph attached) and what contributed to this increase.</p> <p>The Nurses and Midwives Board is of the view that the cause is multifactorial. There are a greater number of registrants than previous years; the public and the profession are more aware of the complaints processes; the introduction of impairment provisions in the <i>Nurses and Midwives Act 1991</i> has permitted registrants to continue practice while supported and undergoing treatment.</p> <p>The Board, through its strategic plan has sought to inform the public and the profession; information is placed on the Board's website and in the Annual Reports.</p> <p>The Board has concerns, however, given the nature of some complaints, that workforce stressors may also be a contributing factor. Many complaints about individuals are mirrored by problems within the environment.</p>
8	<p>In relation to notifying an Area Health Service (or employer) about a complaint concerning an employee, the Nurses and Midwives Board restates its position previously advised.</p> <p>This proposal is not supported. The Board has significant concerns about the ramifications to the individual employed by the Area Health Service, unless the complaint refers directly to the work of the nurse or midwife as an employee of the health service. Where a nurse or midwife has potentially put patients at risk, then conditions would be imposed on the person's registration, and these would be notified to the employer.</p>
9	<p>In relation to the Parliamentary Committee's Terms of Reference, the Board has no further comment.</p>
10	<p>In relation to the oversight role of the Parliamentary Committee to the Health Care Complaints Commission, the Board is of the view that a reciprocal auditing system for complaints handling needs to be in place both nationally and in NSW for the commencement of the national scheme on 1 July 2010. This would ensure that matters are managed consistently across jurisdictions.</p>

Other comments:

The Board requests the support of the Parliamentary Committee for an independent accrediting body for nursing and midwifery nationally. An independent accrediting body has the potential to develop and maintain the high standards of education and practice that is currently in place in NSW, on a national scale. Competence, health issues and disciplinary issues are judged against a standard which is applied in the education of nurses and midwives for beginning practice and committees/ Tribunals and panels use the standards accepted by the profession in making determinations on an individual's practice.

Table Identifying Trends in Complaints Concerning Nurses and Midwives from 2006 – 2009 (data from the Nurses and Midwives Board Annual Reports)

COMPLAINTS/OFFENCE	2006	2007	2008	2009
Competence issues	21	26	25	61
Professional Boundary issues	8	6	6	17
Alcohol & other drug issues	12	8	6	18
Character / honesty issues	8	1	3	14
Convictions not relating to practice	0	14	10	15
Non-completion of annual returns	710	1423	1964	2155
Other (non-specific)	6	27	29	56

Table Identifying Trends in Notifications Concerning Nurses and Midwives from 2006 – 2009 (data from the Nurses and Midwives Board Annual Reports)

NOTIFICATIONS	2006	2007	2008	2009
Advice from other NMRA	203	100	137	100
Impairment (physical)	3	3	1	6
Impairment (mental)	7	7	7	6
Impairment (drug & alcohol)	4	5	3	7
Court convictions	24	2	1	7