

Submission

No 46

## INQUIRY INTO THE OPERATION OF THE HEALTH CARE COMPLAINTS ACT 1993

**Organisation:** Nurses and Midwives Board of NSW  
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**Date Received:** 10/11/2009

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6 November 2009

Mr Mel Keenan  
Committee Manager  
Committee on the Health Care Complaints Commission  
Parliament of New South Wales  
Macquarie Street  
SYDNEY NSW 2000

Dear Mr Keenan

I am writing in response to your correspondence, dated 2 October 2009, regarding the Discussion Paper from the Committee on the Health Care Complaints Commission.

The Nurses and Midwives Board of New South Wales has reviewed the discussion paper and made comments regarding the issues raised and the strategies suggested.

The comments are attached.

The Board wishes to thank the Parliamentary Committee for the opportunity to contribute to this review.

Yours faithfully



Maureen Giddins Blues  
**Executive Director**



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## PARLIAMENTARY COMMITTEE DISCUSSION PAPER

### NURSES AND MIDWIVES BOARD COMMENTS

ISSUE NUMBER	COMMENTS
1	The NMB committee considered the <i>Australian Charter of Healthcare Rights</i> in the attachment to the document and supported the recommendation
2	The NMB committee considered the <i>Australian Charter of Healthcare Rights</i> in the attachment to the document and supported the recommendation
3	The NMB committee considered the <i>Australian Charter of Healthcare Rights</i> in the attachment to the document and supported the recommendation
4	<b>This proposal is not supported.</b> The NMB committee had some concerns, as the proposal to give full recognition to public health organisations as the primary legal entity has the potential to see systems errors as individual's errors and adds another layer to the beaurocracy.
5	Wholeheartedly support the proposal to develop procedures for advising practitioners they are under investigation. The NMB committee considers that there is a great need to do a broader community education on the processes of the HCCC.
6	Agree with the HCCC developing guidelines and criteria to measure the 'best endeavours'. The NMB committee supports the intention of the second half of the proposal, i.e. assessing a client's capacity to understand, however the implementation may bring significant difficulties. It would be preferable if the proposal ended at 'best endeavours may be measured'.
7	<p>In relation to the comments at 2.15, it needs to be clarified what alternatives to writing a complaint would be accepted. No method of accepting verbal notifications is incorporated in the discussion paper. There are difficulties in accepting verbal notifications or complaints, as the content and intent may be contested at a later date.</p> <p>In relation to the comments at 2.20, whatever happens in the review, there is a need to keep the flexibility to deal with cross-discipline issues.</p> <p>The NMB committee supports the notion of a national law, however on the understanding that the appropriate aspects for nursing and midwifery will be reflected in 'Bill C' of the national registration scheme.</p>
8	The proposal for a state office of the national registration board is

	supported
<b>9</b>	The proposal for a committee to be established with a remit over all Boards similar to the Committee on the HCCC, is supported
<b>10</b>	The proposal for the Public Bodies Review Committee to review each Annual Report from the registering bodies and report back to the Legislative Assembly, is supported
<b>11</b>	The proposal that the HCCC be enabled to initiate an investigation of its own motion is supported in principle as it relates to issues raised in comments at 3.7. The NMB does not support adding any new respondents to a complaint without consultation with the relevant Board.
<b>12</b>	The proposal that the HCCC make publicly-available guidelines for complaint handling is supported. The NMB committee opinion is that there needs to be further consideration given to conciliation, as it is not an avenue taken up by many registrants. The process needs to be reviewed. Where conciliation takes place there should be some protection for the person who agrees to participate. In NSW there is no provision for plea bargaining.
<b>13</b>	Supported
<b>14</b>	Supported.
<b>15</b>	Supported
<b>16</b>	Supported.
<b>17</b>	Supported
<b>18</b>	Supported
<b>19</b>	Supported.
<b>20</b>	Strongly supported
<b>21</b>	Supported
<b>22</b>	Supported
<b>23</b>	Supported
<b>24</b>	Whilst the Board does not disagree with the proposal that, where there is disagreement between the HCCC and the registration authority, the most serious course of action should be taken, there should be a strong focus on reaching consensus. In relation to the comments at 3.27, there should be a requirement for the HCCC to give equal weight to the Board's decisions, and where there is an impasse the more serious view prevail.

25	Supported
26	Supported
27	Supported
28	<b>This proposal is not supported.</b> In relation to the proposal that the individual's public health employer be notified of a complaint against the nurse or midwife, 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.
29	This proposal is too general in its wording and information on any other complaints or practice-based concerns should only be required in the case where the information is directly related to the complaint under investigation.

**Other comments:**

In relation to comments at 2.8 and 2.14, the NMB is of the opinion that there needs to be more general information provided to the community, rather than education for targeted groups.

In relation to comments at 2.15, the issue of concern related to complaints being in writing. The alternative of receiving verbal notifications/ complaints was not detailed sufficiently and is not picked up in any other recommendation of the discussion paper.

In relation to comments at 2.20, the NMB seeks to emphasise the need for flexibility to remain in this process, to cater for the different requirements of different professions. In relation to comments at 2.21, the NMB brings to your attention that there is an error of fact. The costs are not worn by the consumers but rather the registrants.

In relation to comments at 3.16, the committee noted the reasoning behind the proposal that investigations be conducted as quickly as possible. There are concerns, however in that the perceived lack of procedural fairness with no formal appeal rights for complainants has not been picked up in any of the issues statements.