8 October 2014

SUBMISSION FROM AUSTRALIAN MIDWIVES ACT LOBBY GROUP
FOR REVIEW OF THE NATIONAL REGISTRATION AND ACCREDITATION SCHEME FOR HEALTH PROFESSIONS.

Thank you for this opportunity to make a submission.

The Australian Midwives Act Lobby Group

(AMALG) had its inception in 1997 with jurisdictional review of State and Territory Nurses Acts. AMALGs purpose was and remains to ensure that midwifery in Australia is legislated in a nationally consistent manner. This includes the application of international standards of midwifery education, regulation, and practice that are enacted in legislation to safeguard the Australian public.*

AMALG Vision Statement

Woman and Midwives work in partnership to ensure culturally appropriate maternity care that is safe, affordable, and accessible. Midwives are autonomous practitioners who provide woman centred care. Midwifery legislation will protect and strengthen the woman and midwife partnership.

Contemporary Regulation of Midwives

As NRAS is aware, Midwifery is a distinct profession with internationally recognised standards of education, practice and regulation - International Confederation of Midwives 2014 www.internationalmidwives.org  (See Reference Listing for comprehensive midwifery standards)

AMALGs view is that current legislative requirements for midwives within the National Law are not protecting the public. Nor are they enabling the midwifery profession in Australia to function with parity or in accordance with international standards. This has a number of significant disadvantages for the Australian Health System and public safety, including the principle recipients of midwifery services, childbearing women and their babies.
Deficiencies of the current system include, (but are not limited to):

- A lack of visibility in legislation of ‘the Midwife’. This hinders all aspects of best practice midwifery, including evidence-based models of maternity care in pregnancy and childbearing in Australia (Sandall et al. 2013). This is at odds with current health policy including the National Maternity Services Plan (AHMAC 2011) and improving maternity services in Australia (Commonwealth of Australia 2009).
- Absence of professional equity; e.g. the numerical dominance of nursing within current NRAS arrangements, including a Nursing and Midwifery Board of Australia (NMBA) undermines adequate attention to and contemporary regulation of the midwifery profession (Barclay et al. 2003). This is not commensurate with community expectations.
- Lack of legislative clarity between the nursing and midwifery professions creates a danger for the public because there is no understanding of the difference between nursing and midwifery. For example, current provisions within the National Law include ‘nursing and midwifery profession’ rather than transparently defining and legislating each distinctly as separate professions, each with its own distinct professional title, boundaries and scope of practice (Pairman et al. 2011).

Problems with the current model have been longstanding and existed prior to implementation of the NRAS scheme with de facto regulation of midwifery by the nursing profession (Bogossian 1998; Barclay et al 2003; Donnellan-Fernandez & Eastaugh 2003; Grehan 2009; Homer et al 2008; Pairman et al 2011).

A Midwifery Board is necessary to ensure:

- Midwifery practice issues are assessed and regulated by a full Board that is credible and up-to-date with issues relevant to the provision of contemporary, safe maternity care within a diversity of models and across a variety of contextual settings
- Midwifery regulation is aligned with current public expectations for high quality maternity services within all settings
- Community representatives aware of relevant issues for childbearing women and families are recruited to the Board to participate in accurate assessment of all midwifery practice-related issues
- Protection of the public is increased by timely notification and complaints management processes involving midwives and midwifery services
- Improved cost effectiveness and responsiveness to emerging regulatory issues and the application of principles of natural justice occur in relation to midwifery
- Improved data collection, monitoring and workforce planning in relation to practicing midwives and the midwifery profession.

International Confederation of Midwives Global Standards for Midwifery Regulation aim to promote regulatory mechanisms that protect the public (women and families) by ensuring that safe and competent midwives provide high standards of midwifery care to every woman and baby (ICM 2011, pp. 1 – 14).

The Regulatory Aims:

- To support midwives to work autonomously within their full scope of practice.
- When midwifery associations, midwifery regulators, midwifery educators and governments strengthen the midwifery profession and raise the standard of midwifery practice in their jurisdiction, and when midwives work within a professional framework, they are supported
and enabled to fulfil their role and contribute fully to the delivery of maternal and newborn care in their country.

- By raising the status of midwives through regulation the standard of maternity care and the health of mothers and babies will be improved. (ICM 2011, p. 1).

**The Founding Values and Principles:**

- Recognition that regulation is a mechanism by which the social contract between the midwifery profession and society is expressed. Society grants the midwifery profession authority and autonomy to regulate itself. Society expects the midwifery profession to act responsibly, ensure high standards of midwifery care and maintain the trust of the public.
- Recognition that each woman has the right to receive care in childbirth from an educated and competent midwife authorised to practise midwifery.
- Recognition that midwives are autonomous practitioners; that is they practise in their own right and are responsible and accountable for their own clinical decision making.
- Recognition that the midwife’s scope of practice describes the circumstances in which the midwife may make autonomous clinical decisions and in what circumstances the midwife must practise in collaboration with other health professionals such as doctors.
- Recognition that midwifery is a profession that is autonomous, separate and distinct from nursing and medicine. What sets midwives apart from nurses and doctors is that midwives can exercise the full scope of midwifery practice and provide all the competencies within this scope.
- Recognition that wherever a registered/qualified midwife with a midwifery practising certificate works with pregnant women during the childbearing continuum, no matter what the setting, she is practising midwifery. Therefore when a midwife holds dual registration/qualification as a nurse she cannot practise simultaneously as a midwife and a nurse. In a maternity setting a registered/qualified midwife always practises midwifery (ICM 2011, p. 5).

**The Regulatory Framework Necessary for Effective Midwifery Regulation:**

- Determine who may use the title of Midwife
- Describe the scope of practice of a midwife consistent with the ICM definition of a Midwife
- Ensure that midwives enter the register with education consistent with the ICM Standards for Midwifery Education (ICM 2011)
- Ensure that Midwives enter the register able to demonstrate the ICM Essential Competencies for Basic Midwifery Practice (ICM 2013)
- Ensure that Midwives are able to practice autonomously within their prescribed scope of practice
- Ensure that Midwives demonstrate continuing competence to practice
- Ensure that midwives and women (as users of midwifery services) are part of the governance of midwifery regulatory bodies, and
- Ensure public safety through the provision of a competent and autonomous midwifery workforce (ICM 2011, p. 4).

**Midwifery Practice Issues in Australia:**

- The regulator has a significant role and responsibility in facilitating regulatory mechanisms that support both professional midwifery practice and public safety
The nature of these mechanisms, including their implementation should guide and enable midwives to confidently transition into and safely work within the ICM definition / scope of practice, including a variety of midwifery models / contexts.

The NMBA is the only Board within AHPRA that regulates two professions, Midwifery and Nursing.

Regulator should uphold Midwifery Practice Standards that are internationally recognised.

Need for a robust, practical quality and safety program for all midwives relevant to diverse practice contexts and different risk management challenges.

Need for adequate transition to professional practice for new midwifery graduates, including employment of Bachelor of Midwifery graduates within all practice models espoused in the National Maternity Services Plan, encompassing metropolitan, regional, rural and remote settings (Australian Health Ministers Advisory Council 2011).

Need for supportive mentorship / preceptor arrangements for all midwives transitioning into new contexts / models of practice, as well as remediation, education / practice support for those undergoing disciplinary processes.

Implement regulatory arrangements to ensure access to both public and private midwifery care as a community expectation for quality maternity services care in all settings.

Require robust Midwifery Practice Review for all midwives that is context specific, including relevant Continuing Professional Development points.

Promote safety for women choosing to give birth at home, including support by registered midwives with adequate professional indemnity insurance.

Encourage nationally consistent hospital access agreements for eligible midwives.

Recognise women choose care outside midwifery practice guidelines / uphold women’s reproductive rights as human rights without punitive measures for providers (National Midwifery Guidelines for Consultation & Referral 2013).

Recognise challenges / constraints posed by current collaborative arrangements for eligible midwives.

Ensure accurate, discrete midwifery workforce data (i.e. registration; workforce participation; graduate recruitment / retention; re-entry to workforce, and permanent exists from workforce).

Current environment: increasing trend to unattended childbirth; high profile coronial cases; high rates of unnecessary medical intervention; poor access to midwifery continuity for vulnerable, marginalized groups.

**Criteria to Measure Midwifery Legislation and Regulation Practices:**

- Enable midwives to practice freely in any setting.
- Ensure the profession is governed by midwives, not other health professional groups.
- Support the midwife in the use of life-saving knowledge and skills in a variety of settings in countries where there is no ready access to medical support.
- Enable midwives to have access to ongoing education.
- Require regular renewal of right to practise.
- Adopt a ‘Definition of the Midwife’ appropriate to the country within the legislation.
- Provide for consumer representation on the regulatory body.
- Recognise that all women have a right to be attended by a competent midwife.
- Allow for the midwife to practise in her own right.
- Recognise the importance of separate midwifery regulation and legislation which supports and enhances the work of midwives in improving maternal, child and public health.
- Provide for entry to the profession that is based on competencies and standards and which makes no distinction on routes of entry.
• Provide the mechanism for a regulatory body that is governed by midwives with the aim of protecting the public.
• Provide for regular review of the legislation to ensure it remains appropriate and not outdated, as midwifery education and practice and the health services advance.
• Encourage the use of peer review and analysis of perinatal, maternal and newborn outcomes in the legislative review process.
• Provide for transition education programmes in the adoption of new legislation requiring increased levels of competency of the midwife. (ICM 2011, p. 2).

Principles of Good Regulation:

NECESSITY – is the regulation necessary? Are current rules and structures that govern this area still valid? Is the legislation purposeful?
EFFECTIVENESS – is the regulation properly targeted? Can it be properly enforced and complied with? Is it flexible and enabling?
FLEXIBILITY – is the legislation sufficiently flexible to be enabling rather than too prescriptive?
PROPORTIONALITY – do the advantages outweigh the disadvantages? Can the same goal be achieved better in another way?
TRANSPARENCY – is the regulation clear and accessible to all? Have stakeholders been involved in development?
ACCOUNTABILITY – is it clear who is responsible to whom and for what? Is there an effective appeals process?
CONSISTENCY – will the regulation give rise to anomalies and inconsistencies given the other regulations already in place for this area? Are best practice principles being applied? (ICM 2011, p. 6)

Summary

This submission has not addressed all questions in the terms of reference for the NRAS review. Rather, it has focused on specific deficiencies associated with regulation of the midwifery profession in Australia within current NRAS arrangements. This includes legislative provisions within the National Law relating to the profession of midwifery. Additionally, it has identified contemporary emerging midwifery practice issues in Australia that underpin the rationale for regulation by a discrete Midwifery Board. This rationale is supported by literature and evidence on the contemporary regulation of midwives, including the International Confederation of Midwives Global Standards for Midwifery Regulation. These standards are built on a foundation of clear regulatory aims, supporting values and principles, a framework necessary for effective midwifery regulation, and criteria to measure effective midwifery legislation and regulation practices.

Thank you for the opportunity to contribute to this discussion. AMALG is willing to provide further information in relation to these issues should this be considered useful to the review.

Yours sincerely,

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AMALG Convenors
REFERENCES


*AMALG public information attached*
COMMENTARY
This paper presents varying and significant issues that require urgent address by a number of groups to prepare the way for a national blueprint for a Midwives Bill. A national blueprint is proposed as the model of choice for the enactment of consistent legislation in all Australian states and territories to regulate the profession of midwifery.

HISTORY
In 1997 a public forum was convened in Adelaide to respond to then draft Nurses Bill 1997 (SA). This resulted in the creation of the Australian Midwives Act Lobby Group. (See Appendix A for Preamble, Vision Statement and Terms of Reference)
The public forum saw specific debate and discussion regarding the context of the midwife in the proposed Bill which held midwifery to be a sub-specialty of nursing.
Vigorous lobbying led to the passing of the Nurses Bill 1999, with retention of the midwives register, but surprisingly, lack of recognition of the role and function of the midwife within the act and subsequent regulations.
South Australia was the only state to retain the midwifery register as a consequence of the lobbying and public and political support that ensued.
Since 1997 AMALG has continued to work towards raising public and political awareness of the continued erosion of the role and status of the midwife in Australia.
This is despite the increasing predominance of international regulatory frameworks which recognise and legislate midwifery as a specific health discipline, with a discrete scope of practice, code of conduct and code of ethics. Towards this end AMALG is working to achieve national consistency for midwives acts and standards for legislation across all states and territories. Within this the Australian College of Midwives (ACM) competencies must be endorsed and utilised for entry to practice and ongoing professional practice, as the definitive authorisation for midwifery in Australia. (1)

ISSUES FOR ADDRESS / RECOMMENDATIONS
The World Health Organisation (WHO) recognises the midwife to be the safest, most cost effective care giver for the majority of low risk pregnant women globally (2); to this end the following issues require urgent address if nationally consistent midwifery regulation in line with the international situation is to become a reality in Australia.

- Women must be assured of their rights to have choice, continuity and control in pregnancy, birth and postpartum, and to have safe, effective care through midwifery models. This is not happening within an integrated mainstream health care approach in Australia at institutional or community levels despite clear evidence to support this. For example, Rocking the Cradle, the Senate Enquiry into Childbirth Procedures, December 1999, and numerous state, academic and international sources.
- The ACM should publicly endorse and promote the WHO definition of the midwife to ensure that it reflects the current contemporary role of the midwife in Australia for 2000 and beyond.
- Towards this end a review and active promotion of the ACM Midwifery Competencies must be conducted in order to make them publicly available and ensure that they are the only authorisation for midwifery practice in Australia. These competencies need to clearly articulate and integrate the national scope of practice, code of conduct and code of ethics for midwives in Australia to underpin nationally consistent midwifery legislation.
- In response to this the ACM needs to inform the Australian Nursing Council (ANC) of the impending changes to midwifery legislation and education that are clearly not relevant to the role of the ANC. The ANC needs to now devolve funds to the ACM for these moves, as there has been no evidence of or regard for the National Health & Medical Research Council's (NHMRC) 1996 clear recommendation (Number 12, p. 35) for “adequate midwifery representation on the ANC and that further consultation should take place with the ACM to recognise midwifery as a discrete practice.” (7) Nationally midwives have been funding the ANC as part of their registration requirements without transparency and without ANC providing support and recognition for midwives.
- Following on from this, the reimbursement status of midwives in both the Public health sector and private health insurance sector needs to be reinstated to ensure choice, continuity and control, for safe effective and equitable care for all women in Australia. This must also address anti – competition policy. Such that midwives are no longer discriminated against financially because they are not currently recognised as care providers for reimbursement through the medicare model. This denies women choice and equity of access.
- In line with equity of access and recognition of reconciliation, the ACM is urged to endorse the following statement:
In recognition of aboriginal rights and reconciliation midwives regard the health and well being of indigenous people and their culture as fundamental to caring midwifery practice. Midwives acknowledge the need to participate in reconciliation as one way of supporting indigenous people to achieve health and well being, recognising that health and land are inextricably linked .
- The ACM support AMALG with authority to initiate and steer development of an interim National Midwifery Council. The interim Midwifery Council would have responsibility to: (i) oversee and coordinate a nationally consistent approach to midwifery regulation; (ii) circulating the Midwives Bill for public, professional and political endorsement; (iii) provide guidance, mentorship and modelling for newly formed Midwifery Councils as the Bill is enacted in each Australian state and territory.
REFERENCES


AUSTRALIAN MIDWIVES ACT LOBBY GROUP (AMALG)

PREAMBLE

In March 1997 the South Australian Government released a draft for a new Nurses Bill. This precipitated considerable debate, in particular, concern regarding the exclusion of midwifery as a distinct profession requiring specific regulation in order to protect the public. A public forum organised by the Australian College of Midwives Incorporated – South Australian Branch was held in 1997. This resulted in the creation of the Midwives Act Lobby Group – endorsed by the ACM to create a blueprint for effective midwifery legislation in Australia.

VISION STATEMENT

Women and Midwives work in partnership to ensure culturally appropriate maternity care that is safe, affordable and accessible. Midwives are autonomous practitioners who provide women – centred care. Midwifery legislation will protect and strengthen the woman and midwife partnership.

TERMS OF REFERENCE FOR MIDWIVES ACT LOBBY GROUP

1) The membership consists of midwives and consumers working in partnership.

2) To create responsible Australian Midwifery legislation that regulates the practice of midwifery and reflects international best practice.

3) To advance the national coordination of Midwifery legislation that is consistent between States and Territories.

4) To promote awareness of Midwifery by lobbying relevant consumer, Political and professional groups/bodies.

5) To report to the Australian College of Midwives Incorporated.

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