Review of the National Registration and Accreditation Scheme for health professions

Midwives Australia
October 2014
**INTRODUCTION**

Midwives Australia – an outline

Midwives Australia evolved as a result of the Federal Government legislative changes for private midwifery practise in 2010. Midwives across the nation highlighted the need for an association to support and nurture them in this time of transition into private practice and beyond and a not-for-profit organisation was founded. Midwives Australia supports midwives through their transition into private practice with practical hands on initiatives, programs and resources including access to consultants who are available to mentor and support them. Midwives Australia and has created a comprehensive online resource of e-health and practical communications to free midwives from the constraints of time-consuming paperwork, and get them out into the community and continuity of care where they belong.

Changes in the profession

The International Definition of the Midwife (ICM 2011) states that:

A midwife is a person who has successfully completed a midwifery education programme that is recognised in the country where it is located and that is based on the ICM Essential Competencies for Basic Midwifery Practice and the framework of the ICM Global Standards for Midwifery Education; who has acquired the requisite qualifications to be registered and/or legally licensed to practice midwifery and use the title ‘midwife’; and who demonstrates competency in the practice of midwifery.

The Scope of Practice of the midwife is clearly defined (ICM 2011):

The midwife is recognised as a responsible and accountable professional who works in partnership with women to give the necessary support, care and advice during pregnancy, labour and the postpartum period, to conduct births on the midwife’s own responsibility and to provide care for the newborn and the infant. This care includes preventative measures, the promotion of normal birth, the detection of complications in mother and child, the accessing of medical care or other appropriate assistance and the carrying out of emergency measures.

The midwife has an important task in health counselling and education, not only for the woman, but also within the family and the community. This work should involve antenatal education and preparation for parenthood and may extend to women’s health, sexual or reproductive health and child care.

A midwife may practise in any setting including the home, community, hospitals, clinics or health units.

Midwives Australia has a strongly held view that the profession is not currently regulated or held accountable to the definition above. Many, in fact most, midwives are unable to practice to full scope. Additionally many midwives are unable to demonstrate midwifery across the continuum of care meaning that they are actually unable to fulfil the definitions above. The National Review of Maternity
Services in 2008/2009 and resultant reforms commenced in 2010 had several points of interaction with the National Regulation and Accreditation Scheme. The emergence of midwives noted by AHPRA as “eligible” midwives and the requirements around professional indemnity insurance which continue to be problematic for midwives providing care to women who birth at home are two areas that are specific to midwifery. The current Nursing and Midwifery Board of Australia structure does not have expertise in contemporary midwifery. Midwifery is not a nursing subspecialty. There is a strong need for midwifery to be regulated distinct to nursing. Many examples exist of high profile midwifery matters where protection of the public has been compromised within the regulatory system. Whilst is it impossible to indicate if a separate midwifery board would have provided greater protection, it is certainly clear that a lack of midwifery specific knowledge and contemporary understanding cannot be beneficial.

**Midwifery Australia views of ongoing regulation of midwifery**

Midwives Australia has discussed these matters extensively with our members and with the profession. We are of the view that the current NMBA does not have significant expertise in the area of contemporary midwifery. We recognise that there is one place allocated for a midwife however that individual whilst respected, does not have expertise in caseload midwifery, contemporary models, eligible midwives or private practice. The other individuals with midwifery qualification are not current in clinical practice or contemporary midwifery. Therefore Midwives Australia is of the view that there is a significant lack of ability to assess midwifery matters or make significant judgement about midwives within the current NMBA structure. Our view is that the current structure does not service the separate group of midwifery well.

**A separate midwifery board.**

We recognise that in a period of scaling back, the concept of creating an additional board for midwives is in opposition to the strategic direction indicated in this review. However the number of midwives and degree of complexity in the matters being dealt with by the current NMBA relating to midwifery mean that Midwives Australia feels that this option is not only tenable but also desirable in order to protect the public and support the profession. There are currently approximately 35,000 people who indicate they have a midwifery qualification on the register. This makes midwifery the third largest profession of the 14 existing Boards under AHPRA. Whilst Midwives Australia recognises the increased cost of an additional Board there is also significant opportunity to rationalise some of the processes which would be common to nursing and midwifery boards. Those who wish to remain both a nurse and midwife could remain on both registers with an obvious cost associated with this option.

Midwives Australia believes that a separate midwifery board would have the impact of increasing protection of the public. Our view is that:

- Midwifery practice issues would be assessed and regulated by a Board with knowledge and understanding of contemporary midwifery care
- The community representatives would be selected with a knowledge and understanding of the childbirth continuum and issues relating to childbearing women and their families
- The Midwifery Board would be focused on the complex needs and issues for midwives leaving the Nursing Board free to focus purely on nursing related issues
- Protection of the public in relation to maternity care would be enhanced as the Board dealing with these matters would be across maternity care
- There would be an opportunity for further development of a flexible workforce and promotion of access to overseas trained midwives.

RESPONSE TO SPECIFIC QUESTIONS

Accountability

Q1: Should the Australian Health Workforce Advisory Council (AHWAC) be reconstituted to provide independent reporting on the operation of the National Scheme?

An independent authority should provide independent reporting on the operation of the National Scheme. The Council as suggested in the consultation paper does not appear to be independent as it will be impacted by the political cycle.

Q2: Should the Health Workforce Advisory Council be the vehicle through which any unresolved cross-professional issues are addressed?

An independent body would be the most appropriate way to resolve cross-professional issues.

Q3: Should a single Health Professions Australia Board be established to manage the regulatory functions that oversee the nine low regulatory workload professions?

Estimated cost saving $11m per annum

Midwives Australia is not of the view that a single board could provide the required regulatory functions for the nine low regulatory workload professions. Midwifery demonstrates the necessity for separate regulation for professions. However, it is also clear that there are opportunities to share some of the costs of regulation between professions.

Q4: Alternatively, should the nine National Boards overseeing the low regulatory workload professions be required to share regulatory functions of notifications and registration through a single service? Estimated cost saving $7.4m per annum.

Midwives Australia supports having separate Boards to oversee the low regulatory workload professions. We do recognise that there may be opportunities to share some infrastructure and location costs. This could include a single point of notification between professions.

Q5: Should the savings achieved through shared regulation under options 1 or 2 be returned to registrants through lower fees?

Midwives Australia does not support shared registration under options 1 or 2.
Q6: Should future proposals for professions to be included in the National Scheme continue to require achievement of a threshold based on risk to the public and an associated cost benefit analysis?

Midwives Australia agrees that in order for future professions to be included there should be an achievement of a threshold based on risk.

Q7: Should the National Law be amended to recognise those professions that provide adequate public protection through other regulatory means?

Midwives Australia feels that the National Law should be amended to recognise those professions.

Q8: Should a reconstituted Australian Health Workforce Advisory Council be the vehicle to provide expert advice on threshold measures for entry to the National Scheme to the Health Workforce Ministerial Council?

An independent Council should provide advice to on threshold measures. As indicated previously Midwives Australia does not feel that AHWAC is independent.

Complaints and Notifications

Q9: What changes are required to improve the existing complaints and notifications system under the National Scheme?

The lack of consistency across jurisdictions when dealing with complaints and notifications remains evident to midwives. A Midwifery Board may assist to ensure that matters are dealt with consistency.

Q10: Should the co-regulatory approach in Queensland, where complaints are managed by an independent commissioner, be adopted across all States and Territories?

The co-regulatory approach adopted in Queensland appears promising however as it is in relative infancy, it is difficult to ascertain whether this approach reduces the lack of consistency which is obvious across the jurisdictions.

Q11: Should there be a single entry point for complaints and notifications in each State and Territory?

Midwives Australia recognizes that a single entry point for complaints may provide a degree of consistency which is currently lacking.

Q12: Should performance measures and prescribed timeframes for dealing with complaints and notifications be adopted nationally?

There should absolutely be performance measures and timeframes associated with dealing with complaints and notifications. Common national standards are required with a degree of transparency also being required.

Q13: Is there sufficient transparency for the public and for notifiers about the process and outcomes of disciplinary processes? If not, how can this be improved?

There is insufficient sufficient transparency for the public and for notifiers about the process and outcomes of disciplinary processes.
Q14: Should there be more flexible powers for National Boards to adopt alternative dispute resolution, for instance to settle matters by consent between the Board, the practitioner and the notifier?

A mediation process, particularly around situations which are not of clinical concern, would be advantageous. Examples exist internationally.

Q15: At what point should an adverse finding and the associated intervention recorded against a practitioner be removed?

At the point where the actions are remedied or sufficient time has passed.

Public protection – protected practice, advertising, cosmetic procedures and a national code of conduct

Q16: Are the legislative provisions on advertising working effectively or do they require change?

Midwives generally have concerns that the current advertising guidelines do not consider the widespread use of social media. Women often post complementary and also critical elements of their birth stories which could be misconstrued as testimonials. This area appears to be one where there is no clarity as to what is outside the regulatory principles.

Q17: How should the National Scheme respond to differences in States and Territories in protected practices?

Midwives Australia is of the view that there should be consistency nationally around protected practices.

Q18: In the context of the expected introduction of a National Code of Conduct for unregistered health practitioners, are other mechanisms or provisions in the National Law required to effectively protect the public from demonstrated harm?

Mandatory Notifications

The Consultation Paper states that nursing and medical made up 79% of the mandatory notifications received by April 2014. Midwifery is invisible in these data again highlighting the problems with a combined nursing and midwifery board where midwifery issues are subsumed into nursing. This is not beneficial for protection of the public where there are specific midwifery issues especially in relation to the long-term ramifications as a result of birth.

Q19: Should the mandatory notification provisions be revised to reflect the exemptions included in the Western Australian and Queensland legislation covering health practitioners under active treatment?

National consistency on these matters is required.
Workforce reform and Access

Q20: To what extent are National Boards and Accrediting Authorities meeting the statutory objectives and guiding principles of the National Law, particularly with respect to facilitating access to services, the development of a flexible, responsive and sustainable health workforce, and innovation in education and service delivery?

Midwives Australia is of the view that there is a strong need for increased understanding of issues relating to contemporary midwifery and innovation in education and service delivery. We are strongly of the view that a Midwifery Board would have a significant impact on this situation.

Q22: To what extent are Accrediting Authorities accommodating multidisciplinary education and training environments with coordinated accreditation processes or considering future health practitioner skills and competencies to address changes in technology, models of care and changing health needs?

Q23: What relationship, if any, is required between regulators and educational institutions to ensure the minimum qualification for entry to professions remains available?

Assessment of Overseas Trained Practitioners

How effective are the current processes with respect to assessment and supervision of overseas trained practitioners?

The current processes are unsatisfactory as there is no consistency across assessment and supervision of overseas trained practitioners.

Governance of the National Scheme

Q25: Should the appointment of Chairperson of a National Board be on the basis of merit?

Appointment of chairperson of a National Board should be on the basis of merit.

Q26: Is there an effective division of roles and functions between National Boards and accrediting authorities to meet the objectives of the National Law? If not, what changes are required?

At the current time there is an effective division of roles and functions between the National Boards and accrediting authorities to meet the objectives on the National Law. This needs to remain as Midwives Australia does not support the National Boards being responsible for accreditation.

Q27: Is there sufficient oversight for decisions made by accrediting authorities? If not, what changes are required?

Proposed changes to the National Scheme

Q28: The Review seeks comment on the proposed amendments to the National Law.
Protected title changes
Protected titles in relation to midwifery need review. This includes removal of Midwife Practitioner – this term is not appropriate given the context of “Nurse Practitioner”.

Adequate representation of midwifery
The constitution of National Boards (page 40) under the National Law requires that:

at least half, but not more than two-thirds, of the members of a National Board must be persons appointed as practitioner members

The NMBA does not meet this recommendation in relation to midwifery. At least half the members of the NMBA are not midwives. Those members who do have a midwifery qualification are not practicing in contemporary midwifery contexts.
References


