



*Midwives @ Sydney
and Beyond*

Ms Anne Copeland
Chair of NMBA
G.P.O Box 9958
Melbourne Vic 3001



16th March 2010

Dear Anne

Thank you for your letter dated March 10th regarding professional indemnity insurance for midwives and for giving us an opportunity to comment.

We are a small private midwifery group practice in Sydney and amongst some of the first Eligible midwives in Australia. We provide midwifery services to women during pregnancy, birth and the postnatal period at home and in hospital. We have embraced the reforms and the opportunities they bring for the profession of midwifery.

Please find our comments below regarding the three issues under consideration by the NMBA

Thank you for the opportunity to provide feedback about these important developments.

Regards

Hannah Dahlen

Jane Palmer

Robyn Dempsey

Melanie Jackson

Consultation feedback to NMBA
Professional Indemnity Insurance for Midwives

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1. Revised Professional Indemnity Insurance Arrangements Registration Standard.

We support the revised Professional Insurance Arrangements Registration Standard.

Rationale

The revised version provides clearer direction for midwives and guides midwives in relation to their accountability under professional regulatory and other legislative obligations.

2. Newly developed Guidelines: Professional Indemnity Insurance for midwives.

We, in principle, support the newly developed guidelines for professional indemnity insurance for midwives.

Rationale

Our hesitation in providing unequivocal support is the lack of clarity in relation to run off cover. The guideline states midwives are exempt for run off cover under the National Law for homebirth care (page 7). This guidance may be interpreted to mean that if a midwife only provides homebirth services (including antenatal and postnatal care) they are exempt. It may also be interpreted to mean midwives that only provide intrapartum homebirth (no antenatal or postnatal care) services are exempt. The **Midwives @ Sydney and Beyond** practice believe this would be an extremely rare scenario and could not endorse this lack of continuum to care as appropriate professional practice. We urge the NMBA to provide clarification on this matter as we believe there is considerable confusion amongst midwives and the current wording may contribute to less than optimum models of care.

3. Regarding the two approaches being considered by the Board.

We support Approach 2, that the board does not specify a minimum amount of cover for professional indemnity.

In our justification we are conscious that the NMBA's deliberations are in the context of a co-regulatory environment that is compounded by a dynamic climate of service delivery and health reform.

Rationale

Adequate and appropriate insurance

We consider that the purpose of an adequate and appropriate insurance requirement is: to ensure that midwives can meet claims reasonably anticipated to arise from their work; fit for its purpose and on usual commercial terms; and is reasonably available in the marketplace.

The foundation for a midwives own assessment of needs is clearly articulated in the discussion document where the midwives undertake a thorough assessment of their individual scope, context and expertise to practice. We therefore support the self-assessment criteria developed by the Board and believe this flexible approach is reasonable and practical than stipulating a minimum cover of insurance. As the NMBA is aware it is only recently that two products for PII have become available for privately practicing midwives and if the Board were to stipulate a quantum of

cover that is not reasonably available they would fall outside of best practice in relation to adequate and appropriate insurance and could effectively restrict trade.

Quantum

When determining a quantum of cover an actuary would consider research on the claims history of midwives generally, and privately practicing midwives specifically, along with other matters that affect the risk of a claim, such as: the qualifications and experience required by the midwife to undertake their professional practice; the regulatory framework for midwives; and the ongoing training and quality assurance obligations of midwives.

We are concerned that stipulating a quantum of cover in relation to PII will be problematic for several reasons. Without the Board providing any evidence of method for determining a quantum or amount of insurance required it is not reasonable to support this approach. A best practice actuary approach would especially require research and consideration of the claims history of midwives locally and internationally before any formula is applied and a quantum determined.

We know that prior to the withdrawal of insurance in 2001 there was no claims history against midwives to justify the withdrawal and when limited insurance became available in 2010 we understand that there have been no claims made in that period. Therefore without that foundational information we cannot see any justification to stipulate a quantum of cover at this stage.

Once a claims history is established (or not) it is only then that a formula can be applied, that considers all key elements as outlined above. That would inform a quantum amount. The NMBA has been silent in relation to the formula that will be applied when determining a minimum quantum amount of PII insurance. Is the minimum quantum going to be determined by the average fee X multiple (to be decided and usually informed by a claims history)? If not, then how and on what basis is the NMBA going to determine the quantum?

We are very concerned that a non actuary approach will be used and possibly worse still an equivalence with medicine be applied as the minimum quantum for PII. This is problematic as the scope of practice and inherent risk in midwifery practice is quite different as evidenced by the no claims history as previously discussed.



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