

## Public consultation paper

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October 2014

Proposed:

- Registration standard endorsement for scheduled medicines for eligible midwives

The Nursing and Midwifery Board of Australia (NMBA or National Board) is releasing the attached consultation paper on the:

1. Registration standard endorsement for scheduled medicines for eligible midwives

### Making a submission

The NMBA seeks your feedback on the proposal. Please provide written submissions by email, marked 'Review of Registration standards for the eligible midwife' to [nmbafeedback@ahpra.gov.au](mailto:nmbafeedback@ahpra.gov.au) by **4pm on 19 December 2014**.

Address submissions by post to the Executive Officer, Nursing and Midwifery Board of Australia, AHPRA, GPO Box 9958, Melbourne, 3001.

### How your submission will be treated

Submissions will generally be published unless you request otherwise. The National Board publishes submissions on its website to encourage discussion and inform the community and stakeholders.

However, the NMBA will not publish on its website, or make available to the public, submissions that contain offensive or defamatory comments or which are outside the scope of the consultation.

Before publication, the NMBA may remove personally-identifying information from submissions, including contact details. The views expressed in the submissions are those of the individuals or organisations who submit them and their publication does not imply any acceptance of, or agreement with, these views by the NMBA.

The National Board also accepts submissions made in confidence. These submissions will not be published on the website or elsewhere. Submissions may be confidential because they include personal experiences or other sensitive information. Any request for access to a confidential submission will be determined in accordance with the *Freedom of Information Act 1982 (Cth)*, which has provisions designed to protect personal information and information given in confidence.

Please let the National Board know if you do not want your submission published, or want all or part of it treated as confidential.

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## Overview

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### *Registration standard endorsement for scheduled medicines for eligible midwives*

#### Summary of issue

##### **Purpose of the proposal**

The NMBA has powers under section 38 of the National Law to develop, consult on and recommend registration standards to the Australian Health Workforce Ministerial Council (AHWMC).

Registration standards are relevant to the:

- eligibility of individuals for registration in the nursing and midwifery profession, or
- suitability of individuals to competently and safely practise the profession.

Since the introduction of the National Scheme in 2010, the NMBA has established a systematic process to review, consult on and develop all registration standards. These standards provide midwives, employers and the public with information about the minimum standards required to practice as a midwife in Australia..

In 2010 the National Board developed two registration standards to enable midwives to access the Medicare Benefits Schedule and the Pharmaceutical Benefits Scheme. The standards were developed under sections 38 and 94 of the Health Practitioner National Law Act and approved by AHWMC. Since November 2010 midwives have been able to apply to the National Board for notation as an eligible midwife and endorsement for scheduled medicines if they met the requirements of the registration and endorsement standards. :

Notation as an eligible midwife applies to a specific class of midwives and not to all midwives. A notation as an eligible midwife on the register of midwives indicates that the midwife is competent to:

- provide pregnancy, labour, birth and post natal care to women and their infants, and
- order diagnostic investigations appropriate to the eligible midwife's scope of practice.

An eligible midwife may also prescribe scheduled medicines in accordance with relevant state or territory legislation once an endorsement for scheduled medicines under section 94 of the National Law has been attained.

These standards commenced on July 2010, with the National Board undertaking a review of this standard at least every three years of operation. At the time the standards were developed there were no courses available to midwives to meet the requirement of the standard for completion of a National Board approved program of study to develop midwives knowledge and skills in prescribing. To facilitate the access to MBS for midwives the National Board agreed to develop the two standards and give midwives 18 months to complete a course in prescribing, creating a two-step process for midwives to have access to MBS and PBS.

There are now four midwifery medication courses approved by the National Board therefore removing the need to continue with the two-step approach. The National Board is proposing to combine the two registration standards into one standard 'endorsement for scheduled medicines for eligible midwives'.

The registration standards describe the requisite qualification and experience that a midwife must be able to demonstrate when seeking endorsement. In summary these are:

- current general registration as a midwife with no conditions on registration relating to unsatisfactory professional performance or unprofessional conduct
- the requisite amount of experience post initial registration as a midwife, and

- a Board-approved program of study or education equivalence as determined by the National Board to develop midwives' knowledge and skills in prescribing.

### Background information

Section 38 of the National Law empowers the National Board to develop, and recommend to the Australian Health Workforce Ministerial Council, registration standards about issues relevant to the eligibility of individuals for registration in the nursing and midwifery professions or the suitability of individuals to competently and safely practise the profession.

Since November 2010 midwives are able to gain recognition and endorsement as an eligible midwife under Section 38(2) of the National Law if they were able to demonstrate specified legislated requirements.

Notation as an eligible midwife applies to a specific class of registered midwives and not to all registered midwives. A notation as an eligible midwife on the register of midwives indicates that the midwife is competent to provide pregnancy, labour, birth and post natal care to women and their infants, and order diagnostic investigations appropriate to the eligible midwife's scope of practice.

This notation under section 98 of the National Law also provides potential for access to the Medicare Benefits Schedule (MBS) in accordance with the requirements of Medicare. The discretion to authorise access to the Medicare and Pharmaceutical Benefits Schemes (PBS) remains with Medicare Australia and the process of authorisation through Medicare is a subsequent step for an eligible midwife.

To provide a Medicare midwifery service, an eligible midwife is required to be working in private practice and have:

- A Medicare Provider Number
- Professional indemnity insurance, and
- Collaborative arrangements in place with a specified medical practitioner and/or credentialed at a hospital or with an entity other than a hospital (such as a community health centre or a medical practice) that employs or engages at least one obstetric specified medical practitioner.

Recognition of eligibility on the Register of Midwives does not automatically lead to endorsement as a midwife to prescribe scheduled medicines. Endorsement for scheduled medicines is a discrete and separate regulatory process in addition to notation as an eligible midwife under the National Law.

Endorsement for scheduled medicines allows a midwife to legally prescribe medicines in accordance with the respective state and/or territory drugs and poisons legislation and other associated requirements, and is gained through meeting the requirements of the *Registration standard for endorsement for scheduled medicines for eligible midwives* developed under the National Law.

Requirements for endorsement largely replicate the requirements for recognition as an eligible midwife, with the addition of:

- successful completion of an accredited and approved program of study determined by the National Board to develop midwives' knowledge and skills in prescribing, or
- a program that is substantially equivalent to such an approved program of study, also determined by the National Board.

A provision to enable the midwife to be able to make a formal undertaking to complete this requirement within 18 months of recognition as an eligible midwife was implemented in the absence of a suitable number of available programs.

Now that a number of approved programs of study are available, eligible midwives are able to use their PBS endorsement to prescribe medicines appropriate for midwifery practice across pregnancy, labour, birth and post natal care including neonates up to six weeks. This requirement was only intended to be available until 30 June 2013, but was recently extended by the Standing Council of Health (SCoH) until June 2015 while a review of this registration standard is ongoing.

As of March 2014, 233 midwives have successfully received the notation of eligible midwife on their registration. Eighty-five of these midwives have the endorsement to prescribe scheduled medications.

The Nursing and Midwifery Board of Australia held a workshop in March 2014 with stakeholders, the feedback received from participants on the currently approved standards was used to inform the development of the proposed registration standard. The proposed standard was further refined following a preliminary consultation phase. The below table shows a comparison of current versus suggested requirements of the standard that a midwife must meet, and explains the rationale behind it:

Current criteria	Suggested criteria	Rationale
Current registration as a midwife in Australia with no restrictions on practice.	Current registration as a midwife in Australia with no conditions on registration relating to unsatisfactory professional performance or unprofessional conduct.	Consistent approach and wording used in registration standards developed by the National Board.
Midwifery experience that constitutes 3 years full time post initial registration as a midwife.	Registration as a midwife constituting the equivalent of 3 years full time / 5000 hours within the past 6 years across the continuum of care or specified context of practice.	<p>Consistent approach and wording used in registration standards developed by the National Board.</p> <p>Based on the Dreyfus model of skill acquisition of how a person acquires skills through formal instruction and practising.</p> <p>.</p> <p>The inclusion of specified context of practice will increase the availability of midwifery services that women are able to access through the Medicare Benefits Schedule (MBS).</p>
<p>Formal undertaking to complete within 18 months of recognition as an eligible midwife, or the successful completion of</p> <p>i. an accredited and approved program of study determined by the National Board to develop midwives' knowledge and skills in prescribing, or</p> <p>ii. A program that is substantially equivalent to such an approved program of study as determined by the National Board.</p>	<p>Successful completion of :</p> <p>i. A Board approved program of study leading to endorsement for scheduled medicines, or</p> <p>ii. A program that is substantially equivalent to such an approved program of study as determined by the National Board.</p>	Overwhelming consensus from all stakeholders to merge the two standards and remove the 'grandfather clause' now that a number of NMBA approved courses are available.
20 additional hours per year of continuing professional development relating to continuum of midwifery care.	Criteria removed	This criteria has been removed as it is included in the NMBA's Continuing professional development registration standard. Complying with the National Board registration standards is a requirement for

Current criteria	Suggested criteria	Rationale
		ongoing endorsement.
Current competence to provide pregnancy, labour, birth and postnatal care to women and their infants.	Criteria removed	Feedback from stakeholders indicated that this requirement is not appropriately placed in a registration standard. This criteria may be included in a code or guideline issued by the National Board in the future
Successful completion of an approved professional practice review program for midwives working across the continuum of care.	Criteria removed	Feedback from stakeholders indicated that this requirement is not appropriately placed in a registration standard. This criteria may be included in a code or guideline issued by the National Board in the future

### Options statement

The National Board is inviting general comments on its draft revised standard. The National Board is asking stakeholders to respond to specific questions throughout the proposal which are outlined in this *Options statement*.

#### Option 1 – status quo

Option 1 would continue with the existing registration standard. The Board has identified a range of issues with the current standard, including the ability to clarify the language and structure to make it easier to understand.

#### Option 2- proposed revised standard

The National Board has developed a revised registration standard that establishes the requirements for endorsement for scheduled medicines for an eligible midwife. The proposed standard is a combination of the below currently approved registration standards and does not change the current regulatory burdens from the currently approved standards.

- Eligible midwife registration standard
- Registration standard for endorsement for scheduled medicines for midwives.

Preferred option

The Nursing and Midwifery Board of Australia prefers option 2

## Potential benefits and costs of proposal

The benefits of the preferred option are that the draft revised standard:

- is more flexible and user-friendly
- is a more seamless process, compared to the current two-step process of applying for notation, and endorsement

The costs of the preferred option are:

- applicants, other stakeholders, AHPRA and National Boards will need to become familiar with the new standard
- there will likely need to be a period of transition to the proposed revised standard, if approved.

## Questions to consider

The National Board is inviting feedback on the following questions.

1. Is the content of the draft revised registration standard helpful, clear, relevant and more workable than the current standards?
2. Should the registration standard require an eligible midwife to practice across the continuum of care or should eligible midwives be able to have a specified context of practice listed on their notation?
3. Is there any content that needs to be changed or deleted in the registration standard?
4. Is there anything missing that needs to be added to the registration standard?
5. Do you have any other comments on the registration standard and options presented?

## Attachments

Attachment 1: The draft registration standard titled *Registration standard for endorsement for scheduled medicines for an eligible midwife*.

Attachment 2: The Board's *Statement of Assessment against AHPRA's Procedures for Development of Registration Standards and COAG Principles for Best Practice Regulation*.

# 1. **Draft Registration Standard:** Registration standard endorsement for scheduled medicines for eligible midwives.

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## Registration standard for endorsement for scheduled medicines for an eligible midwife.

**Effective from:** <<date>>

**Review date:** <<date>>

This registration standard sets out the Nursing and Midwifery Board of Australia's (National Board) requirements for endorsement for scheduled medicines for eligible midwives under section 94 of the National Law.

### What must I do?

To be endorsed for scheduled medicines as an eligible midwife, a midwife must be able to demonstrate, at a minimum, all of the following:

- (a) Current general registration as a midwife in Australia with no conditions on registration relating to unsatisfactory professional performance or unprofessional conduct.
- (b) Registration as a midwife constituting the equivalent of 3 years full time / 5000 hours within the past 6 years across the continuum of care or specified context of practice.
- (c) Successful completion of :
  - i. A Board approved program of study leading to endorsement for scheduled medicines, or
  - ii. A program that is substantially equivalent to such an approved program of study as determined by the National Board.

### Wording to appear on the register

An eligible midwife competent to order diagnostic investigations and provide associated services required for midwifery practice and endorsed as qualified to prescribe schedule 2, 3, 4 and 8 medicines required for midwifery practice in accordance with relevant state and territory legislation.

### Ongoing eligibility

Ongoing endorsement by the National Board will be conditional upon the midwife complying with:

- a) the National Board's registration standards, and
- b) any codes and guidelines issued by the National Board from time to time.

### What does this mean for me?

#### At renewal of registration

When you apply to renew your registration, you are required to declare that you comply with this registration standard.



## During the registration period

Your compliance with this registration standard may be audited from time to time and may also be checked if the National Board receives a notification about you.

## Evidence

You should retain records as evidence that you meet the requirements of this standard in case you are audited.

## What happens if I don't meet this standard?

The National Law establishes possible consequences if you do not meet the *ongoing* requirements in this standard, including that:

- the National Board can impose conditions on your registration or refuse renewal of registration (sections 82 and 112 of the National Law), and
- registration standards, codes or guidelines may be used in disciplinary proceedings against you as evidence of what constitutes appropriate practice or conduct for the nursing and midwifery professions (section 41 of the National Law).

## Authority

This registration standard was approved by the Australian Health Workforce Ministerial Council on <<date>>.

Registration standards are developed under section 38 of the National Law and were subject to wide ranging consultation.

## Definitions

**Approved program of study** means an educational program to develop a midwife's knowledge and skills in prescribing medicines that has been accredited by ANMAC and subsequently approved by the National Board for the purpose of enabling the eligible midwife to seek endorsement under section 94 of the National Law to prescribe schedule 2, 3, 4 and 8 medicines, in accordance with relevant state or territory legislation.

**Context of Practice** The conditions that define an individual's midwifery practice. These include practice across the continuum of care, antenatal care, postnatal care and lactation support.

**Pregnancy, labour, birth and postnatal care (the continuum of midwifery care)** incorporates antenatal care, intrapartum care and postnatal care for women and their infants. It includes clinical assessment, exercise of clinical judgment, planning, implementation, monitoring and review, responding to maternity emergencies, assessment and care of the newborn infant, management and administrations of medicines and the judicious use of diagnostic investigations, consultation and referral.

**Practice** means any role, whether remunerated or not, in which the individual uses their skills and knowledge as a health practitioner in their profession. Practice in this context is not restricted to the provision of direct clinical care. It also includes using professional knowledge (working) in a direct non-clinical relationship with clients, working in management, administration, education, research, advisory, regulatory or policy development roles, and any other roles that impact on the safe, effective delivery of services in the profession.

**Scope of practice** means the professional role and services that an individual health practitioner is educated and competent to perform.

**The National Board** means The Nursing and Midwifery Board of Australia.

## 2. National Board's Statement of assessment against AHPRA's procedures for development of registration standards and COAG principles for best practice regulation

The Australian Health Practitioner Regulation Agency (AHPRA) has *Procedures for the Development of Registration Standards* which are available at: [www.ahpra.gov.au](http://www.ahpra.gov.au)

These procedures have been developed by AHPRA in accordance with section 25 of the *Health Practitioner Regulation National Law* as in force in each state and territory (the National Law) which requires AHPRA to establish procedures for the purpose of ensuring that the National Registration and Accreditation Scheme (National Scheme) operates in accordance with good regulatory practice.

Below is the Nursing and Midwifery Board of Australia's assessment of its proposed **Registration Standard for endorsement of scheduled medicines for an eligible midwife** against the three elements outlined in the AHPRA procedures.

### 1. The proposal takes into account the National Scheme's objectives and guiding principles set out in section 3 of the National Law

#### Board assessment

The National Board considers that the revised **Registration Standard for endorsement of scheduled medicines for eligible midwives** meets the objectives and guiding principles of the National Law.

The proposed registration standard will continue to protect the public by ensuring that midwives seeking an endorsement for scheduled medicines are educationally prepared for this aspect of practice. The revised registration standard also supports the National Scheme to operate in a transparent, accountable, efficient, effective and fair way.

### 2. The consultation requirements of the National Law are met

#### Board assessment

The National Law requires wide-ranging consultation on proposed registration standards. The National Law also requires the Board to consult other boards on matters of shared interest.

The Board will ensure that there is public exposure of its proposals and there is the opportunity for public comment by undertaking an eight week public consultation process. This process includes the publication of the consultation paper (and attachments) on its website.

The Board has drawn this paper to the attention of key stakeholders.

The Board will take into account the feedback it receives when finalising its proposals for submission to the Ministerial Council for approval.

### 3. The proposal takes into account the COAG Principles for Best Practice Regulation

#### Board assessment

In developing the draft proposal for consultation, the National Board has taken into account the Council of Australian Governments (COAG) *Principles for Best Practice Regulation*.

As an overall statement, the National Board has taken care not to propose unnecessary regulatory burdens that would create unjustified costs for the profession or the community. The proposed standard is a combination of the currently approved registration standards and does not change the current regulatory burdens from the currently approved standards

The National Board makes the following assessment specific to each of the COAG Principles expressed in the AHPRA procedures.

**A. Whether the proposal is the best option for achieving the proposal's stated purpose and protection of the public**

**Board assessment**

The National Board considers that the proposal is the best option for achieving the stated purpose. As the proposal creates a more streamlined approach to meet the requirements for Endorsement for scheduled medicines for eligible midwives, the impact of the proposal is lower than the existing registration standard.

The revised draft registration standard will reduce costs and better balance the protection of the public with the burden on applicants.

The National Board considers that the revised draft standard would have a low impact on the professions. This low impact is significantly outweighed by the benefits of protecting the public and providing clearer, simpler requirements, in the public interest.

**B. Whether the proposal results in an unnecessary restriction of competition among health practitioners**

**Board assessment**

The NMBA considered whether their proposal could result in an unnecessary restriction of competition among health practitioners. The proposal is unlikely to significantly change the current levels of competition among health practitioners, but may help increase access to services by women seeking maternity care.

**C. Whether the proposal results in an unnecessary restriction of consumer choice**

**Board assessment**

The NMBA consider consumer choice will be increased by the revised draft registration standard by enabling midwives who work in a specific context of practice to apply for the endorsement.

**D. Whether the overall costs of the proposal to members of the public and/or registrants and/or governments are reasonable in relation to the benefits to be achieved**

**Board assessment**

The NMBA considered that the overall costs of the proposed registration standard to members of the public, registrants and governments, and concluded that the likely costs are appropriate when offset against the benefits that this revised draft standard contributes to the National Scheme.

Subject to stakeholder feedback on the proposed revisions and if approved by the Ministerial Council, the revised draft standard should reduce the costs to applicants only requiring one step process to endorsement for scheduled medicines as opposed to the current two step process.

**E. Whether the requirements are clearly stated using 'plain language' to reduce uncertainty, enable the public to understand the requirements, and enable understanding and compliance by registrants**

**Board assessment**

The NMBA considers the revised draft registration standard has been written in plain English that will enable practitioners to understand the requirements of the standard. The National Board has changed the structure of the standard and reviewed the wording to make the standard easier to understand.

**F. Whether the Board has procedures in place to ensure that the proposed registration standard, code or guideline remains relevant and effective over time**

**Board assessment**

If approved, the NMBA will review the registration standard within five years of its commencement, including assessment against the objectives and guiding principles in the proposed National Law and the COAG principles for best practice regulation.

However, the NMBA may choose to review an approved registration standard at an earlier point in time, if it is necessary to ensure the standard's continued relevance and workability.