

# Safety and quality guidelines for privately practising midwives

Consultation report

February 2016

## Contents

Foreword	3
Introduction	4
Overview of responses	6
Summary of changes and other decisions	9
Conclusion	9
Glossary	10
Appendix 1 – Key changes to the Safety and quality guidelines for privately practising midwives	11

## Foreword

The Nursing and Midwifery Board of Australia (NMBA) works in partnership with the Australian Health Practitioner Regulation Agency (AHPRA) in the regulation of nurses and midwives in Australia.

The NMBA sets the national standards, codes and guidelines that nurses and midwives must meet to be registered in Australia. The standards include five core registration standards, required under the Health Practitioner National Law, as in force in each state and territory (the National Law) and other profession specific registration standards. These standards, codes and guidelines provide nurses, midwives, employers and the public with information about the minimum standards required to practice as a registered nurse and/or registered midwife in Australia

Since the commencement of the National Registration and Accreditation Scheme (the National Scheme) in 2010, the NMBA has established a systematic process to review, consult on and develop all registration standards, codes and guidelines.

The NMBA has completed a comprehensive review of the Board's *Safety and quality framework for privately practising midwives attending homebirths* (current SQF). The NMBA initially proposed that the revised SQF should apply to all midwives. The feedback from the public consultation, recommended that it should apply **only** to privately practicing midwives (PPMs) and that the document should be titled 'guidelines' to better reflect the reference to it in the National Law. To reflect this feedback, the NMBA further revised the SQF after public consultation and developed the final document as guidelines – *Safety and quality guidelines for privately practising midwives* (SQG).

The SQG replaces the current SQF. The SQG, in one document sets out the:

- the requirements set by the NMBA relating to the safety and quality of the practise of private midwifery, for PPMs in the provision of home birth services to be exempt from the professional indemnity insurance (PII) requirements set by the National Law, and
- the legislative and regulatory requirements for safe and professional midwifery practice from related registration standards, professional codes and guidelines

Submissions were invited, as a part of the public consultation phase of the review over an eight-week period from 30 April 2014 to 23 June 2014. A total of 13 responses were received from stakeholders from the health sector, government, professional organisations, midwives, students, and other stakeholders.

From 1 January 2017, the SQG – *Safety and quality guidelines for privately practising midwives* will come into effect, replacing the current SQF.

The SQG has been published on the NMBA website on 1 February 2016 to allow privately practising midwives time to become familiar with the updated requirements set by the NMBA.

The NMBA and AHPRA would like to thank all those who responded to this consultation. Responses to the consultation are published on the NMBA [website](#).

## 1. Introduction

Section 39 of the National Law enables the NMBA to develop and approve codes and guidelines to provide guidance, to the health practitioners it registers and/or about other matters relevant to the Board's functions.

Section 284 of the National Law, gives privately practising midwives (PPMs) providing homebirth services an exemption from the professional indemnity insurance (PII) requirements set under section 129 of the National Law. This exemption has been extended on two occasions and is currently in place until 31 December 2016. Section 284 of the National Law provides for the NMBA to set out in a code or guideline any requirements relating to the safety and quality of the practise of private midwifery.

The current SQF was developed in 2010, commenced in March 2011 and set the requirements as provided for in section 284 of the National Law. As a part of the NMBA's systematic process to review of all registration standards, codes and guidelines, the current SQF was revised. The *Safety and quality guidelines for privately practising midwives* (SQG) has been developed in line with the requirements of section 284 and the objectives and guiding principles of the National Law.

### 1.1 The main issues

In Australia midwives practise in a variety of settings and practice is informed by the NMBA's [National competency standards for midwives](#).

The current SQF was developed in accordance with section 284 of the National Law to guide the practice of PPMs who support women in homebirth. Under section 129 of the National Law, midwives must have appropriate PII arrangements for midwifery practice.

The National Law provides an exemption to PII for PPMs delivering intrapartum services in the home providing the following requirements described in section 284 of the National Law are met:

- (1) *During the transition period, a midwife does not contravene section 129(1) merely because the midwife practises private midwifery if —*
  - (a) *the practice occurs in a participating jurisdiction in which, immediately before the participation day for that jurisdiction, a person was not prohibited from attending homebirths in the course of practising midwifery unless professional indemnity insurance arrangements were in place; and*
  - (b) *informed consent has been given by the woman in relation to whom the midwife is practising private midwifery; and*
  - (c) *the midwife complies with any requirements set out in a code or guideline approved by the National Board under section 39 about the practice of private midwifery, including—*
    - (i) *any requirement in a code or guideline about reports to be provided by midwives practising private midwifery; and*
    - (ii) *any requirement in a code or guideline relating to the safety and quality of the practice of private midwifery.*
- (2) *A midwife who practises private midwifery under this section is not required to include in an annual statement under section 109 a declaration required by subsection (1)(a)(iv) and (v) of that section in relation to the midwife's practise of private midwifery during a period of registration that is within the transition period.*
- (3) *For the purposes of this section, the transition period—*
  - (a) *starts on 1 July 2010; and*
  - (b) *ends on the prescribed day.*

Principles underpinning the SQF have been incorporated into the new SQG and reflect the regulatory and legislative requirements of midwifery practice.

## 1.2 Consultation process

The National Law requires National Boards to carry out wide-ranging consultation on the content of any proposed standards, codes, and guidelines.

In undertaking the development of the SQG, the NMBA followed the agreed process set out in the [Consultation process](#) document which is published on the AHPRA website.

The NMBA undertook preliminary consultation with government and other key stakeholders on a revised SQF that should apply to all midwives, not only PPMs. The feedback from the preliminary consultation supported the SQF generally, however there was mixed views on whether it should apply to all midwives.

In April 2014, the public consultation document was published on the NMBA website and was also sent to government and other key stakeholders in the midwifery profession, including professional associations and consumer organisations. The NMBA also published a media release about the consultation and publicised the consultation in communiqués and newsletters.

The public consultation document again proposed that the revised SQF should apply to all midwives, not only PPMs. The majority of feedback from the public consultation, recommended that it should apply **only** to PPMs and that instead of being a 'framework' should be titled 'guidelines' to better reflect both the intent and the reference to it in section 284 of the National Law - *any requirement in a code or guideline relating to the safety and quality of the practise of private midwifery*.

Following the public consultation phase, given the above significant changes, the NMBA at its December 2014 meeting approved a further period of targeted consultation with government and other key stakeholders on the SQG. The targeted consultation period closed on 19 February 2015.

## 1.3 Feedback and questions for consideration

The public consultation asked for views on a proposed revised SQF.

The NMBA invited general comments on its revised SQF. The NMBA also asked stakeholders to respond to specific questions throughout the proposal. These are outlined below.

1. The proposed *Safety and quality framework for midwives* replaces the existing document *Safety and quality framework for privately practising midwives attending homebirths* to include all midwives regardless of place of practice.

Points to consider:

- a. Is it appropriate that the revised SQF incorporates all midwives rather than focus on privately practising midwives attending homebirths?
- b. Is the content of the revised SQF helpful, clear and relevant?
- c. Does any content need to be changed, deleted or added in the revised SQF?
- d. Is there missing information that should be added to the revised SQF?
- e. Do you have any other comments on the revised SQF?

2. Revised requirements for professional indemnity insurance (PII) exemption.

Points to consider:

- a. How are the existing guidelines for PII working?
- b. Is Table 1–Legislative and policy requirements for PPMs claiming exemption for PII under s284 of the National Law helpful, clear and relevant?
- c. Does any content need to be changed, deleted or added to the table?
- d. Do you have any other comments on the revised table outlining the requirements for PII exemption?

3. Evidentiary requirements of midwives claiming section 284 of the National Law

Points to consider:

- a. Is Table 2–Evidentiary requirements for PPMs to claim PII exemption under s284 of the National Law helpful, clear and relevant?
  - b. Does any content need to be changed, deleted or added to the table?
  - c. Are the evidentiary requirements for annual audit clear and easy to understand?
  - d. Do you have any other comments on the revised table outlining the requirements of PPMs?
4. Policy and legislative requirements of the SQF
- Points to consider:
- a. Is Table 3–Policy and legislative requirements of the SQF outlining the policy and legislative requirements of the SQF helpful, clear and relevant?
  - b. Does any content need to be changed, deleted or added to the table?
  - c. Does Table 3 add any value to the SQF?
  - d. Do you have any other comments on the revised table outlining the requirements of PPMs?

## 2. Overview of responses

Thirteen written responses were received from external stakeholders as part of the public consultation. The majority of submissions (7) were from professional organisations including regulators, specialist colleges, professional associations and accreditation councils, with a further three from individuals. Four additional submissions were received from government bodies and/or departments.

The NMBA initially proposed that the revised SQF should apply to all midwives; the feedback from the majority of respondents to public consultation recommended that the SQF should apply only to PPMs.

Overall, respondents found the document clearly outlined the standards, codes, and legislative requirements in which midwives must practice. The core components of the SQF were considered to be clear and concise, while providing a complete and comprehensive outline of the requirements for midwives, eligible midwives and endorsed eligible midwives.

### 2.1 Summary of responses to key questions

#### 1. **The proposed *Safety and quality framework for midwives* replaces the existing document *Safety and quality framework for privately practising midwives attending homebirths* to include all midwives regardless of place of practice**

- a. Is it appropriate that the revised SQF incorporates all midwives rather than focus on privately practising midwives attending homebirths?

This question received 11 responses.

Feedback clearly indicated that midwives who work in health services do so according to their organisation’s policy and governance framework. Consequently, respondents said additional regulatory oversight by the NMBA was not required to manage risk to the public. As a result the majority of respondents indicated that the SQF should apply to PPMs only and not to all midwives as proposed during the preliminary and public consultation.

- b. Is the content of the revised SQF helpful, clear and relevant?

This question received seven responses.

On the whole respondents felt that the SQF was clear and easy to read and brought together a range of different professional and legal obligations. However, respondents also felt it could be strengthened and made a specific suggestion about the structure of the document. They indicated where information was potentially unclear and could benefit from additional information.

- c. Is there any content that needs to be changed, deleted or added in the revised SQF?

This question received 10 responses.

Some respondents suggested that:

- the document should be expanded to include information on the processes commonly employed by health services to carry out reviews such as clinical governance processes, and
- the midwifery practice requirement should not be included in the SQF. It is noted others supported its inclusion.

d. Is there information missing that should be added to the revised SQF?

This question received five responses.

Responses ranged from expanding the element of peer review to include multidisciplinary review, the inclusion of record keeping and other documentation, and the need to mention the proposed supervision model.

e. Do you have any other comments on the revised SQF?

This question received five responses.

Respondents reported concerns about the duplication of the SQF with other current registration requirements.

## **2. Revised requirements for professional indemnity insurance (PII) exemption**

The SQF was seen as a more responsive document that has identified components of the initial framework that were not supported by jurisdictional processes and systems. However some respondents noted that the definition of collaborative arrangements must be differentiated from the definition of collaborative arrangements used in the Medicare Benefits Schedule (MBS) legislation as they are two different definitions with clearly separate purposes.

a. How are the existing guidelines working?

This question received six responses.

Nearly all of the responses received related to the issue of PII. Respondents stated that midwives were aware of the need for PII exemption but not necessarily their associated responsibilities and accountabilities. The inability to access PII for PPMs to support homebirth was seen as a critical issue, which could cause distress for midwives or women and/or their families. However, respondents acknowledged that the NMBA, government and other professional organisations were continuing to search for a solution to this issue.

b. Is Table 1–Legislative and policy requirements for PPMs claiming exemption for PII under s284 of the National Law is helpful, clear and relevant?

This question received nine responses.

Responses ranged from confirming the table's usefulness and the importance of the information included in ensuring safe care, to suggestions that clearer guidance was needed on PII requirements. In particular, what evidence is required by the NMBA to satisfy PII requirement. There was one call for the table to be removed completely.

c. Is there any content that needs to be changed, deleted or added to the table?

This question received seven responses.

Suggestions from respondents referenced the inclusion of definitions for various terms, the expansion of the definition of midwife and examples of the documentation, which is required as evidence in collaborative arrangements.

d. Do you have any other comments on the revised table outlining the requirements for PII exemption?

This question received six responses.

Clarification was requested on who will carry out the clinical audit and concerns were raised about the effect of mandatory reporting. There was also a suggestion for an additional appendix, which could provide a sample set of the required evidence documentation.

### **3. Evidentiary requirements of midwives claiming section 284 of the National Law**

Overall respondents found that the document provided clear and relevant information about what evidence midwives are being asked to provide.

Key stakeholders considered that the inclusion of risk assessment in the proposed SQF is an important strategy to reduce the potential risks associated with a homebirth.

Respondents did not support the inclusion of the requirement for PPMs working towards applying for a notation as an eligible midwife to provide evidence of supervision by a midwife with an endorsement for scheduled medicines or a medical practitioner.

a. Is Table 2–Outlining the evidentiary requirements for PPMs helpful, clear and relevant?

This question received nine responses.

As previously indicated some respondents suggested an example of what evidence documentation in an appendix would be helpful in explaining the PII documentation requirements to midwives. As supervision is not yet defined and is being explored by NMBA, some respondents felt that that this requirement was making assumptions of what supervision for midwives is going to entail.

b. Is there any content that needs to be changed, deleted or added to the table?

This question received eight responses.

Comments referenced again concerns about supervision being provided by a medical practitioner or other health practitioner. Additional feedback included calls for change in the concept that eligibility is a separate class of midwifery and a differentiation between mandatory annual requirements as part of registration and those that are recommended.

c. Are the evidentiary requirements for annual audit clear and easy to understand?

This question received four responses.

Respondents were concerned that midwives would not understand what is needed from them as part of the annual audit about documentation without more detailed guidance and examples being provided. As per previous feedback there were concerns about midwives being supervised by a medical practitioner.

d. Do you have any other comments on the revised table outlining the requirements of PPMs?

This question received two responses.

These responses repeated again that further information would be useful on the requirement for supervision, particularly, as there is no mention of a requirement for supervision in the registration standards or documentation needed to apply for notation (or endorsement to prescribe).

### **4. Policy and legislative requirements of the SQF**

Overall, the majority of respondents found Table 3 helpful and relevant in outlining policy and legislative requirements but clearer formatting and clarification of the details is needed to avoid confusion.

a. Is Table 3–Outlining the policy and legislative requirements of the SQF helpful, clear and relevant?

This question received seven responses.

Respondents commented on why requirements were divided into policy and legislative categories and clarification was requested on the difference between mandatory legislation versus the policy that was guidance.

b. Is there any content that needs to be changed, deleted or added to the table?

This question received four responses.

Feedback to this question related to the inclusion of all relevant legislation; specifically, a lack of reference to state and territory legislation. Suggestions were to further legislative components against the final two policy rows relating to the registration standard for endorsement for scheduled medicines for eligible midwives.

c. Does Table 3. add any value to the SQF?

This question received six responses.

Feedback on this question is addressed in summaries for questions a. and b. above.

d. Do you have any other comments on the revised table outlining the requirements of PPMs?

This question received four responses.

Suggestions ranged from document formatting, to the review date of the document in relation to the extension of the exemption for PII for privately practising midwives. It was also suggested that a program of mentorship is needed where a new prescriber can ask informal questions of experienced prescribers.

### 3. Summary of changes and other decisions

Following the public consultation a number of agreed changes were made to the consultation draft including a change to the title from a framework to guidelines –*Safety and quality guidelines for privately practising midwives*.

To finalise the SQG the NMBA took into consideration feedback from the consultation, their experience of the existing framework, feedback received from the public consultation on the *Registration standard: Endorsement for scheduled medicines for midwives*, the objectives and guiding principles of the National Law, and the regulatory principles of the National Scheme.

#### 3.1 Changes to the consultation draft guidelines

The key changes to the *Safety and quality guidelines for privately practising midwives* are detailed in [Appendix 1](#).

### 4. Conclusion

Under sections 284 and 39 of the National Law, the NMBA has further developed the revised *Safety and quality guideline for privately practising midwives* (SQG). This report describes the development of these guidelines.

The NMBA has carefully considered the wide range of responses received as part of this consultation process in framing the new guidelines. The SQG, sets out the:

- the requirements set by the NMBA relating to the safety and quality of the practise of private midwifery, for PPMs in the provision of home birth services to be exempt from the professional indemnity insurance (PII) requirements set by the National Law, and
- the legislative and regulatory requirements for safe and professional midwifery practice from related registration standards, professional codes and guidelines.

In developing the new guidelines, the NMBA has balanced its statutory duty to protect the public with other objectives of the National Law, and any underlying regulatory principles such as proportionality and fairness for those subject to their regulation. The NMBA believes that this balance has been achieved in the SQG. The NMBA will also continue to monitor the effectiveness of the new guideline and the emergence of any new evidence in this area.

Further reviews of the guidelines will be conducted in future, incorporating new research and any information gathered about how the guideline is working in practice.

The NMBA and AHPRA thank all those who contributed to the review and provided valuable feedback on these important issues.

## Glossary

**National Law** means the Health Practitioner Regulation National Law, as in force in all states and territories.

**National Scheme** means the National Registration and Accreditation Scheme for health professions. More information about the National Scheme is available at [www.ahpra.gov.au](http://www.ahpra.gov.au)

**Nursing and Midwifery Board of Australia (NMBA)** means the national body responsible for the regulation of nurses and midwives in Australia.

**Privately practising midwives (PPMs)** means midwives who provide labour and birth care at home under the exemption from insurance as part of section 284 of the National Law.

## Appendix 1

### The key changes to the Safety and quality guidelines for privately practising midwives

Change	Rationale
<p>Title</p> <p><i>Safety and quality <b>guidelines</b> for privately practising midwives</i></p>	<p>The title change aligns the document with requirements of section 284 of the National Law</p>
<p>Informed consent</p> <p>This section has been expanded to provide specific guidance to the PPM on information that should be provided to women when they engage a PPM.</p> <p>Reference to the National Health and Medical Research Council (NHMRC) document on <i>General Guidelines for Medical Practitioners on Providing Information to Patients</i> is made.</p>	<p>The reference to this document was included to provide guidance to PPMs on obtaining informed consent.</p>
<p>Referral pathways</p> <p><i>Documented process for identification and evaluation of clinical risk and evidence of correcting, eliminating or reducing these risks. This assessment should be undertaken with reference to the Australian College of Midwives (ACM) National midwifery guidelines for consultation and referral.</i></p>	<p>The Australian College of Midwives (ACM) and the Royal Australian and New Zealand College of Obstetricians and Gynaecologists (RANZCOG) have approved the ACM consultation and referral guidelines. The NMBA has now approved these in principle and included reference to these in the SQG.</p> <p>The NMBA advises that the use of the ACM <i>National midwifery guidelines for consultation and referral</i> will guide midwives appropriately when making a risk assessment and/or decisions about women in their care and the choice of place to give birth.</p>
<p>Risk assessment – presence at homebirth</p> <p><i>There should be two registered health professionals, educated to provide maternal and newborn care and skilled and current in maternity emergency management and maternal/neonatal resuscitation, one of whom is a midwife, present at a homebirth.<sup>1</sup></i></p>	<p>The requirement for a second registered health practitioner at a homebirth provides support and help for the midwife to manage the birth and any emergency situations that may arise.</p> <p>Key stakeholders generally supported this requirement.</p>
<p>Risk assessment – transfer</p> <p><i>Consideration of the distance and time to travel to an appropriately staffed hospital service, in case of the need for transfer must be incorporated into the plan of care.</i></p>	<p>Consideration of the distance and time to travel to an appropriately staffed hospital service in case of the need for transfer in the plan of care has now been included. This is included as part of the risk assessment to provide guidance to midwives and their clients when making decisions about the place of birth.</p>

<sup>1</sup> This may include a paramedic who is skilled and current in maternity emergency management and maternal/neonatal resuscitation.

Change	Rationale
<p>Adverse event management</p> <p>Title changed from 'Clinical risk management'</p> <p>Includes additional detail and guidance for PPMs:</p> <p><i>Where appropriate, documented processes for notifying and reporting of incidents and adverse events, or the more serious category of sentinel events such as those endorsed by the Australian Commission on Safety and Quality in Healthcare.</i></p> <p><i>Reporting should be in accordance with the relevant state and territory health department requirements.</i></p>	<p>'Adverse event management' better reflects the intent of the section.</p> <p>Adverse event management is an important factor in reducing risk.</p>
<p>Privately practising midwife portfolio</p> <p><i>Completion of a professional practice review program (PPRP).</i></p> <p><i>Demonstration of annual competencies in adult basic life support, neonatal resuscitation and training in accordance with the NMBA's Registration standard: Continuing professional development.</i></p>	<p>This requirement is considered important to ensure the ongoing competence of the PPM.</p>
<p>Context of practice section</p>	<p>The NMBA recognises that not all PPMs provide intrapartum care in the home. For example there are PPMs who provide care in discrete areas such as postnatal care, antenatal care and/or specialist lactation services.</p> <p>This requirement aligns with the revised <i>Registration standard: Endorsement for scheduled medicines for midwives</i>.</p>
<p>Midwife endorsement for scheduled medicines section</p>	<p>This aligns with the revised <i>Registration standard: Endorsement for scheduled medicines for midwives</i>.</p>