QUEENSLAND NURSING COUNCIL
SETTING THE STANDARDS

# SUBMISSION TO THE PRODUCTIVITY COMMISSION

**DATE:**

**SUBJECT:** **The operations of the Mutual Recognition Agreement and the Trans Tasman Mutual Recognition Arrangement in relation to the registration of nurses.**

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The Queensland Nursing Council (Council) receives approximately 2500 applications annually from nurses seeking registration or enrolment under mutual recognition legislation.

Council supports the mutual recognition principle and appreciates the opportunity to contribute to the Review of the Mutual Recognition Agreement and the Trans Tasman Mutual Recognition Arrangement. The following issues are raised for consideration. They relate mainly to Item 2(b) of the Terms of Reference of the Review.

## 1. Conflict with State/Territory legislative and policy requirements

In the context of the differing legislation which applies across the States and Territories in Australia and in New Zealand, it is possible for a nurse regulatory authority to be required to grant registration to a nurse under mutual recognition legislation, when that individual would not be eligible for registration according to the provisions of the State legislation and/or policy. These inconsistencies have the potential to erode the standards of practice established for nursing in Queensland. They lead to the situation where some applicants deliberately 'shop around' and gain registration in a jurisdiction in which they do not intend to practise, specifically so that they can avoid the requirements of this Council and gain registration in Queensland under mutual recognition legislation. Some examples are:

<u>Continuing Competence</u>

The basic requirement for a nurse to gain registration under the mutual recognition principle is that they hold a current licence as a nurse in a participating jurisdiction. Although an applicant is required to make certain declarations in relation to any disciplinary action taken in another jurisdiction, there is no provision for a declaration in relation to competence to practice as a nurse. This Council has specific requirements in relation to nursing competence but these requirements may not exist in other jurisdictions. In some jurisdictions a nurse who has not practised nursing or demonstrated nursing competence for many years, may hold a current licence. This person can gain a licence to practise nursing in Queensland under mutual recognition legislation, without the need to comply with Council's competence for practice requirements. Council has received complaints from employers who query why a particular nurse holds a current licence when they have not practised for some years. Invariably, these instances relate to nurses who have gained a licence under mutual recognition legislation.

Recognition of Overseas Qualified Nurses

When assessing the eligibility of overseas qualified nurses, the *Nursing Act 1992* requires Council to base the assessment on the pre-registration course undertaken by the applicant. The assessment considers a number of key criteria in relation to the course and determines whether it may have enabled the demonstration of similar competencies to those gained in a course conducted in Queensland at the same time. Under the provisions of the Act, Council cannot grant registration on the basis of post-registration qualifications and/or experience. However, in some other jurisdictions these factors are taken into consideration. A similar situation exists in relation to the requirement to demonstrate English language competence.

A consequence of these legislative and policy differences is that participating jurisdictions need to establish an overarching process to attempt to reach 'harmonisation'. For example, the Australian Nursing Council has established a Collaborative Advisory Panel, constituted by all Australian nurse regulatory authorities and the Nursing Council of New Zealand. This Panel meets twice a year and one of its primary functions is to discuss and provide advice in relation to mutual recognition issues.

## 2. Disciplinary Action

To support the granting of licences under mutual recognition legislation, all jurisdictions should have a reliable system for notifying and recording of disciplinary action taken against a nurse. This would avoid the potential for a nurse to gain a licence in one jurisdiction without advising of disciplinary action taken in another jurisdiction.

## 3. Definition of Terms

There is some confusion regarding the terms used to refer to registration. For example, a nurse may be said to be 'registered' in New Zealand, without holding a current licence certificate.

## 4. Difficulties in determining equivalence

In Australia, some nurse regulatory authorities operate a single register where a nurse is either registered or enrolled. Others operate a multiple branch register which has a range of categories such as Registered Mental Health Nurse, Comprehensive Nurse, etc. This leads to difficulties in determining equivalence for the nurse regulatory authority and confusion for the nurse. An example of this occurred when an applicant with registration as a nurse in a jurisdiction with a single register, applied for licences to practise in several different categories of the multiple branch register operated by another jurisdiction. Although the second jurisdiction initially refused to grant a licence for other than general nurse practice, a decision of the *Administrative Appeals Tribunal* overturned this decision and required that licences be granted in the other categories. This may lead to the situation where a nurse is licensed to practise in a field for which they have had little educational preparation or relevant experience.

## 5. Postponement of registration

The legislation provides for specific circumstances in which the granting of substantive registration may be postponed. These circumstances are very limited and do not allow for situations where there is a need to impose conditions on a licence which are appropriate to the local registering authority. For example, an applicant may have had a condition imposed by another jurisdiction requiring them to undertake certain activities on a regular basis. Although the applicant declares the

conditions to Council, there is a need for Council to investigate to determine whether the conditions have been complied with in the other jurisdiction. It may also be necessary to consider whether the conditions are appropriate to this jurisdiction or whether they should be modified to suit a particular circumstance. Often it is not possible to fully consider these matters within the one month timeframe but the situation does not meet the circumstances described in the legislation as grounds for postponement. It is suggested that an expansion of the criteria for postponement to better allow consideration of applications when necessary, would be appropriate.

## 6. Expiry of State/Territory mutual recognition legislation

In the past there have been several instances where State legislation relating to mutual recognition has expired or has not been enacted. This creates confusion for potential applicants and requires participating jurisdictions to change their processes to accommodate these applicants and to ensure legislative compliance.