NURSES BOARD OF SOUTH AUSTRALIA

SUBMISSION

TO

Productivity Commission

on the

Review

Mutual Recognition Agreement (1993)

and the

Trans Tasman Mutual Recognition Agreement (1998)

MRA Review
Productivity Commission
PO Box 80
BELCONNEN ACT 2616

NURSES BOARD OF SOUTH AUSTRALIA

SUBMISSION

EXECUTIVE SUMMARY

The Nurses Board of South Australia (NBSA) is an independent statutory authority whose primary role is the regulation of the profession of nursing in South Australia under the auspices of the *Nurses Act 1999*.

This submission will provide the Productivity Commission with information in regard to the Board's functions and powers under section 16 of the *Nurses Act 1999*. The theme of this submission will be the regulatory parameters of the *Nurses Act 1999* that affect those items within the Terms of Reference related to these functions and powers.

THIS SUBMISSION WILL PROVIDE INFORMATION IN REGARD TO THIS OBJECTIVE THROUGH:

INFORMING THE REVIEW TEAM OF THE FUNCTIONS OF THE NURSES BOARD OF SOUTH AUSTRALIA AS DEFINED IN SECTION 16 OF THE *NURSES ACT 1999;*

CLEARLY DELINEATING THE RELEVANT PROCESSES THAT UNDERPIN THE FUNCTIONS OUTLINED ABOVE;

ADDRESSING THOSE ISSUES IDENTIFIED WITHIN THE REVIEW'S TERMS OF REFERENCE THAT PERTAIN OR INTERLINK WITH THE BOARD'S REGULATORY ROLE WHICH ARE:
2 A) ASSESS THE EFFICIENCY AND EFFECTIVENESS OF THE MRA AND THE TTMRA IN:
FOSTERING AND ENHANCING TRADE AND WORKFORCE MOBILITY BETWEEN AUSTRALIAN STATES AND TERRITORIES AND NEW ZEALAND;

AT THE CONCLUSION OF THIS SUBMISSION THE REVIEW TEAM WILL BE PROVIDED WITH A SYNOPSIS OF THE DISCUSSION CONTAINED WITHIN THIS PAPER AND RECOMMENDATIONS FOR CONSIDERATION THAT WILL EMERGE AS A RESULT OF THAT DISCUSSION.

INTRODUCTION

The role of regulating the practice of nurses and midwives in South Australia involves a relationship between numerous stakeholders. Included within those stakeholders are the regulatory bodies within other States and Territories of Australia as well as New Zealand. Each regulatory authority works within the parameters of its own particular legislation.

The *Nurses Act 1999* states the first role of the Nurses Board of South Australia is:

> ***16.*** *(1) (a) 'to regulate the practice of nursing in the public interest'*

Additional functions are clearly defined in section 16 of the *Nurses Act 1999*, which is reproduced as follows:

> ***16.*** *(1) 'The functions of the Board are as follows:*
>
> *(a) to regulate the practice of nursing in the public interest;*
>
> *(b) to determine the scope of nursing practice;*
>
> *(c) to approve courses of education or training that provide qualifications for registration or enrolment as a nurse under this Act;*
>
> *(d) to determine the requirements necessary for registration or enrolment under this Act;*
>
> *(e) to investigate the fitness of persons to practise as nurses in this State, and to investigate the professional conduct of nurses who are registered or enrolled under this Act;*
>
> *(f) to endorse codes of conduct for nurses;*
>
> *(g) to endorse professional standards, including definitions and titles;*
>
> *(h) to authorise areas of specialist nursing practice for inclusion on the register or roll under this Act;*
>
> *(i) to determine and recognise special practice areas for the purposes of this Act;*
>
> *(j) to exchange information with other registering authorities for nurses;*
>
> *(k) to provide advice to the Minister as my be appropriate;*
>
> *(l) to carry out other functions assigned to the Board under this Act, or by the Minister.'*

The provisions contained within section 16 of the *Nurses Act 1999* dictate the Nurses Board of South Australia's general functions and powers in the regulation of the nursing profession in South Australia.

The Board's role therefore is succinctly encapsulated within these functions and does not impinge on areas that are enclosed within the provisions of other legislation eg Commonwealth or State Industrial Relations Legislation.

THE STATUTORY ROLE OF THE BOARD

Identified key areas related to THE TERMS OF REFERENCE

1. MUTUAL RECOGNITION

Those nurses and midwives who apply for registration from other States affect the nursing labourforce demographics in South Australia. Mutual Recognition requirements as well as TTMRA obligate the Board to register or enrol applicants who hold current registration or enrolment in other Australian States or Territories. Conditions may apply to the person's registration if conditions applied in the first State or if they are necessary to achieve equivalence under the *Nurses Act 1999*.

It is evident that the MRA and TTMRA have effectively improved the ability of nurses to move across State/Territory borders and New Zealand. The MRA and TTMRA also supports the ability to move with spouses and other family members and allows nurses from other countries and States/Territories to move around Australia, encouraging cross pollination of ideas and skills as well as filling vacancies within the nursing and midwifery workforce. This is particularly important in an environment of nursing shortages.

The MRA and TTMRA also works to assist the Government and others in recruitment and retention strategies to attract nurses and midwives to South Australia.

2. AUSTRALIAN NURSING COUNCIL

The Australian Nursing Council (ANC) which is comprised of representatives of nursing regulatory bodies from all States and Territories provides a forum to meet and harmonise regulation nationally. Through the ANC, the MRA and TTMRA have encouraged the discussion and formulation of national policy regarding nurses and midwives.

An example of effective 'harmonisation' is the agreement by all States/Territories, through the ANC, to waive the fees where a nurse is required to have registration in more than one State/Territory as a result of working across State/Territory borders.

While however there is a view to 'harmonisation' of regulatory processes through the ANC, the differences in jurisdictions (between State/Territory Acts) can mean a process of Mutual Recognition combined with our own local processes are required to make it work. An example is the requirement in the Act regarding recency of practice. Recency of practice is one measure of competence and the *Nurses Act 1999* requires nurses and midwives within South Australia to have practised within the last five years or seek the approval of the Board to practice.

Not all State/Territories have a similar recency of practice requirement. MRA requires *deemed* registration to be provided on lodgement of application. It is understood that MRA overrides the recency of practice requirement on the grounds that the person must be competent if they have current registration in another jurisdiction (and are not under investigation in that jurisdiction). In order to be equitable with the other nurses in our jurisdiction we continue to ask for recency of practice evidence.

3. FRAUD

An issue that threatens harmonisation and the application of MRA and TTMRA is that of fraud. The current shortage of nurses in Australia has resulted in preference being given to nurses and midwives who are eligible for registration for immigration purposes.

The assessment of overseas-qualified nurses is performed at both State/Territory and national level. There is some agreement through the ANC in regard to nurses who are immediately eligible for registration. For example nurses from the United Kingdom, Canada, South Africa, Singapore, Zimbabwe, Hong Kong and United States of America (full details of the individual requirements in relation to which types of nurses, English proficiency requirements etc are available on request).

An issue that may undermine MRA/TTMRA of which there is growing concern is fraudulent documentation. The expert assessment of original documentation for authenticity has not to date been an issue. The risks associated with this development are currently being considered across all jurisdictions. It may prompt centralisation of assessment or alternatively undermine the 'harmonisation' of MRA as each State/Territory fall back to requiring their own expert assessment of documentation. In South Australia the matter is currently being reviewed.

4. INVESTIGATION OF REPORTS TO THE BOARD

It is important to note the Act provides for the investigation of reports regarding nurses and midwives in relation to incompetence and unprofessional conduct. Penalties that may be applied by the Board include cancellation of registration. If, for example, someone fraudulently gained registration it is likely the industry would report that nurse, particularly if the public were endangered by lack of competence.

In addition when formal action affecting a nurse's registration is taken, for example, conditions applied, suspension or cancellation, then all other State and Territory Nurse Regulatory Authorities are notified.

5. APPLICATION UNDER MRA AND TTMRA:

The following table indicates the annual number of applications under MRA and TTMRA:

Year	MRA	TTMRA
1993	0	
1994	33	
1995	113	
1996	141	
1997	133	
1998	124	
1999	221	(not known)
2000	241	(not known)
2001	267	20
2002	344	10

6. CONCLUSION

The MRA and TTMRA have effectively improved the ability of nurses to move across State/Territory borders and New Zealand.

An issue raised for consideration by the Productivity Commission is one of the increasing occurrences of fraudulent documentation.

The Nurses Board of South Australia supports the continued development of the MRA and TTMRA to facilitate national regulatory standards.

Judi Brown
CEO/Registrar

Sara Mill
Manager, Investigations and Registrations

25 March 2003