NURSING COUNCIL OF NEW ZEALAND

Submission on the Review of the Trans Tasman Mutual Recognition Arrangement [TTMRA]

28 March 2003

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Submission to the Productivity Commission of Australia, on the review of the Trans Tasman Mutual Recognition between Australia and New Zealand from the Nursing Council of New Zealand.

Introduction

The Nursing Council of New Zealand [the Council] provides the following submission on the review of the Trans Tasman Mutual Recognition Arrangement (TTMRA). Overall, the Arrangement is working well and has had a positive effect on expediting the registration of nurses and midwives between Australia and New Zealand; and promoting collaboration between the Australian and New Zealand nursing regulatory authorities. There is a commitment to ongoing harmonising policy of between the two countries, with a Memorandum of Understanding in place between the Australian Nursing Council (ANC) and the Council. The Council has representation on two ANC committees, the Policy and Research committee and the Collaborative Advisory Panel.

Since the implementation of TTMRA on 1 May 1998:

- 530 nurses and midwives have been registered in New Zealand from Australia
- 3126 nurses and midwives from New Zealand have sought verifications from the Council for registration in Australia.

The principal concern of Council is the potential for public safety issues with the current requirements under TTMRA for reciprocal registration of nurse and midwives, given the differing structure of the nursing registers between the signatory authorities. The Council considers that reciprocal registration should be on the 'qualification' that reflects the nurses and midwives scope of practice, rather than the registration accorded by another authority. This would also better align with the requirements of the pending Health Practitioners Assurance Act that will provide for competence based certification in a scope of practice.

The key areas covered in this submission regarding the implementation of TTMRA include:

- role of the Nursing Council
- registration of nurses and midwives
- what is working well
- areas for improvement
- recommendations.

Recommendations

The Council recommends that:

1. TTMRA legislation be amended to allow for Australian registered nurses and midwives to be assessed for registration in New Zealand as to their **qualification** rather than their registration. This would ensure appropriate registration for their scope of practice and uphold the primary role of the Council in maintaining public safety.

2. The meaning of the TTMRA definition of "Equivalent Occupations" is clarified to ensure that nurses and midwives practise safely in the scope for which they are qualified.

3. There is a requirement for evidence of residency in the jurisdiction where applicants are registering.

Role of the Nursing Council

The Council is the statutory regulatory body for nursing and midwifery in New Zealand. Under the Nurses Act 1977 and the Nurses Regulations 1986 and Amendments. The Council is responsible to the public of New Zealand for determining, developing, maintaining and improving standards for nurses and midwives.

The Council's principal function is to set standards of education, practice and conduct; and the primary role is to protect public safety through maintaining standards of registration/enrolment of nurses and midwives.

In New Zealand, nurses and midwives are registered for life, but have a legal requirement to hold an annual practising certificate (APC) issued by the Council if they are in active practice. The register and roll maintained by the Council contains information on more than 159,000 registered nurses and midwives. Approximately 50,000 nurses and/or midwives hold annual practising certificates issued by the Council. There are seven sections of the register/roll:

- Comprehensive
- General and Obstetric
- General
- Psychiatric
- Psychopaedic
- Midwives
- Enrolled.

The general and obstetric, general, psychiatric and psychopaedic registers are closed except for the registration of overseas nurses, including those registering under TTMRA.

The TTMR Act 1977, enacted in New Zealand on 1 May1998, decrees that a person registered to practise an occupation in Australia is entitled to register to practise an equivalent occupation in Australia and visa versa, without the need to undergo further testing or examinations. To date, all States except Western Australia have signed the agreement.

Pursuant to the Act, S24, Nurses and Midwifes [who hold registration in the signatory States and Territories in Australia] seeking registration in New Zealand are deemed to be registered immediately once they provide to the Council:

- Information prescribed by S19(2) of the Act
- The prescribed fee ($60[1])
- The original or certified copy of their Australian registration.

This includes nurses and midwifes educated and registered in Australia and nurses and midwives educated overseas and subsequently registered in Australia.

The Council then has one month in which to confirm or refuse registration and decide whether or not to impose conditions on the registration. Verification of registration from the relevant Australian registration authority is obtained.

If the information proves to be accurate then registration is granted and the appropriate registration certificate and application form for an APC is provided. A copy of the Council policy attached at Appendix One.

All applicants are also provided with a copy of Council's *Code of Conduct for Nurses and Midwives* and *Guidelines for Cultural Safety, the Treaty of Waitangi and Maori Health in Nursing and Midwifery Education and Practice* and requested to study these prior to commencing work in New Zealand.

Under TTMRA, any additional requirements required of other overseas applicants, as competency assessment programmes are not required.

Similarly, there is no requirement for an English Language Assessment as this would be a requirement for an overseas applicant on registration in Australia from countries where English is not the first language.

When registration is granted, the application is assessed for entry onto the appropriate New Zealand register based on comparability with Australia registration and relevant endorsements or restrictions. These requirements vary across Australia states and territories that each have their own legislation and regulatory framework.
The Council works closely with the Australian Nursing Council and regulatory boards and authorities to promote compatibility of policies wherever possible.

[1] This fee has been significantly reduced for Australians registering under TTMRA to reflect the intent of the Act and reduced transaction costs. Fees for registration from other counties remain at $166.00.

Registration under TTMRA

A total of 530 nurse and midwives has been registered under TTMRA from 1 July 1998 until 31 December 2003. The numbers have been increasing incrementally each year as shown in tables 1 and 2.

Table 1

Date	*Number of Nurses*	*Number of Midwives*	
01/05/98 – 31.12.99	40	10	
01.01.00 – 31.12.00	91	12	
01.01.01 – 31.12.01	143	15	
01.01.02 – 31.12.02	185	25	
Total	**468**	**62**	**=530**

Table 2

TTMRA Registrations	*98/99*	*2000*	*2001*	*2002*	
Comprehensive	18	40	63	72	
General	13	33	45	47	
General and Obstetric	8	8	18	39	
Psychiatric	6	6	6	7	
Psychopaedic	0	1	1	0	
Midwives *	10	12	15	25	
Enrolled	4	3	10	20	
Total	**59**	**103**	**158**	**210**	**=530**

- Note that many nurses have dual registration for nursing and midwifery; and some are midwives only.

Nurses and midwifes applying under TTMRA are assessed for comparable registration with New Zealand and entered on the appropriate register.

Table 3 shows the varying registration of the total 530 nurses and midwives registering under TTMRA.

Table 3

New Zealand Register	*Number registered under TTMRA*
Comprehensive	193
Registered General	138
General and Obstetric	73
Psychiatric	25
Psychopaedic	2
Midwives	62
Enrolled	37
Total	**530**

In contrast to the 530 nurses and midwives registering in New Zealand under TTMRA since its inception, the signatory Australian states and territories sought verifications of

3126 New Zealand registered nurses and midwives for registration. This represents a significant imbalance in the Trans Tasman movement of nurses and could well have contributed to the current shortages in the New Zealand nursing workforce.

Table 4 shows the number of verifications sought by each Australian jurisdiction.

Table 4

Australian State/Territory*	***Numbers of verifications***
New South Wales	967
Victoria	943
Queensland	784
Northern Territory	171
Australian Nursing Council	136
South Australia	65
Tasmania	22
Total verifications	**3126**

* Note that Western Australia is not a signatory of TTMRA

What is working well

Streamlined Process for Registration
Under TTMRA policy, the registration in New Zealand of Australian registered nurses is efficient, effective and timely. The process is complete within one month and promotes mobility of nurses and midwives between the two countries. The ongoing collaboration between the regulatory authorities allows for the timely resolution of any registration issues that arise.

The Council reduced the application fee for nurses and midwives applying for registration under TTMRA from $166.00 to $60 effective from 18 August 2002.

Although we have no information on the quality or competencies of nurses and midwifes registered under TTMRA, records indicate only one such nurse has been referred to Council for disciplinary procedures.

Policy harmonisation
A Memorandum of Understanding (MOU) was signed on 11 September 2001 between the Council and the Australian Nursing Council (ANC) in recognition of the closer collaborative relationship developed following the Trans Tasman Mutual Recognition Act (1997). The Council is represented on the two committees of ANC, the Policy and Research Committee and the Collaborative Advisory Panel, which provides advice to the ANC and the nurse regulatory authorities to inform processes and improve standards for the recognition of overseas qualified nurses and midwives.

Emergency registration provisions
The Council has developed an emergency response procedure under TTMRA whereby nurses and midwives from Australia can be deemed registered in New Zealand within a 3-day timeframe. This provision is available for an emergency response to a civil defence or other emergency situation where extra nursing capacity for New Zealand is a priority.

Areas for improvement

Registration Issues

There are differing structures for the nursing registers between the Australian regulatory authorities as each Australian State or Territory has its own legislation and regulatory framework for nursing. TTMRA legislation provides, however, that when registering nurses and midwives, any restrictions on registrations imposed by the country of origin can be applied.

Whereas New Zealand has multiple registers, some Australia States and Territories have single registers with the ability to either endorse or restrict areas of practice. The single register status of 'registered nurse' may not always reflect the qualification of their original education. This has a potential for risk to public safety if the nurses are registered for, and work, in an area for which they are not qualified.

For example, in NSW, registered nurses are not restricted to particular areas of practice and can apply for a variety of positions across a range of health care settings. In practice, this means that a psychiatric nurse, for example, can work in a general setting. Registration on the basis of the qualification of the nurse or midwife would ensure they were authorised to work in the scope of practice for which they were educated (see recommendation 1).

TTMRA legislation defines "Equivalent Occupation" as *'two occupations that are taken to be equivalent of the activities authorised to be carried out under registration are substantially the same (whether or not this is achieved by means of the imposition of conditions).* The meaning of 'equivalence" in this context requires further clarification to ensure registration of nurses and midwives supports safe practice according the scope of practice for which they were educated.

For example, a registered psychopaedic nurse from New Zealand would be registered in NSW as a registered general nurse and entitled to work in the medical/surgical area. The reason being that since 1987, NSW has a single register (List A and B) that includes nurses previously registered as general nurses, mental retardation nurses and psychiatric nurses (List A). The psychopaedic nurse, on gaining NSW registration, could then apply for and be registered as a general nurse in other jurisdictions and be practising in areas inappropriate to his/her original qualification. Another example would be a psychiatric nurse registered in New Zealand, who registers in NSW under TTMRA as a general registered nurse, then reapplies for registration in New Zealand as a registered general nurse. The Council considers that this situation warrants a potential risk to public safety and requires urgent consideration (recommendation 3).

Applicants applying for registration through TTMRA are not required to be resident in the jurisdiction of registration. This provides a vehicle for applicants to enter a county through a 'third door'. For example, an overseas nurse may apply and be granted registration in New Zealand, then apply under TTMRA for registration in Australia, without having practiced in New Zealand. New Zealand has therefore been used as a mechanism to gain registration in Australia. A requirement for residency in the jurisdiction of registration would mitigate against this practice (recommendation 2).

There is also no requirement under TTMRA for recency of practice provisions. New Zealand requires overseas nurses who have not practised within the previous five years, to complete a Return to Nursing programme prior to being registered.

Registration under TTMRA is required even if the nurse or midwife has not been in recent practice.

There is the potential for the registration issue to be addressed through the implementation of pending New Zealand legislation, the Health Practitioners Competency Assurance Act (HPCA) expected to be enacted by the end of 2003. Once passed, this omnibus legislation allows a year for the regulatory authorities to establish implementation procedures. This Act introduces competency requirements for all nurses and midwives in their scope of practice on annual certification.

As it stands, the TTMRA legislation overrides the HPCA legislation in regards to initial registration but it is unclear about the nature of this provision ie if it applies on application for registration, or is ongoing. Issues of implementation under the HPCA legislation will be clarified on enactment, including the definition of 'scope of practice'. A way of addressing this concern would be to amend the TTMRA legislation to allow for registration on qualification, rather than Australian registration.

This issue is of concern to midwives registering in New Zealand whose educational preparation and practice settings may differ considerably from their Australian counterparts. Most midwives are now educated in New Zealand through a direct entry three-year graduate programme and may choose to practise automously in independent practice and have prescribing rights. On registration in New Zealand, midwives registering under TTMRA are restricted from prescribing until they provide evidence to Council of completion of a learning package (self-directed or on site) that covers relevant New Zealand legislation and specific pharmacology and prescribing information. Once approved, they have the *'no prescribing*' condition on practice removed. Fourteen midwives registered under TTMRA hold annual practising certificates and seven of these have been approved by Council to prescribe.

Cultural Safety

New Zealand has a strong tradition of promoting cultural safety in nursing practice. The unique bicultural nature of New Zealand and acknowledgment of the Treaty of Waitangi are recognised in the Council policy document *Guidelines for Cultural Safety, the Treaty of Waitangi and Maori Health in Nursing and Midwifery Education and Practice.* All applicants registered under TTMRA are provided with this publication and requested to study this prior to actively practising in New Zealand. There is no ability under TTMRA to enforce any understanding or education on cultural safety issues.

Nurses and midwives registering under TTMRA need to be aware of the importance placed on cultural safety in practice and that such recognition is an integral aspect of competence based certificates under the pending HPCA legislation.

Conclusion

In summary, it would appear that TTMRA is largely meeting its objectives in relation to harmonising occupational regulation for nurses and midwives in a Trans-Tasman context. Compliance and transaction costs have been streamlined and reduced in comparison with registration of nurses and midwives from other overseas jurisdictions. The movement of this labour force between the two countries has been facilitated. The Council will continue to work with the Australian regulatory authorities on disparities between countries to ensure standards for public safety are maintained

There is however a significant concern with ongoing registration disparities for nurses and midwives that needs to be addressed and regulatory issues to be considered under pending new legislation of the HPCA Act. Accordingly, the Council makes the following recommendations.

Recommendations

The Council recommends that:

1. TTMRA legislation be amended to allow for Australian registered nurses and midwives to be assessed for registration in New Zealand as to their **qualification** rather than their registration. This would ensure appropriate registration for their scope of practice and uphold the primary role of the Council in maintaining public safety.

2. The meaning of the TTMRA definition of “Equivalent Occupations” is clarified to ensure that nurses and midwives practise safely in the scope for which they are qualified.

3. There is a requirement for evidence of residency in the jurisdiction where applicants are registering.

4. Appendix One

Council Policy for registration of nurses from Australia under TTMRA

Trans Tasman Mutual Recognition

- An Australian nurse and/or midwife seeking registration in New Zealand must provide the information prescribed by s 19(2) of the Trans-Tasman Mutual Recognition Act 1997; the prescribed fee and the original or a certified copy of the applicant's Australian registration.
- Pending the grant or refusal of registration by the Nursing Council, the Australian applicant will be deemed to be registered in New Zealand and therefore entitled to practise his or her occupation as a nurse and/or midwife or as both, subject only to payment of the prescribed fees and any conditions which the Nursing Council might impose.
- On receipt of the application, the Nursing Council must decide within a period of one month whether to grant (with or without any conditions), postpone (for up to six months) or refuse registration. Verification of registration from the relevant Australian registration authority is obtained.
- If the information proves to be accurate, full disclosure has been made and the appropriate fees have been paid, registration will be granted by the issue of the appropriate registration certificate and application form for an annual practising certificate.
- The Nursing Council may:
- postpone or refuse registration if the information in the application is false or the prescribed fees have not been paid.
- impose as a condition any condition that applies to the practitioner's registration in Australia.
- If registration is postponed or refused, reasons for the decision must also be given, together with advice that the applicant may apply to the Trans-Tasman Occupations Tribunal for a review of the decision.