EVALUATION OF THE MUTUAL RECOGNITION SCHEMES

COMMENT ON DRAFT REPORT – QUEENSLAND NURSING COUNCIL

Thank you for the opportunity to comment on the draft report. I would like to make comments about two of the preliminary findings.

Preliminary findings 5.3 and 5.9 – while the one month period for postponement is usually adequate, the grounds for postponement / refusal are another issue. An example of this has recently arisen. The QNC received a Notification under the MR Act on 31 July 2003 based on current registration in one jurisdiction in Australia. On the same day, the QNC received notification from a third jurisdiction that the applicant was not eligible for renewal of their licence in that jurisdiction as they had been reported to that Board for not being able to demonstrate competencies expected of a beginning practitioner.

As competence for practice is not yet one of the requirements for licensure in all participating jurisdictions, the decision to postpone or refuse registration was a very complex one, requiring legal advice and consideration of the implications of acting on the advice of the second jurisdiction prior to them having completed any formal enquiry into the matter, and without them actually having taken "disciplinary" action as such.

A second issue relates to section 20(4) of the *Mutual Recognition Act 1992*. This section accepts that continuance of registration is otherwise subject to the laws of the registering State to the extent to which those laws apply to all persons carrying on or seeking to carry on the occupation in the registering state and are <u>not based on the attainment or possession of some qualification or experience relating to fitness to carry on the occupation.</u> The issue in question is whether "competence" can be defined as a qualification or experience. If it can, then it is possible that a person could be registered in one jurisdiction that did not have a requirement for competence for continued licensure, gain registration in a second jurisdiction through Mutual Recognition that did have such a requirement, and retain registration in the second jurisdiction even though all other practitioners were expected to demonstrate continuing competence for practice.

Even more concerning, however, is the possibility that, if the definition of competence is as a "qualification" or "experience", the person might avoid having to demonstrate competence in <u>any</u> jurisdiction, even though all of them might have a requirement for demonstration of competence for renewal of licensure. This could potentially be achieved by allowing their registration in the original jurisdiction to lapse once they gain a licence in the second jurisdiction.

While it is uncertain if this is the meaning of section 20(4), it is certainly one possible interpretation, and warrants legal attention.

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