

Australian Nursing and Midwifery Federation submission to

**AHPRA & NATIONAL
BOARDS PUBLIC
CONSULTATION
ON THE REVISED
REGULATORY
PRINCIPLES FOR THE
NATIONAL SCHEME**

24 MAY 2021



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INTRODUCTION

The Australian Nursing and Midwifery Federation (ANMF) is Australia's largest national union and professional nursing and midwifery organisation. In collaboration with the ANMF's eight state and territory branches, we represent the professional, industrial and political interests of more than 300,000 nurses, midwives and carers across the country.

Our members work in the public and private health, aged care and disability sectors across a wide variety of urban, rural and remote locations. We work with them to improve their ability to deliver safe and best practice care in each and every one of these settings, fulfil their professional goals and achieve a healthy work/life balance.

Our strong and growing membership and integrated role as both a professional and industrial organisation provide us with a complete understanding of all aspects of the nursing and midwifery professions and see us uniquely placed to defend and advance our professions.

Through our work with members we aim to strengthen the contribution of nursing and midwifery to improving Australia's health and aged care systems, and the health of our national and global communities.

On behalf of our large and growing membership, the ANMF has genuine professional and industrial interest in, and concern for, matters relating to the regulation and practice of registered health practitioners. We have been a long-standing supporter of the importance of the National Registration and Accreditation Scheme (NRAS) for all regulated health professions in Australia, and continue to advocate for equity and fairness in the application of the National Law.

The ANMF appreciates the opportunity to provide feedback on the Ahpra and National Boards' revised regulatory principles for the National Scheme. We understand the rationale for the review is to modify the principles to align them with the Council of Australian Governments (COAG) Health Council policy directions 2019-1 (*Paramountcy of public protection when administering the National Scheme*) and 2019-2 (*Requirement to consult with patient safety bodies and healthcare consumer bodies on every new and revised registration standard, code and guideline*).¹

As detailed in our submission made on 13 July 2020 to the *Ahpra Consultation on COAG Health Council Policy Direction 2019-1 through the Professions Reference Group*, whilst we agreed with the changes made in response to PD2019-02, the ANMF was deeply concerned about PD2019-01. In particular, the associated implementation guide. The ANMF welcomes the decision by Ahpra to no longer proceed with this guide but rather, to revise the Regulatory Guide to include an additional chapter on procedural fairness.

1. <https://www.ahpra.gov.au/About-AHPRA/Ministerial-Directives-and-Communiques.aspx>



Questions for consideration

1. Do the draft revised regulatory principles reflect the policy directions issued by COAG Health Council? If not, how could the principles be improved?

While the ANMF agree the central function of Ahpra and the National Boards is to safeguard the public and support the safety and quality of health services, this function must be achieved without undue and/or unwarranted negative impact on the lives and work of regulated health practitioners.

In principle 6, the new reference to the primary purpose of regulatory action being to “...improve the standard of practice of registered health practitioners...” should be removed. This is not the role of Ahpra or the National Boards. Principle 6 should include an additional dot point that states:

When deciding on regulatory action we:

- *consider the validity and substance of the notification whilst allowing for show cause and affording natural justice.*

The final sentence in principle 7 should state ‘*However, we work with **health** practitioners and their representatives and consumers to achieve outcomes that protect the public **and are fair and just for all!***’

2. Do the draft revised regulatory principles support Ahpra and the National Boards regulatory decision-making? If not, how could they be improved?

Principle 4 clearly explains the process of risk evaluation and action that Ahpra and the National Boards should undertake. However, where principle 5 considers the potential impact of health practitioners on the public, and principle 6 equally weighs community confidence and expectation with deterrence, there is no mention in the revised regulatory principles of the nature, severity, or credibility of notifications/complaints. The ANMF consider that this should be addressed in the principles. Ahpra’s own figures² indicate that only 1.4% of notifications to the National Boards result in tribunal determinations. While the ANMF is not suggesting that any notification/complaint should be ignored, we ask that the disparity between notifications and serious risk be recognised in the principles.

3. Is the content of the draft revised regulatory principles helpful, clear and relevant?

Both the content and the explanations for changes are clear and understandable. However, suggested changes outlined above should be made to principles 6 and 7 to ensure the regulatory principles are underpinned by the concepts of fairness and justice.

2. <https://www.ahpra.gov.au/About-AHPRA/Ministerial-Directives-and-Communiques.aspx>



4. Is there any content that needs to be changed, added or deleted in the draft revised regulatory principles?

Changes are recommended as described in our responses to questions one and two.

5. Please add any other comments or suggestions for the draft revised regulatory principles.

The amended preamble must include the concept that the regulatory principles should “...encourage a responsive, risk-based approach to regulation across all professions that is fair and just for all”.

CONCLUSION

The ANMF appreciates the opportunity to participate in the public consultation for the revised Regulatory principles for the National Scheme on behalf of our membership. We fully support the importance of Regulatory principles that underpin the work of the National Boards and Ahpra in regulating Australia’s health practitioners, in the public interest. However, we believe that this regulation, and therefore the regulatory principles, should adopt an approach that, whilst protecting the public, is fair and just for all.