

Letter to The Editor

Midwifery regulation in the Northern Territory

20 February 2002

We write in response to a letter from the Chair of the Nursing Board of Northern Territory that was published in Issue 25 number 3 of the AHR, in respect to our paper on midwifery regulation that was published in Issue 24 number 4. The Chair of the Nursing Board raised three matters, and we will cover them in turn below.

Issue 1: our use of out-of-date information

The Northern Territory Nursing Board has a right to be concerned with our citing of out of date legislation if indeed this was the case. We conducted the data collection and analysis during May - June 2000 at which time the primary data source 'Australian Legal Information Database' cited the Nurses Act 1984 as the current legislation for nursing and midwifery in the Northern Territory. We did not check for any updated legislation on this location before submitting the paper for publication, nor was it foreshadowed there. We extend our apologies the Northern Territory Nurses Board for this omission, but the terms within which the research was conducted were clear. Perhaps we could have been specific in the limitations section that any recently updated regulations could not be identified.

Upon discovering the omission we proceeded to review the more recent Northern Territory Nursing Act 1999 and repeat the analysis. In keeping with the original aim of the research, we analysed the new Act and regulations to determine their adequacy in regulating the education and practice of midwifery. We drew upon the legislation that was current on 1 February 2002 in the Australian Legal Information Database – that is, the Northern Territory Nursing Act 1999 and the Nursing Regulations 1989.

It appears that, in spite of new legislation in the Northern Territory, our analysis remains essentially the same. As in most states and territories across Australia, there is confusion about the role of the midwife and a lack of consistency and standards within regulation that places Australian midwifery out of step with most other western countries. Discrepancies in the standards of midwifery education and practice regulation nationally are evident and this limits the capacity of the current Acts to protect the public.

The long title of the Northern Territory Nursing Act 1999 states that it is: *'to provide for the registration and enrolment of nurses and the regulation of the practice of nursing and for related purposes'*. Further, within the new Act midwifery continues to be defined as 'a restricted practice area of nursing'.

Such nomenclature has serious implications for the regulation of midwives who have never been nurses and who would not ever seek to hold themselves out as nurses. Increasing numbers of 'direct entry' midwives are now entering Australia from countries such as England, New Zealand and Canada. In addition, there are several Universities across Australia about to embark on three-year Bachelor of Midwifery degree programs. Under mutual recognition, these midwives should have no barrier to registering in any state in Australia as midwives, not nurses or (as stated in the Northern Territory Nursing Act 1999) 'midwifery nurses'. Under current legislation, the Northern Territory Nursing Board and several others will be challenged to accommodate these graduates. In a climate of severe midwifery workforce shortages our paper was designed to raise concern and debate about these issues. We intended to highlight the need for national consistency in the regulatory framework for midwives that clearly identifies midwifery and enables the necessary health services reform to occur in a manner that both protects the public and enables the appropriate education of the profession.

Issue 2: competency standards

The letter suggests that our paper is incorrect in its reference to the non-adoption of the Australian College of Midwives Inc. (ACMI) competency standards by the Board in the Northern Territory. We have returned to our original data source (the ACMI National office) to clarify the information that we received in June 2000. Indeed, as you point out, the ACMI Competencies have been endorsed and utilised by the Board since 1998. Confusion had arisen within the ACMI with documentation cited from October 2000 which refers to the Board's decision not to endorse the 'Validation of the Midwifery Competencies Report'. Nomenclature and language is confusing in the communication on this matter by stating that a nurse 'must declare competence to practice in midwifery' and also that he/she must use the 'ACMI beginner competencies'. Neither the researchers nor the ACMI are able to identify any document so titled. Nonetheless the Table 3 on page 113 of the article should be amended to reflect the correct status of the Northern Territory with regard to annual declaration of competency.

Issue 3: contact with the Nursing Board

The letter reports the Board's concern that at no time did the researchers contact a member of the Board or the Board's professional staff for clarification on any matters relating to the legislation. As we identify in our paper, the design of the study was such that we analysed the documented legislation only, that is, the material available in the public domain. Indeed this was one of our underlying premises for the study. Our method was to conduct a systematic content analysis including a search for the basic attributes and common features found in most forms of professional regulation. Themes, contrasts, gaps and inconsistencies were highlighted and compared across each of the statutes. It was not our intention to interpret how legislation was enacted or what processes the Boards engage in during the course of implementation but rather to analyse the documented Acts and legislation as they are available in the public domain.

We trust that this addresses your concerns and thank you clarifying the information with regard to the Nursing Act 1999 in the Northern Territory.

Yours sincerely,

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