

August 11, 2008

LF:rh

Ms Petrina Halloran
Acting Chief Executive Officer
Nurses Board of Victoria
GPO Box 493
MELBOURNE 3001

Dear Ms Halloran,

re: **Bachelor of Nursing Courses leading to Division 1 Registration Discussion Paper**

ANF (Vic. Branch) is pleased to have the opportunity to make this submission in regard to the above discussion paper on behalf of our registered nurse members in Victoria.

As you would be aware, the issue of the delivery of a Bachelor of Nursing Course in a Victorian TAFE (Tertiary and Further Education Facility) has been widely discussed by the nursing profession throughout Australia over the preceding several months. All nursing organisations throughout the Commonwealth have been expressing their concerns about this issue to all levels of governments and regulatory authorities.

In this submission, we will address our concerns to the Nurses Board of Victoria in the context of the role we understand that the NBV must play, subject to its powers, pursuant to the Health Professions Registration Act 2005, and in the context of the COAG agreement to move the Registration and Accreditation of Health Professionals, to a national system by 2010.

In summary, there are four major concerns that the ANF has regarding conducting the Bachelor of Nursing in institutions other than the university sector :

1. That the approval by the NBV of the Holmesglen (or any other TAFE provider) Bachelor course will have an immediate adverse impact on the supply of registered nurses into the Victorian health workforce.
2. That the approval of this course will, in the medium to long term, adversely impact on the recruitment and retention of registered nurses within the Victorian health workforce.
3. That with the imminent move to National Accreditation of Nursing Courses in Australia, this course may not meet the criteria for accreditation.
4. That graduates from this course may not have the required education nor educational environment to meet the demanding complex needs of the future nursing workforce in Victoria.

1. Adverse Impact on Victorian health workforce

In Victoria, it is widely known and accepted by State Government departments, Directors of Nursing, Deans of Nursing and the profession generally, that the availability of clinical placements for health professional students – and nursing in particular, is severely restricting the growth of the workforce and delivery of appropriate education. This fact is born out by the current ongoing project by the Department of Human Services looking at developing an agency to assist in co-ordinating and maximising placements for health professional student placements across the State.

In addition, we have had recent audits, surrounding hospitals' ability to accommodate placements, forums and projects over several years looking at the issues and some solutions. ANF (Vic. Branch) is also aware that although Victoria was offered additional nursing places by the Commonwealth last year, our Faculties of Nursing were unable to take up many of the places due to their inability to find adequate clinical placements.

ANF (Vic. Branch) has been informed by the Chief Executive Officer of Holmesglen TAFE that the proposal for a Bachelor course at Holmesglen TAFE will lead to an initial additional one hundred students requiring clinical placements in Victoria. He also advised that 50% of these students will be overseas students.

There is no public data available that we can find that demonstrates how many – if any – of these overseas students will remain in the Victorian health workforce in either the short or long term.

The Universities are constrained in how many overseas students they are able to accommodate – there are no such formal constraints on higher education (TAFE) providers. The effect of approving this course will therefore lead to, not only additional stress on the availability of clinical placements, but also we may well find we are educating a nursing workforce that will not grow our future health workforce and indeed - due to perverse commercial incentives – lead to an immediate adverse impact on the graduate nurse workforce in Victoria.

We would understand that Victoria's first priority is indeed the provision of an adequate workforce for delivery of health care to the Victorian community.

To our knowledge, there has not been any studies undertaken to ascertain the shorter or longer term implications for the workforce on allowing larger numbers (than the Universities) of full fee paying overseas students entry to our nursing education system.

ANF (Vic. Branch) therefore urges the NBV to defer approval of this course and refer the decision to the Minister for Health on the basis that approval may have an adverse impact on the supply of nurses to the workforce (see Section 5(3) of the Health Professions Registration Act 2005).

2. Adverse impact on recruitment and retention of Victorian health workforce

The ANF (Vic. Branch) believes the approval of this course will, in the medium to longer term, adversely impact on the recruitment and retention of registered nurses Division 1 within the Victorian health workforce. Our belief is based on the fact that in a very competitive environment for future career oriented university students – the availability of a well remunerated career structure is critical. Highly motivated and intelligent students will not be attracted to enter or stay in a profession that is unable to offer them a stimulating and well paid career. Students of this calibre will be increasingly required within the profession in a very technical and complex future health sector. We believe that an impact on the supply of nurses by reason of the status of nursing programs being delivered in non-university higher education institutions will occur.

Supporting this evidence, we refer to the Nurses Equal Pay Case (the Private Hospitals and Nurses Act Award 1987 20 IR 416) and the Victorian Industrial Relations Commission Career Structure and Professional Rates Cases of 1986 – 87. These cases identified the close inter-relationship between :

- (a) the shortage of nurses
- (b) the absence of attractive rates and career structure
and
- (c) the transfer of nurses training to Colleges of Advanced Education (hence Universities) and the fixation of rates of pay by reference to education.

Further, the location of nurse education in the university sector for the past twenty years has lead to the development of modes of nursing practice that reflect the expectations of those engaged in the delivery of health care (e.g. administrations and other health professionals) of the level and type of educational preparation provided in a university setting.

3. National Accreditation of Nursing Courses ANMC Position Statement

The ANF (Vic. Branch) submits that with the imminent move to a national Registration and Accreditation system for nursing in Australia, this course proposed to be delivered in the higher education sector may well **not** meet the criteria for accreditation.

ANF (Vic. Branch) draws attention to the ANMC Position Statement (endorsed 2008) "Registered Nurse and Midwife Education in Australia" which aims to provide the nursing and midwifery professions with a national regulatory perspective to assist the development of nursing and health care policy. This position paper describes the education of registered nurses and midwives in universities and defines "universities".

We also draw the NBV's attention to the Consultation Drafts of the ANMC Accreditation Project Stage 3, July 2008:

- "1. Registered Nurses Domain 1;
Standard 1; Governance
Criteria;
The course provider is required to demonstrate or confirm*

- 1) *current quality assurance and accreditation in the relevant education sector in Australia.*
 - (a) *Bachelor of Nursing courses must show evidence of university quality of assurance and accreditation."*

"University" is then defined. The definition would **exclude** a higher education provider such as the one proposing this course for approval by the NBV.

The potential for graduates of the proposed course to be refused registration upon graduation we believe will be extremely high. It is therefore the preferred option of the ANF (Vic. Branch) that the consideration of this course for approval by the NBV at least be deferred until after the new National Standards for Course accreditation are embedded.

ANF (Vic. Branch) understands that the NBV has the power to defer such an approval on the basis that the proposed course – being delivered in the higher education sector – may NOT meet the requirements and criteria to lead to registration in nursing under the new National Accreditation Standards. Requirements and criteria supported by all current State and Territory nursing regulatory authorities.

The Federation fails to understand why the NBV would consider standing outside this proposed national position.

As was stated by the Higher Education Advisory Committee (HEAC) of the Victorian Registration and Qualifications Authority at the time of its approval of this course "matters of professional registration and recognition are outside the scope of HEAC".

Academic accreditation is provided for by the Education and Training Act 2006 and is a necessary, but by no means, sufficient requirement for course approval for registration as a registered nurse.

ANF (Vic. Branch) endorses the submission by the Victorian and Tasmanian Deans of Nursing and Midwifery and supports their academic analysis asked for within the first two questions of the discussion paper.

4. Failure to have the required education or educational environment to meet complexities of the nursing workforce.

Experience dictates that the role of the Division 1 nurse in Victoria's health system will only increase in complexity and responsibility. The Division 1 nurse will be required, through education, to co-ordinate and meet the complex demands of patients and health services. To this end, a number of universities in Victoria have commenced conducting core units for both nurses and other health professionals to study together. This assists health professionals to gain a greater respect for each other and improving the multidisciplinary team environment, as well as a greater understanding of the work of fellow health professionals. This multidisciplinary approach is not achievable under the current Holmesglen TAFE proposal.

CONCLUSION

The starting point for the NBV's function of approval of courses is s.118(1)(b) of the Act. That section expressly confers on the NBV the function of approving courses of study that provide qualifications for registration as a health practitioner in the health profession regulated by the Board.

In performing that function the NBV is required by s.119(1) to consult with the Minister and have regard to the Minister's advice. We are not aware as to whether the Minister has yet been consulted or has provided any advice to the NBV in relation to this issue.

Under s.119(1)(b) of the Health Professions Regulation Act, the NBV is required to have regard to the following objectives:

- the promotion of the safe use of regulated health services;
- the minimisation of the community's exposure to health risks associated with the provision of regulated Health Services; and
- the promotion of the community's access to regulated health services.

The obligation of the NBV to "have regard" to the identified objectives requires it to take those matters into account and to give weight to them as a fundamental element in its consideration of the matter. (*R v Hunt; ex-parte Sean Investments Pty. Ltd* (1979) 25 ALR 497). Accordingly, the objectives identified in s.119(1)(b) while not exhaustive of relevant considerations are of primary importance.

The NBV is, nonetheless, constrained from approving a course in the absence of written approval from the Minister if it was to be satisfied that the approval may have a substantive and adverse impact on the recruitment or supply of the relevant health practitioners to the workforce (ie nurses). (See s.5(3)). Accordingly, the NBV must give consideration to the question of whether it might be so satisfied, and were that to be the case, it would need to directly address the issue, because if so satisfied it is not permitted to approve a course without the written approval of the Minister.

The Board is not expressly constrained from taking into account other matters in the performance of its function of approving courses. Clearly, the Board is obliged to have regard to the subject matter and objects of the legislation and the provisions that confer the function. (*R v Australian Broadcasting Tribunal; ex-parte 2HD Pty. Ltd* (1979) 144 CLR 45 per Dixon J at 49).

In this case the main purposes of the Act are referred to in s.1 and include the protection of the public by providing for the registration of practitioners and students of the health profession. The particular function concerned is the approval of courses for the purposes of s.5 of the Act and the registration of the health professionals.

The Board's task arising from this analysis is to consider a proposed course for the purpose of registration of nurses under s.5 having regard to the purposes of that approval, the factors in s.119 and the purposes of the Act.

The ANF believes that the four issues raised in our submission require the NBV to defer its approval of the Holmesglen course and further to refer the matter under s.5(3) HPR Act 2005 to the relevant Minister for his direction.

Yours sincerely,

Lisa Fitzpatrick
Secretary, ANF (Vic. Branch)