

Aboriginal and Torres Strait Islander Health Practice Board of Australia

Discussion Paper on regulation of Aboriginal and Torres Strait Islander Primary Health Care workers

NSW Health submission

Purpose of the Discussion Paper

NSW understands that the primary purpose of this discussion paper is to seek feedback on:

“whether the registration of Aboriginal and Torres Strait Islander health practitioners under the National Law, should be expanded to include Aboriginal and Torres Strait Islander primary health care workers working in roles other than clinical roles focusing on the physical health of patients. For example.....in the areas of mental health, alcohol and other drugs, social and emotional wellbeing, maternal health, men’s health and sexual health” (page 8 of the discussion paper).

Following on from the above, the discussion paper requests feedback on what qualifications should be recognised as being required for registration if the cohort of potential registrants is expanded.

NSW Health response

NSW Health is of the view that the regulation of Aboriginal and Torres Strait Islander Health Practitioners under the National Law should not be expanded to include non-clinical (primary health care) workers, and makes the following submissions.

1. *There is insufficient evidence to justify the proposition that Aboriginal and Torres Strait Islander health workers practising in roles other than clinical roles pose a risk to the public that justifies registration under the National Law.*

The purpose of the National Scheme is to protect the public interest. As noted in the discussion paper, a number of criteria have been developed to assess whether the risk posed by a class of health workers is sufficient to warrant regulation via registration. NSW Health submits that these risk criteria have not been met (see points 3 and 4 below).

NSW Health notes that Aboriginal and Torres Strait Islander health workers are not unregulated, they are unregistered. In NSW, there are existing regulatory mechanisms which cover all such workers and adequately protect the public interest (see point 3 below).

2. *Expansion of the potential registrant cohort may be in breach of Health Ministers’ agreement.*

The agreement by Health Ministers leading to the establishment of the Aboriginal and Torres Strait Islander Health Practice Board of Australia was to register Aboriginal and Torres Strait Islander health workers working in a clinical role. On 4–5 August 2011, Health Ministers agreed that until a process for the management of unregistered professions is developed, no further professions would be considered for entry into the National Registration and Accreditation Scheme, other than paramedics, unless specifically requested by Ministers.

The project to establish a process for the management of unregistered professions is currently ongoing. Accordingly, the consideration at present of non-clinical workers for registration may be contrary to the Ministers’ decision.

3. *Registration of non-clinical workers does not meet the AHMAC criteria for inclusion in the National Scheme.*

Even if registration for non-clinical health workers could be considered as an option at this time, NSW is of the view that registration of such workers does not meet Criteria 2 and 3 of the 6 AHMAC criteria for registration agreed by Health Ministers and outlined in the discussion paper.

Criterion 2 requires that the activities of the occupation pose a significant risk of harm to the health and safety of the public. NSW Health is not aware of any evidence that Aboriginal and Torres Strait Islander health workers in non-clinical roles pose a sufficient level of risk.

Criterion 3 requires that existing regulatory mechanisms fail to address health and safety issues. NSW Health is of the view that all health workers have the potential to cause some harm, but the risk of harm by non-clinical workers is adequately addressed in NSW through existing regulatory mechanisms, including the following:

- NSW's negative licensing scheme and statutory Code of Conduct for unregistered health professionals, which provides broad enforcement powers to the NSW Health Care Complaints Commission (HCCC) to prohibit those who breach the Code from practising. Aboriginal and Torres Strait Islander health workers who provide health services fall within the auspice of this scheme.
 - General supervision and regulation by employers. Aboriginal health workers in NSW do not work in private practice but in employment arrangements, mostly with NSW Health and the Community Controlled health sector. In NSW Health, Aboriginal health workers have identified position descriptions and are directly or remotely supervised.
4. *The AHMAC risk matrix is sufficient to judge whether an Aboriginal and Torres Strait Islander health worker should be registered.*

The application of the risk matrix supports only the registration of Aboriginal and Torres Strait Islander health workers in a clinical role.

5. *The current qualification of Certificate IV(Practice) is the appropriate qualification for registration of Aboriginal health workers undertaking clinical roles that fall within the risk matrix.*

Other qualifications that may be appropriate should be assessed following a standard process for course accreditation.

6. *NSW Health supports other measures to increase the number of registered Aboriginal and Torres Strait Islander health workers.*

NSW Health is aware that the number of registrants at present is less than optimum. The registration process is still relatively new, and reaching all potential registrants and their employers is a process that will take some time. NSW Health acknowledges the need for appropriate registration of those employed to undertake clinical Aboriginal health practitioner roles and the potential positive impact this will have on further developing career pathways for Aboriginal people working in Australia's health system. NSW Health supports the Board undertaking ongoing work to liaise with potential registrants and employers about the requirement for registration and its benefits for the Aboriginal health workforce.

NSW is also undertaking steps to support registration of eligible Aboriginal health workers. Since 2011 NSW Health has been reviewing its Aboriginal Health Worker workforce in relation to skills, workforce roles and responsibilities, and educational background / level. We are also consulting with the Community Services & Health Industry Skills Council regarding the proposed Qualification Framework for Aboriginal Health Workers, with a view to establishing a NSW Award through the Industrial Relations Commission. Clinical roles within NSW Health have been assessed against competency based practices to identify those roles where registration is appropriate.

Questions in the Discussion Paper

While the above points encapsulate the NSW Health submission, the questions raised in the discussion paper are answered below for completeness.

What are the types of roles Aboriginal and Torres Strait Islander primary health care worker currently undertake in your work area?

Aboriginal and Torres Strait Islander health workers undertake a range of roles in NSW, including the roles outlined in the discussion paper. However, NSW is of the view that only clinical roles involve a sufficient level of risk to warrant registration.

What qualifications do Aboriginal and Torres Strait Islander primary health care worker who undertake this work normally have?

NSW submits that this question is not relevant, given our position that such workers do not pose a risk to the public sufficient to justify registration under the National Scheme.

Are these qualifications adequate to prepare for the role? If not, why not?

This question is only relevant if the role requires registration. NSW is of the view that Aboriginal and Torres Strait Islander health workers only require registration if they are undertaking clinical roles. NSW is of the view that the current qualification of Certificate IV (Practice) is sufficient to prepare a person for such a role. Other qualifications, such as Certificate IV (Community Care), are not sufficient to prepare health workers to undertake clinical roles.

What, if any, of the following activities [in the AHMAC risk matrix] are undertaken by Aboriginal and Torres Strait Islander primary health care workers in these roles?

NSW Health is of the view that if a health worker is undertaking the majority of these activities then they are practising in a clinical role, and should meet the current requirements for registration. As noted above, this is a process that will take time to be embedded in the Aboriginal and Torres Strait Islander workforce, and NSW Health is supportive of continuing efforts in this regard.

What other risks to patients are associated with the type of work being undertaken by Aboriginal and Torres Strait Islander primary health care workers?

All health workers are capable of posing some degree of risk to the public. The question is whether the nature and level of the risk is such that registration is an appropriate response.

What mechanisms are in place to deal with complaints against primary health care workers in these roles? Are the mechanisms adequate?

We have outlined these mechanisms above, and consider them adequate to protect the public interest.

Which of the following options for unregulated Aboriginal and Torres Strait Islander primary health care workers do you think is the most appropriate

NSW considers that its current regulatory processes are the appropriate option for regulating Aboriginal and Torres Strait Islander health workers in non-clinical roles.

If you think that a wider range of Aboriginal and Torres Strait Islander primary health care workers should be regulated, what qualification or qualifications should be the approved qualifications for registration? Please explain why.

As noted above, NSW does not support registration of a wider range of Aboriginal and Torres Strait Islander health workers.

What are the risks to public safety with this qualification?

Not applicable, given our submission.

Are there any other comments you would like to make?

See our opening comments.

Conclusion

Thank you for the opportunity to make this submission. NSW Health supports further work to identify Aboriginal and Torres Strait Islander health workers who meet the current criteria for registration, and would be happy to assist the Board with further information if required.