

Health Professionals (ACT Nursing and Midwifery Board Standards Statements) Approval 2007 (No 2)

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made under the

Health Professionals Regulation 2004, section 134 (Standards Statement)

1 Name of instrument

This instrument is the Health Professionals (ACT Nursing and Midwifery Board Standards Statements) Approval 2007 (No 2).

2 Commencement

This instrument commences on the day after notification.

3 Standard Statements

In accordance with Regulation 134 (3) of the Health Professionals Regulation 2004 the ACT Nursing and Midwifery Board has approved the following Standards Statement.

ACT Nursing and Midwifery Board Maintaining Competence and Continuing Professional Development Framework

Robyn Staniforth
Deputy President

21 June 2007

ACT Nursing and Midwifery Board Maintaining Competence and Continuing
Professional Development Framework



**ACT Nursing and
Midwifery Board**

**Maintaining Competence and Continuing Professional
Development Framework for Nurses and Midwives in the
ACT**

ACT Nursing and Midwifery Board
Suite 1 Scala House
11 Torrens Street
BRADDON ACT 2612, Australia

Phone (02) 6207 0413 or 6205 1599 Fax (02) 6205 1602

Email: actnmb@act.gov.au

Website: www.actnmb.act.gov.au

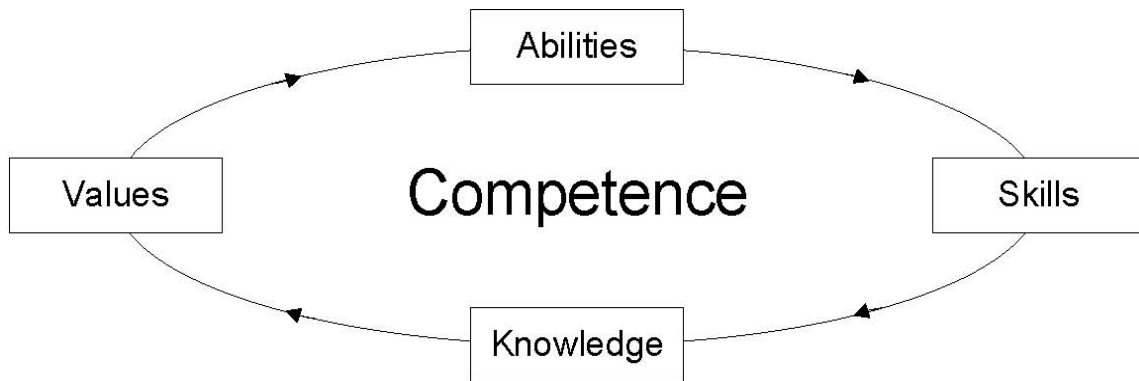
ACT Nursing and Midwifery Board Maintaining Competence and Continuing Professional Development Framework

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Definition of Competence

The Australian Nursing and Midwifery Council (ANMC) defines competence as “the combination of skills, knowledge, values and abilities that underpin effective and/or superior performance in a profession/occupational area. Continuing professional competence is the ability of nurses [and midwives] to demonstrate that they have maintained their competence in their current area of practice”.¹



Background

Nurses, registered and enrolled, and midwives “authorised to practice in Australia are regulated and accountable to the community for providing high quality care through safe, ethical and effective practice, and for maintaining the competency necessary for practice”.² To assist this, nursing and midwifery regulatory authorities from each state and territory set standards for competence that describe the desired / acceptable behaviour of nurses and midwives.

In July 2004, the *Health Professionals ACT 2004* (hereafter referred to as the Act) was passed by the ACT Legislative Assembly. Under the Act all health profession boards in the ACT have a responsibility to determine what behaviours are necessary to meet the required standard of practice within their profession(s).

Under the Act, the ACT Nursing and Midwifery Board is responsible for establishing standards statements for the professional practice of nurses and midwives in the ACT.

¹ Australian Nursing Council. (2000). Position Statement: Continuing Competence in Nursing. Australian Nursing Council.

² Ibid.

Regulation of nurses and midwives in the ACT

Under Part 2 Section 7(3) of the Act, the ACT Nursing and Midwifery Board (the Board) regulates the practice of nursing and midwifery in the ACT, by being responsible for:

- (a) registering nurses and midwives, and
- (b) setting the required standard of practice for nurses and midwives; and

Note Some requirements of the required standard of practice are prescribed under the regulations.

- (c) helping nurses and midwives to continue to meet the required standard of practice; and
- (d) taking action in relation to reports and complaints about nurses and midwives.

Maintaining Competence and Continuing Professional Development - Legislative Requirements in the ACT

The main object of the Act is to protect the public from risk of harm by ensuring that the people who provide health services are competent to provide health services and to achieve and maintain the required standard of practice (Section 13).

Section 18 of the Act states that the required standard of practice, for a health professional, is to exercise professional judgement, knowledge, skill and conduct at a level that maintains public protection and safety.

Chapter 3, pt 3.3 of the *Health Professionals Regulation 2004* requires health professionals to maintain competence and continuing professional development. The following sections of the *Health Professionals Regulation 2004* outline requirements for maintaining competence and continuing professional development.

Section 129 Obligation to maintain competence and continuing professional development

A registered health professional must ensure that he or she remains suitable to practice the profession in which he or she is registered.

Note Reg 114 sets out the suitability to practice for a health professional.

Section 130 Programs for maintenance of competence

A health profession board must, in writing, establish, or facilitate the establishment of, programs to support, promote and assess health professionals' general and professional competence.

Section 131 Standards for maintenance of competence

- (1) The standards under this regulation are part of the suitability to practice standards relating to the maintenance of competence.

Under Section 131(2) the Board is required to develop or endorse written standards about the action nurses and midwives need to take to maintain competence and continue professional development. The Board must ensure, as far as practicable, that the standards developed or endorsed are consistent with any standards developed by professional representative bodies for the health profession.

The standards must include the following:

- (a) requirements for maintaining competence and professional development
- (b) how the requirements are satisfied and demonstrated, including—
 - (i) the frequency and extent of any required training, instruction or practical experience; and
 - (ii) the time within which the training, instruction or practical experience must be completed; and
 - (iii) detail of any examination required; and
 - (iv) the reporting requirements.

Section 132 Use of information about continuing competence etc

Under Section 132 of the Health Professionals Regulation 2004 the Board may use information it receives about a registered nurse or midwife's continuing competence or professional development to take action to protect public safety, or for reasons of public interest. The Board may take the following actions:

- (a) Report annually to the Minister, using non-identifying information, on the general performance or achievement of nurses or midwives;
- (b) Provide information or advice to nurses and midwives about their performance, including comparisons to best practice;
- (c) Provide information to someone else with the consent of the registered nurse or midwife;
- (d) Use information to support the Board's advice or decision on what action to take on a report or matter referred to the Board by the Health and Community Services Complaints Commissioner in relation to a nurse or midwife.

If information received under Section 132 of the Health Professionals Regulation 2004 indicates a potential risk to public safety, the Board may treat the matter as a report about the nurse or midwife.

The Board's Maintaining Competence and Continuing Professional Development Framework applies to enrolled nurses, registered nurses, midwives and nurse practitioners who are registered in the ACT.

Declaration for Registration

Since 2001, nurses and midwives registered / enrolled in the ACT have been required to sign a declaration of competence to practice as part of the initial registration and annual re-registration process. In 2005, in preparation for the introduction of the new legislation under which nursing and midwifery professions are regulated, the Board established a process that requires nurses and midwives to demonstrate that they remain competent to practice in line with the requirements of the Act.

The provisions of Section 23 of the Act requires the Board to be satisfied, as far as is practicable, that *suitability of practice requirements* are met in order for individuals to be unconditionally registered. Section 23(d) of the Act requires all health professionals to maintain continuing competence, ensure recency of practice, and participate in ongoing professional development.

Audit requirements for the Board

In order to establish reliability and validity in the Board's processes, the Board has determined that 5% of current licensed practitioners will be audited on an annual basis. From June 2006 the Board will randomly select for audit 5% of all nurses and midwives who are enrolled / registered with the Board. Nurses and/or midwives who will be excluded from audit are those who:

- have graduated in the ACT within the last 2 years OR
- have completed a re-entry or refresher course in the ACT within the last 2 years OR
- have been audited by the Board within the last 5 years OR
- are under investigation by the Health Services Complaints Commission or the Professional Standards Committee of the Board.

A nurse or midwife who has been selected for audit, is required to provide to the Board evidence that validates the declaration that is made on their initial application for registration or their renewal of registration form.

Those selected for audit have six weeks to submit their response to the Board and are advised that the provisions of the *Criminal Code 2001*, Chapter 2 applies to all offences against this Act (see Code, pt 2.1).

Upon receiving the documents, the Board will acknowledge, in writing, receipt of the audit documents. Within six weeks the Board will assess submitted documents. Each nurse and midwife who has been selected for audit will be advised, in writing, of the outcome of that assessment (Appendix A outlines the assessment process).

Table One outlines the four options from which nurses and midwives can choose to meet the Board's audit requirements.

Table 1 - Options for Demonstrating Competence and Continuing Professional Development

If selected for Audit, the Board requires the nurse / midwife to submit evidence of 30 hours continuing professional development over the previous 3 years and one of the following types of evidence:

1. A professional development and evaluation plan, completed within the previous 18 months, signed by a line manager OR
2. A workplace competency assessment program, completed within the previous 18 months signed by a line manager OR
3. An assessment against the ANMC competencies from nurse / midwife manager or nurse / midwife employer

The Board has developed Competency Assessment and Learning Plans for the Enrolled Nurse, Registered Nurse and Registered Midwife, which are based upon the ANMC competencies. These Competency Assessment and Learning Plans will be available from the Board's website or from the Board.

A registered nurse or midwife who is an employer, a nursing / midwifery supervisor, a nursing / midwifery manager, or a nursing / midwifery peer can complete the appropriate Competency Assessment and Learning Plan.

If a registered nurse / midwife peer completes the Competency Assessment and Learning Plans, they are required to provide a letter to the Board which outlines their professional relationship with the nurse / midwife being audited, as well as the capacity and the duration of the relationship.

OR

4. A Professional Portfolio

The purpose of the portfolio is to enable the nurse and / or midwife to provide evidence to the Board of their professional competence and evidence of continuing professional development.

To assist nurses and midwives to develop their professional portfolio the Board has developed a Professional Portfolio for Nurses and Midwives - Tools for Reflective Practice & Lifelong Learning. This portfolio is available on the Board's website or from the Board.

Nurses or midwives who keep their own professional portfolio (eg from a professional college or a specialist professional group, or from an employer) can submit that to the Board.

When submitting evidence of Competence and Continuing Professional Development, only copies of documents should be sent to the Board. The Board will not return any documents submitted as part of the Audit process.

Frequently Asked Questions

Why have competence and continuing professional development requirements?

The emphasis on professional practice and accountability supports the notion of regulatory provision to underpin professional commitment to practise safely and competently. The practice environment is continuously changing, being influenced by advances in science and technology, restructuring of service delivery, increasing demands on fiscal resources, and changing community needs. These changes, coupled with increasing consumer awareness, provide an increased impetus for nurses and midwives to continue to develop their knowledge and skills in order to more effectively meet society's needs and to publicly demonstrate competence.

Competence to practise requirements provide a proactive legislative means by which the public can be assured, as far as is practicable, that nurses and midwives who hold a current licence to practise are competent. Viewed from a quality management perspective, it is a regulatory process to ensure quality. This legislative requirement also acts in harmony with both an employer's common law duty to ensure that no employee is employed to undertake activities for which they are not competent and an individual's duty of care to their client. These "quality checks" within the broader health care system operate as a means of ensuring the protection of the public interest.

How are nurses and midwives selected for audit?

Selection for audit is undertaken by registration numbers being randomly selected from the Board's database. Approximately 250 nurses and midwives are selected for audit each year.

What has to be done by nurses and midwives who are selected for audit?

In order to meet the requirements of the Board's audit process, nurses and midwives selected for audit are required to supply evidence that verifies or supports the declaration made on the application for renewal of registration.

To support nurses and midwives to meet their legal requirements for Maintaining Competence and Continuing Professional Development the Board has identified four options to demonstrate competence and involvement in Continuing Professional Development activities.

How long do auditees have to submit the documents to the Board?

Registrants selected for audit have six weeks to submit their response to the Board.

Can I get an extension of time to complete the audit requirements?

To receive an extension in relation to submission of the audit requirements, registrants are required to apply in writing to the Board, outlining the reason that an extension is being requested. The Board considers each application for extension on an individual basis.

ACT Nursing and Midwifery Board Maintaining Competence and Continuing Professional Development Framework

How long will the Board take to assess an application?

Within six weeks from receiving the audit information, the Board will assess evidence of Competence and Continuing Professional Development as supplied by each registrant selected for audit. The nurse and/or midwife will be advised in writing of the outcome of the assessment.

What happens if the declaration or information provided is not true?

The provisions of the *Criminal Code 2001*, Chapter 2 applies to all offences against this Act (see Code, pt 2.1).

Does a nurse or midwife who was recently audited by a nursing / midwifery board in another Australian state have to complete the audit in the ACT?

Yes. The audit process in the ACT is linked to the *Health Professionals Act 2004*, the legislation which regulates the practice of nurses and midwives in the ACT.

If Option 3 is selected, who can complete a Competency Assessment and Learning Plan?

Any registered nurse or midwife who is an employer, a nursing / midwifery supervisor, a nursing / midwifery manager or a nursing / midwifery peer who:

- is familiar with the ANMC Competencies;
- has been in a position to personally observe the registrant's practice; and
- truthfully believes they can complete the form.

Ideally, the registered nurse / midwife completing the Competency Assessment and Learning Plan will have worked with the nurse or midwife during the last year.

Is the person who completes a Competency Assessment and Learning Plan legally liable for information submitted?

Yes, any person who makes a declaration is liable for ensuring, to the best of their ability, the accuracy of the statement **at the time it was made**.

What if I am registered as a nurse and as a midwife in the ACT?

Any individual, selected for audit, who is on both the midwifery and the nursing registers is **required** to submit evidence of competence against **both** the ANMC Registered Nurse and Midwife competencies.

What if a nurse or midwife does not want to do the audit?

Meeting audit requirements is required under the *Health Professionals Act 2004* and the *Health Professionals Regulation 2004* (Chapter 3, pt 3.3) maintaining competence and continuing professional development.

Any nurse or midwife who refuses to comply with the Board's audit requirements will have conditions placed on her/his registration when he/she applies for renewal / re-registration. Any nurse or midwife who fails to comply within the time-frame stipulated within the conditions on their registration, will be required to meet with the Board's Regulation Committee who will consider what action(s) will be taken.

What if a nurse or midwife does not complete the audit and does not renew their registration?

If a nurse or midwife is selected for audit in the ACT does not complete the audit process and does not renew their registration, if the nurse or midwife then applies for restoration to the ACT register(s) or applies for registration under the *Mutual Recognition Act 1992* or the *Trans Tasman Mutual Recognition Act 2003*, they will be issued with conditional registration (within the 5 year recency of practice requirement) which will require them to complete the audit requirements within a specified time.

What if I am working overseas and selected for audit?

Nurses and Midwives who are selected for audit and are working overseas are required to complete the audit requirements. The Board will allow additional time associated with delays in overseas mail delivery.

What can registrants do if they are not working in a nurse or midwife position and/or do not have a nurse or midwife manager or a nurse or midwife supervisor?

A registered nurse or midwife who is your peer can complete the appropriate Option 3 Competency Assessment and Learning Plan. If a registered nurse or midwife peer, completes this Competency Assessment and Learning Plan with the nurse or midwife, they are required to provide a covering letter to the Board to explain their professional relationship to the individual being audited.

If there is no nurse / midwife supervisor or an appropriate peer, registrants may elect to submit evidence against options 1 OR 2 OR 4 as outlined in Table 1. The task of each individual is to provide sufficient evidence to the Board that will satisfy their competency requirements of the Act.

What if a nurse or midwife has been in the ACT for less than a year and does not know any registered nurse or midwife who would be happy to sign the Option 3 Competency Assessment and Learning Plan on their behalf?

Any registered nurse / midwife who has worked with the auditee within the last 12 months can sign a Competency Assessment and Learning Plan, as long as that person feels comfortable to make those declarations. The registered nurse / midwife does not have to be living or registered in the ACT. However, they are required to provide a covering letter to the Board to explain their professional relationship to the individual being audited.

What if a nurse or midwife cannot supply the evidence required by the Board?

If the evidence supplied does not contain sufficient and appropriate information to confirm the declaration, the Board will advise the registrant in writing. The applicant will then be given 4 weeks to supply any additional information required. If the applicant is unable to supply the information requested, he/she will be referred to the Board's Regulation Committee.

Registrants who are unable to comply with the audit may be required to undertake some further learning to address the identified deficit, as identified by the Board's Regulation Committee. This may be in the form of an approved competency based assessment or participation in continuing education / professional development activities.

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What if a nurse or midwife does not agree with the Regulation Committee or the Board's decision?

A nurse / midwife who is dissatisfied with a decision of the Regulation Committee may lodge an appeal with the Board.

In the event that the Board upholds the decision of the Regulation Committee and the nurse / midwife remains dissatisfied an appeal may be lodged with the Administrative Appeals Tribunal. Information relating to the Administrative Appeals Tribunal appeals process will be provided to the nurse / midwife.

What if I do not meet the Board's audit requirements?

If you do not meet the Board's audit requirements, when you apply to renew your registration, conditions relating to the Audit will be placed on your registration. These conditions will remain until you have satisfied the Board that you have met requirements relating to competence and professional development.

Can I make an appeal against the conditions the Board places on my registration?

Any registrant who has conditions placed on their registration can appeal against the Board's action, by requesting a review by the ACT Health Professions Tribunal. Information relating to the appeals process will be provided by the Board upon request.

Acknowledgements

The ACT Nursing and Midwifery Board acknowledges and extends its thanks to the nurses and midwives who participated in shaping the development of the Maintaining Competence and Continuing Professional Development Framework for Nurses and Midwives in the ACT.

Thanks is also extended to the Australian Regulation and Professional bodies who provided information used in the development of this Portfolio including the:

Australian College of Midwives Inc.

Nurses Board of Tasmania

Nurses Board of Western Australia

Nursing and Midwifery Board of the Northern Territory

Whyalla Hospital and Health Services Inc, South Australia

Appendix A - Flow Chart Outlining the ACTNMB Maintaining Competence and Continuing Professional Development Audit Process

Appendix A - Flow Chart Outlining the NBACT Maintaining Competence and Continuing Professional Development Audit Process

*Excluding nurses / midwives who are under investigation by the Health Services Commissioner or the Professional Standards Committee of the Board, **AND** nurses / midwives who have:

- graduated within the last 2 years
- completed an accredited re-entry or refresher program in the last 2 years
- been audited by the Board within the last 5 years

5%* Nurses (enrolled and registered) and Midwives registered in the ACT (in June) randomly selected for Audit from the Board's database

Notice of audit sent to nurses and midwives selected

Within six (6) weeks Nurse / Midwife submits evidence of Maintaining Competence and Continuing Professional Development to meet the Board requirements

Within 6 weeks of the Audit period ending, the Board assesses documents submitted

Evidence assessed as meeting the Board's audit requirements

NO

Board advises nurse / midwife in writing and requests further information

Within 4 weeks nurse / midwife submits further evidence as outlined in letter from the Board

Evidence assessed as meeting Board requirements

YES

Board advises nurse / midwife in writing

Nurse / midwife excluded from audit process for 5 years

NO

Audit documents referred to Regulation Committee for consideration of:

- approval for extension and submission of additional documents, or
- conditions to be placed on registration for completion of audit within 3 months of return to work or re-registration

YES

Conditions met

NO

Nurse / midwife to meet with Regulation Committee to discuss and consider appropriate actions to be taken