



**NATIONAL COMPETITION POLICY
LEGISLATION REVIEW**

Nurses Bill 1997

Report of the Review Panel

25 September 1998

The views expressed in this report are the views of the Review Panel and do not represent the views of the South Australian Government. Any action taken in anticipation of the outcomes of the review process is at the risk of persons taking such action.

TABLE OF CONTENTS

TABLE OF CONTENTS.....	2
INTRODUCTION	4
PART 1: CENTRAL ISSUES	5
Objectives of the Act	5
Markets	5
Personal Health Care Services	5
Health Care Organisations	7
Training Market	7
Restrictions upon Competition	8
Costs.....	8
Public Benefits.....	9
PART 2: ANALYSIS OF THE RESTRICTIONS CONTAINED IN THE <i>NURSES BILL</i> ...	10
Title and Practice Protection.....	10
Registration and Enrolment	10
Scope of Practice.....	20
Reservation of Title.....	22
Conclusion: Title and Practice Protection.....	23
Professional Standards	24
Codes.....	24
Standards.....	24
Dissemination of Professional Standards.....	25
Conclusion: Professional Standards.....	25
Advertising.....	25
Approval of Training Courses	26
Appeals	26

Direct Entry into Specialised Fields of Nursing	27
Conclusion: Approval of Training Courses	27
Nurses Board.....	28
Functions of the Board.....	28
Nature of the Restriction.....	28
Unprofessional Conduct.....	29
Legislative Restraints.....	30
Conclusion: Nurses Board	32
PART 3: ADMINISTRATIVE REQUIREMENTS	33
Information to be Supplied by Midwives	34
Forms	35
PART 4: RECOMMENDATIONS.....	36
PART 5: APPENDICES.....	37
Appendix 1: Terms of Reference.....	37
Appendix 2: Comparison of Fees	40
Appendix 3: Re-entry Pathways for Nurses.....	41
Appendix 4: Material Considered by the Review Panel	43
Appendix 5: Consultation List.....	44

INTRODUCTION

The following report concerns the review of the *Nurses Bill 1997*. The review is conducted in compliance with an obligation upon the South Australian Government under clause 5 of the Competition Principles Agreement. The Competition Principles Agreement is one of three agreements signed by the Commonwealth, State and Territory Governments in April 1995. These three agreements give effect to the National Competition Policy.

The obligation contained in clause 5 of the Competition Principles Agreement concerns the review, and where appropriate reform, of proposed legislation which restricts competition. The guiding principle in undertaking this review is that the *Nurses Bill* should not restrict competition unless:

- a) the benefits of the restriction to the community as a whole outweigh the costs; and
- b) the objectives of the legislation can only be achieved by restricting competition.

The Terms of Reference for this review reflect the requirements of the Competition Principles Agreement. In addition, the Review Panel has considered whether administrative procedures required by the *Nurses Bill* are unnecessary or impose an unwarranted burden on any person.

To satisfy the requirements of clause 5 of the Competition Principles Agreement the following documents have been reviewed:

Nurses Bill 1997

Nurses Regulations 1986

Additionally, Professional Standards for the nursing profession currently developed or endorsed by the Nurses Board have been examined.

This report is in five parts. The first part concerns the central issues of the review. The second part of the report contains the analysis of the restrictions contained in the Bill. The third part examines the administrative burden imposed by requirements of the Bill. The fourth part of the report lists the recommendations formulated as a result of the review. Finally, Part 5 of the report contains various appendices, including the Terms of Reference and consultation list.

References to clauses are references to clauses of the *Nurses Bill 1997*, unless otherwise indicated. References to regulations are references to regulations contained in the *Nurses Regulations 1986*, unless otherwise indicated.

PART 1: CENTRAL ISSUES

Objectives of the Act

The object of the Bill is to protect the public by ensuring nursing care is of a high standard, and is provided by persons who are identifiable within the community as possessing the necessary qualifications and/or experience to provide nursing services. The Bill achieves these objectives through systems of registration and enrolment for nurses. The Bill also continues the existence of the Nurses Board, and empowers the Board to enforce the provisions of the Bill.

Two submissions received during the consultation period supported this purpose being expressly stated at the outset of the *Nurses Bill*.¹ The Review Panel have concluded, however, that the preamble to the Bill, read in the context of the requirement that the Nurses Board exercise its functions in accordance with the requirements of clause 16(2) of the *Nurses Bill*, adequately reflect the objects of the Bill.

Markets

The purpose of the legislation review process is to analyse the effect of legislative restrictions upon competition in markets. The identification of the relevant markets is imperative, therefore, for an accurate assessment of the impact of legislative restrictions upon competition. 'Competition within markets' is competition in the broad sense of the ability to enter and participate in a market, not 'competition' in the sense of an individual's rights to participate in a market. Competition policy is concerned with broad, competitive outcomes rather than marginal behaviour. The potential impact of legislated restrictions upon an individual's participation in a market, therefore, is only relevant to legislation review where the impact on the individual is symptomatic of broader anti-competitive outcomes caused by the legislated restriction. This distinction is important in the context of reviewing legislation which empowers a body to take disciplinary action against individuals participating in a profession. The ability to restrict or prevent an individual's participation in a profession is only relevant to the process of legislation review, if criteria for imposing such restrictions distorts general competitive conduct within a market.

Personal Health Care Services

In the context of nursing care, the provision of personal health care services is undertaken by two groups of people. The first of these are qualified nurses who comprise the nursing profession. The nursing profession is divided into three groups of qualified nurses: specialist registered nurses (eg midwives and mental health nurses etc), registered nurses and enrolled nurses. The distinction between specialist registered nurses and registered nurses without specialised training in a particular field is maintained through the decisions of employers of these nurses. Employment choices will be influenced by considerations of the duty of care to

¹ Australian Nursing Federation submission at 3;
Royal College of Nursing submission at 1.

patients and consumer preference. The *Nurses Bill* reinforces this distinction by empowering the Nurses Board to authorise specialist nursing qualifications for inclusion on the register or roll,² and by provisions which prohibit a person claiming they are a specialist nurse without being registered under the *Nurses Bill* as having this speciality. The distinction between registered nurses and enrolled nurses is enforced by the systems of registration and enrolment established under the *Nurses Bill* and by the legislative requirement for enrolled nurse supervision.

A number of submissions received during the consultation process urged that midwifery be recognised as a profession independent of nursing.³ The Review Panel gave substantial consideration to this matter. For the purposes of the review, however, the decision was taken not to depart from the historical approach of considering midwifery as a specialised field of nursing. The Review Panel notes, however, that the provision of opportunities for direct entry into the profession of midwifery through a South Australian undergraduate midwifery course, and increased consumer awareness and acceptance concerning the services which are provided by midwives, may lead to the recognition of midwifery as a profession which is distinct from nursing. While it is not the role of this review to put in place mechanisms for such an evolution to occur, the issues of direct entry into the profession of midwifery and the opportunities that may be created through an undergraduate course in midwifery are discussed below in relation to the approval of training courses.⁴

The second group of people who provide personal health care services is personal care assistants. Personal care assistants are currently not regulated by statute. There is competition between nurses and personal care assistants on an individual basis where it is open to an employer to employ a personal care assistant instead of a registered or enrolled nurse to deliver personal health care. The *Nurses Bill* does not constrain the employment of personal care assistants by defining the scope of nursing practice and reserving this area exclusively to nurses. The constraints upon the employment of personal care assistants reflect the constraints imposed by the duty of care owed to clients of health care services. Where this duty of care can be satisfied by the employment of a personal care assistant rather than a nurse, the employer may choose between the employment of nurses or personal care assistants. Equally members of the public can exercise their right to choose between personal health care offered by a nurse or personal care assistant.

Traditionally, the nursing profession has been distinct from other health-care professions in that there was limited competition between nurses in the manner that there is competition between, for example, dentists. Dentists are essentially business people who compete against other dentists for clientele. Nurses, by comparison, have not traditionally marketed their professional services individually, but rather were employed, predominantly by health care organisations. There is an increasing trend, however, towards nurses providing nursing services as self-employed business people. These nurses are in competition with not only

² Clause 16(1)(g) *Nurses Bill*

³ Submissions received from the School of Nursing Flinders University, the Faculty of Nursing University of South Australia.
Australian College of Midwives submission at 1.

⁴ Page 24.

other nurses engaged in similar businesses, but also personal care assistants engaged in providing similar services.

The other areas of competition for the provision of personal care services are competition between registered nurses and specialist nurses, such as midwives, and competition between the nursing profession and other health care providers, such as medical practitioners and physiotherapists. Both of these areas of competition concern the scopes of practice accorded to registered nurses, specialist nurses and to other health care providers. The issue of scopes of practice is discussed below.⁵

Health Care Organisations

Despite an increasing trend toward nurses providing nursing services as “business people”, the majority of nurses remain employed by health care organisations such as hospitals, aged care facilities, home nursing services and doctors surgeries.

The extent, if any, to which restrictions contained in the *Nurses Bill* restrict competition between these health care organisations is, therefore, relevant to this review. The decision by employers to employ nurses rather than other occupational groups such as personal care assistants is governed by many factors. Among these factors are levels of patient acuity, industrial agreements, funding arrangements for publicly funded employers, risk assessment by the employers, and consumer expectations and preferences. While the *Nurses Bill* demarcates between types of nurses within the nursing profession, and between nurses and personal care assistants on the basis of qualification, it does not substantially restrict the employment decisions of employers.

The requirement that enrolled nurses be supervised constitutes the most significant restriction in relation to competition between health care organisations. The *Nurses Act 1984* required enrolled nurses to be supervised by registered nurses. To the extent that the supervision of enrolled nurses by registered nurses restricted competitive conduct by employers this restriction upon the enrolled nurse employment has been significantly reduced by the *Nurses Bill* (see discussion of clause 24(2) below).⁶

The key consideration for employers is whether they can meet their general duty of care to their patients. This is not a legislative restriction upon competition.

Training Market

A prerequisite to registration or enrolment is that the applicant has qualifications approved or recognised by the Board (clauses 23(1)(a) and 24(1)(a)). One function of the Board is to approve or recognise courses of education or training that provide qualifications for registration or enrolment (clause 16(c)). The market of providing nurse training, therefore, may be affected by decisions of the Board and, therefore, is also a market relevant to this review of the *Nurses Bill*.

⁵ Page 19

⁶ Page 20

Restrictions upon Competition

Restrictions upon competition are of three types:

- a) barriers to entering (or re-entering) markets;
- b) restrictions on competition within markets; and
- c) discrimination between market participants.

Each of the restrictions identified in the course of this review has been identified in terms of these theoretical types of restrictions. Such categorisation is useful for analysing the impact of the restriction upon competition in the relevant market.

For the purposes of this review restrictive provisions contained in the *Nurses Bill* have been assessed as trivial, intermediate or serious. There is no definitive means of determining the correct weighting to be ascribed to restrictions. The following, however, is the 'rule of thumb' utilised during the course of this review. A trivial restriction upon competition has only a minimal effect upon competition within a market. An intermediate restriction upon competition is a restriction which imposes a substantial cost upon competition. In this context "substantial" indicates an affect upon competition which is not minimal. By comparison, a serious restriction is a restriction which prohibits entry or re-entry into a market, or prohibits certain conduct within a market.

Costs

Two categories of cost arise from the restrictions contained in the *Nurses Bill*. Firstly, the restrictions upon registration and enrolment, and upon re-entry to the profession, may cause a restriction in the supply of nurses. In this context, restrictions upon conducting education and training also may contribute to a shortage of persons attaining qualification sufficient to enable them to be registered or enrolled.

Restricting numbers of nurses significantly below the demand for nurses may cause the cost of nursing services to rise. This may impact as a cost upon the community. Similarly, a short-fall in the numbers of registered or enrolled nurses will reduce the efficiency and effectiveness of available health care services. The numbers of nurses practising is a result of many factors. This is discussed in detail below in relation to the costs associated with registration and enrolment of nurses.

The second category of cost is compliance costs. These are the costs of registration and enrolment, maintaining competence and of complying with Professional Standards. Compliance costs are costs upon the individual nurse. These costs impact upon competition if they are sufficient to dissuade participation in the market for nursing services, or are substantial and passed on to consumers as an element of the price charged for nursing services.

Public Benefits

The regime which will be established under the *Nurses Bill*, if enacted, achieves significant public benefits. Restrictions upon entry into, and participation in, the profession of nursing (practice protection and title reservation) ensure that persons claiming to be either registered or enrolled nurses possess the requisite qualifications and experience to fulfil those roles. The provision of professional services is often done in an environment of "information asymmetry" between providers and consumers. Consumers often will judge a professional's ability to provide a professional service on the basis of their manner and presentation. The consumer will often lack the knowledge to assess either the quality of the service being provided or the knowledge or expertise of the practitioner.⁷ In such an environment, Government has a legitimate role in ensuring that professionals meet minimum standards of competency. The public can then be confident that a person holding themselves out to possess certain qualifications and expertise does in fact hold this level of qualifications and expertise.

The provision of information to consumers is, therefore, a significant factor in promoting competition. Deregulation of certain professions, without a concomitant increase in the knowledge of consumers to enable them to make informed choices regarding service providers, will expose consumers to the risk of harm without providing them with the means of avoiding this harm. Systems of registration or enrolment are mechanisms for providing a public record of the practitioners within a profession and any restrictions upon their ability to practice. The compilation of such information and its provision to consumers is a significant public benefit.

Restrictions upon conduct within a profession through the use of 'Professional Standards' also preserve public confidence in the standards of professional care provided by members of the nursing profession. Such Professional Standards encourage high standards of professional conduct. Central to these standards of professional conduct is the concept that professionals must only operate within their area of professional competence. A broad notion of competency has been adopted by the Review Panel in undertaking this review of the *Nurses Bill*. A broad notion of competence to practice includes not only criteria such as educational qualifications and practical experience but also includes issues of capacity to practice within a field of nursing competently. Capacity to practice within a professional field will vary between professions. In some professions, such as nursing, capacity will include relevant language proficiency and the physical and mental capacity to carry out activities within the area of practice. Capacity will also include the ability to undertake functions within the area of competency in a manner which respects both the duty of care owed to patients and the fiduciary duty between nurse and patient.

⁷ John Webster 'Competition Policy and the Professions - The Issues' in Australian Council of Professions *National Competition Policy and the Professions* at 5.

PART 2: ANALYSIS OF THE RESTRICTIONS CONTAINED IN THE *NURSES BILL*

Four categories of restriction have been identified in the course of reviewing the *Nurses Bill*:

- a) title and practice protection;
- b) codes of conduct;
- c) approval of training courses; and
- d) actions of the Nurses Board.

Title and Practice Protection

The *Nurses Bill* contains restrictions regarding entry into the profession of nursing, the use of certain titles denoting specific nursing qualifications recognised under the *Nurses Bill* and scopes of practice within the nursing profession (title and practice protection). Restrictions which achieve title and practice protection are restrictions concerning the qualifications and / or experience required to enter a profession, and the professional standards and requirements of persons returning to, or seeking reinstatement in, the profession. Where these requirements are legislative requirements for entry into, and participation in, a profession, as in the *Nurses Bill*, these requirements are legislated restrictions upon competition.

Title and practice protection may also involve the reserving of an area of activity exclusively to a defined trade or occupation and / or reserving a title exclusively to a group of people with specific qualifications and expertise. The issues of registration and enrolment, scopes of practice and title reservation are discussed below.

Registration and Enrolment

Registration and Enrolment: clauses 23 and 24

Registration and enrolment, under the *Nurses Bill*, occurs where an applicant meets the criteria for registration or enrolment under the Bill. Under clauses 23 and 24 of the Bill, the relevant criteria are:

- (a) has qualifications approved or recognised by the Board;
- (b) meets requirements determined by the Board to be necessary for either registration or enrolment; and
- (c) is a fit and proper person to be either a registered or enrolled nurse.

Under the *Nurses Act 1984*, the Nurses Board maintained separate registers for general nurses, psychiatric nurses, mental deficiency nurses and midwives. Several submissions received during the consultation period advocated for the retention of a separate register for midwives.⁸ The Review Panel has considered these submissions and concluded that having a single register which notes the area of specialisation of the practitioner achieves the public benefits associated with registration. Recognition of specialised qualifications and experience on the single register, arguably provides the same level of recognition of these qualifications and experience in the area of specialty as registration on separate registers. The *Nurses Bill*, if enacted, will restrict the use of titles which denote that a person has the qualifications and experience denoted by certain titles such as "midwife", unless the person meets the qualification and experience requirements of the Bill. Reservation of titles in this manner also identifies the specialised expertise of the specialist nurse without the need to have separate registers.

Qualifications

Attaining a qualification which, in the opinion of the Board, is necessary to ensure competency is an objective criteria for attaining registration or enrolment. A system of registration or enrolment in a profession which is based upon objective standards of competency, while being a restriction upon entering a profession, may be justified where there is a risk of harm to the public from persons who are not competent to provide certain services. A universal threshold level of risk which will justify registration requirements across all professions cannot be identified as the risks associated with 'holding out' in different professions cannot be compared. In relation to the services provided by registered and enrolled nurses, however, this degree of risk is assessed by the Review Panel as significant. Persons who hold themselves out to be qualified nurses should be competent in the delivery of nursing services.

Objective criteria for entering a profession clearly 'sign post' the entry requirements which will be applied consistently to all person applying to enter the profession. Unlike criteria for admission which may be applied in arbitrary and discretionary manner by a regulating authority, objective entry requirements can promote competition within a profession as all person who attain the objective entry requirements will be admitted regardless of the prejudices of the regulating authority. Similarly, it could be argued that objective criteria promote mobility within a profession, as the criteria to move from one field within the profession to another are clearly identified.

The qualifications and prescribed experience for different types of nurses are set out in regulations 6 and 7. The required qualifications relate to the completion of listed courses. The list includes both local and overseas courses. The prescribed experience set out in regulation 7 relates to the clinical experience required to be registered as a registered nurse, psychiatric nurse or midwife, or to be enrolled as an enrolled nurse. The clinical experience is now included in training courses for registered and enrolled nurses and, therefore, has to an extent been subsumed into "qualifications" required for nurses. To become a specialist nurse

⁸ Submissions received from the Midwives Act Lobby Group at 2 and the Australian College of Midwives at 2

⁸ Ms Robyn Gillies' submission at 5

further training and experience in the speciality is required. The issue of direct entry of qualified midwives is discussed below.⁹

One submission questioned whether the six week period for clinical placement of enrolled nurses was an unnecessarily long and arbitrary period.¹⁰ The submission indicated that it may be possible for some aspiring enrolled nurses to demonstrate competency in a period significantly shorter than six weeks. The relevant question in terms of competition policy is whether the six week period of clinical experience imposes costs which exceed the public benefits of requiring enrolled nurses to undertake a clinical placement of six weeks duration.

The Review Panel have considered this contention and concluded that six weeks is a minimal period for an aspiring enrolled nurse to integrate theory with nursing practice. A six week placement enables the aspiring enrolled nurse's technical competence to be assessed through repeated demonstration of competency over an extended period of time. The clinical placement is also an important period for the exposure of aspiring enrolled nurses to the culture and ethics of the health care system. There are, therefore, significant public benefits associated with requiring enrolled nurses to undergo a sustained period of clinical experience. The costs of the requirement are compliance costs imposed upon the individual. These costs are not assessed as substantial. The Review Panel conclude, therefore, that the six week clinical experience component of enrolled nurse training is not an unjustifiable restriction upon competition.

In relation to nurses qualified outside South Australia, the experience prescribed by regulation 7 provides a 'checklist' for the Nurses Board when considering an application to be registered or enrolled, or determining appropriate conditions to attach to that registration or enrolment.

The Board may under regulations 8 to 10 require that a person seeking registration or enrolment sit an examination. Candidates who fail an examination have rights to supplementary examination, however no candidate may sit for the examination in the same course more than three times. Examinations are a form of restriction on the entry of persons into the profession of nursing. The prohibition on a person sitting an examination more than three times is a barrier to entry into the profession. This is an intermediate restriction upon competition. The costs associated with the requirement to sit examinations may be justified if the examination relates to attaining qualifications required to demonstrate competency, and undertaking the examination is the best means for assessing such competency. It is envisaged that the Nurses Board will not be empowered by regulations made under the *Nurses Bill* to require an applicant for registration or enrolment to sit an examination.

While the register and the roll do reflect the numbers of nurses currently in the profession, the requirements for registration and enrolment do not solely constrain the numbers of enrolled and registered nurses. The numbers of people who can attain the necessary qualifications is limited by the numbers of places in Bachelor of Nursing courses and courses qualifying a person as an enrolled nurse. The numbers of places at universities and other teaching institutions is dependent upon funding to the universities and other teaching institutions. Other restrictions upon the numbers of qualified nurses and specialist nurses includes the

⁹ Page 25

availability of clinical practice placements, educational standards (including entry requirements) required to attend the university or other teaching institution, and the cost of attending such courses. No evidence was presented to the Review Panel to suggest that the systems of registration and enrolment to be imposed by the *Nurses Bill*, if enacted, would impact upon the numbers of practicing nurses in a manner which would compromise competition within health care delivery markets.

Requirements determined by the Board to be necessary

Registration and enrolment criteria such as "requirements determined by the Board to be necessary" may enable the Board to require attributes which do not relate to the competency of the nurse. Demanding attributes unrelated to competency may be unjustifiable restrictions upon competition. The practice of the Board has been, however, to require matters which are linked to issues of competency. Generally competency is shown by the acquisition of a required qualification (see discussion above). Where such a qualification has not been attained, however, the Board will consider other attributes in determining whether the applicant is competent to be a registered or enrolled nurse. For example, requiring some nurses re-entering the workforce or who have overseas qualifications to undergo a period of practical assessment to ensure they are competent in their field of practice.

Fit and proper person

"The fit and proper person" standard may also constitute an unjustifiable restriction upon competition depending upon how this standard is interpreted and applied by the Board. Again, criteria to determine whether a person is a fit and proper person to be registered or enrolled should be based upon ensuring the applicant is competent to provide nursing services within their field of practice. In assessing whether a person is a 'fit and proper person' the Board currently considers issues such as relevant language proficiency, physical or other impairment, and criminal convictions (where the offence indicates that the applicant's fiduciary duty to a patient may be compromised). Such considerations are all related to the competency of the person to be a registered or enrolled nurse.

One submission received during the consultation process suggested that nurses with physical impairments should self-regulate, that is that they should be granted full registration by the Nurses Board and the nurse and the nurse's employer should determine the work duties appropriate for that nurse.¹¹ Currently only 18 out of 23,000 registered or enrolled nurses are subject to limitations on their registration or enrolment due to physical impairment. Most of these restrictions upon registration or enrolment relate to lifting restrictions. In registering or enrolling a nurse, the Nurses Board is certifying to the public, including employers, that the nurse is competent and capable of carrying out the duties within the area of competence for which the nurse is registered. If the nurse suffers a physical impairment which limits her or his ability to perform such duties, then there is a public benefit in limiting the scope of the nurse's registration or enrolment. The costs associated with this restriction are costs to the individual rather than a cost to the community, especially given the low number of nurses who are affected by such restrictions on practice.

¹¹ Australian Nursing Federation submission at 5

Another submission highlighted the issue of persons being admitted to training courses in nursing who may not achieve registration in these professions as they are not considered “fit and proper” persons to be nurses.¹² This issue goes beyond considerations of the restrictions upon competition contained in the *Nurses Bill*, and would involve a detailed consideration of the interrelationship between training opportunities and the entry into vocations. Such an enquiry is beyond the Terms of Reference for this review.

Continuing competency

While the criteria for registration and enrolment are based upon objective standards of competency, there is currently no on-going assessment of this competency. The Nurses Board have indicated during the course of the review that they are considering the possibility of implementing a system of randomly auditing registered and enrolled nurses to assess the competency of nurses in their field of practice.¹³ Nurses would, at the time of enrolling or registering, complete a statutory declaration indicating that the nurse is competent to practice. Competency would be assessed in relation to competency standards for the field in which the nurse practised. For example, midwives would be assessed against standards developed specifically in relation to midwifery practice.

None of the submissions received during the public consultation process considered that the system of registration and enrolment significantly restricted the numbers of nurses practising, provided that the system was based upon objective standards of competency.

Reinstatement of registration or enrolment: clause 26

Similar considerations to those discussed above arise in relation to the reinstatement of registration or enrolment where the registration or enrolment has been cancelled for unprofessional conduct. Clause 26(3) of the Bill prevents a person from applying for reinstatement within two years of the registration or enrolment being cancelled. Under Clause 26(6) the Board should reinstate the person’s name to the register or roll if satisfied that the person:

- (a) has sufficient competence and capacity to practise in the field of nursing to the standards required by the Board for the purposes of the Act; and
- (b) is a fit and proper person to be registered or enrolled.

The costs generated by clause 26(6) are private compliance costs borne by the person applying for reinstatement. These costs are not significant in terms of competition within health care delivery markets. Costs associated with a shortage of registered or enrolled nurses may result, however, if the Board inappropriately assesses whether a person should be reinstated. The criteria for reinstatement are based upon the competency and capacity of the nurse to undertake the duties of a registered or enrolled nurse. These criteria are appropriate and do not create significant costs for the community.

¹² Ms Robyn Gillies’ submission at 4

¹³ Nurses Board of South Australia submission at 2

The period of two years imposed by clause 26(3) is an arbitrary time which must elapse before a person can apply to the Board for reinstatement. This time period is not determined by reference to any objective criteria for measuring the competence and capacity of the person to fulfil professional duties. The period of two years, therefore, can on some interpretations be seen as an arbitrary penalty which must be 'served' by a nurse who has his or her registration or enrolment cancelled. Three submissions received during the consultation process considered the two year period prior to re-entry to be an unnecessarily long and arbitrary period before which a person could seek re-instatement as a nurse.¹⁴ Two of these three submissions, however, favoured some minimum time period being specified in the legislation. The Nurses Board of South Australia specifically suggested twelve months as an appropriate minimum period before which a person could seek re-instatement.

De-registration is a serious sanction which is used infrequently by the Board. It is only in the most serious cases of unprofessional conduct that a nurse will be suspended from practise. There is a public benefit in ensuring that a minimum time passes during which the de-registered person can assess their commitment to the profession of nursing and take necessary remedial steps to demonstrate their competency. The Nurses Board is currently evaluating the continued competency of nurses. This study, being conducted by the Australian Nursing Council Incorporated, is charged with developing a statement of indicators of continuing competence and to describe how these indicators may be applied in various circumstances.¹⁵ Such a study may, therefore, identify objective indicators of competency and capacity to be applied to nurses seeking reinstatement. It is envisaged that this study will be completed by the end of 1998.

The costs of this restriction are significant in terms of the de-registered individual's right to practise, but trivial in terms of its affect on competition generally. While the Review Panel concludes that the public benefits associated with this restriction outweigh the costs generated by the restriction, the Review Panel would support the reduction of the time period from two years to twelve months.

There is no alternative other than a legislative scheme of registration to achieve the objective of removing incompetent practitioners from a profession.

The Review Panel recommends that clause 26(3) be amended to reduce the minimum period before which a person can seek reinstatement to the roll or register from two years to 12 months.

¹⁴ Submissions received from the Australian Nursing Federation, the Nurses Board of South Australia and the Royal College of Nursing.

¹⁵ Australian Nursing Council Incorporated *Continuing Competency in Nursing: A Chance to Voice Your Opinion - A Survey of Nurses' Views* Commissioned by the Australian Nursing Council Incorporated (1998)

Limited registration or enrolment: clause 27

Clause 27 enables limited registration or enrolment where, in the opinion of the Board, the applicant for registration or enrolment lacks the necessary qualifications or experience, or the mental or physical capacity, required for unrestricted enrolment or registration. Under subsection 27(2), the Board may impose restrictions upon the places in, and times at, which the applicant can practise nursing, limit the areas of nursing in which the applicant may practise, limit the period of enrolment or registration, impose conditions requiring supervision or impose any other condition as the Board thinks fit.

The costs of this restriction are minimised if the Board utilises criteria which accords with community and professional views on whether a person should be entitled to unrestricted enrolment or registration. The criteria which the Board uses is based upon the competence, including the physical capacity, of the nurse to carry out duties in their area of practice. An example of such restrictions are weight restrictions which prohibit a nurse from lifting more than a specified weight. Such restrictions are discussed above in relation to clauses 23 and 24 of the Nurses Bill.¹⁶ Other more substantial conditions include requirements for supervision.

The restrictions upon practice can be either trivial or intermediate depending upon the conditions placed upon practice. These restrictions, however, impact upon the individual's right to practice. Provided the Nurses Board is imposing conditions which are necessary to ensure the competency of the nursing profession then the costs in terms of competition are negligible.

There is a benefit to the public in limitations being placed upon the registration or enrolment of persons where the skills or expertise of the person are insufficient for them to qualify for unrestricted registration or enrolment. This provision enhances involvement in the nursing profession by enabling the Board to provide limited enrolment or registration to persons who otherwise would not qualify for registration or enrolment and, therefore, would be prevented from practising as nurses.

Provided that the criteria which the Board apply are based upon competency, and are applied consistently then there are no anti-competitive costs of complying with this provision. There are, however, significant public benefits in permitting nurses to attain conditional registration or enrolment, thereby enabling them to continue working while ensuring health care standards are not compromised. While conditional registration or enrolment is a restriction upon the individual nurse, it is not an unjustifiable restriction upon competition.

Conditional registration is also utilised by the Board to authorise nurses, particularly from overseas, to practise in Australia for the purposes of study or teaching. This is not a competition issue.

Process of registration and enrolment: clauses 25, 28 and 34

Clause 25 of the *Nurses Bill* outlines the process for registration and enrolment. Applications for registration and enrolment must be in a manner and form approved by the Board and be accompanied by the registration or enrolment fee (clause 28). Currently, the initial registration and enrolment fee is set at \$60.

¹⁶ Page 10

Under clause 34 of the *Nurses Bill*, a person will not be registered or enrolled or have their enrolment or registration reinstated until the prescribed practice fee is paid. The current annual fee for registered nurses is \$105. The current annual fee for enrolled nurses is \$73.50. A fee of \$35 is charged where a registered nurse attains the level of qualifications and expertise required to be authorised to practise in a specialised area such as midwifery. The form of application for enrolment under the *Nurses Act 1984* is prescribed in the regulations.

The costs of complying with this provision are likely to be minimal unless:

- a) the prescribed manner or form is unusual in its requirements; or
- b) the application fee is high.

The Review Panel has assumed, for the purposes of this review, that the application form for registration and enrolment will not be dissimilar to the form currently contained in regulation 5 and have concluded, on this basis, that the manner and form requirement is a trivial restriction upon competition.

The registration and enrolment fee may constitute a significant restriction upon competition if it dissuades entry into the profession, or is substantial and is passed on to consumers. The current fee for registration of \$105 is significantly higher than the cost of registering or enrolling as a nurse interstate. A comparative table of fees is contained in Appendix 2.

The differences in the registration and enrolment fees paid by nurses in different jurisdictions reflects the differences in the income and expenditure of the regulatory authorities in each jurisdiction, the priorities of the regulatory body and the attitudes of the community within the jurisdiction to regulation. For example, the Nurses Registration Board in New South Wales registers the largest numbers of nurses of any Australian jurisdiction. The functions of this regulatory body, however, do not extend to hearing complaints against nurses. Such complaints are assessed by the New South Wales' Health Complaints Commission. The regulatory authority, therefore, does not have the expenditure associated with determining such complaints. This is a cost which in South Australia must be met by the Nurses Board.

Similarly, the attitudes of the community to regulation influences the numbers of complaints against nurses which are lodged with the Nurses Board for investigation and determination. For example in 1996, 150 complaints were lodged with the Nurses Board of South Australia, whereas only six complaints were lodged with the regulatory authority in the Northern Territory. This divergence in reporting can be attributed to many factors only one of which is differing attitudes to regulation. The outcome is, however, that there is significantly more work for regulatory authorities where the community is prepared to lodge complaints against professionals. In this context, it is appropriate to note that clause 43 of the *Nurses Bill* requires a health professional who is treating a nurse who believes that the ability of the nurse to provide nursing care is, or may be, seriously impaired by a mental or physical incapacity, to submit a report to the Board detailing the grounds for such a belief. Similarly, clause 45 requires employers to report unprofessional conduct to the Board. Such statutory obligations generate investigatory and disciplinary work for the Board, the costs of which are met by the fees charged for registration and enrolment.

The public benefits of charging a registration or enrolment fee relate to recovery of the costs of administering the *Nurses Bill*. The *Nurses Bill* achieves significant public benefits through ensuring the competency of nurses. The system of registration and enrolment not only

ensures the competency of persons entering the profession, but also provides a record of information available to the public and employers which indicates whether a nurse possesses specialist qualifications, has been disciplined by the Board, is subject to a decision of the Board suspending or cancelling their registration or enrolment, or has conditions attached to their right to practice. The availability of this information to consumers of nursing services facilitates consumer choice for nursing services and encourages competition in the market for nursing services. The amount of the fees is referable to the expense associated with the Nurses Board fulfilling its statutory role under the *Nurses Act 1984*. A similar fee structure will likewise be appropriate to fund the activities of the Nurses Board under the *Nurses Bill*, if enacted.

One submission received during the consultation process contended that registration and enrolment fees were high.¹⁷ This submission did not provide any evidence, however, that the level of fees constituted a significant barrier to entry or participation within the profession of nursing. The Review Panel have concluded that the current registration and enrolment fees are only trivial restrictions upon competition.

Board's approval required where a nurse has not practised for five years: Clause 29:

Clause 29 prescribes that where a nurse has not practised for a period of five years or more the nurse must not practise nursing without first obtaining the approval of the Board.

Prior to granting its approval, the Board may require the nurse to obtain qualifications and experience specified by the Board, and for that purpose may require the nurse to undertake specific training. The Board can also make its approval conditional. These conditions can relate to the places or times at which a nurse may provide nursing care, limit the areas of nursing in which the person can work, impose conditions regarding supervision, or any other condition as the Board thinks fit.

There is a public benefit in ensuring that the skills and knowledge of nurses are current. This public benefit can be achieved if there is a restriction on the nurse practising without the approval of the Board. This is an intermediate restriction upon competition which imposes additional costs upon persons who have not practised for five years or more. The costs are justified if the conditions which the Board imposes are necessary for the protection of the public and the maintenance of nursing standards. Similar restrictions exist in all Australian jurisdictions, except New South Wales.

The current practice of the Board is to require a nurse who has not been registered or enrolled for a period of five years or more to undertake a formal course of training. The details of these courses are set out in Appendix 3. The Board does not consider other indicators of competency beyond the elapse of time. For nurses who have not been registered for a period exceeding twenty years, the Board requires that these nurses undertake an undergraduate course in nursing. Such requirements for re-training place significant costs on the nurses seeking to re-enter the workforce and may reduce the numbers of nurses available to practice. An arbitrary requirement for re-training does not attempt to assess the competency of the nurse wishing to re-enter the workforce.

¹⁷ Australian Nursing Federation at 6

The Review Panel has concluded that other indicators of competency should be considered beyond the passing of time. Several of the submissions received during the course of the consultation process support this conclusion.¹⁸ The Review Panel notes that the fact that a nurse may have been out of the workforce for an extended period of time does not necessarily mean that the nurse is not competent to fulfil nursing duties. The converse is also true, that is the fact that a nurse is currently practising does not mean he or she is necessarily competent in the range of nursing duties he or she is required to undertake.

As discussed above in relation clause 27 of the *Nurses Bill*, the Nurses Board is currently involved in the Australian Nursing Council's investigation into indicators of continuing competence. This study may identify appropriate indicators of continuing competency. As indicated in relation to "Continuing Competence" above, the Nurses Board is considering implementing a system whereby nurses would self-regulate by completing a statutory declaration as to competence and undergoing random audits of nurses on the roll and register. Such a system of random audits may replace the current requirement of the Board as to retraining.

Revocation or variation of conditions: Section 30

Section 30 empowers the Board to vary or revoke a condition attached to registration or enrolment. The power to vary conditions may be utilised to impose conditions which restrict competition. Depending upon the conditions imposed, this provision could restrict competition in a trivial through to intermediate manner.

The cost of this restriction is minimal, especially if the Board introduces conditions which are reasonably required to protect the public interest. There is public benefit in enabling the Board to vary and revoke conditions. The ability to revoke conditions may enhance competition. The ability to vary conditions may also enhance competition if the Board imposes less stringent conditions. Where the Board imposes more stringent conditions this may also be justified if the conditions are in the public interest.

Restriction of movement of nurses between jurisdictions: Mutual Recognition

Systems of registration and enrolment may inhibit movement of nurses between jurisdictions, where nurses enrolled or registered in another jurisdiction are unable to register or enrol in South Australia. Such a restriction reduces the pool of nurses within South Australia and thereby, reduces the level of competition between nurses. Registration and enrolment regimes established under the *Nurses Bill*, however, do not restrict movement of registered or enrolled nurses between jurisdictions due to the operation of the system of Mutual Recognition established under the *Mutual Recognition Act 1992 (Commonwealth)*.

Mutual Recognition enables nurses registered or enrolled in equivalent occupations interstate, to be registered or enrolled in South Australia. A nurse registered or enrolled pursuant to the Mutual Recognition regime is subject to the same laws regarding practice as other nurses registered in South Australia except in regard to laws requiring the attainment or possession

¹⁸ For example, submissions received from the Nurses Board of South Australia, the Midwives Act Lobby Group, the Australian College of Nurses, the University of South Australia, the Australian Nurses Federation and the Royal College of Nurses.

of some qualification or experience relating to fitness to carry on nursing (see section 17 of the *Mutual Recognition Act*). The scheme of the legislation is essentially, therefore, that if a nurse satisfies the requirements for registration interstate they will be registered in South Australia without undertaking further training.

The *Mutual Recognition Act* (s 20(5)) does preserve the ability of the Nurses Board to impose conditions upon practice provided these conditions do not arise from the fact that the applicant is registered pursuant to the Mutual Recognition Scheme. While the Mutual Recognition scheme alleviates constraints upon the registration or enrolment of nurses from interstate, the scheme does not alter the restrictions embodied within conditions imposed by the Nurses Board on practice. The impact of these conditions upon competition are analysed above.

Scope of Practice

Nurses and Personal Care Assistants

Unlike some other professions, the scope of nursing practice is not delineated and reserved exclusively to nurses by the *Nurses Bill*. For example, under section 24 of the *Veterinary Surgeons Act* only registered veterinary surgeons can undertake veterinary treatment for fee or reward. The *Nurses Bill* does not prohibit a person from carrying out acts of nursing provided they do not hold themselves out as registered, enrolled nurses or specialist nurses. There is no restriction upon persons undertaking personal health care services, except the restrictions on 'holding out' to be a nurse without registration under the *Nurses Bill*. 'Reservation of Title' provisions are discussed in detail below.

One submission suggested that personal care assistants should work under the supervision of registered nurses.¹⁹ The submission highlighted section 23(3) of the *Nurses Act 1984*. Section 23(3) indicates that the Minister may authorise a person or group of people to undertake nursing care under the supervision of a registered nurse. The Review Panel notes that the Minister has not exercised this power in relation to personal care assistants. Personal care assistants, therefore, are currently not regulated by statute and not required, by statute, to work under supervision. The Review Panel has considered this submission and concluded that this matter falls outside the Terms of Reference for this review. Statutory requirements for the supervision of personal care assistants are likely to lead to the regulation of personal care assistants. Such regulation of personal care assistants is not contemplated by the *Nurses Bill* and is, therefore, outside of the scope of this review.

Within the Nursing Profession

The scopes of practice within the Nursing Profession, are divided between enrolled nurses and registered nurses, and between registered nurses and nurses with specialised training, such as midwives and mental health nurses. The scopes of practice of registered nurses and specialist nurses is delineated by the extent of professional duty to practice within competency. A nurse who performs procedures outside of this area of competency is in breach of their duty of care to the patient and may be guilty of unprofessional conduct.

¹⁹ Australian Nursing Federation at 7

Enrolled Nurses

The scope of practice of enrolled nurses is delineated by the area of competence of the enrolled nurse. Due to the more limited training of enrolled nurses compared with registered nurses, the *Nurses Act 1984* requires that an enrolled nurse be supervised by a registered nurse. Such a requirement constitutes a significant restriction upon the employment of enrolled nurses and the employment decisions of employers.

After a substantial consultation process this requirement for supervision has been altered.²⁰ The requirement now states:

- 24(2) Subject to this Act, enrolment as a nurse authorises the enrolled nurse:
 - (a) to practise in the field of nursing under the supervision of a registered nurse, and
 - (b) to practise without such supervision in the field of nursing in accordance with the terms and conditions of a written approval given by the Board.
- 24(3) An approval under this section may be specific or general and may be given upon such terms and conditions as the Board thinks fit.
- 24(4) Any approval under this section may be withdrawn or varied by the Board at any time.

The redrafted provision enables the Board to approve the unsupervised practise of enrolled nurses in areas which are within their area of competence or in circumstances where, despite a registered nurse not being in attendance, there is adequate supervision of the enrolled nurse. Only one submission suggested that Enrolled Nurses should continue to be supervised solely by registered nurses.²¹

The Review Panel have concluded that there is significant public benefit in having enrolled nurses. Due to the more limited qualifications and experience of enrolled nurses there are also significant public benefits in ensuring the competency of the enrolled nurse to work within a defined area unsupervised, or under supervision of an appropriately qualified person. The costs generated by the requirement that enrolled nurses work within a limited area unsupervised or under the supervision of a suitably qualified person generates costs for health care organisations. These costs may impact upon competition between health care organisations as health care organisations which determine to employ unregulated personal care assistants will not face the costs associated with ensuring the enrolled nurse is supervised. These costs, however, are outweighed by the public benefits described above.

²⁰ Nurses Board of South Australia *The Supervision of Enrolled Nurses: Final Issues Paper* (April 1998)

²¹ Australian Nursing Federation submission at 3

The Review Panel consider that an alternative to legislatively requiring enrolled nurses to be supervised, and regulated, is that there is agreement throughout Australia regarding the scope of practice of enrolled nurses, and this agreement is reflected in training courses for enrolled nurses. Limitations upon the competency of enrolled nursing would, provided such agreement was reached, be preserved through the employment decisions of employers and the professional decisions of enrolled nurses. Enrolled nurses would, therefore, be self-regulating. Until relevant regulatory authorities and providers of nursing training agree the scope of enrolled nurse practice, and the competences required for that practice, the Review Panel have concluded that supervision of the work of enrolled nurses must be continue to be legislatively regulated.

Specialist Nurses

The scopes of practice of specialist nurses are not delineated by the *Nurses Bill*. Under the *Nurses Act 1984* separate registers of specialist nurses were kept by the Board. Under section 22 of the *Nurses Bill* there will be a single register which will include details of any specialist nursing qualifications held by the nurse. One submission received by the Review Panel suggests that the single register will “severely limit the numbers of midwives practising”.²² The Review Panel do not accept this contention. The move to a single register is an administrative mechanism. The Nurses Board will continue to register appropriately qualified and competent midwives who do not hold registered nursing qualifications, despite there being a single register. The expertise of specialist nurses is promoted by organisations representing such specialist nurses, and is demanded by employers requiring nursing staff to fulfil specialised roles. The demands of employers, therefore, protects the scope of practice of specialised nurses. As discussed above, the decisions of employers are influenced by many factors and are not mandated by provisions of the *Nurses Bill*.

Reservation of Title

Legislative reservation of titles ensures that only those qualified in a profession can utilise titles denoting such qualifications. The *Nurses Bill* protects the titles ‘nurse’, ‘enrolled nurse’, ‘registered nurse’, ‘midwife’, ‘mental health nurse’ and ‘psychiatric nurse’. Title reservation is achieved by clauses 36 to 40 of the *Nurses Bill* which prohibit “holding out”.

Title reservation aims at ensuring that demarcations between registered nurses and enrolled nurses, between nurses and unregulated personal care assistants, between nurses and other professional health care providers and between registered nurses and specialist nurses are recognisable by the public. The Review Panel recommends that the regulations made under the *Nurses Bill*, when enacted, define the term “midwife”, “mental health nurse” and any other specialist nursing qualifications authorised by the Nurses Board in the future. Providing such definitions will augment the public benefit associated with preventing persons who are not qualified holding themselves as possessing specialist nursing qualifications and experience.

Any assessment of restrictions associated with reservation of title involves an assessment of the qualifications and / or experience required to utilise the title, and whether this level of expertise demands that the profession be recognised by the public through the use of a

²² Faculty of Nursing University of South Australia submission at 4

reserved title. The Review Panel have considered this issue and concluded that there is significant risk to the public through persons 'holding out' that they have specific nursing qualifications and experience when they do not. The alleviation of this risk through the statutory reservation of titles is a substantial public benefit. The submissions received emphasised the public benefit in the community being able to identify qualified nurses.²³ None of the submissions received alluded to any costs generated by the reserving of titles.

This review must also assess whether there is a need to legislate to ensure title reservation, or alternatively whether such title reservation can be achieved by the profession itself supported by laws prohibiting misrepresentation and false and misleading conduct. An example of such industry based title reservation is the use of the title Certified Practising Accountant within the accounting profession. None of the submissions received during the course of the review suggested an alternative means of delineating between personal care assistants and nurses other than statutory title protection.

The Review Panel recommends that the regulations made under the *Nurses Bill*, if enacted, define the term "midwife", "mental health nurse" and any other specialist nursing qualifications authorised by the Nurses Board in the future.

Conclusion: Title and Practice Protection

Systems of title and practice protection, such as those contained in the Nurses Bill, are intermediate restrictions upon competition. Such restrictions will be justified, where there is a real risk of significant harm to the public which is alleviated by the system of registration or enrolment and prohibitions on 'holding out'. The Review Panel have concluded that there is a significant risk of harm to the public if persons who do not hold relevant qualifications and experience hold themselves out to be specialist, registered or enrolled nurses.

The costs of such restrictions are in the main compliance costs upon the individual. These compliance costs do not discriminate between types of nurses in a manner which distorts competition. The compliance costs do impact upon competition between nurses and personal health care assistants in that nurses must bear costs which are not borne by personal care assistants. No evidence was presented to the Review Panel that such an influence upon competition in this market was substantial. The Review Panel have concluded that training opportunities, and employer choice have a greater influence upon competition between personal care assistants and nurses, then the costs of complying with the title and practice protection provisions contained in the Nurses Bill.

For these reasons the Review Panel have concluded that the public benefits of title and practice protection outweigh the costs generated by these restrictions. The Review Panel also consider that such title and practice protection can only be achieved by a system of registration or enrolment administered under an Act of Parliament.

²³ For example, submissions received from the Nurses Board of South Australia and Flinders University.

Professional Standards

The second category of restriction identified by the Review Panel is restrictions upon conduct in the nursing profession contained within Professional Standards enforced by the Nurses Board. These Professional Standards reflect the agreed standards of the profession against which the Board assesses the competence and capacity of a nurse to fulfil his or her professional role. There are two types of Professional Standards approved by the Nurses Board:

- a) Codes approved by the Nurses Board; and
- b) standards developed by the Nurses Board.

Clause 16(1)(f) empowers the Board to “endorse codes of conduct for nurses”. This function should be expanded as the Nurses Board not only endorses Professional Standards developed by other bodies, but also develops its own Professional Standards.

The Review Panel recommends that clause 16(1)(f) be redrafted to state:

“to approve professional standards to be observed by nurses”.

Codes

The Codes endorsed by the Board do restrict entry into and conduct within the nursing profession. A “code of conduct” under the Bill is a code of conduct endorsed by the Board under the *Nurses Bill*. There is no indication in the Bill which codes are endorsed by the Board. For the purposes of this review the following codes, which are currently endorsed by the Nurses Board, are assumed to continue under the *Nurses Bill*:

Code of Ethics (July 1993)

Code of Conduct (July 1995)

National Competency Standard (January 1997)

Standards for Practice for Mental Health Nursing in Australia (May 1995)

The Nurses Board are also in the process of endorsing the Competencies for Midwifery Practice developed by the Australian College of Midwives.

Standards

An aspect of the Code of Conduct is to uphold the agreed standards of the profession. The Nurses Board formulates and endorses standards regarding aspects of nursing practice. Currently the standards developed by the Board relate to the administering of medication and the use of restraint. The standards are disseminated to all registered and enrolled nurses, and to applicants for registration and enrolment. The standards reflect objective criteria against

which the Board assesses the professional conduct of nurses. These standards relate to protecting the public by ensuring competency amongst nurses.

Dissemination of Professional Standards

Some submissions received during the course of the consultation process supported an amendment to the *Nurses Bill* to require the Nurses Board to provide copies of the standards to all nurses and have the standards available for perusal at the offices of the Nurses Board.²⁴ This reflects the current practice of the Nurses Board. While the idea that the standards should be incorporated into regulations was rejected, some of the submissions favoured increasing the public transparency of the submissions by having the standards gazetted.

The Review Panel recommends that the *Nurses Bill* be amended to require the Nurses Board to provide copies of any Professional Standards to all registered and enrolled nurses, to provide a copy of any Professional Standards for perusal at the Board's offices and to publish Professional Standards approved by the Board in the *South Australian Government Gazette*.

Conclusion: Professional Standards

The Review Panel have concluded that the Professional Standards endorsed and/or developed by the Nurses Board are not an unwarranted restriction upon competition. Having objective criteria against which to measure the competency of registered and enrolled nurses is a significant public benefit. The costs of complying with the Professional Standards are not substantial. The public benefits of having Professional Standards outweigh the costs associated with complying with the Professional Standards. Having an objective measure of the competency of nurses is integral to the Objectives of the Bill. The Review Panel consider that the only means of enforcing such Professional Standards, in the context of the nursing profession, is through a statutory body charged with regulating the profession.

Advertising

Historically limitations on advertising by members of a profession have been linked to notions of professionalism. The *Nurses Bill* does not contain any restrictions upon advertising, but does enable regulations to be made to:

regulate, restrict or prohibit the publication of advertisements by or on behalf of nurses (clause 63(2)(k)).

There are currently no regulations restricting advertising by nurses.

²⁴ For example, submissions received from the Australian Nursing Federation and Royal College of Nursing.

The Review Panel have concluded that there are no public benefits associated with limiting the capacity of nurses to advertise their services, which is not achieved by consumer protection legislation such as the *Fair Trading Act 1987 (SA)* and the *Trade Practices Act 1974 (Cth)*.

The Review Panel recommends that the power to make regulations in regard to advertising be deleted from the *Nurses Bill*.

Approval of Training Courses

The ability of the Board to control qualifications through the approval or recognition of training courses may be used to restrict the market for such training services. While it is envisaged that regulations made under the *Nurses Bill* will not vest the Nurses Board with the extensive powers in relation to nursing schools currently contained in regulations 13 to 16, questions regarding the criteria employed by the Board in determining whether or not to approve or recognise a training course pursuant to the Board's function under clause 16(1)(c) of the Bill, nevertheless arise for consideration by this review. Where the criteria is objective and transparent then issues of anti-competitive detriment are reduced as any training course meeting those transparent and objective criteria should be approved or recognised. The Nurses Board publish criteria for the approval of courses.²⁵

Appeals

There is currently no right to appeal from a decision of the Nurses Board refusing to recognise or approve a course of training. An appeal mechanism can only be effective if there are:

- a) reasons given by the Board for the failure to recognise or approve; and
- b) there are objective criteria for approving or recognising training courses against which the reasons of the Board can be assessed on appeal.

Written reasons are published by the Board concerning the approval of, or refusal to approve, training courses. The decision whether to approve or not approve a training course is determined with regard to criteria published by the Nurses Board.

²⁵ Nurses Board of South Australia *Approval of Courses: Standards, Criteria* (December 1997).

Many of the submissions received during the consultation process supported the introduction of an appeals mechanism in relation to the approval of training courses.²⁶ The Nurses Board in its submission indicated that it is currently developing such a mechanism.

The Review Panel recommends that a mechanism for appealing from the decisions of the Nurses Board in regard to training courses be included in the *Nurses Bill*.

Direct Entry into Specialised Fields of Nursing

Several of the submissions focused on the need for an undergraduate course which would support direct entry of practitioners into the profession of midwifery. The Nurses Board of South Australia currently registers persons as midwives if they have completed overseas training in midwifery, regardless of the fact that these midwives do not possess nursing qualifications. Such registration is based upon the competency of the midwife and is limited to the field of midwifery. There are significant cost advantages to the individual midwives in being able to undertake an undergraduate course in midwifery as the time to become qualified may be reduced. An undergraduate course in midwifery would have the potential also to increase the numbers of midwives increasing the provision of midwifery services to the public. The *Nurses Bill* in no way restricts the direct entry of midwives who can demonstrate their competency in this profession. Similarly, the *Nurses Bill* does not preclude a training institution developing, and submitting to the Nurses Board for approval a training course which would support the direct entry of midwives.

Conclusion: Approval of Training Courses

The ability of the Nurses Board to approve training courses is linked to its role of registering and enrolling nurses. There are significant public benefits in training courses being 'audited' to ensure that graduates meet the competency standards of the nursing profession. Such assurances reduce the likelihood of individual's undertaking training which is considered inadequate for registration or enrolment.

Such an approval mechanism, however, is an intermediate restriction upon training providers. Such a restriction will be easier to justify, in terms of public benefits, where the criteria used to determine applications for approval are objective. The impact of this restriction upon training providers would be less if there were a mechanism for appeals against a determination of the Board not to approve a course. The Review Panel recommends that the *Nurses Bill* be amended to establish such an appeals mechanism.

The Review Panel concludes that there is significant public benefit in ensuring training for nurses reflects the competencies of the nursing profession. The costs for training providers are outweighed by these public benefits. The Review Panel consider that where a system of registration and regulation of a profession is justified then the most effective means to

²⁶ For example submissions received from the Midwives Act Lobby Group, the Flinders University and the University of South Australia.

approve training courses is to give this role to the statutory body charged with overseeing the standards of the profession.

Nurses Board

As an enforcement and disciplinary agency, it is possible for the Nurses Board to create, and impose, restrictions upon competition in the nursing profession. It is also possible through existing regulations for the Nurses Board to restrict competition within the market for nurse training/education.

The composition and proceedings of the Nurses Board, legislative restraints upon use of disciplinary powers, including appeals processes, and the functions of the Board are relevant, therefore, to the extent to which the Nurses Board could restrict competition through the exercise of its functions.

Functions of the Board

The functions of the Board are stated in clause 16 of the *Nurses Bill*.

These functions include:

- a) to regulate the practice of nursing in the public interest;
- b) to determine the scope of nursing practice;
- c) to approve or recognise courses of education and training that provide qualifications for regulation or enrolment as a nurse under this Act;
- d) to determine the requirements necessary for regulation or enrolment under this Act;
- e) to investigate the fitness of persons to practise as nurses in this State, and to investigate the professional conduct of nurses who are registered or enrolled under this Act;
- f) to endorse codes of conduct for nurses; and
- g) to authorise specialist nursing qualifications for inclusion on the register or roll under this Act.

Nature of the Restriction

Through exercising these functions the Nurses Board may be able restrict entry into, and participation within, the nursing profession to disadvantage certain sectors of the nursing profession. Sub-clauses 16(a), (b) and (f) empowers the Board to impose restrictions upon conduct within the nursing profession. Sub-clause 16(c) enables the Board to restrict the market of providing training for nurses through their approval processes. Sub-clause 16(d) and (e) enables the Board to restrict entry into the profession. The markets affected by clause 16 are:

- (a) the nursing profession; and
- (b) the market for training courses.

These functions include the power to “regulate”, “determine”, “approve” and “endorse” matters concerning the market for nursing services. While it is evident that these functions provide scope for the Board to restrict competition within the market for nursing services, this ability is tempered by sub-section 16 (2) which states:

“The Board should exercise its functions under this Act with a view to:-

- (a) ensuring that the community is adequately provided with nursing care of the highest standard; and
- (b) achieving and maintaining the highest professional standards both of competence and conduct in nursing.”

The exercise of the Board’s functions, therefore should be referable to the two objectives contained within sub-section 16 (2).

Legislative safeguards relating to the composition and proceedings of the Nurses Board, appeals mechanisms and the requirements of natural justice prevent the Board from exercising their functions to achieve market-design outcomes. These legislative safeguards are discussed below, following a discussion of the concept of “unprofessional conduct” under the *Nurses Bill*.

Unprofessional Conduct

A function of the Board is to investigate the professional conduct of nurses. Central to the performance of this function is the definition of “unprofessional conduct” contained in clause 3 of the *Nurses Bill*. The definition of “unprofessional conduct” states:

“unprofessional conduct” includes -

- (a) improper or unethical conduct in relation to nursing; and
- (b) incompetence or negligence in relation to nursing; and
- (c) a contravention of or failure to comply with -
 - (i) a provision of this Act; or
 - (ii) a code of conduct; or
 - (iii) a condition imposed under this Act in relation to the registration or enrolment of a nurse or in relation to the provision of nursing care by a nurse.”

In the Nurses Board of South Australia *Review of the Nurses Act: Options Paper* (June 1995) the Board indicated that the definition of “unprofessional conduct” contained in the *Nurses Act 1984* should be altered to reflect the fact that unprofessional conduct is conduct which falls below the standard which the public might expect, rather than falling below the

standards which professional peers may expect. This was not adopted in the drafting of the Bill. Submissions received during the consultation period supported maintaining a profession-based, rather than public-based definition of unprofessional conduct.²⁷

Many potential restrictions upon competition contained in the *Nurses Bill* only eventuate if the Board applies inappropriate standards in relation to "unprofessional conduct". Provided that the criteria used to determine unprofessional conduct are objective standards of competency and capacity which would be reasonably expected by the public and the nursing profession, then the exercise of the Board's powers to impose conditions upon registration or enrolment, or cancel or suspend registration or enrolment, imposes trivial restrictions upon competition.

The application of the concept of "unprofessional conduct" may restrict competition more substantially, if the Board determines that matters unrelated to competence constitute "improper or unethical conduct" or "incompetence or negligence" in relation to nursing. For example, a determination by the Nurses Board that advertising by a nurse of his or her nursing services is "improper" conduct this may be a restriction upon competition unrelated to the competence of the nurse to provide nursing services.²⁸

The Board may, if satisfied that a nurse is guilty of unprofessional conduct, impose any of the penalties specified in sub-clauses 44(2)(a) and (b). These penalties are not restrictions upon competition, but rather restrictions upon the ability of the individual nurse to practice. These individuals are protected through the appeals mechanism contained in Part 6 of the *Nurses Bill*. This appeals mechanism is discussed below.

Legislative Restraints

Composition and Proceedings

Provisions regulating the composition and proceedings of the Board are legislative safeguards upon the use of the powers of the Board to restrict competition. The composition of the Board is set out in clause 5 of the *Nurses Bill*. The composition of the Board is relevant to this review as a Board with balanced nurse and non-nurse membership is perhaps less likely to unjustifiably use the powers ascribed to the Board to affect competition within markets involving nurses. The eleven member Board has six members who are nurses. The remaining five members are a medical practitioner, a legal practitioner and three persons selected by the Governor who are not members of any of the specified professions.

The suggestion was made in some of the submissions received during the consultation process that the *Nurses Bill* should specifically provide for the representation of midwives on the Nurses Board. The *Nurses Bill* requires that six members of the Nurses Board are nurses on either the register or roll, but is silent as to how the nurses appointed by the Governor are chosen. Selection of midwives as members of the Nurses Board is not precluded by any provision of the *Nurses Bill*. The Review Panel considers that the provisions in the Bill concerning the composition of the Nurses Board do not constitute restrictions upon

²⁷ For example submissions received from Nurses Board of South Australia and Australian Nursing Federation.

²⁸ The issue of advertising is discussed at page 24.

competition. Decisions as to how Nurses Board members are selected are beyond the scope of this review.

Clause 6 of the *Nurses Bill* contains conditions of membership. Clause 9 of the *Nurses Bill* requires the disclosure of interests. Importantly clause 9 (2) states:

“A member of the Board will not be taken to have a direct or indirect interest in a matter for the purposes of this section by reason only of the fact that the member has an interest in the matter that is shared in common with the public, nurses generally or a substantial section of the public or of nurses in this State.”

Such a qualification of the concept of “direct or indirect interest in a matter” is necessary where a disciplinary tribunal is formed wholly, or in part, by persons with specialist knowledge or involvement with the activities to be regulated by the tribunal. For example, the Nurses Board, as constituted by the *Nurses Bill*, would be unworkable if clause 9 required the six members of the Board who are nurses to disqualify themselves on the basis of direct or indirect personal interest in matters relating to nursing.

Natural Justice

The *Nurses Bill* contains other legislative restraints upon the exercise by the Nurses Board of its functions for anti-competitive purposes. Chief among these legislative restraints are clause 47 of the *Nurses Bill* which requires that “natural justice” be afforded to parties to a proceeding before the Board, and clause 51 which enables appeal from decisions of the Board.

Clause 47(4) of the *Nurses Bill* requires the Board to provide written notice of proceedings in relation to issues of competence, incapacity or unprofessional conduct no less than 14 days before the proceedings. The Nurses Board is also required to provide reasonable opportunity to the parties to call and give evidence, to examine or cross-examine witnesses, and to make submissions to the Board. Clause 47(7) of the *Nurses Bill* obliges the Board to conduct proceedings as expeditiously as possible. Such a legislative restraint minimises the protraction of proceedings before the Board in a vexatious manner.

Sub-clause 47(3) of the *Nurses Bill* requires that if a member of the Board is involved in the investigation of a matter, that member cannot also sit as a member in the conduct of the inquiry by the Board. This provision ensures that the Board in considering a matter is not biased by the participation of a member in both the investigation and determination of a matter.

Appeals mechanism

Clause 51 of the *Nurses Bill* enables appeal to the Supreme Court against decisions of the Nurses Board concerning registration and enrolment, the imposition of conditions upon nursing practice, and reprimands, orders or requirements imposed by the Board in relation to unprofessional conduct, incapacity or incompetence.

The powers of Supreme Court in regard to an appeal from a decision by the Nurses Board are set out in clause 51(3) of the *Nurses Bill*. These powers are:

“(3) The Supreme Court may, on the hearing of an appeal, exercise any one or more of the following powers:

- a) affirm, vary or quash the decision, reprimand, order or requirement against which the appeal has been instituted and make any consequential or other order that may be just in the circumstances;
- b) remit the subject matter of the appeal to the Board or the Registrar (as appropriate) for further hearing or consideration or for rehearing;
- c) make an order as to costs.”

While there are significant legislative safeguards incorporated within the *Nurses Bill* to obviate the use of the disciplinary functions of the Board to restrict competition within the nursing profession, similar legislative safeguards do not exist in relation to decisions by the Board to approve or recognise training courses (see discussion in relation to training courses above).

Conclusion: Nurses Board

While the Nurses Board has powers and functions under the *Nurses Bill* which may if inappropriately exercised restrict competition, the Review Panel has concluded that the current practices of the Nurses Board do not unjustifiably restrict competition. Further, the legislative safeguards in the *Nurses Bill* minimise the risk that these powers and functions can be used to unjustifiably affect competition, in the future. In an environment of open proceedings based upon objective decision-making criteria and tempered by the legislative safeguards contained in the Act, the actions of Nurses Board do not constitute restrictions upon competition.

PART 3: ADMINISTRATIVE REQUIREMENTS

The Review Panel is required during the course of this review to examine the provisions of the Bill which impose administrative obligations upon persons and determine whether these obligations are unnecessary or impose an unwarranted burden on any person. The provisions of the Bill which impose such administrative requirements are:

- clause 14 The Board must keep proper accounting records and have prepared an annual statement of account for each financial year. The accounts must be audited at least annually.
- clause 15 The Board must prepare and deliver to the Minister, on or before 30 September, an annual report detailing the administration of the Act and the work of the Board.
- clause 25 An application for registration and enrolment must be in the manner and form approved by the Board. This manner and form is currently reflected in Form 1 contained in the schedule to the regulations.
- clause 26 An application for reinstatement on roll or register must be in the manner and form approved by the Board. The applicant may be required to submit a medical report or other information required by the Board in support of the application. The current application form is Form 2, contained in the schedule to the regulations.
- clause 28 An application for the renewal of registration or enrolment must be in the manner and form determined by the Board.
- clause 29 The requirement to obtain the approval of Board to practice where nurse has not practiced for five years or more.
- clause 35 Information to be provided by nurses. This information is prescribed in regulation 21.
- clause 43 Obligation upon health professionals to report incapacity. The information to be included in such a report is contained in regulation 22.
- clause 45 Obligation upon employers to report unprofessional conduct.

regulations

- 24 and 25 Information to be provided by midwives who practice on premises other than hospitals.

The assessment of the Review Panel is that the only provisions which impose an unwarranted burden upon any persons are regulations 24 and 25. These regulations are examined below.

Information to be Supplied by Midwives

Regulations 24 and 25

Regulation 24 requires midwives who practice on premises other than hospitals to lodge an annual return indicating:

- a) the midwife's full name and full residential address;
- b) the midwifery registration number allocated to the midwife by the Board;
- c) a description of the midwifery practice undertaken by the midwife during the preceding 12 months; and
- d) the midwife's full professional address (if any).

Most of this information is provided to the Board in a registration application, in any event. There is no requirement in the current application for registration Form 1 to provide details of a professional address. This is not a requirement which must be met by nurses who work in premises which are not hospitals, nurses engaged in home nursing services or agency nurses.

Regulation 25 requires midwives who practice on premises other than hospitals to notify the Board in writing six weeks prior to commencing practice as a midwife on premises other than hospital concerning:

- a) the date on which the midwife intends to practise midwifery on premises other than hospital premises;
- b) the midwife's full name and current residential address;
- c) full details of the midwife's nursing qualifications;
- d) the midwifery registration number allocated to the midwife by the Board;
- e) the midwife's full profession address or intended professional address (if any)
- f) a description of any physical or mental illness or disability that may impair the ability of the midwife to provide nursing care; and
- g) full details of any disciplinary action taken against the midwife in relation to the midwife's practice as a nurse.

There is significant overlap between the requirements of regulations 24 and 25. Again regulation 25 requires midwives to provide information which is already provided to the Board at the time of registering, or which is not required of other nurses practicing upon premises other than in hospitals.

The Review Panel concludes that the requirements of regulations 24 and 25 are unwarranted, and impose an unnecessary burden upon midwives. This view is supported by several

submissions received during the public consultation process.²⁹ Any information which is required by the Nurses Board in order to effectively administer the *Nurses Bill*, when enacted, can be obtained at the time of annual registration.

The Review Panel recommends that regulations made under the *Nurses Bill*, if enacted, should exclude the requirements for midwives to provide information in the manner currently prescribed by regulations 24 and 25.

Forms

Schedule to the Regulations

The Review Panel has assumed that the forms contained in the schedule to the regulations will be updated to reflect changes in the registration and enrolment regimes under the *Nurses Bill*, if enacted. For example, the forms require updating to reflect the single register for registered nurses.

²⁹ Submissions received from the Nurses Board of South Australia, the Midwives Act Lobby Group, the Australian College of Midwives, the University of South Australia and Royal College of Nursing

PART 4: RECOMMENDATIONS

The Review Panel has reviewed the *Nurses Bill* and the *Nurses Regulations* in accordance with the Terms of Reference. Subject to Recommendations 1 to 6 listed below, the Review Panel assess the restrictions contained in the *Nurses Bill* as being justified in terms of the costs of the restrictions being outweighed by the public benefits of the restrictions. The Review Panel have further concluded that the objectives of the Act cannot be achieved, at this time, by means other than a legislative regime for the regulation of the nursing profession.

The Review Panel have also considered the provisions of the *Nurses Bill* which impose administrative burdens. Subject to Recommendation 7 below, the Review Panel conclude that the administrative provisions contained in the Bill do not impose any unwarranted burden upon any person.

On the basis of the analysis set out in this report, the Review Panel recommends:

1. The minimum time before which a person can seek re-registration be reduced to twelve months (clause 26(3)).
2. The terms “midwife”, “mental health nurse” and any other specialist nursing qualification authorised by the Nurses Board be defined in regulations made under the *Nurses Bill*, if enacted.
3. Clause 16(1)(f) be amended to provide that the Nurses Board has the power to approve professional standards to be observed by nurses.
4. In relation to “professional standards” approved by the Nurses Board, a requirement for the Nurses Board to:
 - a) provide a copy of such professional standards to all nurses on the register and roll;
 - b) have copies of the professional standards available for perusal at the offices of the Nurses Board; and
 - c) publish such professional standards in the *South Australian Government Gazette*;be included in the *Nurses Bill*.
5. The power to make regulations concerning advertising should be removed from the *Nurses Bill*.
6. The *Nurses Bill* be amended to include an appeals mechanism in relation to the Nurses Board’s power to approve training courses.
7. Regulations made under the *Nurses Bill*, if enacted, should exclude the requirements for midwives to provide information in the manner currently prescribed by regulations 24 and 25.

PART 5: APPENDICES

Appendix 1: Terms of Reference

Preamble

Under the Competition Principles Agreement (“the Agreement”) the Government of South Australia is required to include in proposals for new legislation that contain restrictions upon competition evidence that:

- (a) the benefits of any restriction to the community outweigh the costs; and
- (b) the objectives of the legislation can only be achieved by restricting competition.

The *Nurses Bill* will be examined during the legislation review in accordance with the obligation contained in clause 5 of the Agreement. Regulations enacted under the *Nurses Act 1984* will be examined as part of the legislation review, as no draft regulations under the *Nurses Bill* have been drafted. It is envisaged that the review of the regulations will assist in the drafting of new regulations (if required) once the *Nurses Bill* is enacted. As Codes of Practice applied by the Nurses Board may restrict conduct within the nursing profession, these Codes of Practice will also be examined during the legislation review process.

Review Panel

Dr David Filby
Executive Director Policy and Budget
South Australian Health Commission

Ms Helen Tolstoshev
Chief Executive / Registrar
Nurses Board of South Australia

Mr David Meldrum
Director - Competition Policy Review
South Australian Health Commission

Ms Carolyn Hillman
Business, Competition and Industrial Unit
Crown Solicitor’s Office

Objectives of the Review

When considering the appropriate form of regulation the Review Panel will consider the following objectives:

1. Regulation should only be retained if the benefits to the community as a whole outweigh the costs; and if the objectives of the regulation cannot be achieved more efficiently through other means, including non-legislative approaches.
2. Pursuant to clause 1(3) of the Agreement, in assessing the benefits of regulation regard shall be had, where relevant, to:
 - (a) effects on the environment;
 - (b) social welfare and equity;
 - (c) occupational health and safety;
 - (d) economic and regional development;
 - (e) consumer interests, the competitiveness of business including small business; and
 - (f) efficient resource allocation.
3. Compliance costs and the paper work burden on small business should be reduced where feasible.
4. Issues to be addressed
 - a) Clarify the objectives of the *Nurses Bill*, including the identification of the public benefits of the Act, and provide an assessment of the importance of these objectives to the community.
 - b) Identify the restrictions to competition contained in the Act, regulations made under the Act, and Codes of Practice applied by the Nurses Board:
 - (i) describe the theoretical nature of each restriction (eg barrier to entry, restriction on competitive conduct within a market, discrimination between market participants);
 - (ii) identify the markets upon which each restriction impacts; and
 - (iii) provide an initial categorisation of each restriction (ie trivial, intermediate or serious).
 - c) Analyse and describe the likely effects of the restrictions on competition in the relevant markets, and on the economy generally:
 - (i) what are the practical effects of each restriction on the market;
 - (ii) assign a weighting to the effect of each restriction in the market; and

- (iii) assess what is the relative importance of each restriction in a particular market to the economy as a whole.
- d) Assess and balance the costs and benefits of the restriction.
- e) Where the restriction is justifiable on the basis of public benefit, consider whether there are practical alternative means for achieving the objectives of the *Nurses Bill*, including non-legislative approaches.
- f) Consider whether any licensing, reporting, or other administrative procedures, are unnecessary or impose an unwarranted burden on any person.

Consultation

The Review Panel will review the submissions received in the consultation process undertaken during the drafting of the *Nurses Bill*. Additionally, the Review Panel will compile a list of key interest groups, and will provide a copy of the draft legislation review report to these groups and persons for comment.

Report

The Review Panel will submit a report to the Minister detailing:

- a) the Terms of Reference for the review;
- b) the persons and groups consulted;
- c) the analysis of the *Nurses Bill* in accordance with these Terms of Reference; and
- d) the recommendations of the Review Panel.

Appendix 2: Comparison of Fees

Jurisdiction	Initial Fee	Annual Fee RN	Annual Fee EN	Other
South Australia	\$60	\$105	\$73.50	plus \$35 for each certificate
New South Wales	\$45	\$35	\$35	plus \$15 for midwife certificates
Victoria	\$71	\$35	\$35	plus \$35 for each certificate
Tasmania	\$60	\$90	\$90	plus \$15 for each certificate
Queensland	\$40	\$65	\$65	
Australian Capital Territory	\$80	\$80	\$80	plus \$80 for each certificate
Northern Territory	\$35 RN \$30 EN	\$20	\$15	
Western Australia	\$71	\$53	\$53	plus \$71 for each certificate

Appendix 3: Re-entry Pathways for Nurses

Re-entry is required if nurses have not practised as a nurse between 5-20 years. If over that time, it is recommended that nurses complete an undergraduate program.

Re-Entry Pathways for Registered General Nurses

Re-entry Program (for previously Registered Nurses)

Available at: University of South Australia
Intakes: Twice yearly
Duration: 12 weeks
Note: To be offered externally late 1998

Bachelor of Nursing

Available at: Flinders University of South Australia
Intakes: Yearly
Duration: 1 year full-time

Re-Entry Pathway for Registered Midwives

Bachelor of Midwifery

Available at: University of South Australia
Intakes: Yearly
Duration Bachelor: 1 year full-time

Re-Entry Pathway for Registered Psychiatric Nurses

Graduate Diploma in Mental Health Nursing

Available at: University of South Australia
Intakes: Yearly
Duration: 1 year full-time

It should be noted that recognition of prior learning (RPL) is practised within the programs discussed.

Re-Entry Pathways for General Nurse (Supervised) (Enrolled Nurses)

Certificate IV in Community Services & Health - EN Module

Available at: Department of Employment, Technical & Further Education (DETAFE) campuses:

- Western Adelaide Institute
- Spencer Institute
- Torrens Valley Institute
- Royal Adelaide Hospital

Intakes: Varied throughout the year

Duration: 3 months part-time

Prerequisites:

- Maintaining a safe workplace
- Manual handling
- Senior First Aid

Aged Care Organisation Association (ACOA)

Available at: ACOA

Intakes: 2-3 times per year

Duration: 1 year (1 day/month and clinical for 9 months)

Program: For Nurse Assistants (with previous 12 months full time employment) currently employed on day duty

Re-entry students undertake ¾ of the Enrolled Nurse Program.

Appendix 4: Material Considered by the Review Panel

Documents

- *Can the Professions Survive under a National Competition Policy: A Joint Conference on Competition Law and the Professions* (Perth, April 1997)
- Australian Council of Professions *National Competition Policy and the Professions* (no date)
- Australian Health Minister's Advisory Council *Final Report of the Working Group Advising on Regulatory Requirements for Unregistered Health Occupations* (20 February 1997)
- Australian Nursing Council Incorporated *Continuing Competence in Nursing* (1998)
- Nurses Board of South Australia *Review of the Nurses Act: Options Paper* (June 1995)
- Nurses Board of South Australia *Standards* (1997)
- Nurses Board of South Australia *Approval of Courses: Standards, Criteria* (December 1997)
- National Competition Council *National Competition Policy and the Nursing Profession* (20 May 1998)
- Pew Health Professions Commission, Report of the Taskforce on Health Care Workforce Regulation *Reforming Health Care Workforce Regulation: Policy Considerations for the 21st Century* (US; December 1995)

Submissions

- Midwives Act Lobby Group (2 August 1998)
- Nurses Board of South Australia (2 September 1998)
- School of Nursing Flinders University (4 September 1998)
- Australian College of Midwives Incorporated (4 September 1998)
- Ms Robyn Gillies (4 September 1998)
- Faculty of Nursing, University of South Australia (4 September 1998)
- Australian Nursing Federation (7 September 1998)
- Royal College of Nursing (10 September 1998)

Appendix 5: Consultation List

REQUESTS

Ms Di Patterson
Nurses Memorial Foundation SA Inc.
10 Farmer Terrace
MARION SA 5043

Mrs H Hancock
PO Box 85
URAILDA SA 5142

Ms Chris Hannan
6th 13 Avenue
WOODVILLE NORTH SA 5012

Ms Karen Grech
Senior Lecturer
Faculty of Nursing
University of SA
ADELAIDE SA 5000

Professor Annette Summers
Deputy Dean
Faculty of Nursing
University of SA
North Terrace
ADELAIDE SA 5000

Mr Christopher Headland
Resthaven
43 Marlborough Street
MALVERN SA 5061

Ms Helen Tolstoshev
Nurses Board of SA
200 East Terrace
ADELAIDE SA 5000

CONSUMERS

Julie Pearce,
Midwives Action Lobby Group,
24 Dalton Avenue,
ALDGATE SA 5154

Australian College of Midwives,
20A Williams St,
NORWOOD SA

Dales St Womens Centre,
Attention : Olympia Kourakis,
56 Dale street,
PORT ADELAIDE SA 5061

Women's Health Statewide,
Attention : Ms. V. Toovey
64 Pennington Terrace
NORTH ADELAIDE SA 5006

Mr John Wilson
Health Services Co-ordinator
Nganampa Health Council
PO Box 2232
ALICE SPRINGS NT 0871

Ms L Cusack
President
Royal College of Nursing, Australia
200 East Terrace
ADELAIDE SA 5000

Ms G Gago
Secretary
Australian Nursing Federation (SA Branch)
18 Dequetteville Terrace
KENT TOWN SA 5067

Professor Judith Clare
Dean, School of Nursing
Flinders University of SA
GPO Box 2100
ADELAIDE SA 5001

Ms M Eastaugh
President
Australian College of Midwives (SA Branch)
PO Box 1063
Kent town SA 5071

Mr K Goodall
Executive Director
Hospitals and Health Services Association of
SA
PO Box 546
KENT TOWN SA 5071

Dr J Pincombe
Dean, Faculty of Nursing
University of SA
North Terrace
ADELAIDE SA 5000

Mr David White
Chief Nursing Officer
SA Health Commission
7 Floor, Citi Centre
11 Hindmarsh Square
ADELAIDE SA 5000

Mr D Elliott
Director of Nursing
Murray Bridge SM Hospital Inc
PO Box 346
MURRAY BRIDGE SA 5253

Ms S LeBrun
Director of Nursing
Pt Lincoln Health and Hospital Service Inc
PO Box 630
PORT LINCOLN SA 5606

President
Private Hospitals Directors of Nursing Assoc
PO Box 1140
NORTH ADELAIDE SA 5006

Mr Karl Mortimer
Acting Executive Director
Disability Services, SAHC
7 Floor Citi Centre
11 Hindmarsh Square

Mr R Iveson
President
Australian College of Mental Health Nurses
PO Box 253
EASTWOOD SA 5063

Professor A Pearson
Clinical Nursing
University of Adelaide
North Terrace
ADELAIDE SA 5000

Associate Professor Fran Sutton
Mental Health Nursing Research &
Education unit
Glenside Hospital Campus
226 Fullarton Road
EASTWOOD SA 5063

Mr D Edwards
Director of Nursing
Mt Gambier Hospital Inc
Post Office
MOUNT GAMBIER SA 5290

Ms A Bates
Director of Nursing
Port Augusta Hospital
PORT AUGUSTA SA 5700

Ms M Prieditis
Director of Nursing
Port Pirie Regional Health Service
Alexandra Street
PORT PIRIE SA 5540

Mr B Godfrey
Director of Nursing
Riverland Regional Health Service
PO Box 294
BERRI SA 5343

Mr B Edwards
A/Director
Whyalla Hospital and Health Services Inc
WHYALLA SA 5600

Ms S Walmsley
Director of Nursing
The Adelaide Clinic
33 Park Terrace
GILBERTON SA 5081

Ms J Gilbertson
Director of Nursing
Ashford Community Hospital Inc
55 Anzac Highway
ASHFORD SA 5035

Ms M Beames
Director of Nursing
Burnside War Memorial Hospital
120 Kensington Road
TOORAK GARDENS SA 5065

Ms B Wilson
Director of Nursing
Flinders Medical Centre
Flinders Drive
BEDFORD PARK SA 5042

Ms J Davies
Director of nursing
Blackwood & District Community Hospital
Laffers Road
BLACKWOOD SA 5052

Sr Anne Sheridan
Director of Nursing
Calvary Hospital
89 Stangways Terrace
NORTH ADELAIDE SA 5006

Ms N Davies
Director of Nursing
Child and Youth health
253 South Terrace
ADELAIDE SA 5000

Ms K Parish
Director of Nursing
Julia Farr Services
103 Fisher Street
FULLARTON SA 5063

Ms M Gregory
Director of Nursing
Noarlunga Health Service
Alexander Kelly Drive
NOARLUNGA CENTRE SA 5168

Director of Nursing
North West Adelaide Health Service
Woodville Road
WOODVILLE SOUTH SA 5011

Ms K Challinger
Director of Nursing
Royal Adelaide Hospital
North Terrace
ADELAIDE SA 5000

Director of Nursing
Hillcrest Hospital
Forsters Road
GILLES PLAINS SA 5086

Mr P Lavelle
Director of Nursing
Repatriation General Hospital
Daws Road
DAW PARK SA 5041

Ms J Smith
Director of Nursing
Royal District Nursing Service
31 Flemington Street
GLENSIDE SA 5065

Melanie Haines
c/o Nick Slape
PO Box 10
Angaston 5353