

# *The Australian Society of Independent Midwives*



14 April 2011



The Secretary  
Senate Finance and Public Administration Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

Dear Committee,

## *Inquiry into the administration of health practitioner registration by the Australian Health Practitioner Regulation Agency (AHPRA)*

The Australian Society of Independent Midwives (ASIM) is one of the organizations in Australia representing midwives in private practice. We seek to represent the perspective of providers of midwifery services by commenting on the workings of AHPRA and the Nursing and Midwifery Board of Australia (NMBA).

This submission will be focused on the following two terms of reference:

- (c) Impact of AHPRA processes and administration on health practitioners, patients, hospitals and service providers; and
- (h) The process of handling complaints made to AHPRA about Midwifery health professionals.

### **About us**

ASIM represents the independent midwife and her commitment to continuity of care for women and their families.

We support midwives in private practice, particularly those working with women choosing birth options outside the system.

### **Background**

There have been specific additional challenges that midwives and the NMBA have had to deal with in addition to the move to a national registration scheme. Two of the main issues that have imposed additional requirements on midwives and obligations on the NMBA are:

a) Insurance

Private midwives were the only health professionals to be covered by national registration who were unable to access a professional indemnity insurance product as required by the National Law. Although the government facilitated the development of an insurance product for midwives this did not cover the services of midwives providing intrapartum care at home. Until 1 July 2012 such midwives are exempted from holding insurance for intrapartum care provided that they comply with a safety and quality framework. The NMBA is responsible for finalising and administering this framework.

b) Maternity services reform

Running in parallel to the introduction of national registration has been the introduction of the Federal government's maternity services reforms which allow for "eligible" midwives to provide Medicare rebateable care, access the PBS and obtain government supported indemnity insurance. The NMBA is charged with the process of endorsing eligible midwives.

### Summary of ASIM position

ASIM submits that, AHPRA and the NMBA lack the resources to deal with national registration, finalising the details of the insurance exemption and the endorsement of eligible midwives in a timely and transparent manner. The delays and lack of clarity in these processes obviously has an impact on privately practising midwives. It also has a strong impact on consumers and potential consumers of private midwifery care.

ASIM is also of the view that the complaints handling procedures of AHPRA and the NMBA is in many cases failing to afford procedural fairness to midwives and failing to recognise basic consumer rights.

### Impact of AHPRA processes and administration on midwifery (term of reference (c))

At present it is very difficult for midwives to get a clear picture of how AHPRA processes and administration are working and for midwives to communicate with AHPRA about how such processes are affecting them. Many of our members have sought to engage with the NMBA on a number of occasions in writing and by phone and has received a very limited response. The NMBA's communication through its website is also limited and there is a lack of current information available.

The process of finalising the details of the insurance exemption for intrapartum homebirth care is having a significant impact on consumers as well as midwives. ASIM is aware that some women are choosing to not to have midwifery care when they would otherwise wish to have it because they do not believe the option remains open to them.

ASIM is concerned at the length of time it has taken to finalise the exemption details and the conflicting and confusing information that has been provided by the NMBA throughout the process. The insurance exemption was first announced by Minister Roxon in August 2009. The exemption required midwives to comply with a quality and safety framework and was due to commence on 1 July 2010. The work of developing a quality and safety framework was delegated to representatives of the Victorian Department of Health who conducted an extensive national consultation process and provided a final document to the NMBA in about July 2010 for the NMBA to approve. Approximately 8 months later an unedited version of this document was placed on the NMBA's website with no information about whether it had been approved by the NMBA (in fact it still contained references to the fact that it was not in force until approved by the NMBA).

The quality and safety framework is also dealt with in a document that the NMBA is currently seeking feedback about (the draft of the Professional Indemnity Insurance for Midwives Guideline). However that document contains additional requirements that were not in the original framework. This has led to further uncertainty and confusion for midwives and consumers.

ASIM understands that some midwives are waiting for significant periods of time to learn whether their applications for endorsement as eligible midwives have been successful. The process for determining eligibility is often unclear and appears to be inconsistently applied. This means that while Medicare for midwifery services has technically been available since November 2010, women have largely been unable to access it due to the NMBA's administration.

### **AHPRA's complaints handling processes (term of reference (h))**

Investigations against individual midwives have a large impact on women and the choices that they are able to make for their maternity care. This is particularly the case in rural and regional areas where there are few midwives providing private midwifery care. ASIM is concerned that in some cases AHPRA and the NMBA are failing to afford midwives procedural fairness and failing to recognise the fundamental health care rights of consumers.

ASIM is aware of a number of individual cases where a midwife has been suspended or had substantial limitations placed on her professional practice pending an investigation into her conduct. ASIM submits that taking such steps before a matter is finalised is a very serious matter and has the potential to destroy a midwife's livelihood. As the National Law recognises, such a step should only be taken when the practitioner poses a serious risk to persons and it is necessary to take immediate action to protect public health or safety. When taking such a serious step it is imperative in the interests of natural justice that the complaint then be dealt with in an expeditious manner. ASIM is aware however of at least one case where a midwife has been suspended pending the investigation of her matter for nearly 11 months. This is simply unacceptable.

ASIM also understands that many of the complaints made against privately practising midwives are around scope of practice and whether a midwife has failed to comply with the National Midwifery Guidelines on Consultation and Referral (the Guidelines). In such cases it often appears that the mere fact that a midwife has provided care for a woman in a situation where consultation or referral is recommended is enough to lead to an investigation (and possible upfront suspension of her registration during the course of this investigation). Little consideration appears to be given to the fact that the consumer in question has in all likelihood made a deliberate and considered choice as to where she wishes to give birth and that the Guidelines actually recognise that women can and do make such choices. Midwives are being punished for respecting women's decision making autonomy and refusing to withdraw care.

ASIM asks that the points we have raised be considered carefully before moving forward in the next step of the Midwifery Reform process.

Yours sincerely,

Robyn Dempsey

On behalf of The Australian Society of Independent Midwives.