

## Public consultation

### Safety and quality guidelines for privately practising midwives

November 2022

#### Executive summary

To practise safely in Australia, private practice midwives (PPMs) must comply with the Nursing and Midwifery Board of Australia's (NMBA) *Safety and quality guidelines for privately practising midwives* (the guidelines).

The NMBA have reviewed the guidelines to ensure that this important regulatory document stays current and keeps pace with our changing and dynamic environment.

The NMBA is proposing a minor update to the guidelines based on current safety and quality evidence, best practice and the NMBA's regulatory experience.

The main updates proposed are:

- clearer guidance in the document on who must comply with the guidelines
- clearer description of a PPM to reflect the contemporary PPM and their models of practice
- updated information to reflect the current range of PPM practice contexts and service offerings
- clearer guidance on the regulatory requirements for midwives who attend homebirths as the second health practitioner
- updates to requirement two (risk management) to:
  - include definitions for key terms such as 'skilled' and 'current'
  - reduce risk management education/training requirements so that this training is relevant to their context of practice and completed biennially as opposed to annually (at minimum)
- update to requirement five (clinical governance and reporting) to include information to describe that PPMs must have local processes in place to collect, analyse and reflect on their own data for safe practice and continuous improvement
- update to requirement six (documentation) to provide clearer guidance on best practice documentation and storage of health information
- update to requirement seven (incident management) to reflect contemporary incident management practice and best practice incident management processes, and
- update to requirement eight (privately practising midwife portfolio) to clarify that completion of a professional practice review program is required biennially.

Further details about the reasons for the proposal are contained in this consultation paper and includes a table with more information on where changes have been made.

The consultation is open until **Friday 30 December 2022**.



## Public consultation

Public consultation enables the NMBA to test any proposed changes to regulatory documents before they are published. It also provides an opportunity to engage with the public transparently and improve the regulation so that its impact is enhanced.

## Your feedback

The NMBA is inviting comment on the draft revised *Safety and quality guidelines for privately practising midwives*. There are specific questions at the conclusion of this document which you may wish to address in your response. Your feedback may be incorporated into the next version of the draft revised *Safety and quality guidelines for privately practising midwives*.

Public consultation starts on **4 November 2022**. Please provide your feedback via our [online survey](#) or as a Word document (not PDF) by email to [nbmafeedback@ahpra.gov.au](mailto:nbmafeedback@ahpra.gov.au) by close of business on **Friday 30 December 2022**.

## Publication of submissions

The NMBA and Ahpra publish submissions at their discretion. We generally publish submissions on our websites to encourage discussion and inform the community and stakeholders. Please advise us if you do not want your submission published.

We will not place on our websites, or make available to the public, submissions that contain offensive or defamatory comments or which are outside the scope of the subject of the consultation. Before publication, we may remove personally identifying information from submissions, including contact details.

The NMBA and Ahpra can accept submissions made in confidence. These submissions will not be published on the website or elsewhere. Submissions may be confidential because they include personal experiences or other sensitive information. Any request for access to a confidential submission will be determined in accordance with the Freedom of Information Act 1982 (Cth), which has provisions designed to protect personal information and information given in confidence. Please let us know if you do not want us to publish your submission or want us to treat all or part of it as confidential. Published submissions will include the names of the individuals and/or the organisations that made the submission unless confidentiality is requested.

## Next steps

After public consultation closes, the NMBA will review and consider the feedback from this consultation before making further decisions about the draft revised *Safety and quality guidelines for privately practising midwives*.

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## Introduction

### The Nursing and Midwifery Board of Australia

As the regulator of more than 400,000 registered nurses (RN), enrolled nurses (EN) and midwives across Australia, the NMBA's primary role is to protect the public.<sup>1</sup> The Health Practitioner Regulation National Law, as in force in each state and territory in Australia (the National Law) recognises nursing and midwifery as two distinct professions. Our core regulatory functions - professional standards<sup>2</sup>, registration, notifications, compliance and accreditation - help to support and safeguard professional practice and protect the public.

Healthcare is part of a complex system – many policies, processes, organisations and, importantly, nurses and midwives themselves contribute to professional practice and the safety and quality of healthcare. We work together with nurses and midwives, health system partners, health complaints entities and other stakeholders across the healthcare system to support professional practice and keep the public safe.

We are using our over 10 years of knowledge, experience in, and data from, the National Scheme<sup>3</sup> to holistically consider how we can update the *Safety and quality guidelines for privately practising midwives*.

### Strategic context

The outcomes of this public consultation will support the NMBA to meet the goals and objectives of the [National Registration and Accreditation Scheme Strategy 2020-25](#). It expands on the 'Trust and Confidence', 'Regulatory Effectiveness' and 'Evidence and innovation' pillars of the National Scheme Strategy to contribute to our mission of safe and professional health practitioners for Australia.

Other National Scheme strategies that support the overarching National Scheme Strategy include:

- [Aboriginal and Torres Strait Islander Health and Cultural Safety Strategy 2020-2025](#)
- [National Scheme Engagement Strategy 2020-2025](#), and
- Notifications Strategy 2020-2025.

The work of the NMBA and Ahpra is underpinned by the [Regulatory Principles](#) for the National Scheme.

### Purpose of this consultation

As the national regulator for RNs, ENs and midwives, we have an obligation to consult with impacted stakeholders at all stages of the regulatory cycle. The purpose of this public consultation is to share the proposed updates to the *Safety and quality guidelines for privately practising midwives* and seek your input and feedback to this document.

This will help us to identify any unintended consequences or implementation problems before they arise and ensures we are communicating with you in an open, timely and transparent manner.

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<sup>1</sup> Ahpra and National Boards' [Annual Report 2019-20](#).

<sup>2</sup> The term 'professional standards' refers to the registration standards, codes and guidelines that form part of the regulatory framework for each profession. The regulatory framework for a profession may be complemented by other clinical and practice standards (e.g. those developed by professional associations, specialist colleges and/or Governments) that, together, support professional practice.

<sup>3</sup> National Registration and Accreditation Scheme.

## Background

1. Under section 35 of the National Law, a core function of the NMBA is to develop or approve standards, codes and guidelines for the midwifery profession. This includes the development and review of guidelines such as the *Safety and quality guidelines for privately practising midwives*.
2. Section 284 of the National Law provides for an exemption from professional indemnity insurance arrangements for midwives practising private midwifery during a homebirth. Included in this section is a requirement for midwives to comply with any code or guideline approved by the NMBA about the practice of private midwifery. In respect to this, the initial *Safety and quality guidelines for privately practising midwives* were first published as a framework in 2010 and were subsequently revised into guidelines in 2014.
3. The current [Safety and quality guidelines for privately practising midwives](#) (the current guidelines) were published in 2017 and in accordance with the NMBA's commitment to review standards, codes and guidelines approximately every 5-years are now due for review.
4. The current guidelines protect the public by articulating a robust regulatory framework to support the safe, professional practice of privately practising midwives (PPMs). By providing PPMs with current, evidence-informed regulatory information, the guidelines enhance the provision of safe, high-quality care, facilitate workforce flexibility and improve access to midwifery services.

## Proposed changes

5. The NMBA's draft revised *Safety and quality guidelines for privately practising midwives* (the draft revised guidelines) contemporises the guidance to reflect current safety and quality expectations.
6. The intention and effect of the eight mandatory requirements for PPMs remains unchanged. The NMBA have proposed updates where real improvements that align with available evidence, clarify processes, remove unnecessary information and address gaps in content, have been identified.
7. The proposed updates are based on the following high-level principles:
  - the proposed revised guidelines should be clear and easy to understand for PPMs and the public,
  - the mandatory requirements are based on the best available evidence,
  - the requirements should apply an effective balance between public protection, regulatory efficiency and flexibility for PPMs, and
  - the intention and expected compliance requirements of the proposed revisions are clear and proportional to the level of risk identified.
8. The main updates contained within the draft revised guidelines are:
  - clearer guidance in the document on who must comply with the guidelines
  - clearer description of a PPM to reflect the contemporary PPM and their models of practice
  - updated information to reflect the current range of PPM practice contexts and service offerings
  - clearer guidance on the regulatory requirements for midwives who attend homebirths as the second health practitioner
  - updates to requirement two (risk management) to:
    - include definitions for key terms such as 'skilled' and 'current'
    - reduce risk management education/training requirements so that this training is relevant to their context of practice and completed biennially as opposed to annually (at minimum)
  - update to requirement five (clinical governance and reporting) to include information to describe that PPMs must have local processes in place to collect, analyse and reflect on their own data for safe practice and continuous improvement
  - update to requirement six (documentation) to provide clearer guidance on best practice documentation and storage of health information
  - update to requirement seven (incident management) to reflect contemporary incident management practice and best practice incident management processes and
  - update to requirement eight (privately practising midwife portfolio) to clarify that completion of a professional practice review program is required biennially.

## Option statements

### Option 1 – Retain the status quo

9. The current guidelines were last reviewed 2016 and published in 2017. Since this time, there have been changes in the delivery of maternity services and a broad evolution in the contexts of practice in which PPM services are delivered.
10. Maintaining the status quo and retaining the current guidelines would be a low cost/effort solution for the NMBA however presents a missed opportunity for the NMBA to review and improve the relevance, effectiveness and impact of the guidelines. If the guidelines are not reviewed, there is an increased risk that outdated guidelines will apply to this segment of the profession, which could lead to unsafe midwifery practices and potential harm to the public.

### Option 2 – Review and minor update

11. Reviewing the current guidelines and delivering an update to ensure the guidance remains contemporary, evidence based and fit for purpose is the NMBA's second option. This option will enable the NMBA to propose revisions that are relevant, current and proportionate to the risks, issues and/or gaps identified in the review process.
12. By providing an opportunity to review the current operation and impacts of the guidelines, this option ensures the NMBA will be best positioned to provide clearer information to PPMs and assist them with the interpretation and application of the guideline requirements. It will also provide the NMBA with an opportunity to consult with PPMs, key stakeholders and the public to better understand how the NMBA can improve and enhance its regulatory effectiveness.

## Preferred option

13. The preferred option of the NMBA is Option 2. The NMBA supports a review of the current guidelines to test their workability, clarity and continued relevance and considers this has the most potential to generate the greatest net benefit for PPMs, the profession and women and their families. This option enables the NMBA to review the guidelines without outcome bias and apply the necessary regulatory response to best manage any identified risks and/or issues to protect the public.

## Discussion

14. The draft revised guidelines improve the clarity and usefulness of the regulatory information and incorporate proposals that provide more certainty to PPMs, relevant stakeholders and regulatory authorities about what is required to practice safely. All updates to the eight requirements have been strategically developed to ensure that the policy intent and expected compliance requirements are maintained.
15. The updates seek to optimise the safe and professional practice of PPMs without imposing an onerous or unnecessary compliance burden. Critically, the updates also ensure that PPMs regulatory obligations are consistent with current quality and safety evidence, best practice and public expectation.
16. As the changes are updates only (rather than large scale revisions) and have been based on best practice and where available, current evidence, the impacts on PPMs and other stakeholders arising from the proposals are expected to be minimal. However, new or unforeseen impacts that may be identified as a result of this consultation will be closely considered by the NMBA to ensure the guidelines are appropriate and fit for purpose.

## Patient Health and Safety Impact Statement

17. A Patient Health and Safety Impact Statement has been completed by the NMBA. The aim of this statement is to demonstrate to stakeholders the potential impact of a revision to a registration standard, code or guideline on the health and safety of patients and consumers, particularly the vulnerable members of the community, and Aboriginal and Torres Strait Islander Peoples, and that this has been considered and addressed by the NMBA before, and after the consultation process.
18. The NMBA's Patient Health and Safety Impact Statement can be found **at Appendix D** at the conclusion of this document.

## Statement of assessment against Ahpra's Procedures for the development of registration standards, codes and guidelines and principles for best practice regulation

Ahpra has *Procedures for the development of registration standards, codes and guidelines*. Section 25 of the National Law requires Ahpra to establish procedures for the purpose of ensuring that the National Scheme operates in accordance with good regulatory practice.

The NMBA's assessment of their proposal for the draft revised *Safety and quality guidelines for privately practising midwives* against the three elements outlined in the Ahpra procedures can be found at **Appendix C** at the conclusion of this document.

## Questions for consideration

The NMBA is inviting general comment on the draft revised guidelines as well as feedback to the specific questions contained below.

You can either complete the survey online or email your responses in a Word document<sup>4</sup> with the subject line 'Feedback: Review of the Safety and quality guidelines for privately practising midwives' to [nmbafeedback@ahpra.gov.au](mailto:nmbafeedback@ahpra.gov.au)

Feedback is required by close of business on **Friday 30 December 2022**.

1. Is the updated content of the draft revised *Safety and quality guidelines for private practising midwives* helpful, clear and relevant? Why or why not?
2. Is there any content that needs to be changed or removed in the draft revised *Safety and quality guidelines for private practising midwives*?
3. Is there any new content that needs to be added in the draft revised *Safety and quality guidelines for private practising midwives*? Why or why not?
4. Would the proposed updates result in any potential negative or unintended effects for women and families, including members of the community accessing PPM services who may be more vulnerable to harm? If so, please describe them.
5. Would the proposed updates result in any potential negative or unintended effects for Aboriginal and/or Torres Strait Islander Peoples? If so, please describe them.
6. Would the proposed updates result in any potential negative or unintended effects for PPMs, other health practitioners or stakeholders? If so, please describe them.
7. Do you have any other comments on the draft revised *Safety and quality guidelines for private practising midwives*?

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<sup>4</sup> You are welcome to supply a PDF file of your feedback in addition to the word (or equivalent) file, however we request that you do supply a text or word file. As part of an effort to meet international website accessibility guidelines, the NMBA are striving to publish documents in accessible formats (such as word), in addition to PDFs. More information about this is available on the [Ahpra website](#)



## Appendix A: Draft revised Safety and quality guidelines for privately practising midwives

### Safety and quality guidelines for privately practising midwives

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Effective from XX Month 2023

#### Introduction

The Nursing and Midwifery Board of Australia (NMBA) undertakes functions as set by the Health Practitioner Regulation National Law, as in force in each state and territory (the National Law). The NMBA regulates the practice of nursing and midwifery in Australia, and one of its key roles is to protect the public. The NMBA does this by developing registration standards, professional codes, guidelines and standards for practice which together establish the requirements for the professional and safe practice of nurses and midwives in Australia.

#### About the *Safety and quality guidelines for privately practising midwives*

The *Safety and quality guidelines for privately practising midwives* (the guidelines) protect the public by articulating a robust regulatory framework to support the safe, professional practice of privately practising midwives (PPMs). The guidelines provide PPMs with current, evidence-informed regulatory information to enhance the provision of safe, high-quality care, facilitate workforce flexibility and improve access to midwifery services.

PPMs practice in a range of settings which are usually outside the routine governance arrangements of a health service. These guidelines describe the regulatory and clinical governance requirements that PPMs must comply.

Compliance with the guidelines is a requirement for all PPMs including PPMs seeking an exemption from holding professional indemnity insurance (PII) for the provision of intrapartum care during the course of a homebirth. Compliance is monitored through regular practitioner auditing.

Please note that this guideline consistently uses the terms ‘woman’ and ‘maternity’. This is for clarity and is not intended to exclude pregnant people who do not identify as women.

#### What is a privately practising midwife?

PPMs are midwives who practise<sup>5</sup> the midwifery profession in a private capacity. PPMs can be sole practitioners, work in partnership models, operate their own business and/or attend homebirths as the second health practitioner. They can also be employed by a private midwifery business, contracted by a private business or practise in a voluntary capacity. PPMs who are credentialed with a health service can also provide private midwifery care to a woman that is admitted to the health service. Whilst providing private midwifery services in this capacity they are not employees of the health service.

Midwives who are employed by a private health service, a private obstetrician, obstetric group practice or Aboriginal Community Controlled Health Organisation; provide non-clinical midwifery services on behalf of a government, agency, authority or deliver policy, research, academic services or consulting are not considered PPMs for the purpose of this guideline.

#### Context of practice

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<sup>5</sup> Practice means any role, whether remunerated or not, in which the individual uses their skills and knowledge as a health practitioner in their profession.

PPMs practise in a range of contexts that includes, but is not limited to:

- midwifery services in a woman's home (including antenatal care, homebirth, postnatal services and newborn care / sleep support),
- preparation for parenthood care, education and/or advice in a clinic or via technology-based consultations,
- antenatal care or antenatal education and/or advice in the home, in a clinic or via technology-based consultations,
- postnatal care (including newborn sleep support services) in a woman's home, clinic or via technology-based consultations, and
- perinatal services (including mental health support, pelvic floor/continence services, lactation consultancy) in a clinic, via technology-based consultations or in the home.

All PPMs in Australia are accountable for the care that they provide to women and their families regardless of their context of practice, type of remuneration or services provided.

### **Who are the *Safety and quality guidelines for privately practising midwives for?***

The guidelines apply to PPMs who provide direct clinical care, education and/or midwifery advice to women and their families in a private capacity, whether paid or unpaid. This includes:

- PPMs who hold the *Endorsement for scheduled medicines for midwives* (the Endorsement) or who are working towards the Endorsement,
- PPMs who provide clinical care, education and/or midwifery advice in all or some discrete areas such as preparation for parenthood, antenatal care, postnatal care and/or specialist lactation or newborn services; and/or
- PPMs who require an exemption from holding professional indemnity insurance (PII) for providing intrapartum care for homebirths (under section 284 of the National Law).

### **Compliance with the *Safety and quality guidelines for privately practising midwives***

To optimise safe, professional private midwifery practice, compliance with the requirements of the guidelines is mandatory for all PPMs who provide direct clinical care, education and/or midwifery advice to women and their families in a private capacity, whether remunerated or voluntary. This includes PPMs who practice via technology-based consultations and electronically e.g. via social media, digital health and so on.

### **Second health practitioners**

PPMs who practice as the second health practitioner during a homebirth must comply with all requirements of the guidelines relevant to the role of the second health practitioner to be eligible for the PII exemption. They must take all reasonable steps to ensure the primary PPM satisfies, or will satisfy, the full requirements of the guidelines.

### **Registration standard: *Endorsement for scheduled medicines for midwives***

The NMBA, under section 94 of the National Law, has developed the [Registration standard: Endorsement for scheduled medicines for midwives](#) (the Endorsement). The Endorsement sets out the necessary skills, knowledge, and experience required for midwives to prescribe schedule 2, 3, 4 and 8 medicines and to provide associated services required for midwifery practice in accordance with relevant state and territory legislation. Midwives who hold the Endorsement are commonly referred to as 'endorsed midwives'.

Endorsed midwives are eligible to access the Australian Government Medicare Benefits Schedule (MBS) and Pharmaceutical Benefits Scheme (PBS) so that women and their families can receive benefits for services or subsidies towards prescribed medications.

## Professional indemnity insurance

Under section 129(1) of the National Law, midwives must have appropriate PII arrangements for midwifery practice. Practising the midwifery profession without appropriate PII is a breach of the National Law. Section 129(1) of the National Law which states:

*A registered health practitioner must not practise the health profession in which the practitioner is registered unless appropriate professional indemnity insurance arrangements are in force in relation to the practitioner's practice of the profession.*

The NMBA has developed the [Registration standard: Professional indemnity insurance \(PII\) arrangements](#) that details the requirements relating to PII arrangements for all nurses and midwives.

Under section 284 of the National Law, an exemption from holding PII only exists for midwives who practice as a PPM and provide planned homebirth services if they meet the eight requirements described in Table 1 below.

### Professional indemnity insurance exemption

The National Law provides an exemption to PII for PPMs delivering intrapartum services in the home providing the following requirements described in section 284 of the National Law are met:

- (1) *During the transition period, a midwife does not contravene section 129(1) merely because the midwife practises private midwifery if —*
  - (a) *the practice occurs in a participating jurisdiction in which, immediately before the participation day for that jurisdiction, a person was not prohibited from attending homebirths in the course of practising midwifery unless professional indemnity insurance arrangements were in place; and*
  - (b) *informed consent has been given by the woman in relation to whom the midwife is practising private midwifery; and*
  - (c) *the midwife complies with any requirements set out in a code or guideline approved by the National Board under section 39 about the practice of private midwifery, including—*
    - (i) *any requirement in a code or guideline about reports to be provided by midwives practising private midwifery; and*
    - (ii) *any requirement in a code or guideline relating to the safety and quality of the practice of private midwifery.*
- (2) *A midwife who practises private midwifery under this section is not required to include in an annual statement under section 109 a declaration required by subsection (1)(a)(iv) and (v) of that section in relation to the midwife's practise of private midwifery during a period of registration that is within the transition period.*
- (3) *For the purposes of this section, the transition period—*
  - (a) *starts on 1 July 2010; and*
  - (b) *ends on the prescribed day.*

The current transition period for the exemption has been extended to 31 December 2023.

PII is required for all other aspects of midwifery practice. The exemption to PII does not extend to any preparation for parenthood, antenatal, postnatal or newborn services care provided by the PPM, including midwifery advice and/or education delivered via telehealth. PII for any form of preparation for parenthood, antenatal and postnatal services remains the responsibility of the PPM to the standard required by the NMBA [Registration standard: Professional indemnity insurance arrangements](#).

## Requirements of the *Safety and quality guidelines for private practice midwives*

This section sets out the regulatory requirements for all PPMs who provide direct clinical care, education and/or advice to women and their families in a private capacity, whether paid or unpaid. Compliance with this guideline is mandatory, irrespective of context of practice, type of remuneration or services provided.

PPMs must be able to evidence that they meet each requirement described in Table 1 in full.

**Table 1: Mandatory requirements for privately practising midwives**

No.	Description	Requirements
1	Informed consent	<p>The PPM must obtain informed consent from the woman in their care.</p> <p><b>If the PPM is providing homebirth services:</b></p> <p>Consent must be in accordance with section 284 of the National Law which states that:</p> <p><b><i>informed consent</i></b> means written consent given by a woman after she has been given a written statement by a midwife that includes a statement that appropriate PII arrangements will not be in force in relation to the midwife's practise of private midwifery.</p>
2	Risk management	<p>The PPM must have a documented process for identifying, assessing, treating, monitoring and evaluating clinical and environmental risks.</p> <p>Clinical risk management resources and risk assessments should be developed and completed in accordance with the most recent / current edition of the Australian College of Midwives (ACM) <a href="#">National Midwifery Guidelines for Consultation and Referral</a>. PPMs who practise in a broader organisational context must comply with the risk management resources of the organisation or practice.</p> <p>PPMs who do not provide homebirth services must be skilled and current in obstetric emergency management, adult life support and neonatal resuscitation relevant to their scope and context of practice.<sup>6</sup></p> <p><b>If the PPM is providing homebirth services:</b></p> <p>The PPM must be skilled<sup>7</sup> and current<sup>8</sup> in obstetric emergency management, adult life support and newborn resuscitation.</p> <p>Prior to a planned homebirth, the PPM must engage a second health practitioner registered under the National Law who is educated to provide maternal and</p>

<sup>6</sup> PPMs who do not provide intrapartum homebirth services including but not limited to preparation for parenthood, antenatal education and/or care, postnatal education and/or care or lactation services must be skilled and current in emergency management skills relevant to their scope and context of practice. For example, a PPM who practices in a newborn sleep school or offers lactation consultancy must be skilled and current in adult life support and neonatal resuscitation. A PPM who only offers antenatal education must be skilled and current in at minimum, adult Basic Life Support.

<sup>7</sup> A PPM will be considered *skilled* in obstetric emergency management, adult life support and newborn resuscitation if the practitioner has successfully completed the following:

- education and/or training in obstetric emergency management that is not part of a NMBA-approved, entry to practice program of midwifery study,
- an adult Basic Life Support (BLS) course consistent with the Australian and New Zealand Committee on Resuscitation's (ANZCOR) resuscitation guidelines, and
- a basic or advanced newborn resuscitation course consistent with the Australian and New Zealand Committee on Resuscitation's (ANZCOR) newborn resuscitation guidelines.

<sup>8</sup> A PPM will be considered *current* in obstetric emergency management, adult life support and/or newborn resuscitation if the practitioner has successfully completed relevant education and/or training within two years of each episode of care provided.

No.	Description	Requirements
		<p>newborn care, skilled and current<sup>9</sup> in obstetric emergency management, adult life support and newborn resuscitation, and ensure the registered health practitioner is present as the second health practitioner for the birth of the baby.<sup>10</sup></p> <p>When making decisions to accept or continue a woman's care, PPMs must consider and document the distance and time to travel from the woman's planned place of birth to an appropriate hospital. PPMs must understand the capability of local hospitals (including whether maternity services and anaesthetics/theatre are provided) should escalation of care be required.</p>
3	Referral pathways	The PPM must hold, maintain and comply with a documented referral pathway/s to support timely and appropriate consultation and/or referral in line with the most recent/current edition of the ACM <a href="#">National Midwifery Guidelines for Consultation and Referral</a> .
4	Collaborative arrangements	PPMs with a scheduled medicines endorsement and have access to the PBS and MBS must have a collaborative arrangement in place in accordance with the requirements of the <a href="#">National Health (Collaborative arrangements for midwives) Determination 2010</a> . <sup>11</sup>
5	Clinical governance and reporting	<p>The PPM must contemporaneously document, collect and submit required data regarding clinical care and/or outcomes for women in their care as per state and territory and national perinatal data collection requirements.</p> <p>The PPM must have local processes in place to collect, analyse and reflect on their own data (and practice) to facilitate early identification of trends and/or issues, enable structured peer review/feedback and ensure continuous improvement. This may include but is not limited to audit measures such as intrapartum/postpartum transfer from homebirth to hospital rates and/or feedback from women and families regarding their experiences.</p> <p>If the PPM is an employee or in an employment-like relationship, the PPM must comply with the organisation's governance frameworks, policies, processes and reporting requirements.</p>
6	Documentation	<p>The PPM must document all episodes of care contemporaneously within designated clinical notes and/or pro forma documents, whether electronically or by hand. Documentation must be stored in an identifiable and complete health record.</p> <p>This includes but is not limited to:</p> <ul style="list-style-type: none"> <li>recording the provision of informed consent in accordance with section 284 of the National Law,</li> </ul>

<sup>9</sup> A health practitioner registered under the National Law will be considered skilled and current in obstetric emergency management, adult life support and neonatal resuscitation if the practitioner has successfully completed all relevant education and/or training as described in the previous footnote within two years of each attendance at a homebirth.

<sup>10</sup> In the event the second health practitioner is unexpectedly unable to attend the homebirth, the PPM must take all reasonable steps to ensure another health practitioner who meets the definition of *second health practitioner* is present for the birth. This may include engaging a paramedic or consideration to transferring care.

<sup>11</sup> PPMs may also refer to the Australian Government's [Collaborative Arrangements for Participating Midwives and Nurse Practitioners](#) and/or their professional indemnity insurance provider's policy wording for further information on the particulars of collaborative arrangements.

No.	Description	Requirements
		<ul style="list-style-type: none"> <li>• documenting management plans and escalation of care in accordance with the most recent edition of the ACM <a href="#">National Midwifery Guidelines for Consultation and Referral</a>,</li> <li>• recording all assessments, actions taken, investigations i.e., obstetric ultrasounds and pathology results, outcomes and reassessment processes (if necessary), risks, complications and changes to care plans (where relevant to the type of service provided), and</li> <li>• if providing home birthing services, developing comprehensive labour and birth records that contain relevant, complete and up to date information that correctly reflects the event being documented.</li> </ul> <p>Health records / clinical notes must be maintained and stored securely in a way that preserves a woman's confidentiality in accordance with relevant Commonwealth, state and territory legislation.</p>
7	Incident management	<p>The PPM must hold, maintain and comply with a documented incident management process that is consistent with the Australian Commission on Safety and Quality in Health Care's <a href="#">Incident Management Guide 2021</a> that:</p> <ul style="list-style-type: none"> <li>• supports women, their families and other health practitioners (where relevant) to communicate concerns or incidents,</li> <li>• enables open disclosure to woman and their families after an incident,</li> <li>• creates a log or record of all incidents,</li> <li>• includes a clear process that describes how an incident will be investigated to identify why and how an incident occurred and what will be done to ensure the incident does not reoccur and</li> <li>• includes a process for notifying and reporting incidents including sentinel events to the relevant state or territory health department, council or equivalent agency or authority, within the required timeframes.</li> </ul> <p>Incident reporting to relevant state and territory health departments and/or safety and quality agencies must be in accordance with authority requirements and legislative frameworks.</p>
8	Privately practising midwife portfolio	<p>The PPM must develop and maintain a privately practising midwife portfolio (PPMP). This must include but is not limited to a record of:</p> <ul style="list-style-type: none"> <li>• biennial (at minimum) participation in and contribution to a professional practice review program (PPRP),</li> <li>• completion of competencies, continuing education and/or training in obstetric emergency management, adult life support and neonatal resuscitation in accordance with the NMBA <i>Registration standard: Continuing professional development</i>,</li> <li>• evidence of compliance with the most recent edition of the ACM <a href="#">National Midwifery Guidelines for Consultation and Referral</a>.</li> <li>• evidence of compliance against each requirement in the <i>Safety and quality guidelines for private practice midwives</i>.</li> </ul>

## Audit of compliance

Depending on their context of practice, PPMs need to provide evidence of compliance with relevant requirements from Table 1 above to the NMBA. These requirements will be subject to audit. The audit scope is detailed below in Table 2.

An audit of compliance against the guidelines will usually be undertaken on a **three-yearly basis** or more frequently as determined by the NMBA.

**Table 2: Audit of private practice midwives**

Context of practice	Audit scope
PPM practising during a homebirth seeking an exemption from PII.	Evidence of meeting all requirements described in Table 1.
PPM practising as the <i>second health practitioner</i> during a homebirth seeking an exemption from PII.	Evidence of meeting all requirements described in Table 1 relevant to the role of the second health practitioner. Evidence of steps taken to ensure the primary PPM satisfied all requirements described in Table 1.
PPM with or without the Endorsement for scheduled medicines not practising during a homebirth and not seeking an exemption from PII	Evidence of meeting all requirements described in Table 1 relevant to the type of care provided.

## Failure to comply with the *Safety and quality guidelines for privately practising midwives*

Failure to comply with the guideline is likely to result in disciplinary action by the NMBA. Under Part 8 of the National Law, the NMBA has a range of powers when dealing with breaches, including the power to take immediate action:

- section 157 of the National Law requires the NMBA to engage in a show cause process with the registrant before taking immediate action, and
- section 155 of the National Law defines immediate action as suspension or imposition of a condition on the health practitioner's registration; or accepting an undertaking from the health practitioner; or accepting the surrender of the registration of the health practitioner.

The NMBA and the Australian Health Practitioner Regulation Agency (Ahpra) operate in a co-regulatory model in some jurisdictions i.e. New South Wales and may not be the only entities involved in completing an assessment related to a notification that a PPM has failed to comply with the guidelines.

## Review of the *Safety and quality guidelines for privately practising midwives*

The guidelines will be reviewed as required. This will generally be at least every five years. The guidelines were last reviewed and approved by the NMBA in XX 2023.

## Appendix A: How the NMBA regulate midwives in Australia

The NMBA sets the standards, codes and guidelines that midwives (including PPMs) must meet to be registered in Australia. The standards include five core registration standards which are required under the National Law and other midwifery specific registration standards, practice standards, codes and guidelines. These standards, codes and guidelines provide midwives, employers and the public with information about the minimum standards required to practise as a midwife safely and professionally in Australia.

The NMBA regulates midwives and students of NMBA-approved programs of midwifery study in the following ways:

- developing, reviewing and monitoring compliance with registration standards for initial and ongoing registration under the National Law. The five registration standards are:
  - English language skills
  - Criminal history
  - Professional indemnity insurance
  - Recency of practice
  - Continuing professional development.
- developing, reviewing and monitoring the NMBA's professional practice framework for midwifery including the guiding *Midwife standards for practice*.
- approving accreditation standards for programs of study leading to registration as a midwife
- developing and reviewing registration standards for endorsement including endorsing midwives who hold additional qualifications and specific expertise
- auditing midwives' compliance with NMBA registration standards and guidelines, and
- managing complaints (notifications) made about a midwife's health, performance and/or conduct and midwifery students' health or criminal history.

Midwives who are registered in another health profession are also required to fulfil their regulatory obligations in relation to that profession.



## Appendix B: Resources for midwives

**Table 2: Resources for midwives, including privately practising midwives**

Resources	
Midwife standards for practice	<p>The <a href="#">Midwife standards for practice</a> are the core practice standards that provide the framework for safe, professional midwifery practice. The standards:</p> <ul style="list-style-type: none"> <li>• communicate to the general public the standards that can be expected of midwives (including PPMs)</li> <li>• determine the eligibility for registration of people who have completed a midwifery program of study in Australia</li> <li>• determine the eligibility for registration of midwives who wish to practise in Australia but have completed courses elsewhere</li> <li>• assess midwives who wish to return to work after being out of the workforce for a defined period, and</li> <li>• assess midwives who need to show that they are competent to practise.</li> </ul>
Scope of practice	<p>Midwives (including PPMs) must work within their scope of practice. The <a href="#">Midwife standards for practice</a> define scope of practice as the boundaries within which the midwifery profession is educated, competent and permitted to perform by law.</p> <p>The scope of the individual PPM's practice will vary depending on the context in which the PPM works, the health needs of women and baby/s, the level of competence and confidence of the PPM and where relevant, the policy requirements of the service provider.</p>
Code of conduct for midwives	<p>Midwives (including PPMs) must understand and comply with the <a href="#">Code of conduct for midwives</a> which sets out the legal requirements, professional behaviour and conduct expectations for midwives in all practice settings, in Australia.</p>
Recency of practice	<p>Midwives (including PPMs) must understand and comply with the <a href="#">Registration standard: Recency of practice</a> which requires that a midwife must be able to demonstrate that they have maintained adequate connection with the profession, and recent practice, since qualifying or obtaining registration.</p>
Continuing professional development	<p>Midwives (including PPMs) must understand and comply with the <a href="#">Registration standard: Continuing professional development</a> (CPD) which specifies the annual requirement of CPD for midwives per registration year. CPD is the means by which midwives maintain, improve and broaden their knowledge, expertise and competence, and develop the personal and professional qualities required throughout their professional lives.</p>
Criminal history	<p>Midwives (including PPMs) must understand and comply with the <a href="#">Criminal history registration standard</a> which specifies that all registered health practitioners must inform the NMBA if they are:</p> <ul style="list-style-type: none"> <li>• charged with an offence punishable by 12 months' imprisonment or more, or</li> <li>• convicted or found guilty of an offence punishable by imprisonment in Australia and/or overseas.</li> </ul> <p>When any midwife renews their registration with the NMBA they must disclose any changes to their criminal history.</p>

Decision-making framework for nursing and midwifery	Midwives (including PPMs) should use the <a href="#">National decision-making framework for nursing and midwifery</a> (DMF) to assist them to make decisions about accepting and making delegations. It also assists decision-making about practice and practice change.
Endorsement for scheduled medicines for midwives	<p>Midwives (including PPMs) who hold the <i>Endorsement for scheduled medicines for midwives</i> must understand and comply with the <a href="#">Registration standard: Endorsement for scheduled medicines for midwives</a> which describes the necessary qualifications that a midwife must demonstrate when applying for and maintaining <i>Endorsement for scheduled medicines for midwives</i>.</p> <p>The <i>Endorsement for scheduled medicines for midwives</i> states that those who hold the endorsement are qualified to prescribe schedule 2, 3, 4 or 8 medicines appropriate for midwifery practice and to provide associated services required for midwifery practice in accordance with relevant state and territory legislation.</p>
Medicare Benefits Schedule (MBS) and Pharmaceutical Benefits Scheme (PBS)	<p>Midwives (including PPMs) who hold the <i>Endorsement for scheduled medicines for midwives</i> are eligible to apply to the Commonwealth Health Minister as a 'participating midwife' under section 16 (a) and 16(b) of the <a href="#">Health Insurance Act 1973</a> (Cth) to access the Australian Government <a href="#">Medicare Benefits Schedule</a> (MBS). They are also eligible to access the <a href="#">Pharmaceutical Benefits Scheme</a> (PBS). Midwives (including PPMs) who are approved by the MBS and PBS must understand and comply with all related requirements.</p> <p>These arrangements enable women and their families to access certain MBS rebates and PBS subsidised prescriptions.</p>
Prescribing authority and compliance with state and territory legislation	<p>Midwives (including PPMs) must understand and comply with the conditions under which their prescribing authority is granted, including that the scope of that authority depends on the requirements of the specific legislation in each state or territory. These may range from a blanket authority limited by the midwife's scope of practice to a prescribing authority based on a formulary or protocol or related to a specific context of practice.</p> <p>The prescribing scope of PPMs who hold the <i>Endorsement for scheduled medicines for midwives</i> may also be linked to the PPMs employment conditions.</p>
Guidelines for advertising of regulated health services	Midwives (including PPMs) who provide information to the public about the services they provide must understand and comply with the NMBA's <a href="#">Guidelines for advertising a regulated health service</a> .
Mandatory notifications	<p>Midwives (including PPMs) must understand and comply with their responsibilities under the National Law regarding <a href="#">mandatory notifications</a>. There are four concerns that may trigger a mandatory notification. Depending on the type of concern, practitioners must assess the risk of harm to the public when deciding whether to make a mandatory notification. The four concerns are:</p> <ul style="list-style-type: none"> <li>• impairment</li> <li>• intoxication while practising</li> <li>• significant departure from accepted professional standards, and</li> <li>• sexual misconduct.</li> </ul>

<p>Restricted birthing practices</p>	<p>Midwives (including PPMs) practising in South Australia and Western Australia must understand and comply with section 123A of the <a href="#">Health Practitioner Regulation National Law (South Australia) Act 2010</a> and the <a href="#">Health Practitioner Regulation National Law (WA) Act 2010</a> which states it is an offence for any person in South Australia and Western Australia, other than a midwife or medical practitioner registered under the National Law to carry out a restricted birthing practice.</p> <p>This restriction on birthing practices ensures that only practitioners registered under the National Law that hold the necessary education and training and that practise within accepted professional standards can provide these services.</p>
<p>National Safety and Quality Primary and Community Healthcare Standards</p>	<p>The Australian Commission on Safety and Quality in Health Care's <a href="#">Primary and Community Healthcare Standards 2021</a> may be a useful resource for PPMs in their practice. These standards aim to protect the public and improve the quality of health care delivered by describing a nationally consistent framework, which all primary and community health services/practices can apply when delivering health care.</p> <p>There are three Primary and Community Healthcare Standards that cover clinical governance, partnering with consumers and clinical safety. At the time of writing, the Primary and Community Healthcare Standards are voluntary.</p>

## Glossary

**Collaborative arrangement** means an arrangement in accordance with the [National Health \(Collaborative arrangements for midwives\) Determination 2010](#).

**Context of practice** means the conditions that define an individual's midwifery practice. These include midwives working across the continuum of care and midwives who work in a specific area of practice including preparation for parenthood, sexual and reproductive health, antenatal care, postnatal care and specialist lactation support.

**Direct clinical care** is when the PPM is directly involved in providing clinical care or providing oversight and/or supervision of other PPMs during the provision of clinical care to women and their families.

**Endorsed midwife** means a midwife who is endorsed by the NMBA via the *Registration standard: Endorsement for scheduled medicines for midwives* to prescribe schedule 2, 3, 4 and 8 medicines appropriate for midwifery practice. The midwife's endorsement is entered onto the NMBA Register of Midwives.

**Health service** includes the following services, whether provided as public or private services

- a) hospital services;
- b) mental health services;
- c) pharmaceutical services;
- d) ambulance services;
- e) community health services;
- f) health education services;
- g) welfare services necessary to implement any services referred to in paragraphs (a) to (f);

**Homebirth** means a birth in which the woman gives birth at her own home or another person's home (as defined under section 284 of the National Law). This may include locations hired, borrowed or otherwise engaged for the purposes of a birth i.e., Airbnb and hotels.

**Incident** means an event or circumstance that resulted, or could have resulted, in unintended or unnecessary harm to a woman, her family or consumer; or a complaint, loss or damage. An incident may be a near miss. Incidents may also be associated with omissions where women and their families are not provided with a medical intervention from which they would have likely benefited.

**Medicare Benefits Schedule (MBS)** is a component of the Australian Medicare program that (as of 1 August 2020) lists more than 6,000 eligible private medical services for which subsidies are provided to health consumers. Subsidies for clinically relevant services provided by MBS-eligible health professionals including PPMs who hold the Endorsement, take the form of 'Medicare benefits' paid to the woman.

**Midwife** means a person whose name is included in the Register of Midwives kept by the NMBA.

The [ICM](#) defines a midwife as follows:

A midwife is a person who has successfully completed a midwifery education programme that is duly recognised in the country where it is located and that is based on the ICM essential competencies for basic midwifery practice and the framework of the ICM global standards for midwifery education<sup>12</sup>; who has acquired the requisite qualifications to be registered and/or legally licensed to practise midwifery and use the title 'midwife' and who demonstrates competency in the practice of midwifery.

A midwife is recognised as a responsible and accountable professional who works in partnership with women to give the necessary support, care and advice during pregnancy, labour and the postpartum period, to conduct births on the midwife's own responsibility and to provide care for the newborn and the infant. This care includes preventative measures, the promotion of normal birth, the detection of complications in mother and child, the accessing of medical care or other appropriate assistance and the carrying out of emergency measures.

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<sup>12</sup> To become a midwife in Australia, an individual must first complete a program of study that has been accredited by the Australian Nursing and Midwifery Accreditation Council (ANMAC) and then approved by the NMBA. Programs of study leading to registration as a midwife in Australia are accredited according to the ANMAC *Midwife Accreditation Standards 2021*.

A midwife has an important task in health counselling and education, not only for the woman, but also within the family and the community. This work should involve antenatal education and preparation for parenthood and may extend to women's health, sexual or reproductive health and care of the child.

A midwife may practise in any setting including the home, community, hospitals, clinics or health units.<sup>13</sup>

**National Midwifery Guidelines for Consultation and Referral** means the most recent edition of the Australian College of Midwives resource framework for midwives caring for women at the commencement of care, during the antenatal period; throughout labour and birth; and in the postnatal period.

**National Law** means the Health Practitioner Regulation National Law, as in force in all Australian states and territories.

**National Scheme** means the National Registration and Accreditation Scheme for health professions. More information about the National Scheme is available at [www.ahpra.gov.au](http://www.ahpra.gov.au)

**Nursing and Midwifery Board of Australia (NMBA)** means the national body responsible for the regulation of nurses and midwives in Australia.

**Pharmaceutical Benefits Scheme (PBS)** is an Australian Government program that creates a schedule of all the medicines available to be dispensed to health consumers at a Government-subsidised price. Midwives endorsed by the NMBA can apply for approval as PBS prescribers and may also be referred to as 'authorised midwives', that is, they are authorised to prescribe PBS subsidised medications.

**Practice** means any role, whether remunerated or not, in which the individual uses their skills and knowledge as a midwife. For the purpose of these guidelines, practice is restricted to the provision of direct clinical care, education and/or advice to women and their families only. It does not include working in management, administration, education, research, advisory, regulatory or policy development roles.

**Private capacity** means, without being exhaustive, practising the midwifery profession either in sole practice, as a partner in a partnership, or as an associate in an association with other practitioners i.e. as a director of a company or as an employee or contracted midwife of one of the aforementioned parties.

**Privately practising midwife (PPM)** is a midwife who practices the profession in a private capacity.

**Professional practice review program (PPRP)** means a formal peer or case review that may include maternal morbidity and mortality meetings, quality assurance and clinical audit or other meetings dealing with issues of practice review or clinical risk management.

**Restricted birthing practice** is defined under the National Law as an act that involves undertaking the care of a woman by managing the three stages (or any part of these stages) of labour or birth.

**Scope of midwifery practice** means that which the midwife is educated, competent and authorised to perform.

**Second health practitioner** is a health practitioner registered under the National Law who is who is educated to provide maternal and newborn care, skilled and current in obstetric emergency management, adult life support and neonatal resuscitation and demonstrates recency of practice relevant to their profession and endorsement (where applicable).

**Social media** describes the online and mobile tools that people use to share opinions, information, experiences, images, and video or audio clips, and includes websites and applications used for social networking. Common sources of social media include, but are not limited to, social networking sites such as Facebook, Instagram and LinkedIn, blogs (personal, professional and those published anonymously), business search and review sites such as Word of Mouth and True Local, microblogs such as Twitter, content-sharing websites such as YouTube and TikTok, and discussion forums and message boards. For the purposes of this code, practice is not restricted to the provision of direct clinical care. For more information see [Social media: How to meet your obligations under the National Law](#).

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<sup>13</sup> The NMBA has endorsed the [International Confederation of Midwives](#) (ICM) definition of a midwife and has applied it to the Australian context.

**Technology-based consultations** are consultations that use any form of technology, including, but not restricted to videoconferencing, internet and telephone, as an alternative to face-to-face consultations.

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## Appendix B: Summary of proposed changes to the Safety and quality guidelines for privately practising midwives



Section	Proposed change	Rationale
Introduction	Rewording and reference to previous reviews have been removed	To provide additional clarity and ensure information is current
About the Safety and quality guidelines	editorial changes. Addition of information regarding the use of the term 'woman' that states:  <i>Please note that this Guideline consistently uses the terms 'woman' and 'maternity'. This is for clarity and is not intended to exclude pregnant people who do not identify as women.</i>	To provide additional clarity and ensure information is current
Definition and scope of practice of a midwife	Relocated to the glossary	To improve the flow of the document
How we regulate midwives in Australia	Relocated to Appendix A	To improve the flow of the document
What is a privately practising midwife	Content revised, moved from the glossary to the body of the guideline and updated	To provide clarity and reflect contemporary models of PPM practice.
Who are the safety are the Safety and quality guidelines for?	Section included with clearer information about who must comply with the Guidelines	Improved clarity of the application of the guidelines

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The Nursing and Midwifery Board of Australia (NMBA) carries out functions as set by the Health Practitioner Regulation National Law, as in force in each state and territory (the National Law). The NMBA regulates the practice of nursing and midwifery in Australia, and one of its key roles is to protect the public.

<b>Compliance with the Safety and quality guidelines for privately practising midwives</b>	Inclusion of clearer information about mandatory compliance with the Guidelines  information that describes what second health practitioners must do to meet their obligations under the National Law.	Improved clarity of the application of the guidelines
<b>Endorsement for scheduled medicines for midwives</b>	Heading updated to Registration standard: Endorsment for scheduled medicines for midwives	Language updated to align with the title of the registration standard
<b>Professional indemnity insurance</b>	Section relocated and updated	to improve the flow if the document and reflect the new date for the transition period.
<b>Specific elements of the Safety and quality guidelines</b>	Title updated to <i>Requirements of the Safety and quality guidelines for privately practising midwives</i> .	Revised for clarity
<b>Table 1: evidentiary requirments for privately practising midwives</b>	Heading updated to Mandatory requirements for privately practising midwives.  Content of the table has been revised and updated	Revised for clarity and to ensure that the information reflects current evidence and best practice
<b>Audit of practice</b>	Heading updated to Audit of compliance	Revised title more accurately reflects the purpose of audit.
<b>Appendix A: the role of the NMBA in the regulation of midwives</b>	Reworded to: How the NMBA regulate midwives in Australia	Plain English revision
<b>Appendix B: other elements of the SQG</b>	Reworded to: Resources for midwives and updated to include new information	Revised to reflect that the content relates to resources to assist PPM practice

<b>Glossary</b>	Editorial changes to some definitions and inclusion of new terms	Revised to reflect definition changes
<b>References</b>	Updated reference list	Revised to ensure references are current

## Appendix C: Statement of assessment against Ahpra's Procedures for the development of registration standards, codes and guidelines and principles for best practice regulation

### Draft revised *Safety and quality guidelines for privately practising midwives*

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The Australian Health Practitioner Regulation Agency (Ahpra) has *Procedures for the development of registration standards, codes and guidelines* which are available at: [www.ahpra.gov.au](http://www.ahpra.gov.au)

Section 25 of the Health Practitioner Regulation National Law as in force in each state and territory (the National Law) requires Ahpra to establish procedures for the purpose of ensuring that the National Registration and Accreditation Scheme (the National Scheme) operates in accordance with good regulatory practice.

Below is the Nursing and Midwifery Board of Australia's (NMBA) assessment of their proposal for the draft revised *Safety and quality guidelines for privately practising midwives* against the three elements outlined in the Ahpra procedures.

- 1. The proposal takes into account the National Scheme's objectives and guiding principles set out in section 3 of the National Law and draws on the available evidence**

#### **NMBA assessment**

The NMBA support that the draft revised *Safety and quality guidelines for privately practising midwives* meet the objectives and guiding principles of the National Law. The proposal takes into account the National Scheme's key objective of protecting the public by enabling the continuous development of a flexible, responsive safe Australian midwifery workforce. The proposal seeks to maintain public confidence in the safety of services provided by PPMs registered by the NMBA.

The draft revised *Safety and quality guidelines for privately practising midwives* also support the National Scheme to operate in a transparent, accountable, efficient, effective and fair way. The proposal gives clear guidance on the National Law's requirements and the NMBA's expectations for PPM practice, irrespective of the midwife's context or area of practice.

The NMBA has drawn from the available evidence to inform the review of the *Safety and quality guidelines for privately practising midwives*. The NMBA has reviewed legislation, national policy documents and standards including from the Australian Commission on Safety and Quality in Health Care, the Australian College of Midwives, clinical guidance from across Australia, professional indemnity provider policy and international evidence and standards including from the National Institute for Health and Care Excellence, the World Health Organisation and the International Confederation of Midwives.

## 2. The consultation requirements of the National Law are met

### NMBA assessment

The National Law requires wide-ranging consultation on the proposed standards, codes and guidelines. The National Law also requires the NMBA to consult each other on matters of shared interest.

Preliminary consultation was the first step in the consultation process. The aim of the preliminary consultation was to enable the NMBA to test their proposals with key stakeholders and refine them before proceeding to public consultation. During this consultation, the NMBA engaged with 22 stakeholders including the Commonwealth Chief Nursing and Midwifery Officer, all jurisdictional Chief Nursing and Midwifery Officers, the Australian College of Midwives, the Australian Nursing and Midwifery Federation, the Ahpra Community Advisory Council and all state and territory boards of the NMBA. The responses received were generally supportive of the proposed updates with stakeholders providing minor feedback towards further refining the content and structure of the proposal. These responses have been closely analysed and refinements to the guidelines have been made.

The NMBA will now ensure that there is the opportunity for broader public comment via an eight-week public consultation. This includes publishing a consultation paper on the NMBA and Ahpra website and informing health practitioners and the community of the review via the NMBA's electronic newsletter and a social media campaign.

The NMBA will consider the feedback they receive when finalising the draft revised *Safety and quality guidelines for privately practising midwives*.

## 3. The proposal takes into account the Principles for Best Practice Regulation

### A. Whether the proposal is the best option for achieving the proposal's stated purpose and protection of the public

#### NMBA assessment

The NMBA consider that this proposal is the best option for achieving public safety, high quality and professional PPM practice and regulatory effectiveness. The draft revised *Safety and quality guidelines for privately practising midwives* does not propose substantial changes to the current document or the requirements that PPMs must meet. The review has made the *Safety and quality guidelines for privately practising midwives* clearer and easier to navigate for all stakeholders whilst ensuring that the high level of midwifery knowledge, skill and practise that is expected by the public is maintained.

The draft revised *Safety and quality guidelines for privately practising midwives* is based on the best available evidence and aligned with best practice standards, ensuring the *Safety and quality guidelines for privately practising midwives* is current and relevant to the contemporary role and scope of the PPM.

The proposal continues to protect the public by making clear the expectation that to practise as a private practitioner, PPMs must meet the minimum regulatory requirements set by the NMBA to safely and effectively practise the midwifery profession.

### B. Whether the proposal results in an unnecessary restriction of competition among health practitioners

#### NMBA assessment

The proposal is unlikely to restrict competition as the proposed *Safety and quality guidelines for privately practising midwives* would apply to all PPMs in Australia. As a small scale, limited scope update, the proposal is unlikely to change market forces including the supply of, or demand for PPM services. The draft revised guidelines contain the same requirements as the current guidelines, with improved clarity.

### C. Whether the proposal results in an unnecessary restriction of consumer choice

#### NMBA assessment

The NMBA consider that the proposal will not result in any unnecessary restrictions of consumer choice as the draft revised *Safety and quality guidelines for privately practising midwives* maintains the current requirements and will apply to all PPMs in Australia. The proposed revisions have been designed to ensure members of the community can continue to have choice in their maternity care provider and be assured that PPMs have appropriate governance arrangements in place to ensure safe, high quality and professional practice.

The proposal has the potential to improve consumer confidence that PPMs registered by the NMBA are safe, accountable and professional practitioners held to appropriate standards to protect public safety.

### D. Whether the overall costs of the proposal to members of the public and/or registrants and/or governments are reasonable in relation to the benefits to be achieved

#### NMBA assessment

The NMBA has closely considered the potential costs associated with the draft revised *Safety and quality guidelines for privately practising midwives* to PPMs, women and their families and Governments. As the NMBA is proposing an update only and no significant changes, the NMBA has concluded that any costs incurred are likely to be negligible.

The proposal maintains the reporting, documentation and risk management requirements articulated in the current guidelines and seeks to increase clarity for PPMs by providing further details on best practice documentation, risk management and reporting. Clarifying these expectations are unlikely to increase time burden as audit data demonstrates previous compliance was sufficient but could be optimised.

The proposal updates would likely result in a small increase in flexibility for PPMs to complete professional development/ training by shifting an annual requirement to a biennial requirement. Rather than requiring the same training for PPMs with different practice scopes and levels of risk, the proposal also clarifies that this training only needs to be completed relevant to the scope and context of the PPMs practice. The proposal does not impact PPM's need for or access to IT systems, facility requirements or professional indemnity insurance arrangements.

If approved, the proposed *Safety and quality guidelines for privately practising midwives* will provide privately practising midwives with clearer, evidence-based guidance on their regulatory obligations. The public safety benefits of the revised guidelines will outweigh any negligible costs related to compliance with the guidelines.

### E. Whether the proposal's requirements are clearly stated using 'plain language' to reduce uncertainty, enable the public to understand the requirements, and enable understanding and compliance by registrants

#### NMBA assessment

The NMBA are committed to a plain English approach that will help PPMs and the public understand and apply the requirements of the *Safety and quality guidelines for privately practising midwives* expected by the NMBA, other health practitioners and the community. The draft revised *Safety and quality guidelines for privately practising midwives* have been reviewed closely to ensure that plain English is used and to enable understanding of the NMBA requirements.

### F. Whether the Board has procedures in place to ensure that the proposed registration standard, code or guideline remains relevant and effective over time

#### NMBA assessment

The NMBA will review the *Safety and quality guidelines for privately practising midwives* at least every five years, including the completion of an assessment against the objectives and guiding principles in the National Law and the principles for best practice regulation.

However, the NMBA may choose to review the *Safety and quality guidelines for privately practising midwives* earlier, in response to any issues which arise, or new evidence which emerges to ensure their continued relevance and workability.

## Appendix D: Patient and Consumer Health and Safety Impact Statement

October 2022

### Statement purpose

The Nursing and Midwifery Board of Australia's *Patient and Consumer Health and Safety Impact Statement* (the Statement)<sup>14</sup> explains the potential impacts of a proposed registration standard, code or guideline on the health and safety of the public, vulnerable members of the community and Aboriginal and Torres Strait Islander Peoples.

The four key components considered in the Statement are:

1. The potential impact of the proposed revisions to the *Safety and quality guidelines for privately practising midwives* on the health and safety of woman and their families, particularly vulnerable members of the community. This includes approaches to mitigate any potential negative or unintended effects.
2. The potential impact of the proposed revisions to the *Safety and quality guidelines for privately practising midwives* on the health and safety of Aboriginal and Torres Strait Islander Peoples including approaches to mitigate any potential negative or unintended effects.
3. Engagement with woman and their families particularly vulnerable members of the community about the proposal.
4. Engagement with Aboriginal and Torres Strait Islander Peoples about the proposal.

The NMBA's Health and Safety Impact Statement aligns with the *National Scheme's [Aboriginal and Torres Strait Islander Health and Cultural Safety Strategy 2020-2025](#)*, *[National Scheme engagement strategy 2020-2025](#)*, *[the National Scheme Strategy 2020-25](#)* and reflect key aspects of the revised consultation process in the [AManC Procedures for developing registration standards, codes and guidelines and accreditation standards](#).

Please note that this statement consistently uses the terms 'woman'. This is for clarity and is not intended to exclude pregnant people who do not identify as women.

Below is the NMBA's initial assessment of the potential impact of the proposed revision to a *Safety and quality guidelines for privately practising midwives* on the health and safety of women and families, particularly vulnerable members of the community, and Aboriginal and Torres Strait Islander Peoples. This statement will be updated after consultation feedback.

<sup>14</sup> This statement has been developed by Ahpra and the National Boards in accordance with section 25(c) and 35(c) of the *Health Practitioner Regulation National Law* as in force in each state and territory (the National Law). Section 25(c) requires AHPRA to establish procedures for ensuring that the National Registration and Accreditation Scheme (the National Scheme) operates in accordance with good regulatory practice. Section 35(c) assigns the National Boards functions to develop or approve standards, codes and guidelines for the health profession including the development of registration standards for approval by the COAG Health Council and that provide guidance to health practitioners registered in the profession. Section 40 of the National Law requires National Boards to ensure that there is wide-ranging consultation during the development of a registration standard, code, or guideline.



**1. How will this proposed revision to the *Safety and quality guidelines for privately practising midwives* impact on women and their families' health and safety, particularly vulnerable members of the community? Will the impact be different for vulnerable people compared to the general public?**

The Nursing and Midwifery Board of Australia (NMBA) has carefully considered the impacts of the update to the *Safety and quality guidelines for privately practising midwives* on women and their families health and safety, particularly vulnerable members of the community to put forward what we think is the best option for consultation.

The proposed revised *Safety and quality guidelines for privately practising midwives* is based on the best available evidence and best practice regulatory approaches to ensure the safety of women and their families is at the centre of the regulation. The minor updates to this document have been proposed to ensure the regulation remains contemporary and fit for purpose only. This means the draft proposed revisions are expected to maintain the standard of care provided by PPMs. They do not introduce new or untested requirements. This means women and their families, including vulnerable members of the community can expect continued consistency in the high standard of private practice midwifery care enabled through this regulation.

Through this consultation, our engagement will help us to better understand possible outcomes and meet our responsibilities to protect public safety and health care quality.

**2. How will consultation engage with women and their families, particularly vulnerable people who may be having, planning to have or have recently had a baby?**

In line with our established consultation processes, the NMBA is undertaking wide-ranging consultation. We will engage with women and their families, professional associations and peak bodies, consumer representative bodies and many other relevant organisations to gain input and views from vulnerable members of the community.

To do this, we have already engaged directly with key stakeholders through a preliminary consultation and are now completing a large-scale public consultation process. We are delivering our public consultation through multiple communication channels including direct emails, website updates, social media and the NMBA newsletter.

**3. What might be the unintended impacts for women and their families particularly vulnerable members of the community? How will these be addressed?**

The NMBA has carefully considered what the unintended impacts of updates to the *Safety and quality guidelines for privately practising midwives* might look like. Consulting with relevant organisations and vulnerable members of the community will help us to identify any other potential impacts. We will fully consider and take actions to address any potential negative impacts for women, their families and vulnerable members of the community that may be raised during consultation.

**4. How will this proposal impact on Aboriginal and Torres Strait Islander Peoples? How will the impact be different for Aboriginal and Torres Strait Islander Peoples compared to non-Aboriginal and Torres Strait Islander Peoples?**

In updating the *Safety and quality guidelines for privately practising midwives*, the NMBA has carefully considered any potential impact of the updates on Aboriginal and Torres Strait Islander Peoples and how the impact compared to non-Aboriginal and Torres Strait Islander people might be different. Through this consultation, our engagement will help us to identify any other potential impacts and meet our responsibilities to protect safety and health care quality for Aboriginal and Torres Strait Islander Peoples.

**5. How will consultation about this proposal engage with Aboriginal and Torres Strait Islander Peoples?**

The NMBA is committed to the National Scheme's Aboriginal and Torres Strait Islander Cultural Health and Safety Strategy 2020-2025 which focuses on achieving patient safety for Aboriginal and Torres Strait Islander Peoples as the norm, and the inextricably linked elements of clinical and cultural safety.

As part of our consultation process, we have tried to find the best way to meaningfully engage with Aboriginal and Torres Strait Islander Peoples. We are doing this by proactively consulting with Aboriginal and Torres Strait Islander health policy leaders, peak Aboriginal and Torres Strait Islander professional bodies and the national leadership body for Aboriginal and Torres Strait Islander health in Australia. We will continue to engage with Aboriginal and Torres Strait Islander organisations and stakeholders throughout all stages of this consultation.

**6. What might be the unintended impacts for Aboriginal and Torres Strait Islander Peoples? How will these be addressed?**

The NMBA has carefully considered what might be any unintended impacts from the updates to the *Safety and quality guidelines for privately practising midwives*. Continuing to engage with relevant organisations and Aboriginal and Torres Strait Islander Peoples will help us to identify any other potential impacts. We will consider and take actions to address any other potential negative impacts for Aboriginal and Torres Strait Islander Peoples that may be raised during consultation.

**7. How will the impact of this proposal be actively monitored and evaluated?**

The NMBA monitor compliance with the *Safety and quality guidelines for privately practising midwives* by conducting an audit approximately every 3-years. Engagement with the audit is a mandatory requirement for privately practising midwives. The audit provides assurance to the NMBA that the level of regulation offered by the *Safety and quality guidelines for privately practising midwives* is appropriate and proportionate, that compliance with the requirements is met and that the regulation is achieving its public safety objectives. It also provides a formal feedback mechanism for the NMBA to receive information about the operation, effect, and impact of the document for continuous improvement.

Part of the NMBA's work in keeping the public safe is ensuring that all NMBA standards, codes and guidelines are regularly reviewed. This generally occurs every 5-years or early if required. By reviewing the *Safety and quality guidelines for privately practising midwives* in 2022, the NMBA ensure that it is working as intended.