

Submission on proposed new legislation for Nurses and Midwives

by

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Contents

1. Introduction
2. Principal Features of the new Nurses and Midwives Act, 2008
 - Reconstruction of An Bord Altranais
 - The Register and Registration Programme
 - Education & Training and Professional Competence
 - Committees including Fitness to Practice
 - Midwifery as a separate profession
 - Titles
 - Dissolution of the National Council for the Professional Development of Nursing and Midwifery
 - Gagging the CEO
3. Conclusion: Summary of Recommendations

1. Introduction

- 1.1 The Adelaide Hospital Society welcomes the opportunity to give views on the proposed new Nurses and Midwives legislation. The Adelaide Hospital Society has a long and distinguished record in the development of the nursing profession in Ireland. The Adelaide School of Nursing, established in 1859, was the first professional training school for nurses for lay women in Ireland and Adelaide nurses have been to the forefront in all the stages since then in developing the nursing profession. The Adelaide Hospital Society continues to have responsibility for entry to the Adelaide School of Nursing which is now part of the College of Nursing and Midwifery at Trinity College, Dublin and it supports nursing through scholarships at The Adelaide & Meath Hospital, Dublin incorporating The National Children's Hospital.
- 1.2 While the Society appreciates the legislative concern to protect the public in its dealings with any of the caring professions, it believes that this protection can only be a consequence of ensuring the integrity of those professions through the promotion of high standards of professional education, training and practice and professional conduct. Therefore, the prime purpose of such legislation should be positive, starting with the promotion of high standards of professional education, training and practice and professional conduct rather than negatively seeking 'to protect' the public. This should be an explicit concern of An Bord Altranais but not stated as its first mandate.
- 1.3 It is timely to update the existing Nurses Act, 1985 as there have been a great range of changes in Irish society and in the healthcare environment in the last twenty years or so. In particular the change in 2002 to a third level based pre-registration degree programme represented a paradigm shift in nurse education.
- 1.4 The erosion of holistic patient care as central to nursing practice
The Adelaide Hospital Society submits that the new Nurses and Midwives Act, 2008 should define nursing and midwifery practice so that holistic care is given a central place in these professions. Given the great changes in healthcare it is now opportune to set out the characteristics of nursing caring because the art of caring for the patient has come to be seen as less important than technical proficiency. Some speak of the 'lost art of caring'.¹ We suggest that caring as a nurse or midwife involves being able to do for another what they would wish to do for themselves were they able either physically or mentally so to do. It means to care in such a way as to cause the cared for person's sense of wellbeing to be enhanced. Such caring is fragile because it requires putting other pressures aside and focusing on feelings, listening, relinquishing judgement and prejudice and making a commitment of time and energy to the caring relationship. Such nursing care often cannot survive within organisations which are increasingly measured for 'value for money' or so-called 'financial efficiencies'. Therefore, it needs an explicit legislative remit in defining what is core to the nursing profession. Nursing is concerned with the art of healing as much or even more than the science of healing.

2 Principal features of the new Nurses and Midwives Act, 2008

- 2.1 Reconstruction of An Bord Altranais
The proposed Board is to be composed of 23 members (previously 29) of which 11 are registered nurses or midwives and 12 are not registered nurses or midwives thereby giving the Board a lay majority. Five of the twelve lay members will represent the public interest or patient/client groups.

As a matter of principle, relating to the nature of a profession, the Adelaide Hospital Society believes that professions should be self-regulating under statute. The very

essence of a profession is autonomy and self-regulation in respect of its professional practice: professionals are defined by their freedom to exercise their professional judgement in regard to their practice subject to peer review as to best practice. Freedom from political interference and direction in their domain of practice is particularly important to professions such as doctors, teachers or nurses and midwives given that the State has such potential through its funding and in other administrative ways to interfere with the quality or direction of professional practice to the detriment of 'best practice', for example for reasons of simply 'saving' money. There exist grave dangers of 'politicising' regulatory bodies when they should in fact provide a 'buffer' between the State and the practicing nurse or midwife and they should have as a sole focus promotion of best quality practice and care. If doctors or nurses, for example, cannot take full professional responsibility for their profession they are no longer truly a profession. It should be stipulated in particular that the persons nominated by nursing education and training bodies should be registered nurses or midwives. The increased representation for other health/social care professions is welcome in the light of increased interdisciplinary working of nurses and midwives.

There is a compelling case to increase the number of registered nurses and midwives on the proposed new Board. Nine out of twenty-three as proposed in the Draft Heads of Bill are quite insufficient. It is unclear if the two persons nominated by the nursing and midwifery education and training bodies will be registered nurses or midwives (Head 5 S9 1A). The ability of An Bord Altranais to give professional leadership will be undermined if nurses and midwives are a minority on the Board.

2.2 The register and registration programme

The Adelaide Hospital Society welcomes the proposals in Part III (Heads 19 to 23). In particular Head 21 places on a legislative footing a register for those students undertaking the pre-registration nursing or midwifery programmes. However, it is unclear as to what part of the new register it is intended to register those nurses who are currently registered as Psychiatric, Intellectual Disability or Children's Nurses.

The proposed divisions of the register (General Division, Midwives Division and Specialist Division) do not reflect the current points of registration. It is unclear as to what part of the new register those nurses with mental health, intellectual disability and paediatric qualification will be recorded.

There is no reference made to the current inactive register and whether it is to be retained or abandoned under the proposed new legislation.

There is no reference to the establishment of a nurse or midwife prescribers register or the protection of title for clinical nurse specialists.

2.3 Part IV Education & Training and Professional Competence

Head 24 outlines the duties of the Health Service Executive with regard to nursing and midwifery education and training as well as the duties of An Bord Altranais.

There is a need to ensure that adequate resources are provided by the HSE to meet the standards set down by An Bord Altranais. There is a potential source of continual conflict between the remit of both bodies as presently drafted. A clear legal responsibility should be placed on the HSE to provide resources adequate to the agreed levels of nurse education to meet the needs of the Irish health system.

Inadequate provision has been made with regard to maintenance of competence, mandatory continuing professional development and post registration education. The roles and responsibilities of the HSE and other health service providers in facilitating

the maintenance of professional competence by nurses and midwives have not been adequately addressed.

The Medical Practitioners Act, 2007 has more robust provisions for the maintenance of professional standards than outlined in the proposed legislation for nurses and midwives.

2.4 Committees including Fitness to Practice

The Adelaide Hospital Society welcomes the revised framework for fitness to practice by establishing a Preliminary Proceedings Committee and separate Fitness to Practice Committees. In particular it welcomes the creation of an Education and Training Committee.

The inclusion of student nurses/midwives in the registration legislative framework is also to be welcomed. Students are already subject to disciplinary procedures in academic institutions in which they receive the clinical component of their education. Clear guidance in relation to the roles and responsibilities of the various bodies are required in order to avoid unfair treatment of individuals on the candidate register.

The Adelaide Hospital Society is not convinced that lay majorities in Fitness to Practice committees help protect the public: such lay members generally depend upon professional views in any event to come to a determination. Nurses ought to be professionally assessed by their peers as to fitness to practice. In relation to Head 25 Professional Competence, it needs to be made clear that in the event that the Board requires a nurse or midwife to demonstrate their competence to practice that the Board is obliged to give clear guidelines as to what forms of evidence of competence are required.

2.5 Midwifery as a separate profession to nursing

The Adelaide Hospital Society welcomes the recognition of Midwifery as a separate profession.

2.6 Titles: Advanced Nurse Practitioner (ANP) and Advanced Midwife Practitioner (AMP) and other titles

The Adelaide Hospital Society welcomes these new titles.

2.7 Part VII – Dissolution of the National Council for the Professional Development of Nursing and Midwifery

The Adelaide Hospital Society is concerned that in the dissolution of the National Council for the Professional Development of Nursing and Midwifery that the funding for continuing nurse and midwife education will not have the same protection under the Health Services Executive given the pressures on its health budget each year. There ought to be a statutory commitment to such education and it may well be that such funding ought to be given to An Board Altranais. The function of the Board in giving professional leadership, guidance and support to nurses and midwives would be greatly strengthened if it had funding responsibility for continuing nurse and midwife education rather than the HSE.

2.8 Gagging the CEO

The Adelaide Hospital Society is particularly concerned that Head 9 (Section 16 A 2) is a 'gagging' clause on the Chief Executive Officer as it prevents the Officer from expressing an opinion or questioning the merits of any policy of the Government or a Minister of a Government or the merits of the objectives of such a policy. This clause, which would have appeared in totalitarian countries, is not appropriate in a democratic country nor is it conducive to the formation of good public policy. It should be deleted.

3 Conclusion

Summary of recommendations

1. In Head 3 to place “the promotion of high standards of professional education, training and practice and professional conduct among nurses and midwives” first and then to continue “so as to ensure the protection of the public in its dealings with nurses and midwives...”
2. Definition of a “Nurse”
In Head 2 it is simply stated that a “nurse” or a “midwife” means a person whose name is entered in a division of the register. It is submitted that the Nurses and Midwives Act, 2008 specify the essential characteristics of a nurse or midwife, in particular their practice of caring and advocacy of patient needs. There are agreed international definitions which might be used for this purpose.
3. An Bord Altranais
 - (A) We submit that nurses should be the majority on the proposed Board because of the principle of self-regulation which defines a profession.
 - (B) The proposed divisions of the register require to be re-examined and made more comprehensive to reflect recent developments.
4. Provision of Resources
The HSE in Head 24 should have a legal obligation to provide resources adequate to meet the specified needs for nurse education according to the standards set by An Bord Altranais.
5. Fitness to Practice
It is submitted that Fitness to Practice Committees should be composed of professional nurses and not have lay majorities.
6. Continuing Nursing and Midwifery Education
There should be a statutory commitment to fund continuing nursing and midwifery education placed on the HSE when the National Council for the Professional Development of Nursing and Midwifery is dissolved. An Bord Altranais would be the appropriate body to fund continuing education rather than HSE.
7. Head 9 Section 16 A (2) “the gagging clause” on the CEO of An Board Altranais should be deleted.

REFERENCES

¹ See, for example, The Lost Art of Caring: A Challenge to Health Professionals, Families, Communities and Societies Eds. L.C. Cluff and R.H. Binstock (The John Hopkins University Press, Baltimore and London, 2001)