



Institute of Community Health Nursing

A Response to the  
Nurses and Midwives Bill 2010

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## **The Institute of Community Health Nursing Response to the Nurses and Midwives Bill 2010**

### ***Introduction:***

The Institute of Community Health Nursing (I.C.H.N.) is a professional and educational body established in 1985 representing Public Health Nurses (PHN's) and Community Registered General Nurses (RGN's), working in primary care, throughout Ireland. The ICHN acts as a consultative body available to inform the Department of Health & Children, and other bodies, when requested and co-operates with working groups on issues facing primary and continuing care nursing services in Ireland and internationally.

The ICHN has a genuine interest in the professional and regulatory issues pertaining to nurses and midwives. The ICHN is keenly aware that the self-regulatory status of the nursing profession is being challenged due to perceived weaknesses within the regulatory processes to provide adequate protection to the public.

The ICHN very much welcomes the proposed Nurses and Midwives Bill 2010. The reforms proposed in the Bill sees a shift from a focus on protection of the profession to a focus on protection of the public. The ICHN is aware that the legislation whose primary purpose is the protection of the public, requires adequate resources and support to

monitor its performance and enforcement. The ICHN whose members work in primary care wishes to draw to the attention of the Houses of the Oireachtas that their governance structures differ from the more controlled structures of the acute sector. Therefore, the Bill needs to be more responsive to the market place, and the changing health care environment, in which community based care will become “the usual” and hospital based care the “unusual”.<sup>1</sup> In light of the aforementioned, the ICHN in this submission has identified a number of sections in the Bill, as it is currently composed, that require further consideration by the Oireachtas. The sections of the Bill are the following:

***PART 2: BORD ATRANAIS AGUS CNÀIMHSEACHAIS NA hÈIREANN.***

**Section 13: Board’s power to make rules.**

This section outlines the Board’s power to make rules and details a range of matters for which the Board may make rules. Rules will be subject to publication in draft form, to a public consultation and to Ministerial approval. Rules must be laid before each House of the Oireachtas. **The ICHN** is of the view that all rules made by the Board shall be the subject of publication in draft form.

The Minister for Finance must give consent to any rules relating to a professional competence scheme. **The ICHN** does not support the requirement in Section 13 subsection 4(c) (iii) that the Board shall give a copy of a draft of a professional

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<sup>1</sup> Butterworth, T. (2008) The practice and regulation of non- medical health care professionals in community based and primary care: maintaining old landscapes or encouraging creativity? Quality in Primary Care 16, 231-233.

competence scheme to the Minister of Finance. **The ICHN** understands that nurses and midwives will be bearing the cost of their own professional development and as such there is no investment on the part of the Minister of Finance. This subsection is, therefore, redundant. Furthermore, the approval of the Minister of Finance for a professional competence scheme is not a requirement in the Medical Practitioners Act, 2007. On a more general point, laying the rules before the Houses of the Oireachtas is undesirable.

#### ***PART 4: MEMBERS, COMMITTEES AND EMPLOYEES OF BOARD.***

##### **Section 22: Membership of the Board.**

The proposed reconstruction of the Board with a strengthened lay membership majority is welcomed by **the ICHN** in view of the purpose of the legislation is protecting the public and enhancing patient safety. However, the proposed nursing and midwifery membership of the Board is a concern. The emphasis, on the reconfiguration of the health system towards primary care has significant implications for the membership of the Board. If the public interest is to be served the membership of the board needs to be reflective of the nurse and midwife health professionals who will work in primary care. It is important that the membership of the Board is sufficiently flexible and responsive to an evolving health care system.

**The ICHN** is of the view that the composition of the Board should include at a minimum two public health nurses and one community registered general nurse. Expertise in the field of practice is important for membership of the Board. Equally important is that

Board members are appointed and not elected.<sup>2</sup> **The ICHN** supports the appointment process as it ensures a spread of skills and experience. The election of board members can be ‘hit and miss’ based on popularity and not ability. Board members must be equipped to make decisions in the best interests of the public.

#### **Section 24. 4: Committees of the Board.**

One of the main functions of the Board is to ensure that nurses and midwives are appropriately qualified and competent to practice in order to protect the public. **The ICHN** is of the view that the Education and Training committee should be established on a statutory basis for the following reasons:

- The practice of nursing is continuing to evolve to include more sophisticated patient care activities. In order to protect the public and assure the appropriate education of those entering the profession, undergraduate and postgraduate nursing and midwifery curricula, standards and requirements should be reviewed regularly and published in a timely manner. A statutory Education and Training committee would provide a clear legal authority dedicated to the promotion of high standards of professional education and training for practice in primary care and acute care settings.
- In light of the proposed dissolution of the National Council for the Professional Development of Nursing and Midwifery, a gap exists in relation to professional

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<sup>2</sup> Moi, A. (2008) The future shape of healthcare regulation and the role of lay members *Quality in Primary Care* (16), 4 p.259-62.

development. The establishment of a statutory Education and Training committee could fill this deficient.

- The emphasis on primary care by the Department of Health and Children and the Health Service Executive has significant implications for An Bord Altranais in terms of facilitating its effective implementation. **The ICHN** is firmly of the view that the current regulatory process work wells within traditional health care models that focus on acute care. Moreover, this model assumes the presence of an adequate workforce, appropriate supervision and sufficient resources.<sup>3</sup> The public will seek evidence from An Bord Altranais in terms of the preparation of nurses and midwives to meet the health needs of individuals in primary care. Closely linked to this is the need to examine the capacity of primary care to provide students with the necessary experience that is required to work effectively in this setting. Nursing regulation requires timely and thoughtful responsiveness to the evolving marketplace. A statutory Education and Training committee is essential to respond to an evolving health care environment.
- Nursing regulation should use evidenced-based standards of practice, demographic and social research in its mission to protect the public. A statutory Education and Training committee would undertake these activities and guide the actions and decisions of An Bord Altranais in this regard.

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<sup>3</sup> Morrison, A (2009) Primary health care and its impact on nursing regulation Guest Editorial International Council of Nurses.

## **Section 28 .6: Chief Executive Officer**

**The ICHN** is particularly concerned about Section 28 subsection 6 which states “that the chief executive officer shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy”.

This places a restriction, on the chief executive officer of An Bord Altranais from commenting in public on Government policy. This provision is at odds with the primary function of the Board, which is the protection of the public. A similar restriction does not apply to the chief executive officer of the Medical Council or the chief executive officer of the Allied Health Professional Council.

**The ICHN’s** position is that this is an unacceptable restriction. Nursing regulation requires collaboration with individuals and professional bodies in the interests of the public. The involvement of nurses in nursing regulation is essential to the protection of the public. Nurses and midwives have been witnesses to the greatest failures in the health system to protect the public. That the chief nursing office of the Board is restricted from commenting on any policy that ultimately exists for nurses and midwives to protect the public is impossible to reconcile with building a culture of patient safety.

## ***Part 6: REGISTRATION AND PRACTICE***

### **Section 46. 1 (b): Candidate Register**

The definition of “candidate” provided in the interpretation section “means a person who is following a course of education or a period of adaptation leading to first time registration with the Board”. Clarification is required as to who exactly will be registered on the Candidate Register. For example, does the Candidate Register, apply to student public health nurses, who following successful completion of a course of education are eligible to register in the Public Health Nurse division of the Register. The ICHN is of the view that “entry of names on the Candidate Register should apply to those nursing and midwifery and public health nurse students undertaking a course of education leading to professional registration

### **Section 51: Registration in AMP/ ANP Posts Register.**

This section provides for the registration of advanced nurse practitioner posts and advanced midwife posts where the Health Service Executive (HSE) or other service provider applies and where the post meets the standards and criteria specified by the Board. It also provides for the removal of posts where, the HSE or service provider applies to have a post removed where, or the post no longer meets the standards or criteria specified. **The ICHN** is of the view that section 51 must be amended. **The ICHN** position is that membership of the advanced nurse register should not be tied in any way to employment status. This requirement fails to take account of the role of health professional entrepreneurs in the workforce. Other health professionals, such as doctors, psychologists, dentists, podiatrists, physiotherapists and occupational therapists, work as

entrepreneurs running their own practices and employing staff. Such opportunities must also be available to advanced nurse practitioners in primary care. To legislate otherwise is unprecedented in this jurisdiction and elsewhere. **The ICHN** wishes to draw the attention of the Oireachtas to the development, in other countries, of advanced practice in nursing and midwifery, where the regulatory bodies have no responsibility for the approval of posts. The role of the regulatory body relates solely to the eligibility of the individual to be included in the relevant division of the Register.

#### ***PART 10: EDUCATION AND TRAINING***

##### **Section 87: Duties of Board in relation to education and training of nurses and midwives.**

The ICHN is the professional body representing Public Health Nurses (PHN's) and Community Registered General Nurses (RGN's), working in primary care. By virtue of this mandate **the ICHN** wishes to comment on this head of Bill. Preparing tomorrow's healthcare professionals is an important duty of the Board. Community based care is a key component of the government's agenda for the reconfiguration of the health services. For example, the requirements and standards stipulated by the Board for registration in the general and midwifery divisions of the register must include greater exposure to community based nursing. No change to the current curriculum is not, an option for the reconfiguration of the health services towards primary care.<sup>4</sup> **The ICHN** is of the view

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<sup>4</sup> Supra 1 at 233.

that the Board must drive the changes to the education and training of nurses and midwives that are now necessary to support the agenda of the Health Service Executive.

## **PART 11: MAINTAINENCE OF PROFESSIONAL COMPETENCE.**

### **Section 91: Duty of the Board in relation to maintenance of professional competence of registered nurses and midwives.**

**The ICHN** very much welcomes the proposed introduction of a professional competence scheme as a necessary prerequisite to the delivery of a high quality and a sustainable health service. **The ICHN** is of the view that, a robust mandatory competence scheme is necessary. **The ICHN** wishes to make the following comments, in relation to this very important opportunity, to put in place a scheme that will ensure that nurses and midwives are maintaining their standards of professional competence in their practice.

- The duty of the board, in section 91 subsections (1), (2) and (3) of the Bill, is totally inadequate, to ensure patient safety and to deliver the quality improvement that is required to protect the public. In order to foster public trust and confidence, in the practice of nurses and midwives, registration should be linked to compliance with professional competence within explicit timeframes. In advance of the introduction of the legislation, the Board should progress urgently the development of a framework for professional competence in consultation with all nursing and midwifery professional bodies. Section 91 fails to make explicit how the Board will satisfy itself regarding the maintenance of professional competence.

- The requirement to consult, and get the approval of, the Minister for Finance, with regard to professional competency schemes, is not a requirement, in the Medical Practitioners Act, 2007 or any other similar legislation.

**Section 92: Duty of employers in relation to maintenance of professional competence of registered nurses and midwives.**

This section is vague as to who is responsible to make professional development happen for nurses and midwives. It suggests that nurses/midwives can, make do with workplace learning opportunities, as a substitute for planned continuing professional development. In the context of the primary care sector, the workplace learning environment is informal with limited structures in place to enable and facilitate public health nurses and community registered nurses to engage in professional development. Therefore, **the ICHN recommends** mandatory or minimum continuing professional education, which is directly linked to the practice of nursing in primary care.

***PART 12: DISSOLUTION OF THE NATIONAL COUNCIL FOR PROFESSIONAL DEVELOPMENT OF NURSING AND MIDWIFERY***

**Section 95: Dissolution of Council.**

The ICHN wishes to recognize the positive role of the National Council in promoting and developing the professions of nursing and midwifery. The ICHN also recognizes that, to date, the work of the Council has focused on developing roles for nurses and midwives in the acute sector and wishes to express its concern that parallel roles in primary care have still not been developed to the same extent. **The ICHN's position is that,** if the

dissolution of the Council is essential, then An Bord Altranais is the body most appropriate to assume the full functions of the Council.