



ACN

Quality Health Care for all Refugees and Asylum Seekers

Position Statement

14 October 2015

Key Statement

The Australian College of Nursing (ACN) is committed to the protection of the health, welfare and dignity of refugees and asylum seekers and their children. The provision of health care that effectively meets peoples' health care needs is an important component of the protections afforded by human rights. ACN believes that all refugees and asylum seekers should receive quality holistic health care that addresses their physical and mental health needs and which includes health promotion and illness prevention. Access to comprehensive health care should be available regardless of visa status and whether refugees and asylum seekers are living in on-shore or off-shore immigration detention centres or in the community. The standards of health care that providers of health services for refugees and asylum seekers work to should be publicly available as should be performance data on health outcomes achieved. ACN considers external scrutiny of standards of health care in immigration detention to constitute an additional safeguard for the quality of care refugees and asylum seekers receive. Refugees and asylum seekers are vulnerable populations of great cultural diversity. Important to ensuring access to quality health care for refugees and asylum seekers are health professionals reaching out to these populations, acquiring an understanding of cultural diversity and the particular health needs of each group.

Background

The Australian Human Rights Commission defines an asylum seeker as "a person who has fled their own country and applied for protection as a refugee and is unable or unwilling to return due to a well-founded fear of persecution because of their race, religion, nationality, membership of a particular social group or political opinion" (Australian Human Rights Commission 2013).

ACN is concerned that some asylum seekers' access to Medicare eligibility is linked to their visa status which may leave them without access to health care that is free of charge. Further, refugees and asylum

seekers in immigration detention, including community detention, cannot choose their health care provider or influence the type and/or quality of care they receive (Victorian Refugee Health Network 2013).

Underpinning ACN's commitment to ensuring quality of health care for all refugees and asylum seekers are the following ethical, professional and legal considerations:

Ethical and professional considerations

- The Nursing and Midwifery Board of Australia's (NMBA) *Code of Ethics for Nurses in Australia* (2013a) recognises "the universal human rights of people and the moral responsibility of nurses to safeguard the inherent dignity and equal worth in everyone".
- ACN considers refugees and asylum seekers to be populations vulnerable to dehumanisation and its consequences, such as stigma, discrimination and exclusion (Johnstone 2016). For this reason ACN considers that the nursing profession has a moral obligation to protect refugees' and asylum seekers' human rights, including their right to quality health care.
- ACN believes that any detention of children in immigration detention centres is in contravention of Australia's responsibilities under the United Nations' convention on the Rights of a Child (ACN 2014).
- ACN believes that the environment in which asylum seekers and refugees reside should protect and preserve their physical and mental health.
- ACN strongly believes that nurses who work with refugee and asylum seeker populations must be able to observe the NMBA's *Code of Ethics* and *Code of Professional Conduct for Nurses in Australia* in their practice (Assiri 2014, NMBA 2013b, Zion, Briskman & Loff 2009) if quality of care is to be assured.
- ACN believes that ongoing professional development should be available to support nurses in their delivery of quality care to refugee and asylum seeker populations who commonly experience complex health and social needs.

Legal considerations

- Australia has signed a number of international treaties and covenants which oblige Australia to protect refugees and asylum seekers. Access to quality healthcare is a right afforded to all Australians by law and according to these international treaties this right extends to asylum seekers and refugees both living in immigration detention and in the community. The specific treaties/covenants Australia is a signatory to are as follows:
 - The UN Refugee Agency (UNHCR) Convention and Protocol Relating to the Status of Refugees signed by Australia in 1954 and 1973 respectively (United Nations High Commissioner for Refugees (UNHCR), 2011). This convention commits Australia to respect the rights of refugees and uphold the obligations set out in the treaty. One such obligation arises from Article 23 of this convention which states “The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals (United Nations General Assembly 1951)”
- Australia is a signatory to the covenants below which constitute part of the international principles and standards framing the NMBA's *Code of Ethics*.
 - The International Covenant on Civil and Political Rights which was signed by Australia in 1972. Article 26 of this Covenant states that “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (United Nations General Assembly 1966a)”
 - The International Covenant on Economic, Social and Cultural Rights was ratified by Australia in 1975. Article 12 of this Covenant notes that: “the States Parties to the present Covenant recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (United Nations General Assembly 1966b)”.
- Further, Australia has legal obligations to specifically protect the rights of children (Australian Human Rights Commission 2012). Article 6 of the Convention on the Rights of a Child which was accepted by the United Nations General Assembly in 1989 and ratified by Australia in December 1990 notes that “States Parties recognise that every child has the inherent right to life and that States Parties shall ensure to the maximum extent possible, the survival and development of a child (United Nations 2016)”

Rationale

This section enlarges the considerations informing ACN's position on the provision of quality health care to refugees and asylum seekers living in immigration detention or the community.

Refugees and asylum seekers tend to have significant and unique health concerns. Refugees and asylum seekers arriving in Australia have often come from warzones (Phillips et al. 2011) and environments where

the provision of health care differs to that in Australia or is limited in its availability (Lamb & Smith 2002). They face unique and complex health challenges that often amount to considerable health burdens (Milosevic, Cheng & Smith 2013, Phillips et al. 2011) These burdens tend to arise, among others, from psychological issues, nutritional deficiencies, oral health status, mental health status, under-immunisation, poorly managed chronic disease and physical consequences of torture or sexual abuse. Nurses and health care providers, with the support of their employing health services, need to tailor services to take account of the difficulties experienced by refugees and asylum seekers (Milosevic, Cheng & Smith 2013). An important part of such tailoring is the provision of interpreter services.

ACN believes that governments should support quality health care for refugees and asylum seekers by establishing guidelines for their health care at a national level. These guidelines should address the assessment of requirements for refugees and asylum seekers with regard to primary health care and mental health care.

In ACN's view the physical and mental health care of refugee and asylum seeker children deserves particular attention as the early years of a child's life lay the foundations for his or her future growth, development and happiness. Psychosocial trauma, lack of health care and lack of appropriate education during childhood are known to have negative impacts on a child's social, emotional, cognitive and physical development. For this reason, it is imperative that children accompanying refugees and asylum seekers are provided with positive social and physical environments. Refugee and asylum seeker children should have access to early childhood health care and education delivered by professionals who specialise in the health care and education of children (ACN 2014).

Nurses working with refugees and asylum seekers

ACN is strongly of the view that any government rules and regulations pertaining to refugees and asylum seekers and/or the nurses involved in their care must not interfere with nurses' obligations under the NMBA's *Code of Ethics* (2013a) and *Code of Professional Conduct* (2013b). Such non-interference is fundamental if the quality of care and protection of refugees' and asylum seekers' other human rights is to be assured.

Nurses need to be supported with appropriate professional development to enable them to deliver quality care. Nurses working with refugee and asylum seeker populations practice in environments of considerable medical, cultural and social complexity and provide care to members of ethnic and cultural groups new to Australia who often present with unfamiliar disease profiles. For this reason nurses working in these settings should be assisted through access to education that addresses the specific health, cultural and social needs of refugee and asylum seeker populations. Further, these nurses should be supported to acquire and maintain the strong clinical skills covering care across the lifespan they require (Carrigan 2014, New South Wales Health (NSW) 2011)

Reviewed	March 2017
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