Australian College of Nursing (ACN) feedback to the review of the Victorian *Drugs, Poisons and Controlled Substances Regulations 2006*

ACN supports regulatory reform that seeks to enable registered and enrolled nurses to work to their full scope of practice in order to promote health care efficiency, improve service access and to strengthen health care quality and safety measures. ACN acknowledges the importance of the Victorian *Drugs, Poisons and Controlled Substances Regulations 2006* in providing for public health protection with regard to the possession and supply of drugs, poisons and controlled substances and provides the following comments in relation to the review.

1. Harmonisation of jurisdictional legislation for safe practice

Promoting legislative consistency

ACN believes that any general review of regulations governing drugs, poisons and controlled substances, should consider issues of national consistency. While variation between legislative arrangements may not be extensive across jurisdictions, the review of a regulation provides an opportunity to analyse the impact of any gaps. Consistency in terminology, for example, may promote clarity in the identification and defining of roles and responsibilities stipulated within legislation. Exploring variations across jurisdictions could lead to the adoption of more uniform terminology relating to the supply, prescribing, administration and use of drugs, poisons and controlled substance by health professionals and could effectively support safer health care practises amongst the highly mobile health care workforce.

While the Victorian *Drugs, Poisons and Controlled Substances Regulations 2006* (the Regulations) may not require amendment in these areas, the inter-jurisdictional engagement could prompt other states and territories to align their relevant Acts and corresponding regulations. As each jurisdiction has its own laws relating to medicines, poisons, drugs or controlled substances, there is potential for health professionals working between states and territories to be unaware of legal variations in their practice requirements. Notwithstanding the onus on all health professions to familiarise themselves with the range of legislation impacting their practice, legislative alignment where appropriate could minimise unintentional breaches of legislated requirements.

Regulatory barriers to utilising the nurse workforce

Regulatory barriers to optimising the use of the nurse workforce should also be explored as part of the review of the Regulations. The case of nurse immunisers demonstrates how regulatory variability across states and territories can be an impediment to nurse workforce mobility and therefore workforce flexibility across state and territory boundaries.

The states and territories approve registered nurses to administer specified vaccinations via the mechanism of drugs and poisons legislation and regulation. Under these legislative arrangements, the Secretary of the state or territory's Department of Health or their delegate may approve certain nurse immuniser programs of study. There is no automatic recognition of authorisation to administer vaccines outside of the state or territory where the authorisation was originally obtained rather, jurisdictional requirements must be met for authorisation to be granted (Department of Health Victoria, 2014 (a)). Nurses wishing to practice as 'authorised nurse immunisers' in that jurisdiction must complete one of the specified courses. The lack of consistency across relevant legislation and regulation with regard to

immunisation education for nurses has a clear impact on nurse workforce mobility, although the extent of this impact is unknown because relevant data is not collected.

Nurse immunisers qualified in one state or territory may face lengthy waits or high costs to become recognised in another state or territory even though they have already completed the relevant education, including annual updates, and in many cases have years or decades of immunisation practice. Nurses may experience delays in the commencement of their employment or may be forced to seek employment in another field of nursing (see Case Study: Alison's story below). This hampers the movement of nurse immunisers, translates to lost productivity, and may impede efforts to achieve high rates of immunisation in a jurisdiction.

According to the Victorian Department of Health, pursuant to regulation 6 and 5(3) of the *Drugs, Poisons and Controlled Substances Regulations 2006* the following approval applies to nurses immunisers in Victoria:

> ***Approval under regulation 5(3) Drugs, Poisons and Controlled Substances Regulations 2006***
> ***The approval applies to:***
> *A nurse who is registered in Division 1 of the Nursing and Midwifery Board of Australia register who provides evidence to the employer of currency of competence and ongoing professional development in immunisation and who:*
> • *On 30 June 2010 was registered in division 1 of the register of nurses endorsed under section 27A of the Health Professions Registration Act 2005 by the Nurses Board of Victoria in the approved area of practice – Immunisation*
> *Or*
> • *Has satisfactorily completed the assessment of a nurse immuniser program recognised by the Chief Health Officer (see Note 1)*
> *Or*
> • *Has satisfactorily completed a nurse immuniser program not recognised by the Chief Health Officer and has written confirmation from the program provider that at the time the program was completed, it was of equivalent standard to a program currently recognised by the Chief Health Officer.*
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> ***Note 1*** *- For the nurse immuniser programs recognised by the Chief Health Officer see Nurse Immuniser information* (Department of Health Victoria, 2014 (a))

Case Study: Alison's story

After completing a nurse immuniser course in Western Australia (WA) in 2010, Alison worked as a nurse immuniser in Broome for several years. She was heavily involved in setting up childhood immunisation clinics in rural and remote areas of WA to provide immunisations to people who would not otherwise have access to this service.

In 2013, Alison relocated to Geelong, Victoria where she wished to apply for recognition of prior learning for the course she needed to complete in order to become an 'authorised nurse immuniser' in Victoria. The Victorian education institution that she approached informed her that her WA immunisation course was not recognised in Victoria because it had not been approved by the Victorian Department of Health. Therefore, in order to become a nurse immuniser in Victoria, Alison would be required to complete the Victoria nurse immuniser course, at a cost of $2000. The particular course Alison found has only two intakes per year, one of which Alison had just missed. As a result, Alison

realised she would not be able to work in Victoria as a nurse immuniser for almost a year because she would need to wait for the next intake and then successfully complete the course.
As Alison could not afford to wait for a year to become an approved nurse immuniser in Victoria, she was forced to seek employment in a different field of nursing. As a result, Victoria missed out on Alison's skills, knowledge, expertise and passion for immunisation.

The variability in requirements for immunisation education and authorisation will remain a barrier to nurse workforce mobility unless state and territory governments implement a common approach to the regulation of nurse immunisers.

2. Medication administration

ACN notes that the Victorian *Drugs, Poisons and Controlled Substances Act 1981* (the Act) requires registered nurses (RNs) to *manage* the administration of medicines in residential aged care. Under this arrangement, the Department of Health advises that personal care workers with appropriate medication administration training may be competent to administer medicines to high care residents under the supervision of an RN (Department of Health Victoria, 2014 (b)). The Department stipulates "*Personal care workers with appropriate medication administration training may be competent to administer medicines with appropriate supervision arrangements as determined by the managing Registered Nurse. If a nurse judges that a personal care worker is not appropriately qualified to administer to a 'high care' resident they would administer the medicines themselves*" (Department of Health Victoria, 2014(b)). ACN cautions against any moves to amend the Victorian Regulations as a means to providing further scope for unregulated health care workers (personal carers workers) to be able to administer drugs to patients, residents or people in the community under their care. Suitably qualified registered health practitioners are the only persons who should be eligible under law and regulation to administer medications.

ACN holds the view that registered nurses should delegate medication administration functions only to other nurses including enrolled nurses under their direct or indirect supervision. The administration of medicines by unqualified staff presents a significant risk to residents and patients' safety and should not be allowable. Furthermore, we note that there are also safety risks in permitting unregistered personal care workers who have undertaken medication administration training to administer medications, a practice that is permitted in some aged care settings. Currently, there are no national regulatory requirements to ensure personal care workers maintain medication administration competence. This presents a significant safety risk in the aged care sector that is increasingly challenged by poor workforce supply. Ensuring personal care workers are competent in medication administration may not always be possible in circumstances where services experience ongoing staffing pressures. ACN would ardently oppose any proposal that seeks to further enable persons, other than registered health professionals, to participate in the administration of medications in Victoria, as any such change would present a significant risk to public safety.

3. Related issues

ACN members have identified that the current arrangements for approving drugs and medicines for Nurse Practitioner notation categories under section 14A of the Drugs, Poisons and Controlled Substances Act 1981 (the Act) present a limitation to their scope of practice. ACN raises these concerns in the context of

the review of the Regulations with the view that there may be an avenue for change through this review cycle. Under the Act, the Health Minister has the power to determine the circumstances in which a registered nurse or class of registered nurse, such as nurse practitioners, may use, sell or supply medications. ACN notes that this provision creates a very high level of authority to direct a key aspect of the clinical practice arrangements of some nurses. ACN does not agree that this is a pragmatic arrangement particularly given the stringent clinical governance arrangements that determine the scope of practice of nurse practitioners. ACN recommends that the Victorian State Government gives consideration to broadening provisions to expand the scope of practice of registered nurses relating to the use, sale or supply of medications.

ACN's membership includes nurse practitioners who have stated that this provision within the Act causes limitations to their scope of practice. For example, ACN is advised that the scope of practice of a nurse practitioner working in a community refugee health service is significantly limited by the exclusion of Tuberculin (Tubersol) on the approved list of drugs and medicines on the *Nurse practitioner category – primary care*. The nurse practitioner states that this exclusion prevents refugee health nurse practitioners (RHNPs) from providing Mantoux skin tests as recommended for newly arrived refugees and asylum seekers and is a barrier to utilising their full scope of practice. Currently, RHNPs require a medical practitioner's order to administer Tuberculin each time the RHNP assesses a new refugee. This effectively reduces the efficiency and capacity of the health service. ACN encourages dialogue within the Department of Health & Human Services to consider options for addressing barriers to nurse practitioner practice that could be achieved through the Regulations.

4. Specific comment – oral instructions for drug administration

ACN members have also indicated that there is a high degree of variation in the application of the Regulations at the local service level particularly in relation to medication record keeping. This issue requires further examination and it is recommended that the next stage of the consultation process actively seek input form Victorian nurses at the local service level in a manner that will garner appropriate feedback. One example of where there is scope for variation in record keeping is under Section 47 that does not stipulate a timeframe within which a written transcription of an oral instruction for drug administration should be made. The Regulations stipulate the person who issues the oral instruction must confirm those instructions "as soon as practicable". Consideration should be given to revising this requirement to set a timeframe within which the written transcription must be made. Nurses are accountable for the drugs they administer and it is essential that written confirmation of an oral drug order is recorded in a timely manner to ensure accurate records can be maintained. Time delays can risk the integrity of the written transcription potentially professionally compromising both the administering nurse and the prescriber.

References

Department of Health Victoria. *Immunisation*. 2014. Viewed on 24/04/2014. <http://www.health.vic.gov.au/immunisation/nurse-immuniser-information.htm#secapproval>

Department of Health Victoria. *Drugs and Poisons Regulation in Victoria*. 2014. Viewed on 25/05/2015. <http://www.health.vic.gov.au/dpcs/agedcare-faq.htm>