

GRADUATE FACT SHEET:

EARLY CAREER NURSES AND MIDWIVES AND NOTIFICATIONS

1. Who is the Nursing and Midwifery Board of Australia?

The [Nursing and Midwifery Board of Australia](#) (NMBA) is responsible for regulating registered nurses, enrolled nurses and midwives in Australia in accordance with the Health Practitioner Regulation National Law Act 2009 (National Law). Together with [Australian Health Practitioner Regulation Agency](#) (Ahpra) the NMBA maintains the Register of nurses and the Register of midwives and set the standards for the professions including registration standards, codes, guidelines and statements which govern nursing and midwifery practice. When a person is registered as a nurse or midwife, their name appears on the Register of nurses and/or the Register of midwives.

2. Who is the Australian Health Practitioner Regulation Agency?

The [Australian Health Practitioner Regulation Agency](#) (Ahpra) is the overarching agency that supports the functions of the 15 national health profession boards, including the NMBA that regulate 16 health professions.

3. What is a notification?

A notification is a complaint made about a health practitioner to a National Board, including the NMBA. A notification can be made when there is a concern identified about a nurse or midwife. The concern could be about a health issue that is affecting a nurse or midwife's ability to safely practice or a conduct or performance issue.

Under the National Law there are two types of notifications, voluntary and mandatory. They are defined as the following:

- voluntary notification: anyone can make a voluntary notification about a health practitioner.
- mandatory notification: under the National Law, registered health practitioners, employers and education providers must make a mandatory notification in some limited circumstances. There are four concerns that may trigger a mandatory notification, these are:
 - impairment
 - intoxication while practicing
 - significant departure from accepted professional standards and
 - **sexual misconduct.**

State and Territory regulatory arrangements

As identified on the Ahpra website, any person or organisation can raise a concern about a nurse or midwife and for most states and territories, these concerns are assessed and managed by Ahpra and considered by the NMBA. Queensland and New South Wales have different arrangements when concerns regarding a health practitioner are made.

In New South Wales two state regulatory agencies take concerns regarding a student or registered health practitioner in relation to a health, conduct or performance matter. These are:

- The [NSW Health Professional Councils Authority](#) via its website or by phoning 1300 197 177 (if your query is about a medical practitioner or student in NSW, phone (02) 9879 2200), or
- The [NSW Health Care Complaints Commission](#) via its website or by phoning 1800 043 159 or (02) 9219 7444.
- Mandatory notifications about a health practitioner or student are made directly to Ahpra

In Queensland the [Office of the Health Ombudsman](#) (OHO) can be contacted via its website or by phoning 133 OHO (133 646) in the first instance. The OHO determines whether to manage the notification or refer the notification to Ahpra/relevant National board.

Ahpra available resources

Concerns about practitioners: <https://www.ahpra.gov.au/Notifications.aspx>

Practitioner support services: <https://www.ahpra.gov.au/Notifications/Further-information/Practitioner-support-services.aspx>

4. How can you minimise the risk of having a notification being made about you?

To assist in preventing a notification nurses and midwives should:

- Understand and incorporate the NMBA standards for practice, codes, guidelines and frameworks relevant to their registration and apply these to their daily practice;
- Understand and incorporate the NMBA Decision-making framework for nursing and midwifery in relation to issues such as delegation, supervision and scope of practice;
- Be clear about the expectations of professional boundaries for nursing and midwifery in relation to issues such as conduct, performance and therapeutic relationships;
- Understand the National Law's mandatory notification requirements;
- Understand and incorporate legislation and regulation relevant to your practice, e.g. medicines;
- Comply with organisational policy and procedure; and
- Document and communicate comprehensively:
 - Document effectively and contemporaneously
 - Document clinical incidents and complaints
 - Document workplace health and safety incidents
 - Complete workload forms when required
 - If issues or concerns aren't dealt with to your satisfaction, ensure you can demonstrate that you have escalated the issue until it has been taken up by an appropriate person within the organisation e.g. a line manager. The reporting person should also make sure they follow up with that line manager regarding any investigation and outcomes of their concern.

5. What happens if a notification is made about you?

The following process refers to that of the NMBA acknowledging that New South Wales and Queensland also have other arrangements in place. Please refer to the relevant links provided above for more information on these jurisdictions.

When a notification is made about a health practitioner the notification is assessed by Ahpra to determine whether it meets the threshold for a notification under the National Law and whether there is a risk basis for regulatory action by the NMBA. This process occurs regardless of the length of service of the health practitioner. A notification made about an early career nurse or midwife will follow the same processes as a notification made about any other nurse or midwife.

The initial phase of this process is an assessment of the notification which can take up to 60 days. During this period Ahpra on behalf of the NMBA will contact the notifier (the person who has made the complaint) but not always the nurse or midwife concerned in the initial stage. The assessment will focus on whether the:

- conduct or behaviour of the nurse or midwife appears to have been below standard
- health of a nurse or midwife is impaired to the extent that they might not be making safe decisions for their patients
- reflections and actions of a nurse or midwife in response to an event notified are appropriate, responsible and professional, and
- a nurse or midwife is able to be supported by a workplace to ensure ongoing safety of their practice.

If the notification raises concerns of high risk to the public (as determined by Ahpra/NMBA):

- that has not been appropriately managed or cannot be managed without regulatory intervention, or
- if there are a series of concerns that represent a pattern of behaviour

then the NMBA may take immediate protective action while an investigation occurs. Immediate action could result in the nurse or midwife having their practice restricted.

After a process of investigation into the issues that have been raised, which includes providing the nurse or midwife natural justice to provide their response to any allegation, all information will be considered. The NMBA may decide on a number of different actions including:

- closing the matter
- issuing a caution, entering into an undertaking or imposing conditions (for example blood alcohol testing before commencement of a shift, undertake a course in medication safety, undertake a period of supervised practice or not provide care to a person under the age of 18)
- referring the matter for further investigation
- referring the nurse or midwife for a health or performance assessment
- referring the nurse or midwife to a health panel/health assessment

At completion of the assessment the person who raised the concern will be notified of the outcome as well as the nurse or midwife.

What is a health assessment?

The NMBA may require a nurse or midwife to undergo a health assessment during a notification process if they reasonably believe they have or may have an impairment. This can include medical, psychiatric or psychological tests to determine if there is an impairment that detrimentally affects the nurse or midwife's ability to practice their profession. This is carried out by health practitioners selected by the Ahpra/NMBA.

The health assessment report will be considered against the matters raised in the notification and can lead to one or more of the following;

- no further action
- refer to a performance assessment
- refer to investigation
- refer to a health panel
- refer to a tribunal
- impose conditions on a nurse or midwife's registration
- accept an undertaking from the nurse or midwife
- caution the nurse or midwife

What is a performance assessment?

A nurse or midwife may be referred for a performance assessment during the notification process if the NMBA considers the way they practice the profession to be unsatisfactory, that is "the knowledge, skill or judgment possessed, or care exercised by, the practitioner in the practice of the health profession in which the practitioner is registered is below the standard reasonably expected of a health practitioner of an equivalent level of training or experience."¹

A performance assessment can be completed in varying ways and will be dependent on the reason for the notification.

Once the performance is completed and a report is written, a person nominated by the Ahpra/NMBA will meet with the nurse or midwife to discuss the recommendations in the report. The meeting provides an opportunity to discuss ways to manage and address the issues, which may include proposals for upskilling, education, mentoring or supervision.

¹ AHPRA (2019) Performance Assessments. Accessed on 13 August, 2021: <https://www.ahpra.gov.au/Notifications/Further-information/Guides-and-fact-sheets/Performance-assessments.aspx#:~:text=A%20performance%20assessment%20is%20an,strengths%20as%20well%20as%20deficiencies>

The NMBA will then make a decision about what happens next which can include;

- take no further action
- investigate the nurse or midwife
- refer the matter to a performance and professional standards panel
- impose conditions on/accept an undertaking from the nurse or midwife
- require the nurse or midwife to undergo a health assessment
- caution the nurse or midwife
- refer the matter to a tribunal, or
- refer the matter to another entity (such as a health complaints organisation).

6. Being prepared.

Where a complaint or notification is made, the notification process usually involves the individual practitioner being contacted by a representative from Ahpra by telephone to advise that they have received a notification. The Ahpra investigator who is allocated the case will confirm relevant details and working status.

Ahpra will then send a letter requesting documents under s164G of the Health Practitioner Regulation National Law (also known as the National Law). These documents include a:

- Curriculum Vitae ('CV'). A copy of the NSW NMC guide to a CV can be found here: https://www.nursingandmidwiferycouncil.nsw.gov.au/sites/default/files/nmc_cv_guidelines_-_may_2018_version.pdf
- Continuing Professional Development ('CPD') record for two registration years. Many practitioners rely on their employer to keep a CPD record for them, however it is part of your professional obligations to maintain an accurate CPD record for yourself.

The NMBA provide a fact sheet, guideline and registration standard for your CPD which can be found on their website at: <https://www.nursingmidwiferyboard.gov.au/Codes-Guidelines-Statements/FAQ/CPD-FAQ-for-nurses-and-midwives.aspx> An example of the CPD table is 'Appendix 1' to the Fact Sheet.

Ahpra/NMBA may also ask for an information declaration – this is a form which will be provided to you with the letter of notification.

A response or reflection to the complaint/notification. It is recommended that this be a reflective response on the clinical issues that are raised in the complaint/notification.

Ahpra/NMBA may also seek other documents depending on whether the complaint/notification relates to health, performance or conduct. Ahpra/NMBA are looking for insight, reflection and training when dealing with complaints/notifications.

7. When should you get support from your member organisation?

You are encouraged to contact your union, professional organisation and/or Professional Indemnity Insurance Provider as soon as you are able after receiving a notification. They are experienced in supporting nurses and midwives going through a notification process. They can provide support, resources and access to the legal advice required.

8. Looking after your wellbeing and support networks available.

Having a notification about you made to Ahpra/NMBA can be stressful. Nurses and midwives who have experienced the process of a notification have described feeling an array of emotions that you may feel, from being overwhelmed, scared, angry, concerned about your future career, money and some have even experienced shame.

Ahpra has provided a number of short clips for health practitioners to view in assisting to understand how other practitioners have experienced a notification process. These are available [here](#).

It is important that you reach out to your union, professional organisation and colleagues or the independent, [Nurse and Midwife Support](#) service to enable you to talk about your concerns and enable these organisations to support you when you need it most.

National Early Career Nurse and Midwife Roundtable Working Group

The National early career nurse and midwife roundtable working group is made up of over 23 different nursing and midwifery organisations, including, universities, professional organisations, unions, state and territory health departments and individuals who collaborate together for a common goal.

For further information please contact: anmffederal@anmf.org.au