



*Review of the English language
skills registration standards*

Submission to the
Nursing and Midwifery Board of Australia

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Queensland Nurses' Union
106 Victoria St, West End Q 4101
GPO Box 1289, Brisbane Q 4001
P (07) 3840 1444
F (07) 3844 9387
E qnu@qnu.org.au
www.qnu.org.au

The Queensland Nurses' Union of Employees ("QNU") thanks the Nursing and Midwifery Board of Australia ("NMBA" and "Board") and The Australian Health Practitioner Regulation Agency ("AHPRA") for providing the opportunity to comment on the review of the English language skills registration standard ("Standard").

The QNU - the union for nurses and midwives - is the principal health union in Queensland. Nurses and midwives are the largest occupational group in Queensland Health and one of the largest across the Queensland government. The QNU covers all categories of workers that make up the nursing workforce in Queensland including registered nurses, registered midwives, enrolled nurses and assistants in nursing who are employed in the public, private and not-for-profit health sectors including aged care.

Our more than 50,000 members work across a variety of settings from single person operations to large health and non-health institutions, and in a full range of classifications from entry level trainees to senior management. The vast majority of nurses in Queensland are members of the QNU.

The QNU promotes and defends the industrial, professional, social, political and democratic values and interests of its members.

Our submission addresses some of the questions set out in the public consultation paper as it relates to nurses and midwives and the NMBA. The QNU does not have any particular comments to make in regards to the standard for other registered professions.

We refer to the public consultation paper for the English Language Skills Registration Standard ("Revised Draft Standard") released for public consultation by AHPRA in October 2013. As AHPRA would be aware, the QNU has raised issues with AHPRA and the NMBA on various occasions in the past regarding the current and previous versions and drafts of the Standard. The QNU also provided a very detailed submission regarding the Standard in December 2010, and many of the concerns expressed in that submission remain current and relevant. A copy of this submission may be furnished for you upon request.

The QNU remains concerned with the harsh and unfair impacts the current Standard has had on applicants for registration with the NMBA, and we are concerned that the Revised Draft Standard does not remedy all of our concerns. The QNU is pleased that AHPRA and the NMBA have taken note of some of the issues raised by the QNU and other stakeholders and registrants, and determined to review the English Language requirements for registration.

Yours sincerely



Des Elder
Acting Secretary

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Executive Summary

The QNU recommends the following:

- A. The Standard should allow the NMBA the discretion to consider evidence other than, and in addition to, English language examinations approved by the NMBA.
- B. The QNU supports the expansion of the list of recognised countries to include countries where English is one of the official languages including the countries mentioned in the consultation paper, and submits that South Africa should continue to be a recognised country.
- C. The QNU also submits that instead of an expanded list of recognised countries, a fairer criterion would be whether an applicant has completed a combination of 5 years of tertiary, vocational and secondary education taught and assessed in English in *any* country. If the NMBA is not minded to change the Standard in this way, the QNU submits that the list of recognised countries should be expanded to include other countries where English is one of the official languages.
- D. The prerequisite that scores on the English language examinations approved by the Board be achieved in “one sitting” should be removed from the Revised Draft Standard.
- E. The NMBA should undertake an English language needs analysis of the practical vocational English language requirements for the professions of nursing and midwifery, undertaken by appropriately qualified applied linguists.

Limitations of the current Standard

1. The current Standard has caused significant distress, uncertainty, harshness and unfairness to applicants for registration across Australia. Perhaps the most serious deficiencies of the current Standard are:
 - (a) The failure of the current Standard to allow the NMBA (or a State Board of the NMBA) to exercise discretion in determining whether sufficient evidence of English language proficiency exists, which proves an applicant has English language skills at a level that ensures safe and competent care will be delivered to the public;
 - (b) The requirement for people with English as a first (and in some cases, only) language to undertake an English language examination;
 - (c) The current Standard's provision that only those applicants that undertook their secondary education taught and assessed in English in a limited list of recognised countries will avoid having to undertake an English language examination;
 - (d) The basis upon which some countries are treated as 'recognised countries' and others not seems unfair and discriminatory;
 - (e) Applicants who would have been eligible for registration pursuant to previous versions of the Standard (such as those applicants who have completed their secondary education in English in countries such as India and Nepal) are generally now required to undertake an English language examination;
 - (f) Applicants who did not complete their secondary education to a year 12 level and gained access to their course (generally a Diploma of Nursing course leading to enrolled nurse registration) through mature aged entry, adult tertiary preparation courses, or some other alternative entry pathway, are often not immediately eligible for registration, as they have not completed 5 years of secondary and vocational education in English. This has resulted in applicants who did not undertake their secondary education taught and assessed in English to a Year 12 level being directed to undertake English language examinations, or being registered on a conditional basis, despite the fact that many of these applicants have been born and raised in Australia and only speak English;
 - (g) The reliance solely on the International English Language Testing System examination ("IELTS") and the Occupational English Test ("OET") as the means for applicants to demonstrate their English language competency to the NMBA;
 - (h) The fact that neither the IELTS or OET were specifically designed to test whether nurses and midwives possess the vocational English language proficiency to ensure safe and competent care is delivered to the public;
 - (i) The difficulties accessing IELTS or OETs for applicants from regional, rural and remote areas;
 - (j) The fact that a person who successfully completes their Bachelor or Diploma of nursing or midwifery tertiary education in English, at an Australian institution, does not necessarily satisfy the current Standard;

- (k) The requirement that the NMBA's required results on the IELTS and OET be achieved in one sitting.
2. AHPRA's Consultation Paper and Revised Draft Standard foreshadow addressing some of the concerns raised above, however, others still remain.
 3. Specific examples of the impact that the abovementioned deficiencies have had on individual applicants for registration have been conveyed to the NMBA, the Queensland Board of the NMBA and AHPRA in previous correspondence and submissions since the commencement of the National Registration Scheme.

Recognised countries

4. The QNU submits that the list of recognised countries in the current Standard is unfair and discriminatory. There is no basis, to our knowledge, to support the inclusion of certain countries but not others in the NMBA's list of recognised countries. Why, for example, is South Africa a recognised country, when Zimbabwe is not?
5. The QNU supports the expansion of the list of recognised countries to include countries where English is one of the official languages, including the countries mentioned in the consultation paper (Hong Kong, Singapore, and Malaysia).
6. The QNU also submits that South Africa should continue to be a recognised country. The QNU is not aware of any shortcomings in the English language proficiency of practitioners from South Africa that would support removal of South Africa from the list of recognised countries. Indeed, the QNU is unaware of any significant number of complaints or notifications made about registered practitioners' English language abilities.
7. A previous iteration of the Standard provided in general terms that applicants who had completed their secondary and vocational or tertiary education in English were eligible for registration, without reference to any list of recognised countries. This previous version of the Standard allowed many applicants who had completed their secondary education in countries such as India and Nepal to obtain registration, as English is the usual medium of instruction in those countries. Those practitioners registered pursuant to the previous Standard are practicing today, and the QNU is not aware of any significant number of complaints about the English language skills of those practitioners.
8. In the event that a notification is made about a practitioner's English language proficiency or competence generally, the usual notification and show cause function is available to AHPRA to resolve and address any issues of concern.
9. The QNU submits that instead of an expanded list of recognised countries, a fairer criterion would be whether an applicant has completed a combination of 5 years of tertiary, vocational and secondary education taught and assessed in English in *any* country.
10. A list of certain recognised countries is too restrictive and unfair in our view, as well as discriminatory, and without evidential foundation.
11. If the NMBA is not minded to change the Standard in this way, the QNU submits that the list of recognised countries should be expanded to include other countries where English is

one of the official languages, for example, Nepal, India, the Philippines, Papua New Guinea, Fiji, Nauru, Singapore and Zimbabwe, as well as the countries foreshadowed in the Consultation Paper.

Board Discretion

12. The QNU submits that many of the most unfair impacts of the current Standard could be remedied if the NMBA were to allow the State Board of the NMBA to exercise discretion when considering whether an applicant has demonstrated English language proficiency.
13. The Standard should not preclude the NMBA and its State Boards exercising discretion in reviewing an individual application for registration. The current Standard severely limits the NMBA's discretion, essentially precluding the NMBA from considering evidence other than a successful IELTS or OET result as being evidence demonstrating an applicant's English language proficiency, even when there is ample evidence that the applicant's English language abilities are more than sufficient to communicate effectively (e.g. the applicant may only speak English, or may have completed studies in a country where all education was undertaken in English and based on the Australian curriculum, or may have strong favourable references from colleagues).
14. The QNU accepts that the use of English language examinations is a useful tool for registration authorities in assessing the English language skills of applicants for registration. In the vast majority of cases it may be a sufficient assessment tool for determining whether an applicant demonstrates English language competency to a level which ensures safe and competent care is delivered to the public.
15. The QNU submits that there is abundant evidence which shows that the reliance solely on the IELTS and OET examinations has resulted in applicants who have sufficient English language skills to ensure safe and competent care is delivered to the public, being excluded from registration with the NMBA or being registered conditionally. This will continue to occur if the NMBA approves a registration standard which removes the NMBA's discretion to consider evidence of English language proficiency other than approved English language examinations.
16. In our view, any new Standard should expressly state that the NMBA may, from time to time, accept other English language examinations as acceptable measures for applicants to demonstrate English language skills. We accept that at the present time only the IELTS and OET have been accepted by the NMBA as examinations by which an applicant can demonstrate their English language competency. We understand that the NMBA and AHPRA may have undertaken a process of considering other tests available in the market to assess whether these tests would be suitable for assessing an applicant's English language proficiency. The QNU supports the inclusion of subparagraph 4(c) of the Revised Draft Standard.
17. The use of IELTS and OET as the sole arbiter of an applicant's ability to demonstrate English language proficiency required by the current Standard is problematic. The QNU has assisted a significant number of nurses and midwives who, despite English language proficiency demonstrable in areas other than the specified testing, have been repetitively unable to reach the Board required scores for both the IELTS and OET. In our submission, in marginal or borderline cases where there is a consistent failure to meet test scores required by the Standard, but that failure falls just short of the requirement, there should be a capacity for the NMBA to consider other evidence of English language proficiency.

18. In our submission of December 2010, the QNU provided a number of excerpts of an opinion obtained from Professor David Ingram, AM, Honorary Fellow, Faculty of Education, University of Melbourne. Professor Ingram was one of the founders of what has become known as the IELTS test, and has previously fulfilled roles as IELTS Chief Examiner, and served on the IELTS Australia Board of Directors. He is therefore an expert on English language testing and in our view; his opinions in relation to the use of the English language examinations for demonstrating English language skills for professional registration should be persuasive.
19. In the submission of December 2010, the QNU excerpted Professor's Ingram's views in relation to various matters, including the importance of judging a person's actual use of English in real life, rather than solely relying on formal test results. We ask that the NMBA refer to the QNU's submission of December 2010 in relation to these matters.
20. These views are apposite to the experiences of numerous QNU members who have attempted to demonstrate their English language proficiency in the workplace. The QNU is aware of cases in the past where QNU members have held registration subject to conditions which required them to undertake an IELTS or OET and reach the required band scores. The QNU is aware of cases where members have practiced as registered nurses in acute settings at major Brisbane hospitals and could not seek employment at other facilities until they reached the required score on the IELTS.
21. These nurses provided, on a regular basis, clinical references from nursing colleagues, medical specialists and allied health practitioners who worked with them and who have confirmed that they have demonstrated English language competence in the workplace. They had also successfully undertaken the Australian Nursing and Midwifery Council ("ANMC") Competency Assessment for the registered nurse evidencing that they were assessed as competent in all domains.
22. In the case of such applicants, their registration and ability to seek alternative employment was restricted as a consequence of their inability to meet an English language test score when there was abundant evidence, in some cases over many years, which unequivocally demonstrated that their English language skills were at a level that ensured safe and competent care was delivered to the public. This highlights the failing of a Standard which relies solely upon "point-in-time" result from an IELTS examination; an examination which is not directed at assessing the vocational English language requirements of the nursing and midwifery professions.
23. When nurses have been required to provide evidence of their compliance with the current Standard, who could not reach the required results of the IELTS or OET, but could provide evidence from their colleagues and employers of their English language proficiency and compliance with ANMC standards, the NMBA was left in an invidious position. We note that in the 2012 renewal period, the NMBA effectively permitted some individuals who were then subject to conditions relating to English language, to provide other evidence (such as references from workplace supervisors) of their English language proficiency, following which many of these individuals who had been working in the profession were then granted unrestricted registration. (There were a number of practitioners, however, who had unfortunately been unable to find work in their profession due to the conditions.)
24. The QNU submits that many of the most unfair impacts of the current Standard could be remedied if the NMBA were to allow the State Board of the NMBA to exercise the entirety

reasonable discretion to consider matters other than an IELTS or OET test report when considering whether an individual has demonstrated English language proficiency.

25. In its submission of December 2010, the QNU included extensive quotes from Professor Ingram in relation to the appropriateness of the IELTS for vocational purposes and whether it is in any real sense, a test of applicants' ability to communicate effectively in clinical contexts. In addition, the QNU has also previously made submissions in relation to the IELTS or OET not being examinations designed specifically to assess the vocational English language proficiency of nurses and midwives. In the case of IELTS, it is a non-adaptive test designed for quite a different purpose rather than vocational proficiency. OET is only partially adaptive. We ask that the NMBA refer to the QNU's previous submission in this regard.
26. Given that Professor Ingram's research indicates that "... *neither [IELTS nor OET] is in any real sense, a test of their ability to communicate effectively in clinical contexts*", it is imperative that the NMBA allow itself the discretion to assess evidence other than the IELTS and OET examinations.
27. The NMBA should also give consideration to recognising alternative tests, such as the International Second Language Proficiency Ratings ("ISLPR") test originated by Professor Ingram also, with his colleague Ms Elaine Willey, amongst others.¹
28. The QNU recommends that the Standard be amended to expressly provide that the NMBA has the discretion to consider broader evidence of English language competency in addition to an IELTS or OET test result.

Requirement for "One Sitting"

29. The QNU recommends that the requirement in the current Standard which requires IELTS and OET test results to be obtained in the "one sitting" or a "single sitting" be removed. In our submission there is no cogent reason for this requirement.
30. Many QNU members have been put to significant cost and expense and been caused significant distress by this requirement in the current and previous versions of the Standard. Frequently, QNU members may obtain the required band score on three of the four bands in an IELTS or OET and fail to achieve the required band score in the fourth band. The next time they sit the test they may get the same result but achieve the required band score in the one they failed the previous time and fail to achieve the required band score in a band they had previously passed.
31. The QNU has assisted members who have spent thousands of dollars on IELTS tests because they fail to achieve the required score in different bands each time they sit the test. One member has sat the IELTS test 16 times, including twice returning to India to sit the IELTS, and has spent approximately \$10,000 trying to achieve the required test results.

¹ Ingram, D.E. 2003. "Towards More Authenticity in Language Testing". Paper to the AFMLTA National Languages Conference 2003, *Languages Babble, Babel and Beyond*, Hilton Hotel, Brisbane, 10 – 12 July, 2003. Published in modified form in *Babel*, Vol. 39, No. 2, 2004, pp. 16 – 24, 38. Also published by request and in shortened form in *Teacher*, April 2005, pp. 32 – 37 (ISSN 1449-9274). Reprinted in full in Cunningham, Denis and Anikó Hatoss (eds.). 2005. *An International Perspective on Language Policies, Practices and Proficiencies*. Melbourne: FIPLV and Editura Fundației Academice AXIS, pp. 313 – 333. ISBN 973 7742 20 6

32. As advised in our December 2010 submission, the QNU has received advice from Professor Ingram which states that there is no reason why the Board could not accept results which meet the required band score obtained from a number of sittings. Many registration authorities allow this. In addition, the OET allows students to sit individual components of the test.
33. The QNU is aware that the New Zealand registering authority, the New Zealand Nursing Council, allows for results from multiple sittings to be taken into account when considering an applicant's English proficiency. Given that the Trans-Tasman Mutual Recognition Arrangement ("TTMR") arrangements mean that nurses registered in New Zealand are entitled to immediate registration in Australia, it is inconsistent, we submit, to have a different registration standard.
34. Applicants for registration in Australia who are unable to meet the current Standard because they have achieved passing IELTS or OET results over multiple sittings could obtain registration in New Zealand without difficulty, and then, by way of the TTMR arrangements, immediately gain registration in Australia.
35. The QNU notes that the summary of research attached to the Consultation Paper refers to whether or not OET and/or IELTS test results can be accepted from more than one sitting. We were pleased to note the OET testing authorities have advised that it is valid to accept test results from more than one sitting. In the circumstances, the NMBA should accept OET results over multiple sittings as meeting the Standard, we submit.
36. We note the researcher's comment that the IELTS have advised that their test was not designed to be a modular test. However, the QNU is not aware of any evidence to indicate that results obtained in one module in one sitting are somehow less valid because they are not obtained in the same sitting as other test results. It is clear, we submit, from the summary of research provided, that there is a real paucity of evidence in relation to English language proficiency testing generally.
37. The QNU recommends that the requirement of the current Standard that test results be obtained in a "single" or the "one sitting" be removed, and would support the recognition of test results obtained over a number of sittings.
38. The QNU recommends that the Draft Standard allow for the Board to accept band scores which meet the required score from a number of tests provided that those tests have been sat in a certain validity period recommended by the currently approved tests.
39. With regard to what that validity period should be, we note that AHPRA in its Consultation Paper has proposed a longer period of validity for test results generally, extending this from two to three years. The QNU supports a three year period of validity for test results generally, and submits that this could also be the validity period applied to multiple sittings of the test to achieve the required results. As the researcher notes, minimal change is anticipated in a 3 to 4 year period for English language users, even with little or no use.

English Language Needs Analysis

40. The difficult history of the Standard has demonstrated, in our view, that significant further research into the English language proficiency requirements of the profession of nursing and midwifery and appropriate ways of testing individual applicants suitability for registration needs to be undertaken.

41. We note that the summary of research findings attached to AHPRA's Consultation Paper indicates that literature to inform English language skills registration standards is slight, and few health-specific studies exist. As the researcher notes, that there are major research gaps, and existing research "*does not provide a clear direction about the English language test results that National Boards should require*".
42. Importantly, as the research summary notes:
- "there is very limited scientific evidence to date concerning the test's predictive or consequential validity. No research examining the validity of IELTS as a measure of English language skills for health professional registration was found"*.
43. In the submission of December 2010, the QNU stated that unfortunately it seemed that the requirement in the Standard that nurses obtain a score of seven (7) on each of the four components of the IELTS test, or an A or B score on each of the four components of the OET was not supported by any empirical assessment of the English language requirements necessary for safely practicing the profession. This view is supported, we submit, by the summary of research findings attached to AHPRA's Consultation Paper.
44. In circumstances where "*research does not yet provide conclusive positions on key issues, and the National Boards are therefore considering the research in the context of historical approaches*", the QNU submits that the NMBA should determine to undertake an English language needs analysis for the nursing and midwifery professions. The outcome of this needs analysis should be utilised to inform NMBA decision making in relation to making English language proficiency registration standards, the type of English language examinations accepted under a registration standard and the actual required scores on English language examinations. Progress could perhaps be made towards this before the NMBA's scheduled review of the Standard in September 2014.
45. The QNU is of the view that this will best equip the NMBA to determine what the Standard needs to be into the future.

In the event that the NMBA conducts any further consultation before the scheduled review of the Standard in September 2014, the QNU requests the opportunity to engage in that consultation.