Office of the Chief Nurse and Midwife

PROFESSIONAL PRACTICE and REGULATORY REQUIREMENTS

Privately practicing registered nurses in the cosmetic injectables industry

V1.c

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Department of Health

Tasmanian Government

INDEX

1. Purpose of the guideline

The Department of Health (the Department) has developed the document *Professional Practice and Regulatory Requirements* (the guideline) to assist registered nurses working in private industry in the context of cosmetic injectable practice. This document has been written to support the Department's licensing approach under the Health Services Establishment Act 2006[1] and outlines requirements to demonstrate ongoing competence, safe practice and compliance with the Tasmanian legislation.

The Department recognises that cosmetic industry nurses work in a variety of business models. This document may be used by nurses working across the cosmetic industry to professionally support their practice.

Consumers trust and expect that registered nurses working within this context of clinical practice are providing safe, high-quality services and have undertaken the necessary education to support their clinical practice.

Nurses working within this context are required to comply with a range of regulatory and professional standards.

The Nursing and Midwifery Board of Australia (NMBA) has published other safety and quality guidelines to outline the regulatory requirements within which nurse practitioners (NP) and privately practicing midwives (PPM) must practice. These documents are *Safety and quality guidelines for privately practicing midwives*[2] and *Safety and quality guidelines for nurse practitioners*[3]. In recognising the support that these guidelines provide to practitioners, the Department of Health has drawn on the NMBA resources to develop this guideline.

The Guideline provides a framework to support clinical practice and describes safety and quality components for practice enabling registered nurses (RN) to assess their practice model and to ensure they are compliant with the legislation requirements in Tasmania.

2. Who should use this Guideline?

The information within this guideline supports the decision-making for:

- Privately practicing registered nurses
- Business owners / employers
- Medical practitioners, nurse practitioners working in the cosmetic industry

3. What's included?

This Guideline includes information on the following topics:

1. Scope of practice for the privately practicing RN working within the context of the cosmetic injectable industry
2. Regulation
3. Clinical Governance
4. Tasmanian poisons legislation
5. Education

[1] https://www.legislation.tas.gov.au/view/html/inforce/current/act-2006-017

[2] Nursing and Midwifery Board of Australia - Guidelines (nursingmidwiferyboard.gov.au)

[3] www.nursingmidwiferyboard.gov.au/Codes-Guidelines-Statements/Codes-Guidelines.aspx

4. Scope of practice

Scope of practice for a registered nurse (RN) is determined by the regulatory framework, legislation, education, boundaries of the employed role, and the policies of the employing organisation. It is also determined by the RNs self-assessment of their educational preparedness and confidence to undertake specific activities.

RNs are responsible and accountable for their practice and must work within the Nursing and Midwifery Board of Australia *'Registered nurse standards for practice'*[4]. These include the elements of assessing, planning, implementing and evaluating nursing care. RN practice does not include diagnosing, initiating medical treatment or prescribing medications.

In contrast, the nurse practitioner (NP) has undertaken post graduate education at Master's level, has completed and demonstrated extensive clinical practice hours relevant to their clinical specialty and is endorsed by the NMBA to practice autonomously. A nurse practitioner's scope of practice is regulated to include diagnosis, ordering of diagnostic tests, initiating and evaluating treatment and prescribing medications. The NP must work in a collaborative model with a medical practitioner as outlined in the National Health (Collaborative arrangements for nurse practitioners) Determination 2010[5].

NMBA Decision-making framework

A RN must refer to the NMBA decision making framework[6] when making a judgement as to whether an activity is within their scope of practice and if not, when to refer to other members of the healthcare team.

Decision-making is informed by:

- Educational preparation, experience, capacity, competence and confidence to safely perform the activity.
- The expectations of the regulatory framework, including standards, codes and guidelines
- Willingness to accept accountability and responsibility for the activity
- Clinical supervision and support as required
- Commonwealth or state/territory legislative requirements
- Authorisation from a regulatory or licensing authority
- Risk identification and management
- Organisational (business operator) support for the activity being undertaken.

The NMBA Decision-making framework should be utilised to determine whether the activity can be performed safely.

Employment role

The scope of practice for a RN is, in part, influenced by the context within which they are employed to work. The role must not be beyond the level of education, skill, competence, or confidence of the RN. The RN must not take on activities that are outside of their scope of practice. The RN is accountable for their own practice.

An assessment process is undertaken at the point of employment which confirms that the educational level and skills of the RN are appropriate for the requirements of the role. Some organisations/businesses will do this through a credentialling process that confirms the employed scope of practice for the RN.

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[4] Nursing and Midwifery Board of Australia - Registered nurse standards for practice (nursingmidwiferyboard.gov.au)

[5] National Health (Collaborative arrangements for nurse practitioners) Determination 2010 (legislation.gov.au)

[6] Nursing and Midwifery Board of Australia - Frameworks (nursingmidwiferyboard.gov.au)

5. Regulation

Registered nurses are registered by the Nursing and Midwifery Board of Australia under the *Health Practitioner Regulation National Law Act 2009*[7] *(*the National Law*)* and are legally required to practice within the standards, codes and guidelines published by the NMBA.

Regulation of health practitioners provides a framework for safe and quality practice to ensure protection of the public. Registered nurses must practice within the boundaries described by the NMBA and jurisdictional legislation and policy.

The NMBA provides a professional practice framework which includes:

- Registration standards
    - RN standards for practice
    - Recency of practice
    - Continuing professional development
    - Professional indemnity insurance arrangements
    - Criminal history
- Codes and Guidelines
- Safety of the public
    - Annual declaration
    - NMBA audit process
    - Notifications
    - Mandatory reporting

RN Standards for practice

The Registered nurse standards for practice[8] detail the components of practice and the expected standard for the RN. The RN acknowledges through the registration process annually that they meet the standards and deliver safe and quality care.

The Standards are publicly available documents that allow the community to understand the standard of practice they should expect from the RN.

Codes of conduct and ethics

The Code of conduct[9] sets "out the legal requirements, professional behaviour and conduct expectations for nurses in all practice settings, in Australia. It describes the principles of professional behaviour that guide safe practice, and clearly outlines the conduct expected of nurses by their colleagues and the broader community."[10]

The International Council of Nurses (ICN) Code of ethics for nurses[11] details the expected standard of ethical behaviour by nurses.

Annual Declaration

The RN must make an annual declaration as part of registration renewal that they meet the registration standards, codes and guidelines for the profession. They must assert that the written declaration is true.

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[7] View - Queensland Legislation - Queensland Government

[8] Nursing and Midwifery Board of Australia - Registered nurse standards for practice (nursingmidwiferyboard.gov.au)

[9] Nursing and Midwifery Board of Australia - Professional standards (nursingmidwiferyboard.gov.au)

[10] Nursing and Midwifery Board of Australia - Professional standards (nursingmidwiferyboard.gov.au) , p.4

[11] 2012_ICN_Codeofethicsfornurses_eng.pdf

NMBA audit process

The NMBA undertakes an annual audit process against the mandatory registration standards. The RN declares at registration renewal that they meet the registration standards and, if the subject of audit, the RN must ensure that they have evidence to support their claims.

Voluntary notifications and mandatory notifications

Anyone, including members of the public, can make a voluntary notification if concerned about the practice of a registered health professional or student. This may include concern that the practitioner is providing patient care in an unsafe way or a concern about the practitioner's behaviour. Advice is available on the Ahpra website[12].

The National Law[13] sets out the requirements for mandatory reporting in certain circumstances (Section 141). Ahpra has published a resource document *'Guidelines: Mandatory notifications about registered health practitioners'*[14] for treating practitioners, non-treating practitioners and employers of practitioners to assist in when to make a mandatory notification about a practitioner.

Circumstances that would trigger a mandatory notification and where the risk of harm to the public was of concern, include:

- if a practitioner is practising with an impairment
- if a practitioner is practising while under the influence of alcohol or drugs
- a practitioner has taken a significant departure from professional standards
- a practitioner has engaged in sexual misconduct connected to their practice.

Professional Indemnity Insurance

It is a mandatory requirement under Section 129(1) of the National Law that health practitioners have professional indemnity insurance (PII) and it is the RN's responsibility to ensure that they have adequate insurance cover regardless of whether it is their own insurance cover or through third-party insurance cover. It is recommended that RNs refer to their own insurers for advice and review the information regarding PII available through the NMBA[15].

Recency of practice

A RN must demonstrate that they have maintained recency of practice specific to their area of nursing. The NMBA Registration standard: Recency of practice[16] details the criteria for meeting this registration standard. A RN signs a declaration at the time of their renewal of registration that they meet the criteria. This declaration may by audited by the NMBA.

Continuing Professional Development

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[12] Australian Health Practitioner Regulation Agency - How to submit a concern (ahpra.gov.au)

[13] View - Queensland Legislation - Queensland Government

[14] Australian Health Practitioner Regulation Agency - Making a mandatory notification (ahpra.gov.au)

[15] Australian Health Practitioner Regulation Agency - Professional indemnity insurance arrangements (ahpra.gov.au)

[16] Nursing and Midwifery Board of Australia - Continuing professional development (nursingmidwiferyboard.gov.au)

The NMBA's Registration standard: Continuing professional development[17] (CPD) specifies a RN must undertake 20 hours of CPD to meet the registration standard.

Continuing professional development (CPD) is the means by which members of the nursing profession maintain, improve and broaden their knowledge, expertise and competence, and develop the personal and professional qualities required throughout their professional lives.[18]

The hours are a minimum level and must be relevant to the RN's context of practice. The RN must meet the minimum requirement and complete additional hours if they self-assess that they need to undertake additional learning to enable them to safely and competently practise in their role.

6. Clinical governance

Clinical governance is a set of relationships and responsibilities established by a health service organisation between the governing body or executive, the health practitioners, the patients or consumers and other stakeholders to ensure good clinical outcomes[19]. It determines the accountabilities for everyone who works in the system and ensures that roles and responsibilities are clear, and that everyone is accountable to patients and the community for assuring the delivery of health services that are safe, effective, integrated, high quality and continuously improving. Clinical governance relates to a health organisation regardless of whether they are large with hundreds of employees, or a business with a small number of employees. Clinical governance also applies in circumstances where the RN is practicing as a sole practitioner in private practice.

The principles of clinical governance include:

- Governance, leadership and culture
- Patient safety and quality systems, including risk and incident management
- Consumer feedback management
- Clinical performance and effectiveness, including safety and quality systems and evidence-based care
- Safe environment for the delivery of care [20]

A RN has a professional responsibility to practice within a clinical governance model and understand the responsibilities and scope of each of the health practitioner roles within the service model. The RN practices in a model where treatment is prescribed by a medical or nurse practitioner.

It is the responsibility of the medical practitioner or nurse practitioner to consult with the client about prescribing a treatment of a cosmetic injectable and to reach an agreed treatment plan, gain consent and prescribe the medication(s) to be used in that treatment. The RN can be delegated the activity of injecting the medication and is responsible for their own standard of practice, but the medical or nurse practitioner maintains responsibility for the treatment plan and must ensure that they are available to intervene, assist or provide direction should the treatment not go to plan.[21]

A RN must not work independently of a medical or nurse practitioner and provide treatment to a client without:

- the client having been assessed by the medical or nurse practitioner
- an agreed treatment plan and client consent documented and communicated to the RN
- medications prescribed specifically for that client
- the medical or nurse practitioner being available to assist or intervene if required.

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[17] Nursing and Midwifery Board of Australia - Continuing professional development (nursingmidwiferyboard.gov.au)
[18] Nursing-and-Midwifery-Board---Guidelines---Safety-and-quality-guidelines-for-nurse-practitioners (13).PDF
[19] Clinical governance | Australian Commission on Safety and Quality in Health Care
[20] Clinical Governance Standard | Australian Commission on Safety and Quality in Health Care
[21] Medical Board of Australia - Guidelines for registered medical practitioners who perform cosmetic medical and surgical procedures

A RN must ensure that quality systems are in place for reporting of adverse outcomes and managing customer complaints should they occur.

7. Poisons legislation

Each state or territory is governed by local poisons legislation, however named. In Tasmania, health professionals practise within the *Poisons Act 1971*[22] and *Poisons Regulations 2018*[23].

The Department of Health Pharmaceutical Services Branch (PSB) execute delegated functions on behalf of the Minister and Secretary for Health. PSB provides guidance to health practitioners to understand the requirements of the legislation and how this translates to their practice.

Storage of the medication remains under the control of the medical practitioner, nurse practitioner or authorised RN who is legally authorised to possess the medication under s25A of the Poisons Regulations 2018.

8. Education requirements

The NMBA Decision-making framework requires that the RN must have the necessary educational preparation, experience, capacity, competence and confidence to safely preform the activity[24].

In Australia, education courses available to RNs regarding cosmetic injectables vary considerably in content and duration as well as whether it is a post graduate qualification or business/pharmaceutical led training.

Ideally, the education program should:

- adequately address the required theoretical and technical knowledge and skill to undertake cosmetic injectables practice safely and competently
- include awareness of the poisons legislation and environmental health standards relevant to their jurisdiction and how this will guide their practice
- also provide information about clinical governance that determines the roles, responsibilities and accountabilities of the RN, medical practitioner, nurse practitioner, or other authorised practitioners, so that the RN is aware and understands the different roles and scope of practice.

The RN should maintain a portfolio of evidence to support clinical governance arrangements that apply to the employed role and context of practice.

The Table below provides guidance on the types of evidence that can included in the portfolio to demonstrate that practice meets legislative and regulatory requirements.

The examples included in the Table are not exhaustive and should be considered foundational; additional elements can be included at the discretion of the individual RN.

9. Peer review

Review of professional practice by a peer is a valuable and important part of the maintenance and enhancement of a health practitioner's clinical and professional skills.[25] As a part of the Code of Conduct for Nurses, continuing professional development is a requirement and this can include self-reflection participatory performance appraisal processes such as peer review. Peer review can include reflection on practice through a systematic process of assessing and evaluating nursing care, it can inform reflection and changes to practice through the process of independent peers professionally and critically evaluating practice against accepted standards and giving objective feedback with the intention of confirming practice or providing an opportunity for

[22] https://www.legislation.tas.gov.au/view/html/inforce/current/act-1971-081
[23] https://www.legislation.tas.gov.au
[24] Nursing and Midwifery Board of Australia - Frameworks (nursingmidwiferyboard.gov.au)
[25] 37358-Review-by-Peers.pdf (safetyandquality.gov.au)

improvement. As a health professional, nurses have a professional responsibility to be actively engaged in peer review on a regular basis. This is particularly important for privately practicing registered nurses working in sole practice to ensure this element of clinical governance frames clinical practice.

Examples of evidence

Requirement	Evidence
Annual NMBA registration	• Copy of renewal certificate available
Informed consent	• Evidence of informed consent is documented in clinical notes ➢ Written in clinical record and/or signed consent form ➢ Information is provided to the client on the treatment being undertaken that outlines the risks ie pamphlets/flyers
Risk assessment	• Evidence of documentation that outlines the risks associated with the procedure have been discussed with the client • Evidence of risks are linked to adverse event management policy/procedure
Collaborative arrangement	• Documented evidence of a collaborative arrangement with an authorised prescriber ie medical practitioner or nurse practitioner • Documented evidence that this arrangement is reviewed on an annual basis • Documentation that supports regular professional conversations ie monthly/bi-monthly professional meeting/discussion
Clinical audit	• Evidence of the following documentation: ➢ Comprehensive clinical notes ➢ Consent forms ➢ Management plans ➢ Medication prescription records ➢ Client information resources
Peer review	• Evidence of collaboration with other health care professionals in the cosmetic injectables industry of an effective peer review strategy ➢ Scheduled time to undertake peer review ➢ Clear outline and expectations of the peer review process ➢ Access to clinical notes and other associated documentation to inform the peer review process ➢ Documentation following peer review and associated actions/outcomes where required
Adverse event management	• Evidence of policies and procedures in place to manage adverse events • Documentation of review process following any adverse event with actions/outcomes as required
CPD requirements	• Education and continuing professional development requirements are undertaken in line with context of practice and the requirements outlined by the Nursing and Midwifery Board of Australia

Audit Framework

Audit Criteria	Evidence	Audit requirements met YES/NO	Comments
Current NMBA registration	Evidence of registration renewal • Copy of certificate, or • Registration sited on Ahpra register		
Clinical audit	Audit undertaken of a random selection of clinical records within the last 12 months, demonstrating evidence of: • Comprehensive clinical notes • Documented informed consent • Consent form • Management plan • Documented risk assessment associated with the procedure • Medication prescription records		
CPD requirements	Evidence of continuing professional development: • Evidence supporting 20 CPD hours undertaken in preceding 12 months • Evidence of CPD undertaken in line with the context of practice		
Collaborative arrangement	Evidence of a collaborative arrangement exists: • Documented evidence of a collaborative arrangement with an authorised prescriber • Documented evidence of annual review of collaborative arrangement • Documented evidence supporting regular professional conversations ie monthly/bi-monthly professional meetings/discussion		
Peer review	Evidence of structured peer review with other healthcare professionals in the cosmetic injectables industry • Documentation articulating a clear outline and expectations of the peer review process • Documentation following peer review with associated outcomes/actions where required		
Adverse event management	Evidence of policies and procedures: • Policies/procedures specific to the management of adverse clinical events • Evidence of the review of any adverse events with associated outcomes/actions documented		