

# Health Professionals (ACT Nursing and Midwifery Board Standards Statements) Approval 2008 (No 3)

## Notifiable Instrument NI2008-533

made under the

**Health Professionals Regulation 2004, section 134 (Standards Statement)**

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### **1 Name of instrument**

This instrument is the Health Professionals (ACT Nursing and Midwifery Board Standards Statements) Approval 2008 (No 3).

### **2 Commencement**

This instrument commences on the day after notification.

### **3 Standard Statements**

In accordance with Regulation 134 (3) of the Health Professionals Regulation 2004 the ACT Nursing and Midwifery Board has approved the following Standards Statement.

ACT Nursing and Midwifery Board Maintaining Competence and Continuing Professional Development Framework

The Health Professionals (ACT Nursing and Midwifery Board Standards Statements) Approval 2007 (No 2) - Notifiable Instrument NI2008-215 is revoked.

Robyn Staniforth  
President

12 November 2008



## **ACT Nursing and Midwifery Board**

### **Requirements for Maintaining Competence and Continuing Professional Development Audit for Nurses and Midwives registered in the ACT**

Revised November 2008

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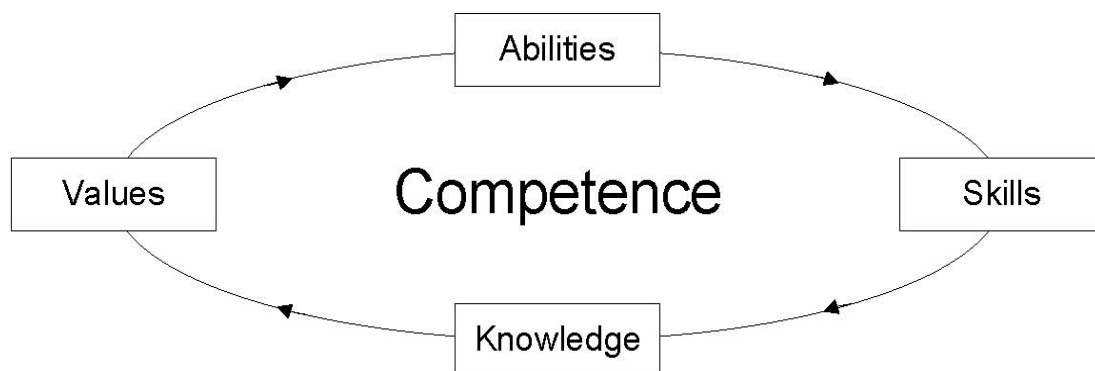
**Introduction**

Under the *Health Professionals Act 2004*, all nurses and midwives registered in the ACT are required to sign a declaration of competence when they apply for registration or re-registration. In 2006 the Board introduced an annual audit process as a validation of that declaration and demonstration that they remain competent to practice in the ACT.

The Board’s requirements for the Maintaining Competence and Continuing Professional Development Audit apply to all nurses and midwives who hold registration in the ACT.

**Definition of Competence**

The Australian Nursing and Midwifery Council (ANMC) defines competence as “the combination of skills, knowledge, values and abilities that underpin effective and/or superior performance in a profession/occupational area. Continuing professional competence is the ability of nurses and midwives to demonstrate that they have maintained their competence in their current area of practice”.<sup>1</sup>



**Background**

Registered and enrolled nurses and registered midwives “authorised to practice in Australia are regulated and accountable to the community for providing quality care through safe, ethical and effective practice, and for maintaining the competency necessary for practice”.<sup>2</sup> Nursing and midwifery regulatory authority from each state and territory set standards for competence that describe the desired / acceptable behaviour of members of the nursing and midwifery professions.

<sup>1</sup> Australian Nursing and Midwifery Council. (2007). Position Statement: Continuing Competence in Nursing and Midwifery. Australian Nursing and Midwifery Council.

<sup>2</sup> Ibid.

***Regulation of nurses and midwives registered in the ACT***

In July 2004, the *Health Professionals Act 2004* (hereafter referred to as the Act) was passed by the ACT Legislative Assembly. Under the Act all health profession boards in the ACT have a responsibility to determine what behaviours are necessary to meet the required standard of practice within their profession(s).

The main object of the Act is to protect the public from risk of harm by ensuring that the people who provide health services are competent to provide health services and to achieve and maintain the required standard of practice (Section 13).

Under Part 2 Section 7(3) of the Act, the ACT Nursing and Midwifery Board (the Board) is responsible for establishing standards statements for the professional practice of nurses and midwives in the ACT. The Board regulates the practice of nursing and midwifery in the ACT, by being responsible for:

- (a) registering nurses and midwives, and
- (b) setting the required standard of practice for nurses and midwives; and

*Note* Some requirements of the required standard of practice are prescribed under the regulations.

- (c) helping nurses and midwives to continue to meet the required standard of practice; and
- (d) taking action in relation to reports and complaints about nurses and midwives.

Section 18 of the Act states that the required standard of practice, for a health professional, is to exercise professional judgement, knowledge, skill and conduct at a level that maintains public protection and safety.

***Maintaining Competence and Continuing Professional Development - Legislative Requirements in the ACT***

Chapter 3, pt 3.3 of the Health Professionals Regulation 2004 (hereafter referred to as the Regulation) requires health professionals to maintain competence and continuing professional development. The following sections of the Regulation outline the legislative requirements for maintaining competence and continuing professional development.

**Section 129 Obligation to maintain competence and continuing professional development**

A registered health professional must ensure that he or she remains suitable to practice the profession in which he or she is registered.

*Note* Reg 114 sets out the suitability to practice for a health professional.

### **Section 130 Programs for maintenance of competence**

A health profession board must, in writing, establish, or facilitate the establishment of, programs to support, promote and assess health professionals' general and professional competence.

### **Section 131 Standards for maintenance of competence**

- (1) The standards under this regulation are part of the suitability to practice standards relating to the maintenance of competence.

Under Section 131(2) the Board is required to develop or endorse written standards about the action nurses and midwives need to take to maintain competence and continue professional development. The Board must ensure, as far as practicable, that the standards developed or endorsed are consistent with any standards developed by professional representative bodies for the health professions.

The standards must include the following:

- (a) requirements for maintaining competence and professional development
- (b) how the requirements are satisfied and demonstrated, including —
  - (i) the frequency and extent of any required training, instruction or practical experience; and
  - (ii) the time within which the training, instruction or practical experience must be completed; and
  - (iii) detail of any examination required; and
  - (iv) the reporting requirements.

### **Section 132 Use of information about continuing competence etc**

Under Section 132 of the Regulation, the Board may use information it receives about a registered nurse or midwife's continuing competence or professional development to take action to protect public safety, or for reasons of public interest. The Board may take the following actions:

- (a) report annually to the Minister, using non-identifying information, on the general performance or achievement of nurses or midwives;
- (b) provide information or advice to nurses and midwives about their performance, including comparisons to best practice;
- (c) provide information to someone else with the consent of the registered nurse or midwife;
- (d) use information to support the Board's advice or decision on what action to take on a report or matter referred to the Board by the Health and Community Services Complaints Commissioner in relation to a nurse or midwife.

If information received under Section 132 of the Regulation indicates a potential risk to public safety, the Board may treat the matter as a report about the nurse or midwife.

The Board's requirements for the Maintaining Competence and Continuing Professional Development Audit apply to all nurses and midwives who hold registration in the ACT.

### *Declaration for Registration*

All nurses and midwives registered in the ACT are required to sign a declaration of competence when they apply for registration or re-registration. In 2006, the Board introduced an annual audit process that requires randomly selected nurses and midwives to demonstrate that they remain suitable to practice in the ACT.

The provisions of Section 23 of the Act requires the Board to be satisfied, as far as is practicable, that suitability to practice requirements are met in order for individuals to be unconditionally registered. Section 23(d) of the Act requires all health professionals to maintain continuing competence, ensure recency of practice, and participate in ongoing professional development.

### *Audit requirements for the Board*

In order to establish reliability and validity in the Board's processes, the Board has determined that 5% of current licensed practitioners will be audited on an annual basis. In June each year the Board randomly selects for audit 5% of all nurses and midwives who are enrolled / registered with the Board. Nurses and/or midwives who will be excluded from audit are those who:

- Have graduated, **OR** completed a re-entry or refresher course **OR** been audited by the Board within the last 5 years

#### **OR**

- are under investigation by the Professional Standards Committee of the Board or the Health Services Commission.

A nurse or midwife who has been selected for audit is required to provide to the Board evidence that validates the declaration that is made on their application for registration or re-registration.

Those selected for audit are required to submit their response to the Board within six weeks of being notified of their selection for audit.

Upon receiving the audit documents, the Board will either acknowledge receipt of the documents in writing and, if necessary, request further documentation. The Board will assess all submissions within eight weeks of being received. Each nurse and midwife will be advised, in writing, of the outcome of that assessment (Appendix A outlines the assessment process).

The options from which nurses and midwives can choose to meet the Board's audit requirements are outlined on the following page.

## Options for Demonstrating Competence and Continuing Professional Development

If selected for Audit, the Board requires the nurse / midwife to submit:

1. **EVIDENCE OF 30 HOURS CONTINUING PROFESSIONAL DEVELOPMENT (CPD) OVER THE PREVIOUS 3 YEARS** - Refer to Appendix B to find out what CPD activities are recognised by the Board, and
2. **EVIDENCE OF COMPETENCE TO PRACTICE.**

This evidence may be in the form of either:

- A professional development and evaluation plan, or workplace assessment, that has been completed within the previous 18 months and signed by a line manager

**OR**

- An assessment against the ANMC competency standards.

The Board has developed Competency Assessment and Learning Plans for the Enrolled Nurse, Registered Nurse, Midwife and Nurse Practitioner, which are based upon the profession specific ANMC competency standards. The Competency Assessment and Learning Plans are available from the Board's website or from the Board.

A registered nurse or midwife who is an employer, a nursing or midwifery supervisor, a nursing or midwifery manager, or a nursing or midwifery peer can complete the appropriate Competency Assessment and Learning Plan.

If a registered nurse or midwife peer completes the Competency Assessment and Learning Plan, they are required to provide a letter to the Board that outlines their professional relationship with the nurse and/or midwife being audited, as well as the capacity and the duration of the relationship.

**When submitting evidence of Competence and Continuing Professional Development, only copies of documents should be sent to the Board. The Board cannot return any documents submitted as part of the Audit process.**



### ***Frequently Asked Questions***

Within these questions an “Auditee” is the nurse or midwife who has been selected for audit by the Board.

#### ***Why have competence and continuing professional development requirements?***

The emphasis on professional practice and accountability supports the notion of regulatory provision to underpin professional commitment to practise safely and competently. The practice environment is continuously changing, being influenced by advances in science and technology, restructuring of service delivery, increasing demands on fiscal resources and changing community needs. These changes, coupled with increasing consumer awareness, provide an increased impetus for nurses and midwives to continue to develop their knowledge and skills in order to more effectively meet society’s needs and to publicly demonstrate their competence.

Competence to practice requirements provide a proactive legislative means by which the public can be assured, as far as is practicable, that nurses and midwives who hold a current licence to practise are competent to practice. Viewed from a quality management perspective, it is a regulatory process to ensure quality and safety. This legislative requirement also acts in harmony with both an employer’s common law duty to ensure that no employee is employed to undertake activities for which they are not competent and an individual’s duty of care to their client. These “quality checks” within the broader health care system operate as a means of ensuring the protection of the public interest.

#### ***How are nurses and midwives selected for audit?***

Selection for audit occurs at the beginning of June, with every 20<sup>th</sup> name on the Board’s registers of nurses and midwives being selected from the Board’s database. Approximately 250 nurses and midwives are selected for audit each year.

#### ***What has to be done by nurses and midwives who are selected for audit?***

In order to meet the requirements of the Board’s audit process, auditees are required to supply evidence that verifies or supports the declaration made on their application for registration.

To support nurses and midwives to meet their legal requirements for Maintaining Competence and Continuing Professional Development the Board has identified two options by which auditees may demonstrate competence and involvement in Continuing Professional Development activities.

#### ***How long do I have to submit the documents to the Board?***

Auditees have six weeks to submit their response to the Board.

#### ***Can I get an extension of time to complete the audit requirements?***

To receive an extension for the audit, the auditee is required to apply in writing to the Board, outlining the reason(s) that they are asking for an extension. The Board considers each application for extension on an individual basis.

***How long will the Board take to assess an application?***

Within eight weeks from receiving the information from an auditee, the Board will assess evidence of Competence and Continuing Professional Development submitted. The auditee will be advised in writing of the outcome of the assessment.

***What happens if the information provided is not true?***

The provisions of the *Criminal Code 2002*, part 3.4 Section 338 refers to the offence of giving false or misleading information to a person who is exercising a function under a territory law.

***Does a nurse or midwife who was recently audited by a nursing / midwifery board in another Australian state have to complete the audit in the ACT?***

Yes. The audit process in the ACT is linked to the *Health Professionals Act 2004*, the legislation that regulates the practice of nurses and midwives in the ACT.

***If I choose to do a Competency Assessment and Learning Plan, who can complete the assessment?***

Any registered nurse or midwife who is an employer, a nursing / midwifery supervisor, a nursing / midwifery manager or a nursing / midwifery peer who:

- is familiar with the ANMC Competencies;
- has been in a position to personally observe the auditee's practice; and
- truthfully believes they can complete the form.

Ideally, the registered nurse / midwife completing the Competency Assessment and Learning Plan will have worked with the auditee during the last year.

***Is the person who completes a Competency Assessment and Learning Plan legally liable for information submitted?***

Yes, any person who makes a declaration is liable for ensuring, to the best of their ability, the accuracy of the statement at the time it was made.

***What if I am registered as a nurse and as a midwife in the ACT?***

Any auditee who is registered as a nurse and midwife is required to submit evidence of competence against both the ANMC Registered Nurse and Midwife competencies.

***What if a nurse or midwife does not want to do the audit?***

Meeting audit requirements is required under the *Health Professionals Act 2004* and the *Health Professionals Regulation 2004*.

Any auditee who refuses to comply with the Board's audit requirements will have conditions placed on their registration when they next apply for renewal of registration.

Any auditee who fails to comply within the time-frame stipulated within the conditions on their registration, may be required to meet with the Board's Regulation Committee who will consider what action(s) will be taken.

***What if I am working overseas and selected for audit?***

Auditees who are working overseas are required to complete the audit requirements. The Board will allow additional time associated with delays in overseas mail delivery.

***What can an auditee do if they are not working in a nurse or midwife position and/or do not have a nurse or midwife manager or a nurse or midwife supervisor?***

A registered nurse or midwife who is your peer can complete the appropriate Competency Assessment and Learning Plan. If a registered nurse or midwife peer completes this Competency Assessment and Learning Plan with the auditee, they are required to provide a covering letter to the Board that explains their professional relationship to the auditee.

If there is no nurse / midwife supervisor or an appropriate peer, auditees may contact the Board for advice. The task of each auditee is to provide sufficient evidence to the Board that will satisfy their competency requirements of the Act.

***What if a nurse or midwife has been in the ACT for less than a year and does not know any registered nurse or midwife who would be happy to sign the Competency Assessment and Learning Plan on their behalf?***

Any registered nurse / midwife who has worked with the auditee within the last 12 months can sign a Competency Assessment and Learning Plan, as long as that person feels comfortable to make those declarations. The registered nurse / midwife peer does not have to be living or registered in the ACT. However, they are required to provide a covering letter to the Board that explains their professional relationship to the auditee.

***What if a nurse or midwife cannot supply the evidence required by the Board?***

If the documents supplied do not contain sufficient and appropriate information to confirm the declaration, the Board will advise the auditee in writing. The auditee will then be given 4 weeks to supply any additional information required. If they are unable to supply the information requested, he/she will be referred to the Board's Regulation Committee.

Auditees who are unable to comply with the audit may be required to undertake some further learning to address the identified deficit, as identified by the Board's Regulation Committee. This may be in the form of an approved competency based assessment or participation in continuing education / professional development activities.

***What if I do not meet the Board's audit requirements?***

Any auditee who does not meet the Board's audit requirements, will have conditions placed on their registration when next applying to renew their registration. These conditions are determined on a case-by-case basis, and will remain until the Board:

- (1) is satisfied that the audit requirements have been met; or
- (2) declines the application for registration on the basis that competence cannot be assured.

*What if a nurse or midwife does not agree with the Regulation Committee or the Board's decision? Can I make an appeal against the conditions the Board places on my registration?*

Any auditee who is dissatisfied with a decision of the Regulation Committee may lodge an appeal with the Board.

In the event that the Board upholds the decision of the Regulation Committee and the auditee remains dissatisfied, they may lodge an appeal with the ACT Health Professions Tribunal.

Any auditee who has conditions placed on their registration or has their application for renewal of registration declined can appeal against the Board's action, by requesting a review by the ACT Health Professions Tribunal.

Information relating to the Tribunal appeals process will be provided to the auditee.

*What if a nurse or midwife does not complete the audit and does not apply to renew their registration?*

If an auditee does not complete the audit process and does not apply to renew their registration in the following year, conditions will be placed on their record and will become effective if re-registration in the ACT is sought at a later date.

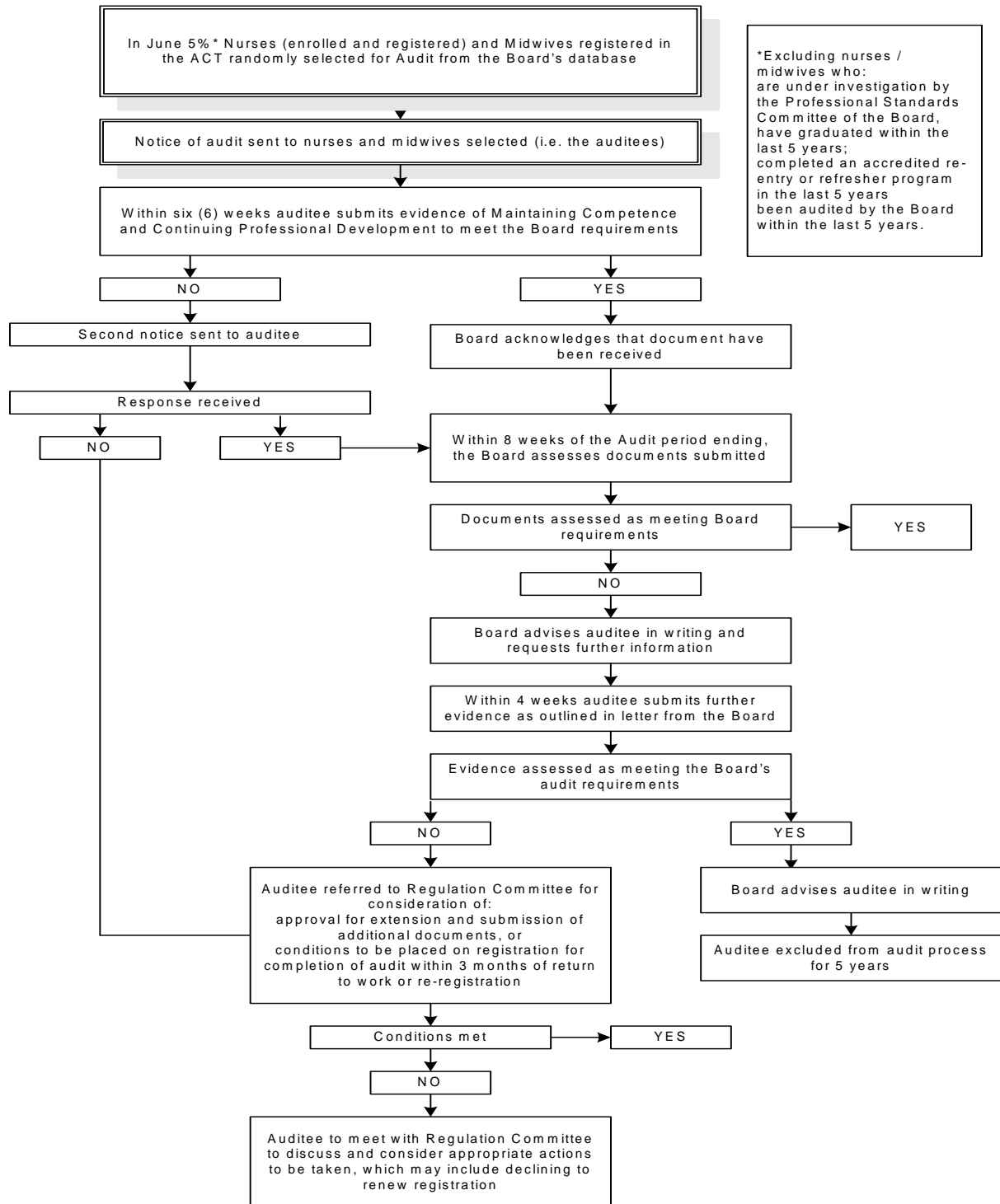
*What if a nurse or midwife does not complete the audit and later applies for registration from another Australian State or the Northern Territory under the Mutual Recognition Act 1992, or from New Zealand under the Trans Tasman Mutual Recognition Act 2003?*

If an auditee does not complete the audit process and later applies for registration under the *Mutual Recognition Act 1992* or the *Trans Tasman Mutual Recognition Act 2003*, they will be issued with conditional registration which will require them to complete the audit requirements within a specified time.

### ***Acknowledgements***

The ACT Nursing and Midwifery Board acknowledges and extends its thanks to the nurses and midwives who participated in shaping the development of the Maintaining Competence and Continuing Professional Development Audit for Nurses and Midwives in the ACT.

**Appendix A - Flow Chart Outlining the ACTNMB's Maintaining Competence and Continuing Professional Development Audit Process**



## ***Appendix B – Continuing Professional Development Activities and Record***

The following identifies examples of Continuing Professional Development (CPD) activities and contains a page for recording personal CPD activities attended.

### ***What are Continuing Professional Development activities?***

Participation in mandatory continuing education, such as CPR training or manual handling, should not be counted as CPD **unless** active learning or new knowledge or skills has taken place.

CPD activities may include, but not be limited to:

- Undertaking undergraduate or postgraduate studies which are of relevant to the context of practice
- Acting as a preceptor / mentor / tutor
- Undertaking supervised practice or Self Directed Learning packages for skills development
- Participating on accreditation, audit or quality improvement committees
- Participating in a professional reading and discussion group
- Writing or reviewing educational materials, journal articles, books
- Active membership of professional groups and committees
- Reading professional journals or books
- Writing for publication
- Developing policies, protocols or guidelines
- Presenting at or attending workplace education, in-service sessions or skills workshops
- Working with a mentor to improve practice
- Presenting at or attending workplace education, in-service sessions or skills workshops
- Presenting at or attending conferences, lectures, seminars or professional meetings
- Conducting or contributing to research
- Undertaking relevant online or distance education

### ***What is evidence of Continuing Professional Development Activities?***

Evidence of Continuing Professional Development may include, but not be limited to:

- Written transcripts of Certificates / Degrees / Distance learning units
- Copies of certificates of Awards / Prizes / Scholarships
- Certificates of attendance at Conferences / Seminars / Workshops, or acknowledgement of poster presentation
- Employee verification of attendance at Study days / In-service sessions
- Verification / evidence of completion of Self Directed Learning packages
- Minutes of working party / committee meetings or written acknowledgement of participation
- Finalised policies or guidelines
- Evidence of reading journal articles or book(i.e. topics of interest which influence your practice can be identified)
- Copies of authored / co-authored publications or reference to article
- Articles about you

***Continuing Professional Development Activities Record***

Under the *Health Professionals Act 2004*, each nurse and midwife registered in the ACT is required to complete a minimum of 30 hours continuing professional development every 3 years

<b>DATE</b>	<b>ACTIVITY</b>	<b>RELEVANCE TO NURSING AND / OR MIDWIFERY PRACTICE</b>	<b>NUMBER OF HOURS</b>	<b>VERIFIED BY <u>OR</u> EVIDENCE OF ATTENDANCE</b>