

## DRAFT

# Quality Health Care for all Refugees and Asylum Seekers

## ACN Position Statement

### Key Statement

The Australian College of Nursing (ACN) is committed to the protection of the health, welfare and dignity of refugees and asylum seekers and their children. The provision of health care that effectively meets people's health care needs is an important component of the protections afforded by human rights. ACN believes that all refugees and asylum seekers should receive quality holistic health care that addresses their physical and mental health needs and which includes health promotion and illness prevention. Access to comprehensive health care should be available regardless of visa status and whether refugees and asylum seekers are living in immigration detention centres or in the community. Refugees and asylum seekers are a vulnerable population of great cultural diversity. Their access to health care also depends on health professionals reaching out to these populations, acquiring an understanding of cultural diversity and the particular health needs of this group.

### Background

Some asylum seekers' access to Medicare eligibility is linked to their visa status which may leave them without access to health care that is free of charge. Refugees and asylum seekers in immigration detention, including community detention, cannot choose their health care provider (Victorian Refugee Health Network 2015) or influence the type and/or quality of care they receive.

Underpinning ACN's commitment are the following ethical, professional and legal considerations:

#### Ethical and professional considerations

- The Nursing and Midwifery Board of Australia's (NMBA) *Code of Ethics for Nurses in Australia* recognises the universal human rights of people and the moral responsibility of nurses to safeguard the inherent dignity and equal worth in everyone (NMBA 2013).
- ACN believes that the environment in which asylum seekers and refugees reside should protect and preserve their physical and mental health.
- ACN strongly believes that nurses who work with refugee and asylum seeker populations must be able to observe the NMBA's *Code of Ethics* and *Code of Professional Conduct for Nurses in Australia* in their practice (Assiri 2014; Zion et al. 2009; NMBA 2013).
- ACN believes that ongoing professional development should be available to support nurses in their delivery of care to refugee and asylum seeker populations who commonly experience complex health and social needs.

#### Legal considerations

- Australia has signed a number of international treaties and covenants which oblige Australia to protect refugees and asylum seekers. Equitable and culturally sensitive healthcare is a right afforded to all Australians by law and according to these international treaties this right extends to asylum seekers and refugees both in detention centres and in the community. The specific treaties/covenants Australia is a signatory to are as follows:
  - The UN Refugee Agency (UNHCR) Convention and Protocol Relating to the Status of Refugees. This convention commits Australia to respect the rights of refugees and

uphold the obligations set out in the treaty. One such obligation arises from Article 23 of this convention which states that “The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.”

- Further, Australia is a signatory to the covenants below which constitute part of the international principles and standards framing the NMBA’s *Code of Ethics*.
  - The International Covenant on Civil and Political Rights (ICCPR) which was signed by Australia in 1972. Article 26 of this Covenant states that “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”
  - The International Covenant on Economic, Social and Cultural Rights (ICESCR) was ratified by Australia in 1975. Article 12 of this Covenant indicates that: “the States Parties to the Covenant recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health” and “the steps taken by the States Parties to the present Covenant shall include those necessary for, the creation of conditions which would assure to all medical service and medical attention in the event of sickness.”
- Australia has national guidelines related to the treatment of asylum seekers and refugees. Elements of the international treaties are reflected in the national immigration laws and programmes such as the Australian Humanitarian Programme (Australian Human Rights Commission 2012). The Australian Humanitarian Programme has an offshore resettlement component and onshore protection component. Both of these components obligate Australia to provide primary healthcare to refugees and asylum seekers. This healthcare is provided via a team of general practitioners, nurses, counsellors and psychologists (Department of Immigration and Border Protection 2015).
- Australia further has legal obligations to special groups of people, specifically the rights of children (Australian Human Rights Commission 2013). Article 6 of the Convention on the Rights of a Child (CRC) which was accepted by the United Nations General Assembly in 1989 and ratified by Australia in December 1990 (UNICEF Australia 2014), indicates that “States Parties recognise that every child has the inherent right to life and that States Parties shall ensure to the maximum extent possible, the survival and development of a child.”

## **Rationale**

This section enlarges the ethical, legal and professional considerations that inform ACN’s position on the provision of health care by nurses to refugee and asylum seekers living in immigration detention or the community.

The Australian Human Rights Commission defines an asylum seeker as “a person who has fled their own country and applied for protection as a refugee and is unable or willing to return due to a well-founded fear of persecution because of their race, religion, nationality, membership of a particular social group or political opinion” (Australian Human Rights Commission 2013).

Many refugees and asylum seekers arriving in Australia come from warzones (Phillips, Smith, Kay & Casey 2011) and environments where the provision of health care differs to that in Australia or may

even be limited in its availability (Lamb and Smith 2002; Sheikh-Mohammed et al. 2006). They face unique and complex health challenges that often amount to considerable health burdens (Milosevic 2012; Phillips et al. 2011). These burdens tend to arise, among others, from psychological issues, nutritional deficiencies, under-immunisation, poorly managed chronic disease and physical consequences of torture or sexual abuse. Nurses and other health care providers need to tailor services to take account of the difficulties refugees and asylum seekers experience in accessing services (Milosevic 2012).

ACN believes that any detention of children in immigration detention centres is in contravention of Australia's responsibilities under the United Nations' convention on the Rights of a Child (UN CRC) (ACN and MCFHNA 2014). Further, ACN is of the view that the physical and mental health care of refugee and asylum seeker children deserves particular attention as the early years of a child's life lay the foundations for his or her future growth, development and happiness. Psychosocial trauma and lack of health care during childhood is known to have a negative impact on a child's social, emotional, cognitive and physical development. For this reason, it is imperative that children accompanying refugees and asylum seekers are provided with positive social and physical environments. Further they should have access to early childhood health care and education delivered by professionals who specialise in the health care and education of children (ACN and MCFHNA 2014).

#### *Nurses working with refugees and asylum seekers*

ACN is strongly of the view that any government rules and regulations pertaining to refugees and asylum seekers and/or the nurses involved in their care must not interfere with nurses' obligations under the NMBA's *Code of Ethics* (2013) and *Code of Professional Conduct* (2013).

Nurses working with refugee and asylum seeker populations practice in environments of considerable medical, cultural and social complexity and provide care to members of ethnic and cultural groups new to Australia who often present with unfamiliar disease profiles. For this reason nurses working in these settings should be assisted through access to education that addresses the specific health, cultural and social needs of refugee and asylum seeker populations. Further, these nurses should be supported to acquire and maintain the strong clinical skills covering care across the lifespan they require (Carrigan 2014; NSW Health 2011).

#### **Reference list**

Assiri A.M. (2014) *Asylum seekers and Mental Illness in Australia: a nursing response*. Australian Nursing and Midwifery Journal. Vol 21, no.9, pp. 32-5.

Australian College of Nursing (ACN) and Maternal, Child and Family Health Nurses Australia (MCFHNA). (2014) *Submission to the Australian Human Rights Commission: National Inquiry into Children in Detention*. Australian College of Nursing, Canberra.

Australian Government Department of Immigration and Border Protection. *Factsheet - Immigration detention*. Department of Immigration and Border Protection Canberra. Viewed 2 June 2015. <[http:// www/immi.gov.au/About/Pages/media/fact-sheets/factsheet-81.aspx](http://www.immi.gov.au/About/Pages/media/fact-sheets/factsheet-81.aspx)>

Australian Human Rights Commission. (2013) *Asylum seekers, refugees and human rights: Snapshot Report*. Australian Human Rights Commission, Sydney.

Australian Human Rights Commission. (2012) *Immigration Detention on Christmas Island: Observations from a Visit to Immigration Detention Facilities on Christmas Island*. Australian Human Rights Commission, Sydney.

Carrigan C. (2014) *Flying under the radar: The health of refugees and asylum seekers in Australia*. Australian Nursing and Midwifery Journal. Vol 21, No 9, pp. 22-27.  
<<http://www.ncbi.nlm.nih.gov/pubmed/24812771>>

Lamb C.F and Smith M. (2002) *Problems Refugees Face When Accessing Health Services*. NSW Public Health Bulletin. Vol 13 no.7 pp.161-3.

Milosevic D., Cheng I-H., Smith M.M. (2013) *The NSW Refugee Health Service: Improving refugee access to primary care*. Australian Family Physician. Vol 41, no.3, and pp.147-149.

NSW Government Ministry of Health. (2011) *Policy Directive: Refugee Health Plan 2011-2016*. NSW Government, Sydney. Viewed 1 June 2015.  
<[http://www.health.nsw.gov.au/policies/pd/2011/pdf/PD2011\\_014.pdf](http://www.health.nsw.gov.au/policies/pd/2011/pdf/PD2011_014.pdf)>

Nursing and Midwifery Board of Australia. (2013) *Code of Ethics for Nurses in Australia*.

Nursing and Midwifery Board of Australia. (2013) *Code of Professional Conduct for Nurses in Australia*.

Phillips C.B, Smith M.M., Kay M. and Casey S. (2011) *The Refugee Health Network of Australia: Towards a National Collaboration on Healthcare for Refugees*. Medical Journal of Australia. Vol 195, no.4, pp. 185-187.

Victorian Refugee Health Network (2015) *Asylum Seeker Health Services* Viewed 29 July 2015.  
<<http://refugeehealthnetwork.org.au/refer/asylum-seeker>>

Zion D., Briskman L., Loff B. (2009) *Nursing in asylum seeker detention in Australia: care, rights and witnessing*. Journal of Medical Ethics. Vol 35, pp.546-51