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8 January 2002



Mr Gavin Jones
Project Manager
Australia Competition and Consumer Commission
PO Box 1199
DICKSON ACT 2602

Dear Gavin

Re: Application for Interim Authorisation Nos A90811 & A90812 lodged by Health Purchasing Victoria

Thank you for taking the time to meet with me on Friday. Further to this discussion I am forwarding to you three extracts from "The Age" newspaper, and a transcript of a Victorian talk back radio program. These are submitted as additions to our documentation provided previously.

We are extremely concerned that the approach taken by Health Purchasing Victoria and the Minister is being represented as a foregone conclusion in terms of the tender proposal. The responses from nurses to the proposed initiative are of great concern as they give support to our contention that the potential anti competitive results of the proposal are likely to occur even before the authorisation request has been considered.

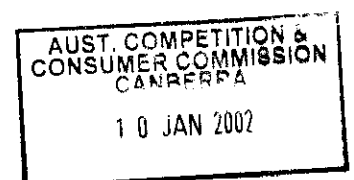
We therefore ask that these documents be added to our submission as an indication of the adverse nature of the outcomes which are already occurring even before the tender process has commenced.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Russell Bateman'.

Russell Bateman
Chief Executive Officer

Enc: The Age newspaper extracts (3)
ABC Radio Victoria Statewide transcript (1)



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Summer bake: Melburnians flock to the beach yesterday, while Stefanos Ouzas, 18, retrieves the cross at the annual Greek Orthodox blessing of the waters at Station Pier. Pk



State moves to set up 'nurse banks'

By RICHARD BAKER

The Victorian Government has moved to establish its own "nursing banks" to try to end the stranglehold of private nursing agencies.

Acting Premier and Health Minister John Thwaites said yesterday that Victoria's public hospitals were spending more than \$1 million a week on agency fees, which had increased by more than 50 per cent in seven months.

Mr Thwaites told *The Age* the government had asked the Australian Competition and Consumer Commission to grant an exemption under the Trade Practices Act to allow it to tender for agency nurses on behalf of all public hospitals.

He said many of Victoria's 50 private nursing agencies were holding the state to ransom by taking advantage of a nationwide shortage of skilled specialist nurses.

"Since May, fees for emergency and critical-care nurses have increased from \$50 to \$88 an hour, while on public holidays, hospitals have been forced to pay \$15 an hour for an agency nurse, instead of \$44 for a salaried nurse," he said.

"More than half of this money goes directly to the private companies, not the nurses, and this money could be better used to employ more permanent staff to treat an extra 7000 patients from our waiting lists."

Mr Thwaites said he was also concerned to hear reports of agencies charging hospitals up to \$3000 in "release fees" if a contracted nurse was approached by a



Tough day forecast for firefighters

Overnight rain and the arrival of two Erickson Air-Cranes will bring welcome help to 15,000 firefighters battling more than 80 blazes across New South Wales.

Weather conditions eased over the weekend, allowing extensive backburning, but the Rural Fire Service warned residents in the Blue Mountains, Hawkesbury and Shoalhaven to remain vigilant.

The waterbombing helicopters will arrive as NSW braces itself for a day of searing heat and strong winds today as the state's bushfires, described by the NSW Government as the worst in Australia's history, continue to burn.

NSW Emergency Services Minister Bob Debus said the costs of the fire operation so far were \$70 million.

NEWS 5: Reports

hospital to become a full-time staff member. The proposed "nurse banks" would be funded by the government-owned Health Purchasing Victoria, and administered by local public hospitals.

"The government believes locally run nurse banks would be able to provide higher-quality care than private nursing agencies because the nurse bank staff would be familiar with the standards, procedures and expectations of the hospital they belonged to."

If the government was successful with its ACCC application, nurses working for the public hospital-administered nurse banks would receive pay in line with award rates, which are among Australia's highest, Mr Thwaites said.

Australian Nursing Federation secretary Lisa Fitzpatrick said the government's move would improve care for patients, and ease the workload of full-time public hospital nurses.

Ms Fitzpatrick said the unfamiliarity of many agency nurses with different hospital practices and layouts often created extra work for permanent staff.

She admitted that the fees charged by private agencies were "getting out of hand" and causing resentment among some hospital staff. "Obviously, nurses who are working next to an agency nurse earning four times the hourly rate creates some frustrations," she said.

The government is also considering capping nurse agency payments by hospitals and only using agency nurses for unplanned absences and exceptional circumstances.

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Agencies attack 'nursing bank' plan

Casual nurses will face massive pay cuts, it is claimed.

By RICHARD BAKER

Private nursing agencies yesterday attacked a Victorian Government plan to reduce the use of agency nurses in public hospitals, warning that it would lead to an exodus of nurses from the state.

Tony Formosa, managing director of PRN, one of Melbourne's largest nursing agencies, said the plan would result in massive pay cuts for casual nurses, forcing them interstate, overseas or out.

But a spokeswoman for Health Minister John Thwaites said last night that the government was not seeking to cut casual nurses' pay, rather it was trying to stop agencies from taking advantage of continuing nursing shortages. The spokeswoman said agencies were taking 55 per cent of the fees paid by public hospitals for use of their nurses.

Mr Formosa said agency nurses would leave Victoria or the nursing profession in droves if the government proceeded.

"Very few agency nurses would accept lower wages in the Victorian public health system when they can get paid what they deserve in the private sector or overseas," Mr Formosa said.

"Agencies aren't setting the

prices, nurses are. They are getting what they think they are worth. It is a classic supply-and-demand situation."

The Age reported yesterday that the government was seeking to establish its own "nursing banks" to reduce the reliance on agencies, which it claimed, were costing public hospitals more than \$1 million a week.

The government has asked the Australian Competition and Consumer Commission to exempt it under the Trade Practices Act so it can tender for agency nurses on

behalf of public hospitals in a bid to lower agency fees. Fees have increased by as much as 70 per cent in the past year, it says.

Under the government's plan, tenders would be awarded to agencies that provided nurses at closest to award rates.

At present, agencies are charging hospitals up to four times award rates for casual nurses.

Critical Solutions agency director Michael Croft said Mr Thwaites was being misleading about how much most agencies were charging, saying he was using the most extreme

examples and that he was not taking into account the fact that the agency fees included nurses' WorkCover, superannuation and leave entitlements.

But Mr Thwaites, who said yesterday that he was confident the ACCC would approve the government's proposal, continued his attack on private agencies, describing some as "greedy" and "profiteering".

"This is about the government getting the best value for the taxpayers' dollar and by tendering out the provision of agency nursing we'll get better value," he said.

Melbourne Nursing Agency director Heather Stevenson said nurses would never work at a lower rate in a public hospital when they could work for an agency in the private

sector at their preferred rate. She also questioned the government's timing in seeking ACCC exemptions, saying agencies received documents about the attempts to set up a tendering process only on December 20.

State Opposition health spokesman Robert Doyle said Victorians should be concerned by the government's attempts to fix wages for agency nurses and claimed its actions were an admission it had failed to recruit adequate numbers to the private system.

Mr Doyle said the government's wish to bolster hospital-run nurse banks was nothing but "a recruiting drive for the union who are committed to destroying agency nursing".

Nurses opt for healing respite in casual care

By MEAGHAN SHAW
WORKPLACE REPORTER

For the first time after a decade of working in public hospitals, Sally Moon was recently able to accept an invitation for a friend's engagement party without having to firstly check her roster.

"It's unreal," she said. "It's the first time in 10 years that I've got flexibility."

Ms Moon is one of the increasing number of nurses choosing to register with nursing agencies rather than working on staff at a hospital.

She has been with one of Victoria's largest agencies, Nursing Australia, for the past month and works three to five shifts a week when she chooses.

Like many nurses, she also has a permanent shift at a major metropolitan hospital because she is reluctant to cut all ties with the public system.

"I don't do earlys anymore," she said, referring to the early shifts that begin at 7am and require rising from bed by 5.30am.

"If I work from 7am until 3pm, you can guarantee by 4.30pm you can guarantee by 4.30pm you can be asleep in bed," she said. "So it's not very social."

But for Ms Moon, flexibility is more important than money. Despite years of experience in intensive care units, she has chosen to have a break from stress and rely on agency work in general nursing, which cuts her potential pay by about \$20 an hour.

When she was an associate charge nurse at a major metropolitan hospital, looking after a 26-bed unit, she earned about \$22 an hour during the week. As an agency nurse, she now receives about \$35 an hour during the week and \$55 at weekends. If she registered for intensive care work, she could be earning \$50 an hour Monday to Friday, and \$80 at weekends.



Free agent: Sally Moon sees flexibility of working hours as more important than money. PHOTO: NICOLE BHANUEL

But Ms Moon believes many agency nurses would leave the system if their pay was cut.

"It would force a lot of people to think about something else," she said. "So many are just hanging in there and the fact that now you can earn money that you think you deserve is a real bonus."

Melbourne Nursing Agency director Heather Stevenson said the average age of nurses was 38, with many looking after dependent children or older parents.

She said many casual nurses registered with hospital nursing banks would be penalised if they did not take a shift on offer. Agency nursing was therefore a way to balance work and family life.

For Denise Hoban, 57, agency work was the best option when bringing up three children as a single mother. Originally, she used to quit each job before Christmas to ensure she could spend the holiday period with her children.

"But after a while my resume started looking like patchwork even though I was an intelligent, good nurse," she said. "So I found working agency kept my resume valid."

For Ms Hoban, agency work also meant she could avoid the politics of hospitals and the pressures that came from management to reduce costs. "I find that I can walk in and do an excellent day's work with no other priority but patient care," she said.

Kennett cuts led to new practices

By MEAGHAN SHAW

Nursing agencies were traditionally used to fill unplanned vacancies but a decade ago there were only about six operating.

In those days, nurses paid a commission of between 8 and 12 per cent to the agency to help them find work and typically were paid the award rate plus 25 per cent casual loading.

Now the number of nursing agencies is estimated to be between 40 and 50, with two or three large agencies, including Nursing Australia, which manages several smaller agencies, and many niche agencies specialising in types of care and particular suburbs.

Australian Nursing Federation state secretary Lisa Fitzpatrick said agencies began to flourish when the Kennett government cut 2000 nurses from the public-hospital system.

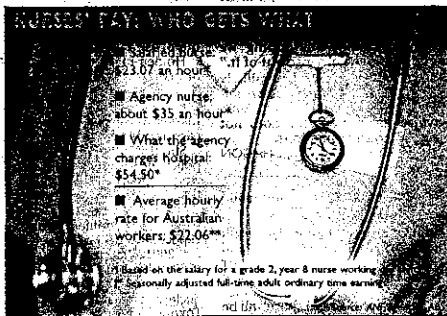
With hospitals expected to do the same amount or more work with less staff, many nurses, oppressed by excessive workloads, dropped to part-time and picked up extra shifts through agency work, she said.

"The way that they (the agencies) tried to attract those nurses was predominantly by the rates of pay," Ms Fitzpatrick said. "That's how it became ingrained."

She said the latest enterprise agreement, arbitrated by Australian Industrial Relations Commissioner Wayne Blair, recommended agency staff be used only for unplanned vacancies.

Agencies yesterday rejected the Victorian Government's contention that they were profiteering at the expense of the hospital system.

Critical Solutions managing director Michael Croft said that of the \$65 charged by his agency for a critical-care nurse, \$50 would go to the nurse, \$7 would be lost in superannuation and WorkCover charges, and \$1.50 in bank overdraft fees.





Luring nurses back into hospitals

Cutting the costs of agency staff is important, but so is fixing the critical nursing shortage.

SOMETIMES the principles of the free market collide with the need for frugality with the public purse. The use of agency nurses to staff gaps in the public hospital system is one of those times. Victoria's hospitals are spending more than \$1 million a week on agency fees, which have

increased by more than 50 per cent in the past seven months, according to Health Minister John Thwaites. While the agencies are entitled to profit from the shortage of their product — nurses — in the marketplace, the government is right to be concerned at the cost blow-outs. As Mr Thwaites points out, this money would be better spent employing more permanent staff to treat an extra 7000 patients. The government wants to try to set up its own "nursing banks", which would be run by local public hospitals. The plan relies on the Australian Competition and Consumer Commission exempting the government from the Trade Practices Act to allow it to tender for agency nurses on behalf of all public hospitals. This seems to be a case in which the public good would be best served by the waiving of competition policy.

Either way, however, the severe shortage of nurses remains. The crisis is worldwide, and an international survey of nurses found that the most common reason for leaving the profession was the stress caused by chronic understaffing. Globally, governments have tried to compensate for the ballooning costs of new medicines and health technologies by cutting staff. Exhausted nurses, fed up with erratic shifts and mediocre pay, and dismayed by their inability to care adequately for too many patients, have left in droves. Australia has an estimated 24,500 nurses who choose not to work as nurses. The numbers in training have also

fallen as young women choose from a wider range of careers and young men continue to avoid what has been seen as "women's work". The shift from hospital-based training to expensive university degrees, a positive step in many ways, has unfortunately discouraged some potential students, and the cost of post-graduate courses has discouraged others from gaining specialist qualifications in areas such as theatre and intensive-care nursing, as well as midwifery. All these shortages are expected to worsen as baby-boomer nurses start to retire.

The State Government has sponsored re-entry and refresher courses, which have drawn more than 1000 nurses back into the system, while the Federal Government is conducting a national review of nursing education. But many changes will have to be made if there is to be a turnaround: nurses have made it clear in previous surveys that they want more flexible shifts that can be combined with family responsibilities, accessible training, recognition of their skills and — an aim the whole community shares — staff-patient ratios that allow them to care properly for patients.

LETTERS

Pay us properly — because we're worth it



It's the market that decides...

So the Blacks Government thinks agency nurses cost too much? A basic lesson in economics says that if the market will pay it, it is not too much. In fact, it is a good indicator of what the service is really worth.

A basic lesson in common sense says that at around \$22 an hour, a university-qualified, professional, shift-working nurse with eight years' experience is grossly underpaid by any community standard.

If the people who run this state want to save money on agency nurses, give hospital nurses a better deal and eliminate the shortage — and therefore the real problem.

BRAUNHONGER, Carnegie
... and nurses are in short supply

What a fiscally responsible idea, Mr Thwaites: cut the nursing agencies' fees and put the money into employing more permanent nurses to decrease Victorian waiting lists! The only problem is, you are ignoring the worldwide nurse shortage, and the many reasons for it.

Stop looking for a quick fix and take a serious look at this impending health crisis.

GERALDINE KEELY, Fairfield
Banks do want safe ATMs

I am a nurse and I work in a public hospital in Melbourne. To become a nurse I completed a Bachelor of Nursing degree — a three-year university course. Last year I completed the first year of the Post-Graduate Diploma of Advanced Nursing, Neonatal Intensive Care.

I have worked for four years in the public and private systems; I have also worked through an agency.

When I work full-time in the public system I earn \$18 an hour. When I work agency — which is

casual — through the week I get paid about \$50 an hour.

Whether the agency charges the hospital twice or three times that amount, I don't know. But what I do know is that nurses are finally able to work flexible hours and achieve an income that acknowledges their experience and qualifications — something that people in business, accounting or computing would expect as a matter of course.

Health Minister John Thwaites should realise that nurses are a precious commodity. Not only do

we want good conditions, we want pay that reflects our experience, education, dedication and commitment to the community. If the state won't recognise it, private agencies will.

There is perception within the health system — and even within nursing — that the system can't afford to pay us more money. But I wonder how many executives working in the health system are questioning the amount that they take home.

Now that nurses are beginning to

realise their worth, the State Government and public and private systems are going to have to deal with the real issue that will bring and keep nurses in the health system: money.

I love my job, but at the end of the day I work to pay the bills. I deserve more. I know my patients and their families value what I do, and I know that the community values what nurses do. It's time the government did, too.

NICOLE VANDER LINDEN, Mooroolbark

Government plan to drive down agency nurses' wages

By MEAGHAN SHAW
WORKPLACE REPORTER

Agency nurses would be encouraged to work more shifts because they would be paid less under the Victorian Government's proposed restructuring of nurse staffing arrangements.

As part of the plan, a centralised statutory authority, Health Purchasing Victoria, would provide agency staff exclusively to public hospitals in Melbourne and Geelong.

The government has asked the Australian Competition and Consumer Commission to exempt it from prosecution under the Trade Practices Act.

While the ACCC considers the matter, the government has called for tenders from nursing agencies to enter into agreements with HPA to provide staff to public hospitals.

Any agency that is unsuccessful in

tendering, or refuses to tender, will be able to provide nurses to private hospitals or private nursing homes only.

The government's submission to the ACCC, written by the law firm Phillips Fox on behalf of HPA, states that tenderers would be given preference if they agreed to pay agency nurses the relevant award rate.

"It is hoped that the proposed tender arrangements will encourage the nursing agencies to offer to pay agency nurses the applicable award/FAA rate (or at least it will place downward pressure on the wages payable) and will encourage the providers to offer a more competitive commission fee," the submission said.

"It is hoped that the changes in remuneration structures for agency nurses will encourage nurses to

increase their availability by working more shifts."

The government is also considering restricting how much a hospital can spend on agency fees, to encourage hospitals to use their own nurse banks.

Health Minister John Thwaites announced the plan this week, claiming private nursing agency staff rates cost the public health system more than \$1 million a week.

Russell Bateman, the chief executive of the Nursing Australia agency, said he couldn't imagine "any other profession in the country where a government would consider regulating their earning capacity downwards".

Australian Nursing Federation state secretary Lisa Fitzpatrick said casual nurses had to be compensated for their lack of job security and entitlements.

OPINION 10: Editorial letters

Children denied hospital care because there was 'prior'...

Australian life. Houses need to be designed and sited with the fire

anything that moves, from public trains to promotional signage along

police have found in charging such offenders, my guess would be none



Leaving

ABC RADIO VICTORIA STATEWIDE
GLEN BARTHOLOMEW 8.41AM 7TH JANUARY, 2002.

*THE VICTORIAN GOVERNMENT PLANS TO LIMIT THE
USE OF PRIVATE NURSING AGENCIES.*

*INTERVIEW WITH VICTORIAN HEALTH MINISTER JOHN
THWAITES.*

GLEN BARTHOLOMEW – PRESENTER:

News this morning that the Victorian government plans to limit the use of private nursing agencies. Now, this is obviously in your health portfolio. The problem here is, what, that the agencies, the use of nursing agencies whereby they find nurses as required, are costing public hospitals, what, up to a million dollars a week?

JOHN THWAITES – VICTORIAN HEALTH MINISTER:

It's incredible, isn't it. And this is big money. But there is a worldwide shortage, and, in Australia, a shortage in certain areas of nursing of specialist nurses, for example intensive care. The agencies have in the past provided extra nurses when a hospital is short, but in the last six months to a year we've seen a huge increase in the fees that these agencies

have been charging, you know, sometimes up to seventy-five per cent increase over the past year.

BARTHOLOMEW:

That's gone up about fifty per cent in this last seven months. Is that opportunism on their part?

THWAITES:

It is in some cases. It is a system where some of these agencies have been greedy; they've seen a shortage in this area and they've jacked up the prices hugely. It's costing public hospitals, but it's also hurting individual nurses in public hospitals who are bearing the burden of having to do extra work. Because if you use these agency nurses, they ... while they might be skilled themselves, they don't have the continuity of care, they don't have the knowledge of that particular hospital.

BARTHOLOMEW:

A lot of the time would be spent basically acclimatising and becoming familiar with each particular ward and hospital.

THWAITES:

That's exactly right, and that makes it harder for the full time nurses. So what we're doing is a few things. First, of course we're increasing the total number of nurses by about two

thousand six hundred, so that we've got more nurses in our public hospitals, less reliance on the agencies.

BARTHOLOMEW:

Has that nurse bounty finished, by the way, so to speak? Has that reward system been drawn a line under; you've got enough now, do you think?

THWAITES:

Well, we've got two thousand six hundred more, but we're going to continue that to attract specialist nurses. And so we'll be having scholarships and refresher courses for nurses in these specialist areas where there's a shortage, like intensive care, like the emergency department, and we'll be setting up nurse banks so that individual hospitals can have a nurse bank of casual nurses that they can draw on. And finally, what we propose to do is have a tendering system so that the private nurse agencies have to tender a fair price and they don't keep jacking up the price higher and higher.

BARTHOLOMEW:

So you have to get ACCC - Competition and Consumer Commission - approval for this?

THWAITES:

We have to get approval from the ACCC for this tender. We're very confident that we'd get that because at the

moment the system is just hurting public hospitals. If you're paying these fees on a public holiday up to a hundred and eighty, a hundred and ninety dollars an hour to an agency, most of which goes to the agency, not to the nurse, then that's just hurting hospitals and that backfires on patients.

BARTHOLOMEW:

Do many of those nurses end up working full time, or at least getting more permanent positions with those hospitals?

THWAITES:

We would like ... and we're recruiting some of those nurses to public hospitals, but at the same time there are reports that public hospitals are having to pay a fee to the agencies to do that, and ...

BARTHOLOMEW:

Up to about three thousand dollars as a release fee; is that right?

THWAITES:

Well, that's what's been reported to us. Now, we don't believe that that's appropriate. We believe there is a role for private nursing agencies, but we have to ensure that the public interest comes first.

BARTHOLOMEW:



Okay then.

END OF SEGMENT