

Gilbert Jewel

From: Grimwade Tim
Sent: Tuesday, 15 January 2002 8:40 AM
To: Jones Gavin; Palisi Paul
Cc: Gilbert Jewel
Subject: FW: agency nurses

fya



-----Original Message-----

From: STV FLR 2IC [mailto:floor2ic@stvmph.org.au]
Sent: Tuesday, 15 January 2002 2:19
To: 'adjudication@accc.gov.au'
Subject: agency nurses

C 2001/1711 WJ
C 2001/1712 PR

Dear Sir,

I refer to the Victorian Government's proposal to form an entity - Health Purchasing Victoria - for the purpose of entering into an exclusive tendering arrangement with nursing agencies for the provision of agency nurses to Victorian Public Hospitals. The proposed tender arrangement, in which each of the health services will enter into an agreement with HPV as its agent to contract on its behalf with the successful tenderers to acquire all their agency nursing staff exclusively from them, raises the following restrictive trade practices issues under Part 1V of the Trade Practices Act 1974 ['TPA']:

exclusionary provisions under section 45 [2] [a] [i] of the TPA ;
anti-competitive agreements under section 45 [2][a][ii] of the TPA;
and
price fixing under 45[2][ii] of the TPA [via section 45A].

First, the proposed arrangements provide for the exclusive acquisition of agency nurses from the successful tenderer[s] which may prevent health services from acquiring agency nurses from competitors of the successful tenderer.

In an attempt to reduce overall nurse staffing costs, the purpose of the tender is to encourage the prospective tenderers to offer their lowest agency nurse rates in exchange for exclusive supply arrangements.

Secondly, the exclusive tenders may have the effect of substantially lessening competition in a market in Australia on the basis that suppliers of agency nurses, other than the successful tenderer[s], will be unable to supply to the health services.

Thirdly, the proposed tender arrangement may be considered to fall within the prohibition against price fixing on the basis that it has the effect of fixing, maintaining or controlling the agency nurses rates.

I therefore respectfully request that you do not allow the Victorian Government to proceed in this anti-competitive manner.

Apart from the legalities, nurses are in short supply and the increased wages and improved control over working conditions eg rosters afforded to them by agency work has attracted many back to active nursing. The supply situation will deteriorate further if this proposal is successful. Allowing market forces to prevail may ultimately lead to a satisfactory resolution of the problem.

I look forward to your early favourable decision.

Yours sincerely

Patricia ODonohue. RN.

15/01/02