



AUSTRALIAN
NURSING
FEDERATION



24 December 2001

The General Manager
Adjudication Branch
Australian Competition & Consumer Commission
PO Box 1199
DICKSON ACT 2602

Via Email: adjudication@accc.gov.au

Dear Sir/Madam,

Our ref F/N: 840-110-005

The Australian Nursing Federation (Victorian Branch) welcomes this opportunity to provide a submission regarding the application by Health Purchasing Victoria for the exclusive provision of agency nursing staff to various public health services in Victoria.

The attached submission considers the likely public benefit, issues, and potential competition effects for the health industry, with a view to bettering health services for the Victorian community.

Yours sincerely

Lisa Fitzpatrick
SECRETARY, ANF (Vic Branch)



**The Australian Nursing Federation
(Victorian Branch)**

Submission

to

**Australian Competition and Consumer
Commission**

December 2001

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Australian Nursing Federation (Victorian Branch) Submission to the Australian Competition and Consumer Commission regarding the Application for Authorisation Nos A90811 & A90812 lodged by Health Purchasing Victoria.

SECTION 1 INTRODUCTION

- 1.1 The Australian Nursing Federation (Victorian Branch) (ANF) is the state branch of the Australian Nursing Federation, an industrial organisation registered under the Workplace Relations Act 1996. ANF has over 35,000 members, with national membership over 115,000. The ANF promotes and protects the interests of members and provides professional and industrial leadership for the nursing industry and the health sector.
- 1.2 The ANF is the major organisation representing nurses in Victoria on industrial and professional matters. Our membership is employed in a range of health services including public and private acute hospitals, nursing agencies residential aged care, community health centres, local government maternal and child health centres, district nursing and others.
- 1.3 Through our participation in the development of policy, including nursing, nursing regulation, health, occupational health and safety, industrial and professional matters and law reform, ANF aims to improve conditions of employment and the industrial and statutory rights of members, uphold professional standards and to provide members with all the protections they need to work safely and proficiently within the nursing profession.
- 1.4 The ANF welcomes the opportunity to make this submission regarding the application by Health Purchasing Victoria (HPV) for the exclusive provision of agency nursing staff to various Victorian health services. This submission focuses on the likely public benefits and issues of the agency tendering arrangements for health care recipients and the nurses employed to provide the health care. Potential effects regarding competition for the health industry within Victoria are particularly considered in the context of better health services.

SECTION 2 ENVIRONMENT

- 2.1 Public hospitals in Victoria are required to abide by pre-determined staffing levels known as nurse patient ratios. They are obliged to adjust services accordingly if unable to roster the required number of nurses. When understaffed, their options for service provision might include actions such as ambulance bypass, reducing services for particular areas or modifying and reducing admissions.
- 2.2 The reasons preceding the introduction of nurse patient ratios included chronic nursing shortages and understaffing; industrial action as regards serious concerns for patient care and unmanageable workloads for nurses struggling to maintain and deliver quality health services in public health care facilities. This situation was submitted in evidence to the Australian Industrial Relations Commission (Commission) as part of a hearing under s.111AA of the Workplace Relations Act 1996 (the Act) before Commission Blair. These

proceedings led to the 2000 Public Sector Decision¹ (the Decision) for Victorian nurses that is to be certified into a three-year multi employer certified agreement.

- 2.3 The Decision provided many effective initiatives to relieve the health crisis, improve public health and to recruit and retain nurses. Little more than one year after implementation and despite a national and state wide shortage of nurses, the Decision coupled with government and hospital initiatives have increased the number of nurses employed in public hospitals to more reasonable levels and dramatically reduced industrial disputation. However issues of implementing the recommendations flowing from the Decision regarding staffing, as well as Victorian State Government (the Government) responses to the Bennett Report² (a report commissioned by Government to address shortages of nurses in Victoria) are ongoing so far as securing the required numbers of permanent and agency nurses for future needs.
- 2.4 Reasons necessitating the HPV application evolved through the Decision that brought in the nurse patient ratios and particular employment conditions to public health facilities, and through the Government response to the Bennett Report. Commitments given by relevant parties to the s.111AA Decision and further recommendations, and also the Bennett Report, seek to address understaffing, improve patient care and to turnaround the decline of public sector nurse employees by implementing the nurse patient ratios and using an appropriate mix of permanent, bank and agency nurses to provide safe quality patient care.
- 2.5 The use of agency nurses has escalated in recent years from a practice of employing them to cover for unplanned absences such as sick leave to employing them in place of permanent nursing positions³. With agency nurses approximating 5% of hospital nursing staff (and this generally apportioned into higher costed specialist areas) paid at significantly higher remuneration levels compared to hospital nurses, hospital planning and core staffing initiatives are consistently impeded. Specialist areas such as operating theatre, midwifery, paediatrics, cardiothoracic, neo-natal intensive care and critical/intensive care with accident/emergency departments are the areas worst affected by nursing shortages. An affordable, accessible and stable nursing workforce is essential for safe service delivery particularly within the critical specialist areas.
- 2.6 Common issues with employing agency nurses include: unsustainable hire costs at up to four times the cost to employ agency nurses compared to hospital nurses; unknown competence/skill level; unfamiliarity with local work environments; increased supervision and orientation by permanent staff; added responsibility for permanent staff; and, less continuity of care.
- 2.7 Recommendation 53 - high priority - from the Bennett Report advises the "use of agency nurses is restricted to unplanned absences only"⁴. The Government response to this was preceded by the Decision at paragraph [185] as follows:

¹ Blair C, C No.35605 of 2000, Print S9958, 31 August 2000

² (Bennett Report) Nurse Recruitment and Retention Committee Final Report, May 2001

³ Ibid, 6.1.3.1, p 82-83

⁴ Ibid, p 84

"that employers should endeavour to meet the ratio through the employment of permanent staff. Where this is not possible, bank staff may be used in the interim. Agency staff should only be used for unexpected absences, such as sick leave."

The Government supported recommendation 56⁵ - high priority - that encourages ad hoc staff replacement through (re) established nurse banks.

- 2.8 Adding to cost management and rostering difficulties, employee nurses are attracted to higher paid agency work for additional shifts in preference to working overtime or additional shifts as hospital employees. Data reported by the Bennett Report⁶ and our experience strongly indicate that the current rates offered by agencies are destabilising and compound the difficulties of recruiting permanent employees and filling shift vacancies with hospital employees. Utilisation of agency nurses to manage core rosters, rather than for unexpected absences, wastes public money, diminishes staff morale and lessens continuity of care.
- 2.9 The growth of nursing agencies and the reliance on them by health services for the supply of nursing staff is evident through information reported by Considine and Buchanan⁷ and by the Bennett Report. This reliance has increased agency rates to unbalanced levels compared to hospital employee nurses, thereby giving agencies significant competitive advantage. The hospitals are then unenviably positioned to balance the costs of rostering against service provision.

SECTION 3 EFFECTS ON COMPETITION AND PUBLIC BENEFIT

- 3.1 With increasing staffing costs, as claimed by health services, not matched by equivalent funding, hospital compliance with legal staffing requirements would best occur within existing finance. Essential long-term strategy for rostering efficiency and maintaining and growing health services should include a reasonably priced labour supply. Exclusive tender arrangements should achieve this as well as increasing certainty in the planning and provision of public health services.
- 3.2 ANF is concerned over the growing disparity in earnings between different sectors and groups of nurses, with hospital nurses' highly dissatisfied with the disparity in earnings between themselves and agency nurses who perform the same and like work. Despite attempts to contain pay differentials between agency rates and award/agreement rates and despite common concerns about sustaining current levels, inequitable pay arrangements continue in what the Bennett Report describes "has become a sellers' market"⁸.
- 3.3 As agencies would be tendering by choice only those wanting commitment to agreed cost arrangements would submit tender applications. Agencies not tendering or those not entering into exclusive arrangements could primarily supply nursing labour in the Melbourne

⁵ Bennett, p 84

⁶ *ibid*, p 42

⁷ Considine G and Buchanan J, Australian Centre for Industrial Relations Research and Training (ACIRRT), University of Sydney, *The Hidden Costs of Understaffing: An Analysis of Contemporary Nurses' Working Conditions in Victoria*, Australian Nursing Federation (Victorian Branch)

⁸ Bennett, p 83

and Geelong areas to private acute hospitals and clinics, private and not for profit aged care, psychiatric and mental health services, non participating and other private health facilities. Though public sector hospitals are large employers of nurses, calculating actual dispersions of public to private nursing numbers and accurately predicting like labour force needs are difficult as available data is limited. However on balance we submit there would be sufficient replacement staffing requirements in other health facilities to counterbalance exclusive tender arrangements with HPV.

- 3.4 The prevailing issue of agency nurses unfamiliarity with hospitals could easily change by HPV entering into exclusive tendering arrangements. Our own experiences through liaison with hospital managements and members and the data reported by the Bennett Report illustrate that agency nurses do become familiar with local work environments where the hospitals have contractual arrangements to one agency⁹. We would expect this familiarity to also resolve the other common issues as detailed in 2.6 herein and in so doing provide significant public benefit in terms of quality patient care.
- 3.5 At the same time as hospitals establish suitable agency employment arrangements, long-term strategy should include increasing their own nurse banks and retaining equitable remuneration for both permanent and temporary nursing staff. As stated previously the Decision requires this by recommending employers utilise their own permanent, then bank staff, before using agency staff. Significant saving of public monies would be achievable by the combination of rostering provisos regarding employee staffing to agency nurses and by HPV achieving more equitable remuneration arrangements for employees and agency nurses through the proposed tenders.
- 3.6 The current balancing act between service provision and affordable staffing seriously compromise patient care. Benefits of hospitals being able to manage within a control system compared to currently would return dependable service provision to the public and better work environments to the nursing industry.
- 3.7 A consistent labour supply will alleviate high workloads. Higher patient acuity and trends to community convalescence reduce downtimes (lower activity times) for nurses resulting with them working at peak activity level for most of the time. In addition, data published by the Australian Institute of Health and Welfare¹⁰ (AIHW) shows increasing acuity and increasing patient throughput (separation) significantly adds to nursing workloads.
- 3.8 With nursing workloads measured by increases in hospital separations, shorter stays signify higher workloads. The Casemix funding in Victoria that presents public hospitals with financial inducements to shorter stays, contributes considerably to nursing workloads. The availability of exclusive agency staff for unexpected roster replacements would greatly relieve workload pressures for employee nurses compared to them currently coping with unfamiliarity issues. In addition, exclusivity should enable employee and agency nurses to establish more cohesive working relations than currently.

⁹ Bennett, p 42

¹⁰ Nursing Labour Force 1999, Australian Institute of Health and Welfare, Canberra, p 9,18-19

- 3.9 Arguments for better staffing arrangements in public hospitals are advanced by the fact that employment trends have favoured the private sector. AIHW data also reports statistical full-time equivalent (FTE) employment trends of public sector nurses declined nationally by 2.8% during the period 1995-96 to 1998-99, compared to private sector increases¹¹. The same period recorded a 7.4% increase in separations; an 8.5% decrease for patients' average length of stay, and a 10.5% increase in separations per FTE nurse¹².
- 3.10 A report by the Australian Centre for Industrial Relations Research and Training (ACIRRT), confirmed high workloads and understaffing issues exacerbated working conditions for nurses with 56 % blaming inadequate nurse patient ratios¹³. Data in the report also relays how high proportions of agency staff increase workloads for regular staff through their unfamiliarity and/or lack of qualification for particular practice areas.
- 3.11 Should hospitals not fulfil the required nurse patient ratios their services would be affected, as provided by compliance requirements, most specifically by the Heads of Agreement reached by the ANF, the Department of Human Services (DHS) and the Victorian Hospitals Industrial Association (VHIA) ¹⁴. This agreement accords with savings possible under exclusive tendering arrangements whereby the Department of Human Services (DHS) is seeking to fund an additional 350 EFT, including as follows at 7 c of the agreement:
- "direct savings obtained from examining and reducing the use of agency nursing staff, reductions in sick leave, reductions in staff turnover, and increase in the reduction of length of stay consequent upon the increase in permanent staff who have a better understanding of hospital discharge procedures and processes"*
- 3.11 The superior wages currently paid by nursing agencies frustrate hospital recruitment and retention initiatives and seriously divide the workforce. Agencies have competitive advantage over hospital employers through offering nurses high remunerations that are ultimately payable by the hospitals through hire transactions. Taking out the current competitive advantage in the sellers market ought to even out existing industry inequities, facilitate better spending and safeguard hospital services.

SECTION 4 CONCLUSION

ANF supports the exclusive agency tendering arrangement as proposed by HPV. Anticipated savings, industrial harmony and more equitable employment arrangements ought to facilitate Recommendations from Print s.9958 and related Recommendations/Decisions. The smooth implementation of these matters will avoid industrial disputation in public health and enable better service delivery. Improving the way public hospitals use agency nurses has significant public benefit by advancing public health services.

¹¹ Nursing Labour Force 1999, Australian Institute of Health and Welfare, Canberra, p 9,18-19

¹²ibid, p 19

¹³ Considine et al, p 3

¹⁴ Heads of Agreement, 23 Aug 2001