



VICTORIAN NURSE SPECIALISTS

11/02/2002

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Tim Grimwade
General Manager
Adjudication Branch
Australian Competition and Consumer Commission
PO Box 1199
Dickson ACT 2602

Dear Mr Grimwade

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

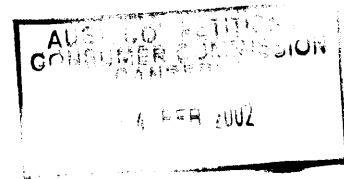
Victorian Nurse Specialists would like to submit its substantive application to the ACCC in relation to the application lodged by Health Purchases Victoria.

Should you require further clarification regarding this application please contact the manager on 9878 8000.

Thankyou for considering this submission.

Yours sincerely

Lina Cornell
Director, Victorian Nurse Specialists



**SUBMISSION TO THE ACCC REGARDING:
AUTHORISATION A90811 & A90812**

INTRODUCTION

Victorian Nurse Specialists is writing to oppose Health Purchasing Victoria (HPV) gaining any authorisation that will enable them to proceed with the proposed tendering process.

The agency is extremely concerned about the ramifications this type of tender will have on many agencies throughout Melbourne. This agency recognises there are difficulties within the health care system. HPV's document explains that there is a nursing shortage throughout Australia, tendering for agency staff in Victoria will not solve this problem. It has been tried before within various networks in the metropolitan area over a number of years. It did not solve the nursing shortage then, and this proposed tender would not solve the current health crisis.

The causes of the nursing shortage in Victoria are multifaceted. Nursing agencies are being used as a "scape goat", accused of causing the problems faced by the Department of Human Services. When in reality we are supplying a type of employment that suits many nurses, our nurses enjoy the freedom to choose their hours around family and other commitments, we allow the flexibility hospitals are unable to provide. Our nurses also appreciate the higher remuneration provided by agency.

BACKGROUND

Specialist nurses in particular are in very high demand throughout the metropolitan, regional and rural health services. These specialists nurses have extensive qualifications either via university based or combined hospital and university based courses. These courses are obtained as post graduate studies after obtaining their initial nursing degree.

The specialist nurse may have qualifications in a wide range of specific health care areas, for example, oncology, intensive and coronary care, emergency nursing, renal dialysis, psychiatric nursing, operating theatre, paediatrics, accident and emergency and midwifery.

There is a high cost attached to these course, prohibiting many nurses from obtaining qualifications, and for those who complete their course are faced with a huge debt, of up to \$8,000 or more, this fee is not covered under the Federal government HECS system.

After obtaining such post graduate qualifications the specialist nurse should be entitled to appropriate remuneration. This recognition is not currently applied to specialist nurses employed through hospital facilities. Nurses seek recognition. Specialist nursing agencies such as Victorian Nurse Specialists pay specialist nurses at the current market driven value i.e., what the nurse believes they are worth. Assessments show that some public emergency departments run with 50% agency. The fact that nurses unwilling to be employed directly by hospitals, shows the extent that specialist nurses believe the recent Enterprise Bargaining Agreement does not reflect their true value. Specialist nurses, and specialist nursing agencies are not greedy; specialist nurses want recognition for their qualifications and experience in their chosen field.

A nurse working in intensive or coronary care for example nurses are responsible for critically ill patients, on life support, continuous high tech and invasive monitoring, the nurse must have appropriate postgraduate qualification. The nurse patient ratio is usually 1:1. The nurse practitioner works in close consultation with the medical profession to ensure high quality care and a positive outcome for their patients. The critical nature of the patient's illness means that they are reliant on that nurse to have a thorough knowledge and understanding of complex disease processes, the intensive treatments they require for that positive outcome.

There is currently a shortage of appropriately qualified nurses to work in these specialised areas. Specialist agencies have long recognised the need to acknowledge the nurse's post graduate qualification and experience by ensuring a pay structure that is attractive enough so that they remain working in their field of expertise.

Nurses are like any other profession, they have a desire to work in their field of expertise and be adequately compensated for their hard work.

The proposed tendering such as that submitted by HPV will ultimately have a detrimental impact on the specialist nursing market. Nurses will no longer have a choice as to what agency they work for, whatever the reason they choose a particular agency may be. They will not receive the remuneration they currently have by working through an agency approved by the HPV tender process. There will no longer be a competitive market place, as it will be monopolised by large corporate agencies that have been previously awarded tenders. Localised agencies are extremely concerned about the effect the tendering process will have on their business, and their future viability.

PROPOSED CONDUCT

The tender arrangement will not result increased staffing availability. In prior tender arrangements, experience showed that those who were awarded tenders were unable to provide all staff required.

Direct cost of employing casual staff is passed on to the hospitals, they would be meeting those costs if recruiting the numbers of staff the agencies employ. The cost is not significant.

Nurses who choose to work agency do so for a number of reasons. The flexibility, the control they have over their rosters and work place, higher remuneration in recognition of tertiary qualifications and experience. The notion that nurses will work more hours under a tender arrangement is misleading. Nurses will leave the profession rather than work under those conditions. In a survey of agency nurses, 45% of respondents said they would leave nursing and consider other career options, 93% said the rates paid by the agency reflected the true value of their skills, 64% of the nurses who responded cited agency as their only source of employment.

A large proportion of current charge rates represents the above award wages for the nurse. Most agencies charge rates are not excessive as and the cost to the hospital is not significant. The cost of allocating staff is included in the fee paid by the hospital.

TRADE PRACTICE ISSUES

The current proposal to tender for agency staff will have a detrimental affect on many agencies. The tender will severely restrict the ability of unsuccessful tenderers to supply nurses to hospitals. The proposed tender will restrict hospitals from acquiring staff from unsuccessful tenderers and restrict the capacity for some agencies to compete with successful tenderers. Where tenders have been awarded in the past for the provision of staff to hospitals, (for example in the Southern Health Care Network) those excluded from the tender have had severe restrictions placed upon their ability to provide staff to that network. Their ability to continue to be a viable business was compromised, even though this unsuccessful tenderer had been the preferred supplier of staff for many years.

The ACCC must be made aware that HPV's proposed tender directly violates the *Trades Practices Act* 1974. Section 45(2)(a)(ii) provides security to consumers, ensuring that they can live in a competitive market place. HPV's proposed tender violates this right of the public, i.e. the hospital, nurse and nursing agency. This substantial lessening of competition is planned to take place for 3 years. This agency would be unable to operate, and forced to close, if not awarded a tender, as this agency would be not be able to compete against a monopolised market.

HPV need to be reminded that the chronic staff shortage and cost blow out for health care will not be solved by tendering its staffing requirements to a select few agencies.

PUBLIC BENEFITS TEST

Decrease in staffing cost

Nurses want to be paid what they deserve, according to their qualifications and experience. They want to choose when they work and where they work. They don't want to be dictated to by the hospitals and government.

Market forces have responded to the current market conditions and provided higher wages for specialist nurse. Nurses like any other profession want higher remuneration for their hard work and qualifications.

HPV's analysis of a nurse working at Southern Health to that of an agency nurse does not provide consideration for the costs that nursing agencies must absorb. Benefits that nurses receive from hospitals when being directly employed, are not included in Southern Health's breakdown. Benefits such as education, free gymnasiums, free general practitioner services and vaccinations. The hospital must pay for these services out of another budget, however, agencies finance these benefits by charging hospitals.

Many nurses will leave their profession if their current level of remuneration is not maintained. This is supported by surveys and verbal conversations with many of this agencies nurses.

Many nurses are attracted back to nursing because of the flexibility agencies provide to their staff, and the flexibility of working on their terms. If the nurses ability to control their work environment is curtailed then this will result in nurses leaving the profession altogether or seek other areas of non nursing related employment, further exacerbating the chronic nursing shortage within the public health care system. The notion that nurses will work more hours because their wages will be less as stated in the public benefits test demonstrates that this issue has not been thoroughly evaluated. There are other more pressing issues, for example, ongoing education, and support for nurses to obtain postgraduate qualifications to improve their career path. The industry needs to address why the average age of a nurse in some fields is 43 years, in other sectors such as the aged care sector it is 55. (Quote from Director of Nursing, Nursing Home in the eastern suburbs). It is clear that the real issue here is that nurses, once trained do not remain in the hospital setting, they seek employment elsewhere. Many of our nurses support their chosen profession (often outside of nursing, with agency work) They will work in other areas, for example natural therapy, osteopathy, real estate.

Nursing Recruitment and Retention Committee reports (2001) state that the use of agency nurses has increased significantly, however, this committee is unable to give an exact amount. HPV states there has been 4% increase in use of agency staff.

Price Certainty Reducing bargaining imbalance and promoting equitable dealings.

The public benefits test also states that there is discrepancy between the hospital cost of employing a nurse directly compared to employing that person through an agency, other factors need to be considered as well, for example, GST, work cover costs and responsibility to nurses with work cover injuries.

This agency is continually in dialogue with client hospitals regarding the rates charged to facilities. This agency has reduced the profit margin for some facilities, in order to ensure the rates to those facilities remain realistic.

The department of Human Services must now recognise that nurses should receive adequate remuneration in order to remain in the workforce, and their budgets must allow for this. Tenders have been applied in the past but have failed.

As a small specialist agency, we are in constant competition with larger monopolising agencies. This agency in the past has had to increase its fees, in order to compete with larger players. A tender for the exclusive supply of agency nurses will only give these agencies greater power and strength, and in turn give them an even greater monopoly of nurses working under their umbrella.

Increase in nursing staff availability

Government bodies have tried many tactics and avenues in order to increase their total nursing labour force. However, the successfulness of this is not apparent, as the chronic nursing shortage is still evident.

The Nursing Recruitment and Retention Committee (2001) suggest that the high use of agency staff is a key factor in the public health care systems inability to retain staff, however, they do substantiate this claim with appropriate evidence. HPV also acknowledge the Nursing Recruitment and Retention Committees suggestion and propose that by reducing an agency nurses total income, they will be forced to work more hours, in order to maintain their lifestyle. This notion is deplorable.

The Nursing Recruitment and Retention Committee (2001) suggest that one of the main causes for poor recruitment and retention, is the high levels of stress that nurses work under. Forcing nurses to work harder to maintain a sustainable income will only cause increased stress, to an already burned out workforce. HPV do not suggest what will happen if their proposal to make nurses work more is unsuccessful. In reality, it may further worsen nursing retention levels on a more drastic scale.

Many of our nurses have stated that they will leave the profession should their conditions deteriorate. There are many nurses who now work for an agency to supplement their income. The added incentive of higher remunerations ensures agencies have extra staff available to hospitals during peak periods. If there is a directive from the Department of Human Services requiring that public hospitals only engage nurses (including agency nurses) at the Award, there will be less nurses available to hospitals. Nurses will refuse to do extra shifts, resulting in even fewer nurses available.

CONCLUSION

Victorian Nurse Specialists strongly oppose HPV gaining any authorisation that will enable them to proceed with the tender process. The anti-competitive behaviours that will arise if the tender is successful, will result in nursing agencies being forced to close down. The tender process will not solve the current nursing crisis and will only exacerbate nursing retention issues within the public health care system.

Prior to authorisation being granted, HPV must be able to provide adequate evidence that their proposal will work in the long term, not just resolve short term financial issues. HPV are dealing with a delicate issue. If HPV's proposal is successful, then the Victorian State Government must be prepared to deal with the potential worsening of Victoria's chronic nursing shortage.

The public benefits that are suggested by HPV are not substantiated with research and evidence. Any public benefits that HPV suggest are merely hypothesised. This is not good enough when attempting to initiate a massive restructuring of agency nurses. The ACCC must be fully aware of the ramifications that tendering will have on the nursing profession, and the whole public health care system.

REFERENCE

Nurses Recruitment and Retention Committee (2001) Final Report to the Minister of Health. Policy and Strategic Developments Division. Melbourne, Victoria.

Sloss, J (1999) UK Nursing Agencies and the National Health Service. Thornbury Nursing Services.