

# Respect our work.

## Victorian Private Sector Aged Care

### Residential and Community Care

## Collective Bargaining Agreement 2013/14

## Log of Claims on behalf of Nursing and Personal Care staff

### Why this claim?

Victoria's aged care nurses and personal care workers care for frail and elderly residents who often have complex combinations of chronic/terminal illness and dementia. These residents require and deserve the expert nursing care of registered nurses, enrolled nurses and qualified personal care workers but, regrettably, they do not always receive it.

The number of registered nurses working in aged care facilities is at record low levels and this is taking its toll on the quality and safety of resident care. In 1997 the average ratio of registered nurses to residents was one per 30 residents across all shifts. Today staffing can be as low

as only one registered nurse to every 60 residents during the day and one registered nurse to between 90 and 120 residents at night. Increasingly enrolled nurses are being pressured to act in-charge. Personal care workers are often inadequately trained to undertake increasingly complex roles. Career structures and rates of pay do not reflect these changing circumstances.

This incongruous skill mix is exacerbated by low staffing numbers, meaning that nurses and personal care staff are often struggling to provide residents with the assessed degree of appropriate care.

Another key reason for low levels of registered nurses employed in the private and not-for-profit aged care sector are the meagre wages, compared

to the public acute and aged care sectors and private acute sector. Aged care facilities have difficulty attracting registered nurses because of wage differences of around 10 - 20 per cent less than public sector nurses doing the same work, depending on classification.

Benchmark minimum staffing levels, a skill mix that is capable of meeting the care needs of residents, funding accountability and better wages are critical issues that will determine the quality of care that Victorian nurses and personal care Workers can provide to our frail and elderly who can no longer live at home, or need care in their own homes.

This claim aims to address these crucial issues.

**Aged care nurses and personal care workers.**

**You couldn't be in better hands.**

### Part A - Award Maintenance

Some current aged care enterprise agreements contain all terms and conditions; others have to be read in conjunction with an old 'Award'.

In addition, there are new Awards covering nurses and personal care workers, and

National Employment Standards applying to all Australian workers.

All new Agreements must be updated to include any beneficial parts of:

- all applicable conditions of the 'Awards' as in place at 31 December 2009
- the Nurses Award 2010 and
- the National Employment Standards
- this log of claims.

### Part B - Current Agreement Maintenance

The new agreement is to be a four year agreement containing all conditions contained in the existing agreement (except where varied by this claim); including a dispute resolution clause with full access to the Fair Work Commission (FWC), organisational change provisions and existing agreed matters.

Where not already in place, a savings clause will be introduced, to ensure that no employee has their rate of pay reduced by the implementation of new classification structures.

### Part C - The Workforce Compact

The Gillard Government has promised substantial additional funding to the aged care sector to improve the wages and conditions of nurses and personal care workers. At the time of this claim, the process for achieving this was under negotiation.

The new agreement must (in addition to wage increases negotiated) contain a clause that recognises the additional funding, and guarantees to increase wages in accordance with, as a minimum, the Workforce Compact.



Authorised by Lisa Fitzpatrick, Secretary  
Australian Nursing Federation  
(Victorian Branch) February 2013



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## Part D - Claims

### Recruitment, Retention and Staffing

#### Initiatives

##### Wages and allowances

- Salaries and classifications are to be comparable to salaries and classifications in the public sector of the Victorian nursing workforce, with a minimum 16% wage increase over four years.
- Where there are one or more increases in funding by the Commonwealth Government (in addition to current recurring fee increase arrangements) for either:
  - a specific increase to fund higher pay rates for nursing and/or personal care staff; or
  - particular designated funding increase(s) to raise the level of operational funding for aged carethen the rates in the new agreement will be increased in consultation with the ANF, based on the quantum of the increases in the funding provided.
- Common annual leave and public holiday entitlements to apply for all nursing and personal care staff, with no overall loss of conditions for any employee.
- Where not already the case the registered nurse in-charge of an aged care facility in the off duty periods of the DON is to be titled "After-Hours Nurse Co-ordinator" and be paid at a minimum of Grade 5 Adjusted Bed Capacity (including all beds in co-located high/low/mixed care facilities), but not less than Grade 5, 51-200 beds. A savings clause for Grade 5 will be introduced.
- In the late 1990s, before ANF was able to provide full industrial and professional cover to personal care workers, the ANF ran a successful case for a wage increase for nurses working in aged care. At that time, nurses were largely only employed in high care (nursing home) facilities and hence the increased wages only applied to registered and enrolled nurses employed in nursing homes. Due to aged care residents ageing in place, the distinction between nursing homes and hostels is not relevant to wages. The new agreement will abolish this wage differential in favour of the higher rate.
- Given the nature of the work, the Nauseous Allowance applicable to personal carers and enrolled nurses be incorporated into the base rate where this is not already the case.
- The following classification structures will be included where not already in agreements:
  - RN years 1 – 10
  - Nurse practitioners, including NP candidates, classified and paid at Grade 6 (candidate) and Grade 7 (Qualified), including bed number percentage.
  - Nurse Unit Manager Levels 1, 2 & 3
  - Associate Nurse Unit Managers

- PCWs – increments to apply from date of qualification or entry to industry, not years in the facility.
- Community Nurse and qualified Community Carer, with all community or home nursing operations to be covered by the same agreement as residential aged care. The RN classifications will be at Grade 4A for clinical work and Grade 5 a supervisor/co-ordinator.
  - Permanent Night Duty Allowance to be increased by \$30 a shift, to apply to all night duty shifts. No nurse or personal care worker working rotating shifts should be rostered to work a night duty shift immediately prior to commencing leave, nor should they be rostered to return to work on a night duty shift.
  - All regular penalties and allowances will be paid during periods of sick leave or long service leave.
  - December 25 and 26 and January 1 and 26 will be treated as public holidays for all purposes for those working on those days., Any additional public holiday under the Public Holidays Act will be an additional public holiday for the purpose of penalty payments and rostered off provisions of the agreement.
  - On public holidays, casual enrolled nurses and PCWs will be paid the casual rate, plus the public holiday rate that would apply to a permanent part-time worker.

#### Enrolled Nurses

- A new four level career structure will be introduced for enrolled nurses. The basis for the structure will be:
  - Level 1** – enrolled nurse without NMBA authorisation to administer medicine
  - Level 2** – enrolled nurse with NMBA authorisation to administer medicine
  - Level 3** – enrolled nurse with Seniors Allowance or additional duties or an Advanced Diploma Competency relevant to aged care
  - Level 4** – enrolled nurse with supervisory responsibilities.
- Levels 3 and 4 will be to recognise the level of clinical competence and responsibility commensurate with the role of senior enrolled nurses in respect to leadership and clinical coordination, irrespective of the workplace.

#### Personal Care Workers

- A new four level career structure will be introduced for personal care workers. The basis for the structure will be:
  - Level 1** – unqualified (Cert II or less)
  - Level 2** – Certificate I or II in Work preparation or equivalent (entry level to Vocational Education and Training (VET) nationally accredited Training Package in Individual Client Care Qualifications
  - Level 3** – Certificate III in any of the VET Individual Client Care Qualifications
  - Level 4** – Certificate IV in any of the VET Individual Client Care Qualifications or Seniors Allowance or additional duties as defined;

or holding a nationally accredited unit of competence at the Certificate III or IV level within the Australian Qualifications Framework (AQF) in Aged Care - specifically CHCCS305 – Assist Clients with Medication and CHCCS424 Administer and Monitor

**Level 5** – PCW who meets all of level 4 criteria with additional supervisory responsibilities within a community care setting (HACC).

- In genuinely low care facilities the 10% (senior) allowance to apply to a PCW acting in-charge in the out of hours of the facility manager/coordinator or where the PCW is working alone in a unit, to be increased to 15%.

#### Staffing and Change

- Each facility must provide:
  - a full-time Director of Nursing (however titled) on site at each campus of each facility who is registered with the Australian Health Practitioner Regulation Agency as a registered nurse
  - a minimum skill mix determined in the agreement having regard to the assessed care requirements of all residents
  - a staffing level that is safe for residents and staff comprising at least one registered nurse and one authorised enrolled nurse on every shift, In addition to the Director of Nursing where there is one or more residents with an Aged Care Funding Instrument (ACFI) classification at the high care level.
- Each agreement must incorporate an organisational change provision, including mandatory consultation with employees and written advice to the ANF Victorian Branch before the implementation of change, the provision of all relevant information and written assessment of the impact of the change. Such a provision will provide for salary maintenance for 12 months where the change has resulted in any loss to the employee.

#### Superannuation

- The employer must within 28 days of the month in which they accrue, remit all superannuation payments, including SGL, voluntary contributions, salary sacrifice and salary packaging.

#### Education, Career & Professional Development

- The agreement to include provisions which encourage and facilitate paid study leave for the purpose of maintaining their professional development.
- In addition, paid study leave to be available for:
  - PCW employees for the purpose of undertaking education to become a nurse at the bachelor or diploma level

- Enrolled nurses to undertake further nursing education to enable an expanded scope of practice
  - Enrolled nurses who wish to undertake registered nurse training.
  - Registered nurses who wish to undertake postgraduate education as a nurse practitioner or a postgraduate course relevant to the workplace including gerontology, palliative care, community care, rehabilitation nursing or any related field.
- All employees will have access to:
    - paid study leave of four hours per week per semester to undertake tertiary nursing studies
    - a minimum of five days paid conference/seminar leave (pro rata for permanent part-time and regular casual employees)
    - paid examination/course leave for studies directly related to nursing.
  - A fair and transparent process for all leave applications will be introduced and no leave application to be unreasonably refused.
  - Where not already applying, a registered nurse who completes additional recognised tertiary education beyond the minimum necessary for registration will receive a Qualification Allowance at the following additional percentage of base rate :
    - graduate certificate (or equivalent) 5%
    - double degree 6.5%
    - 4 year degree 6.5%
    - postgraduate diploma 7.5%
    - honours degree 7.5%
    - masters entry 8.5%
    - PhD. or Doctorate 9%Further, the Qualification Allowance for enrolled nurses will be based on agreed nominal hours of study or instruction as an alternative criteria to the length of time taken to undertake the course and the percentages for the allowance will be 5% for nominal course time of 120 hours and 9% for nominal course time of 240 hours .
  - Provide for five (5) days of paid Elder Care leave and up to 10 days of unpaid Elder Care leave per year in addition to Personal Leave.

#### Work/life balance and leave

- All nurses and PCWs will be eligible for not less than 14 weeks employer paid maternity/adoption leave and four weeks employer paid paternity leave, specifically including casual employees engaged on a systematic and regular basis. Further, the clause to be amended to provide that:
  - The employer provided paid maternity and adoption leave be in addition to the Commonwealth PPLS contribution of 18 weeks at the minimum wage.
  - A second or subsequent amount of paid parental leave will apply should there be a further birth while the employee is on paid leave or extended unpaid parental leave.
  - The leave be available for primary carers. A person is a primary carer of a child on a day if the child is in the person's care and the person

meets the child's physical needs more than anyone else.

- An employee eligible for Maternity Leave who gives birth to a stillborn child (after 20 or more weeks gestation) or the child subsequently dies, will be entitled to the full amount of paid maternity leave. In this situation, the primary carer, whether this is the birth mother or another person, may return to work during the PPL period and remain eligible for parental leave pay.
- Nurses and PCWs to be entitled to pro rata LSL on completion of seven years service. Further, that ordinary pay will include regular loadings, penalties and allowances.
  - Nurses and PCWs, whether full or part time, to have access to six weeks annual leave where their work includes evening/night shifts or weekend work (including overtime) or they are on-call on weekends.
  - All employees will have access to a scheme to enable the purchase of additional annual leave (48/52).
  - A further qualifying period and/or probationary period is not to apply to an employee affected by a transfer of business.

#### Personal leave

- No cap on the use of accrued personal leave as carer's leave in any one year.
- Where an employee becomes ill or injured whilst on annual leave on a day or days on which she/he would otherwise have worked then the number shall be deducted from personal leave and be re-credited to her/his annual leave entitlement.
- Provide for five (5) days of paid Elder Care leave and up to 10 days of unpaid Elder Care leave per year in addition to Personal Leave.

#### Domestic violence leave

- Provision of support and paid leave of up to 10 days for employees experiencing domestic violence.

#### Severe weather event leave

- Introduction of paid leave for a Bushfire, Flood or Other Severe Weather Event Leave of up to five days per year (before other paid leave must be utilised) in situations where a recognised emergency prevents the employee attending work or the patients/residents have been moved because of imminent threat or damage to the facility.

#### Trade Union Leave and Resources

- Appropriate resources, including desk and computer, email and internet are to be provided for Union Job Representatives and Health and Safety Representatives to enable them to undertake their role.

- The employer to provide paid leave as follows:
  - Where an employee has been elected or appointed to the Victorian Branch Council of the ANF to enable the employee to travel to and from and attend Branch Council meetings and where applicable meetings of Branch Council Executive;
  - Where an employee has been elected as a Job Representative, up to five (5) days per year to undertake education and training about industrial relations, including dispute resolution and disciplinary processes.

#### OH&S

- Bring the agreement into line with Victorian legislative changes in OH&S and workers compensation.
- In addition to training provided for under health and safety legislation, provide for health and safety reps (HSRs) an additional three days paid 'HSR study leave' entitlement per year for the purposes of attending general health and safety related education and training.
- Introduction of agreed principles and processes to prevent and manage OH&S hazards including safe patient handling, violence, bullying and stress.
- Improved Accident Make Up Pay by:
  - Increasing to 52 weeks and remove the restriction on payment of make-up pay in the first two weeks
  - Include shift and weekend penalties, regular overtime and regular allowances in the calculation of the usual 38 hour week, so that the employee receives 100% of pre-injury average weekly earnings
  - Employer to be liable for increased make-up pay where there is partial incapacity and the employee's compensation payments are reduced.
- A program consistent with the ANF (Vic Branch) policy on Safe Patient Handling to be included in the body of the agreement and dedicated appropriately skilled No Lifting Co-ordinator to be appointed at each facility (to be paid at Grade 4A Year 2 (for nurses regardless of the employee's health qualification) or at WSG 11 (for PCWs).

#### Reasonably regular hours of work

- Each employee to be entitled to reasonably predictable hours of work agreed and documented at commencement of employment.

#### Precarious Employment

- All casual staff who have worked regularly (at least once each fortnight) to be given the option of converting to on-going employment after a maximum of six months.