



Nurses • Midwives • Mental Health Nurses
Respect our work.

Public Sector EBA Update No 17 - 19 November 2011

Victorian Public Sector Nurses and Midwives

19 November 2011 – 10.00 am

ANF Members resolute in face of FWA Order

ANF (Vic Branch) State Secretary Lisa Fitzpatrick has taken all reasonable steps to comply with the FWA Order of 18 November 2011.

It is evident that despite the FWA Order, members remain resolute in their determination to secure an EBA that protects and improves nurse/midwife patient ratios, skill mix and fair and reasonable employment conditions. Members have enquired as to the effect of the FWA Order in the event that they elect to refuse to accept the terms of the Order and continue with unprotected industrial action.

VHIA have raised publicly the possibility of nurses taking industrial action of a kind not subject to the FWA Order (for example, closing 1 in 4 beds rather than 1 in 3 beds). This action would also be unprotected action **but would not be a breach of the FWA Order of 18 November 2011.**

The following additional general advice is provided:

Will I be docked?

Under the Fair Work Act an employer is obliged to deduct pay for unprotected industrial action as it was in 2007. If the action is less than 4 hours they must deduct 4 hours. If more than 4 hours action is taken the pay must be deducted for the duration of that action.

However, we understand most employers have indicated that they are taking a very low key approach and a number have said that they will do nothing until Monday or after Monday's ANF member meeting.

What sort of action can I be docked for?

You can be docked for any unprotected industrial action, including a partial work ban such as closing some beds or refusing certain elective patients. There is no 'proportionality' test for unprotected action and your pay can be docked for the duration of the action as was the case in 2007.

Does this include wearing a campaign T-shirt?

The wearing of a T-shirt of itself is not industrial action and is not a subject of the FWA Order. Many employers have consented to ANF members wearing campaign T-shirts. It is our belief that very few employers will dock pay because of wearing a T-shirt.

PTO

Can they just dock me automatically because there is a bed shut on my ward?

No. Even with unprotected action management must provide evidence that you have personally engaged in unprotected industrial action. They cannot simply assume that you are engaging in industrial action but must observe and document you doing so.

What should I do if I am told my pay will be docked?

Please stay at work even if informed that you will be docked for the whole shift and contact your Organiser or ANF. Then report the docking to the ANF by downloading the pay docking checklist and report form from the ANF website. Fax or email the form along with other documentation required. The report form can also be completed and submitted online.

Can I be stood down?

Yes. By refusing to do all of your work you may be stood down. This is unlikely to occur. ANF is not aware of any members being stood down in 2007.

What happens if I am stood down?

In the unlikely event that you are stood down please remain at work and continue to do whatever work you can (unless you are escorted off the premises). If you are not allowed to stay at work then please move to a public area and ring your ANF Organiser or, between 7pm and 7am the duty Industrial Officer, and report what has happened. Subject to ANF advice please stay there until assistance arrives.

Can I be fined?

All of our action was unprotected in 2007 and **no** member was fined. Individuals may be fined for breaching the Fair Work Act. It is more likely that the VHIA and government will seek penalties against the ANF itself.

A full report to members will be provided at the statewide members meeting being held on Monday 21 November 2011 at 2pm at Festival Hall. Members are advised to ensure your ward has safe night duty staffing levels.