

Campaign update #27 public sector mental health enterprise agreement

19 JULY 2016

Talks intensify and progress as parties focus on priority issues

1. Status of negotiations: momentum is building

ANMF is pleased to report most of our members' priority EBA claims have now been agreed. Negotiations have intensified with the parties now making serious progress on the remaining outstanding priority issues:

1. wages – alignment with the General nurses EBA outcome
2. workloads – ratios for inpatient units and workload clauses for community mental health nurses
3. measures to address occupational violence and other OHS issues
4. minimum nursing skill mix in community teams.

At a productive meeting last week, facilitated by former Australian Fair Work Commission deputy president Greg Smith, the ANMF and the Health and Community Services Union (HACSU) narrowed the gap between our respective mental health claims, with ANMF supporting HACSU's claim for ratios in High Dependency Unit, and HACSU supporting ANMF's claims for ratios across all inpatient units and both unions supporting the same community workload system.

Workplace violence is unacceptable and ANMF is pleased we have support around the table for our comprehensive occupational violence and aggression prevention and management clauses. Importantly this work is about ending violence. This can only occur by changing practices and culture at an integrated industry level, individual health service executive level and frontline care. The plan is designed to address the current system which only reacts to violence, allows preventable violence to continue to occur and discourages reporting.

In more good news, senior Department of Health and Human Services officials continue to engage in the negotiations. These are the decision makers who fast-tracked the resolution of the general public sector enterprise bargaining negotiations. We are disappointed that further negotiations won't take place until next week due to the unavailability of one of the parties. ANMF remains available for negotiations.

Members participating in the protected industrial action at the 12 eligible Area Mental Health Services (listed on page 3) are encouraged to continue their bans. Wearing your red #ValueRecogniseReward T-shirt at work and implementing the administrative action continues to help the parties focus on what is important to you. ANMF has not recommended members escalate action to the walkout phase because in our view momentum is building and the talks are positive and progressing.

Sign and share
the petition:

<https://www.megaphone.org.au/p/mhratios>



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2. How to support your campaign

It is critical members keep the parties focused on negotiating an agreement that addresses the key concerns of mental health nurses. To support your campaign members can:

- continue taking protected industrial action in the 12 area mental health services that can take protected industrial action (see the list on page 3)
- wear your red campaign T-shirt outside of work if you are not employed in one of the 12 services that can take protected action
- share and ask people to sign the petition for mental health nursing ratios <https://www.megaphone.org.au/p/mhratios>
- spread the red on social media. Visit the ANMF Facebook page at www.facebook.com/RespectOurWork and look through our album of campaign profile and banner images you can use on your Facebook and Twitter accounts. Share your red T-shirt imagery online using the hashtags **#ValueRecogniseReward**, **#MHRatios**, **#RewardMHNurses** for Twitter and Instagram. If you are not seeing ANMF's Facebook posts, change your settings to 'see first' and please share ANMF posts about the action and the issues that are important to you.
- Red **#ValueRecogniseReward** campaign T-shirts are available for members at ANMF House (540 Elizabeth Street, Melbourne) between 8.45am and 5pm on weekdays or online at <http://anfvic.myshopify.com>
- Campaign posters and a 'Dear patient/client' campaign letter are available to download from the EBA 2016 campaign page <http://anmfvic.asn.au/eba2016#mh>
- 'Demand nursing ratios in mental health' campaign stickers are available through your Job Representative/Organiser.

3. Stage 2 of industrial action advice for members

ANMF is supporting members who are implementing stage 2 industrial action at the 12 eligible area mental health services. See the list on page 3. Mental health nurses are not taking protected industrial action lightly, but it is essential the employers and the government understand you are serious about your claims for ratios in inpatient services, better community workload management and fair pay. If you require ANMF assistance please contact your ANMF Organiser.

ANMF is aware of some instances where members are feeling pressured to not wear the red **#ValueRecogniseReward** campaign T-shirt or participate in the other lawful bans. It is important that members, particularly younger members participating in a campaign for the first time, understand the Fair Work Act 2009 allows for 'protected industrial action'. This means it is legal for nurses to take industrial action provided all of the requirements of that Act Protected industrial action is legal and severe legal consequences can follow if a manager is found to have coerced an employee not to take part, or to breach a ban (asking you not to wear a campaign T-shirt or asking you to complete non-clinical data collection). This is called adverse action and under the Fair Work Act the individual manager and the employer can both be fined.

ANMF members who are participating in action covered by the protected industrial action bans are entitled to refuse to do that task or tasks, and it would almost certainly be unlawful for management to take action against them. Managers may be breaching the Fair Work Act if they counsel, discipline or report a nurse for taking protected action, or threaten to do those things.

Managers, who can feel like the 'meat in the sandwich', should also be aware they have the same legal rights as the employees they manage. Often managers feel obliged, or are even directed, to oppose the industrial action and ensure as far as possible that the activities of the ward continue. This can then result in conflict with staff on one hand and management on the other.

Managers have a right at any time to refuse an unlawful directive, including one that relates to them or the staff taking lawful industrial action.

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4. Further protected industrial action commenced from 7am Thursday 9 June

The further protected industrial action is as follows:

a refusal to undertake any work outside the ordinary starting and finishing times of work

a refusal to be redeployed from one area to another area

delaying or restricting the performance of normal duties by explaining to clients and other visitors during working hours the purpose of the campaign materials being worn by nurses, including T-shirts, badges and campaign posters

delaying or restricting the performance of normal duties by displaying and distributing campaign related information in the workplace and speaking to the media as required during working hours

a refusal to collect, record, complete or document non-clinical/administrative information or any mandatory data required by the employer, e.g. outcome measures, vehicle log books, statistical data, RCS ACFI documentation, contact sheets and RAPID statistics, PR 2s and 5s, Daily Returns/Bed Movements, but excluding any reporting directly related to patient, client or staff safety

industrial action in the form of a refusal to attend or participate in any meeting or service activity that is not fully backfilled

a refusal to implement any workplace or system change proposed by management.

5. Workplaces where protected industrial action CAN commence from 7.00am Thursday 9 June 2016:

Albury Wodonga Health

North East Border Mental Health Services
All areas where mental health nurses are employed

Ballarat Health Services

All areas where mental health nurses are employed

Barwon Health

All areas where mental health nurses are employed

Eastern Health

All areas where mental health nurses are employed

Goulburn Valley Health

All areas where mental health nurses are employed

Latrobe Regional Health

All areas where mental health nurses are employed

Melbourne Health

North Western Mental Health

All areas where mental health nurses are employed

Mercy Public Health

All areas where mental health nurses are employed

Mildura Base Hospital

Mental Health Services
All areas where mental health nurses are employed

Royal Children's Hospital

Banksia Unit
All areas where mental health nurses are employed

St Vincent's Hospital

All areas where mental health nurses are employed

Inner South Community Mental Health

All areas where mental health nurses are employed

6. Workplaces where protected industrial action CANNOT commence from Thursday 9 June 2016:

The following workplaces cannot lawfully commence protected industrial action as less than 50% of the nurses eligible to participate in the protected action ballot returned valid ballots to the Australian Electoral Commission. These workplaces are:

- Alfred Health
- Austin Health
- Bendigo Health
- Monash Health
- Peninsula Health
- Southwest Healthcare
- Forensicare

7. Remember that our strength is our membership

Most Victorian nurses and midwives are already ANMF members – if you haven't joined yet or you know someone who hasn't, please encourage them to join. Non-members can join online here: <https://members.anmfvic.asn.au/CalculateRate>

If you don't have a Job Rep on your ward, unit or community team, it's time to put up your hand and help your union and your colleagues achieve your claims for 2016. Speak to another ANMF Job Rep or call ANMF Reception on (03) 9275 9333.