



ANMF (Vic Branch) Policy

Witnessing a statutory declaration

A statutory declaration is a written statement in which a person formally declares before an 'authorised person' that the statement is true. Statutory Declarations can be made under Commonwealth Law or under State Law.

Commonwealth Law

Both nurses and midwives can witness a statutory declaration made under the Commonwealth Law.

Commonwealth statutory declarations can be used in relation to a commonwealth law, as distinct from a state or territory law. Industrial Awards and Enterprise Agreements are made under Commonwealth or Federal Law, and therefore a statutory declaration relating to enterprise agreement evidence requirements, for example personal leave and parental leave, may be witnessed by a nurse or a midwife.

The *Statutory Declarations Regulations 2018* identify who can witness a statement made under the Statutory Declarations Act 1959 (Commonwealth). Regulation 7 states that a person who, under a law of the Commonwealth, a State or Territory, is currently licensed or registered to practise in Australia in an occupation listed in Part 1 of Schedule 2; which includes the occupations "nurse" and "midwife".

Victorian Law

Under Section 30 of the *Oaths and Affirmations Act 2018* (as of 1 March 2019), the list of persons who may witness statutory declarations includes both nurse and midwife.

It is the policy of the Australian Nursing and Midwifery Federation (Victorian Branch) that:

Nurses and Midwives should be fully conversant with the current laws surrounding witnessing of statutory declarations before agreeing to witness a statutory declaration.

1. A nurse or midwife acting as a witness should do the following:
 - a) Check the identity of the person making the statutory declaration (the "declarant") by asking if he or she is the person whose name appears on the declaration.
 - b) Check, to the extent possible, that the person is competent to make the statutory declaration.
 - c) Remind the person making the statutory declaration that he or she will be claiming that the statements in the declaration (and any exhibits) are true and that there are penalties for making false statements.
 - d) Check that the statutory declaration does not contain any blanks (the witness and the person declaring must provide all the information requested on the form, including name, address and occupation/qualification).

- e) If the document is already signed, ask the person to cross out the signature and sign it afresh in your presence. Both you and the signatory must initial and date the crossing out.
- f) If there are exhibits or annexures to the document, you must sign and date each one, having ensured they are correctly marked. If they are not marked, ask the signatory to mark them correctly before you sign.
- g) If there is more than one place on the document that requires signing, witness each signature separately.
- h) After the person has signed the document in your presence, ask them: Do you solemnly and sincerely declare that the contents of this declaration are true and correct to the best of your knowledge and belief? The declarant must answer: I declare or I do.
- i) Once you have heard this, you may initial and date every deletion and alteration in the document after the declarant has initialled them, and initial and date the foot of every page of the declaration and sign the last page near the signature of the declarant.
- j) Witness the declaration by signing and dating the document. Clearly print your full name including your full middle name, and underneath or next to your signature write the words “registered as a nurse/midwife under the national law”.