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Securing a sustainable nursing and midwifery workforce for all Victorians.

2020 PUBLIC SECTOR ENTERPRISE AGREEMENT
nurses and midwives



EBA CAMPAIGN UPDATE 8
THURSDAY 16 APRIL 2020

Victorian public sector nurses and midwives overwhelmingly endorse proposed Victorian public sector nurses and midwives enterprise agreement 2020-2024

Over 1800 members from Victorian public sector workplaces, including public hospitals, public aged care facilities and community health centres have today overwhelmingly endorsed an in principle agreement reached on 28 March 2020 between the ANMF, Victorian Hospitals' Industry Association (VHIA) representing health services and the Victorian Department of Health and Human Services (DHHS) for a new proposed Nurses and Midwives (Victorian Public Sector) (Single Interest Employers) Enterprise Agreement 2020-2024 (the 2020-2024 EA).

Reflecting the unprecedented circumstances existing due to the COVID-19 pandemic and the associated public health measures in place, a virtual statewide public sector members meeting was held at 1.45pm earlier today with ANMF members securely registering their attendance.

ANMF will develop a frequently asked questions document, based on questions members asked at the statewide meeting, and send to all public sector members.

ANMF (Victorian Branch) Secretary, Lisa Fitzpatrick and Assistant Secretary Paul Gilbert addressed the meeting and provided details of the proposed 2020-2024 EA.

Members were provided the opportunity to seek answers and clarification relating to matters presented at the meeting.

A detailed explanatory presentation was provided to ANMF members throughout the meeting.

A copy of the PowerPoint presentation provided to members can be accessed via this link anmfvic.asn.au/2020EBASummary

At the conclusion of the meeting, ANMF members participated in an electronic ballot and overwhelmingly endorsed the proposed 2020-2024 EA.

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Next steps

The in principle agreement reached on 28 March 2020 will be drafted into a new proposed 2020-2024 EA that will then be the subject of a ballot prior to being submitted to the Fair Work Commission for approval, in accordance with the provisions of the *Fair Work Act 2009*.

Further information concerning the proposed 2020-2024 EA is detailed below and should be read in conjunction with the PowerPoint presentation document.

ANMF will develop a frequently asked questions document, based on questions members asked at today's statewide meeting, and send to all public sector members.

Increased wages and allowances

The wage increases that will apply are those contained in the eight year wages deal reached in 2016 from the first full pay period on or after (FFPPOA):

1 December 2020 by 3%;

1 December 2021 by a further 3%;

1 December 2022 by a further 3%.

This means we have maintained or exceeded parity with NSW nurses (after salary packaging) and that, for example, an employee who commenced their nursing or midwifery career in 2016 would have achieved the wage increases over the eight year period listed in the table on the next page.

Classification	1/04/2016	1/04/2017	1/04/2018	1/04/2019	1/12/2020	1/12/2021	1/12/2022
EN LEVEL 2 (5 routes)	\$1,018.30	\$1,072.20	\$1,131.30	\$1,201.70	\$1,263.60	\$1,315.00	\$1,368.10
RN/RM GRADE 2	\$1,083.10	\$1,158.00	\$1,239.80	\$1,394.00	\$1,509.30	\$1,628.20	\$1,762.70
CLINICAL SPECIALIST	\$1,469.40	\$1,513.50	\$1,562.70	\$1,746.70	\$1,799.10	\$1,853.10	\$1,908.70
ANUM/AMUM	\$1,553.50	\$1,634.70	\$1,687.80	\$1,943.40	\$2,001.70	\$2,061.80	\$2,123.70
NUM/MUM	\$1,815.00	\$1,869.50	\$1,914.90	\$2,023.40	\$2,285.30	\$2,353.90	\$2,424.50
G3B HITH or CH	\$1,524.70	\$1,591.60	\$1,643.30	\$1,800.00	\$1,854.00	\$1,909.60	\$1,966.90
CNC A/B	\$1,625.90	\$1,707.90	\$1,804.50	\$2,000.00	\$2,060.00	\$2,121.80	\$2,185.50

1. Long service leave

The parties will develop a one stop shop clause regarding long service leave (LSL) to reflect that some employees currently have a benefit under the Victorian Long Service Leave Act 2018 (casual registered nurses and midwives who are entitled to 13 weeks long service leave after 15 years) and other employees have a generally superior entitlement under the EA (26 weeks after 15 years) – all enrolled nurses, and full and part time registered nurses and midwives.

The effect of this will include earlier access to LSL for all enrolled nurses, and full and part time registered nurses and midwives phased in from July 2021 to July 2023, by which date access will be available at seven years instead of the current 10 years.

Up to 24 months of parental leave taken after November 2019 will also count as service.

	Casual RN/ midwife	Permanent RN/midwife/ all enrolled nurses	
Accrual	0.866 weeks per year	1.77 per weeks year	
Services	Parental leave paid and unpaid up to 24 months		Taken after November 2019
Entitlement at	7 years	10 years	Now
		9 years	From 1 July 2021
		8 years	From 1 July 2022
		7 years	From 1 July 2023
	13 weeks after 15 years	26 weeks after 15 years	

2. Annual leave

The 2020–2024 EA will contain improved annual leave entitlements for employees who are rostered to work on part of 10 weekends or more per year. This includes extending the sixth week of annual leave to part time employees who work weekends.

The following table summarises the improved benefit.

Weekend worker	Old agreement	New agreement
Full-time	6 weeks per annum	6 weeks per annum
Part-time	5 weeks per annum	6 weeks per annum
New test	<ul style="list-style-type: none"> Who work rostered hours on part of 10 weekends or more per year Weekends include Sunday night shifts Where less than 10 occasions are worked per year the employee is to be credited with a pro rata entitlement. Existing employees getting the 6th week under old test continue 	

3. Parental leave and superannuation contributions

An employee who is on parental leave, including paid and unpaid parental leave, will continue to receive employer superannuation contributions as though the employee was still at work.

4. Parental leave

The 2020–2024 EA contains an improved entitlement to parental leave and an increase in the quantum of paid primary carer leave and paid secondary carer leave.

The qualifying period for measuring paid parental leave has been reduced from 12 months service to 6 months service.

The paid primary carer leave will increase from the existing 10 weeks pay to 14 weeks pay from 1 April 2021.

The paid secondary carer leave will increase from the existing one week pay to 2 weeks pay from 1 April 2021.

5. Ward/unit amalgamations

The 2020–2024 EA will prohibit the amalgamation of wards that result in an increase in workload or an increase in patient risk without the agreement of ANMF and the employer.

Where agreement cannot be reached, the matter will be referred to the Dispute Resolution Panel which will have regard to the DHHS guidelines concerning ward amalgamation which will reflect historical and contemporary practice and standards.

6. Gender based discrimination

The 2020–2024 EA will establish an industry-level standing committee of representatives, CEOs, the ANMF and VHIA to review audit results and promote gender equity issues.

7. Managing employee performance and conduct

The 2020–2024 EA will contain a new clause that updates the existing disciplinary clause, titled 'Managing performance and conduct'.

The clause continues to apply the principles of natural justice and procedural fairness.

The clause has been varied to allow an employee to elect not to dispute or respond to the allegations made against them but to still raise matters in mitigation of any potential action from the employer. Importantly, the clause also provides that any proposed performance improvement plan must not be punitive in nature, for example by altering the employee's classification, work location or hours of work.

The clause also includes new obligations on employers before they can terminate an employee during their first six months of employment – the qualifying period when employees are not protected against unfair dismissal under the *Fair Work Act*.

8. Flexible work arrangements

The parties have agreed to draft and issue a comprehensive document setting out the flexible work arrangements across the public health system.

9. Nurse/midwife managers Level 5 and above – classification and pay rates

There will be four levels of health service for the purposes of nurse/midwife managers 5-9.

NM9	Only executive DONs would be graded at NM9
NM8A	New rate of \$3236.05 for NM8A – campus DON of the Monash Clayton sized hospitals, major regionals
NM8B	Larger health services not named in 8A, e.g. Echuca
NM8C	Smaller health services not named in 8A or 8B
NM8D	Single service delivery sites – aged care and Tweddle
NM6	A, B, C or D dependent on campus DON level above
NM5	A, B, C or D dependent on campus DON level above (after hours coordinators)

Classifications and associated pay rates for nurses and midwives employed as executive directors of nursing/midwifery, directors of nursing/midwifery, deputies, assistants and after hours coordinators have been agreed.

10. Advanced practice and NUM/MUM classifications

Between now and April 2021, with the assistance of external consultants, a comprehensive structure is to be developed to address:

- classifications for advanced practice, liaison nurses/midwives and clinical coordinators
- updating CNC descriptors
- the three level NUM/MUM structure.

This will then be finalised by the Disputes Resolution Panel (DRP). Community health career structure gaps will then be identified and resolved through the DRP.

11. Disputes Resolution Panel

Between now and April 2021, it is intended (with the assistance of external consultants) to create proposed classification descriptors and identify potential options for resolution for:

- i. Three level NUM/MUM structure
- ii. CAPR stream classifications (liaison, clinical co-coordinators and advanced practice – recognising the work the SCC has already completed) and associated translation arrangements
- iii. descriptors for CNCs.

This will be finalised by the new Disputes Resolution Panel, which will also resolve disputes about:

- ward amalgamations, and
- existing classifications.

The community stream structure will be progressed, recognising that some CHC roles will fall under the CAPR stream.

12. Clinical nurse specialist/clinical midwifery specialist

The 2020–2024 EA will require that any requirements to continue to meet the clinical nurse specialist (CNS)/clinical midwifery specialist (CMS) criteria will occur during rostered and paid time.

Further, new provisions will be introduced providing for portability of CNS/CMS classification from one employer to another employer within the same specialty/clinical area.

The new employer will advise the transferring CNS/CMS of the next CNS/CMS advertising period and if the employee applies for CNS/CMS and is successful, the employee will be back paid at the CNS/CMS rate from the date of commencement in the role with the new employer.

The community stream structure will be progressed, recognising that some CHC roles will fall under the CAPR stream.

13. Midwifery governance

From 1 January 2021 Goulburn Valley Health and Latrobe Regional Hospital will have a full time senior midwife classified at NM5A to assist with midwifery governance.

This means all Level 5 and 6 maternity capability framework facilities will have such an equivalent role.

14. Change time

Where an employee performs a role that requires changing into specific clothing that are necessary to perform work – such as operating theatre staff – an employer will be required to ensure that this occurs during the paid shift.

15. Meal breaks

The 2020–2024 EA will provide for improved requirements relating to meal breaks. These include:

- An employer will be required to have a written escalation process to address circumstances where an employee cannot take a scheduled meal break.
- Strengthened provisions requiring payment for a meal break that was unable to be taken and/or an employee is not allowed to leave the ward or unit area for their meal break.
- In circumstances where employees are regularly unable to take their meal break (including being unable to leave the ward or unit area for their meal break) a mandatory crib time arrangement will operate which entitles an employee to a paid meal interval for not less than 20 minutes to commence between 3 hours and 5 hours of duty.

16. Shift Lengths – 8:8:10 roster for full and part-time employees.

The 2020–2024 EA will provide that from 1 July 2021 a 8:8:10 roster for full and part-time employees will be required to be implemented in 24/7 working areas at:

- East Wimmera Health Service. (Charlton, Wycheproof and Birchip - St Arnaud campus and Donald campus are already named)
- Edenhope Health Service
- Western District Health Service - Hamilton and Penshurst
- Kerang District Health.

17. 12 hours shifts

The 2020–2024 EA will provide that any 12 hour shift trial or agreement must allow:

- Two meal breaks per 12 hour shift – one unpaid 30 minute meal break and one 20 minute paid meal break.
- Three 10 minute paid rest breaks.
- A 12 hour shift trial or agreement may only be terminated in the manner provided in the shift trial or agreement, or where the employer seeks to terminate the agreement, the employer must comply with consultation clauses in the 2020–2024 EA.

18. Cumulative recall (without return to work)

From 1 July 2021 if an employee:

- Was on-call for telephone advice or similar before a rostered shift; and
- During the preceding 8 hours had:
 - exceeded two hours work (rather than the time paid): or
 - had 3 or more recalls over a period of 4 hours or more, and

the employee is due to commence their rostered shift within 4 hours of the completion of the last recall, the employer will:

- Not require the employee to resume or to continue to work without having had 10 consecutive hours off duty without loss of pay for rostered ordinary hours, or
- Pay the employee at the rate of double time until released from duty for 10 consecutive hours, without loss of pay for rostered ordinary hours occurring during such absence.

19. Emergency on-call/recall

From 1 July 2020, employees in cath labs or operating theatres (including anaesthetics and recovery) who are rostered on-call for the purposes of an emergency:

- will not be required to perform routine overtime (beyond the end of a procedure that commenced before the conclusion of the rostered shift)
- will be entitled to recall to duty in the event they remain on duty (after the completion of a procedure that commenced before the conclusion of rostered ordinary hours)
- as far as is practicable, and having regard to fatigue considerations, each employer will seek to ensure that non-emergency overtime/recall will be allocated to other employees.

20. Overtime and recall

The 2020–2024 will provide that a request or direction made by the nurse or midwife in charge of the ward that an employee work overtime is to be deemed as an approved overtime. This provision has been included to prevent an employer from requiring written authorisation from executive management for approval of overtime and will empower the nurse or midwife in charge of the shift.

Any recall that occurs on a public holiday will not impact on the rostered off public holiday benefit.

All time spent travelling to and from the place of duty when recalled will be deemed to be time worked and attract the relevant overtime penalty.

An employee will be entitled to a paid 20 minute rest break after more than 4 hours of overtime.

21. Rosters – posting of rosters/change of roster allowance

The 2020–2024 EA will require an employer to implement the following matters from 1 July 2020:

- The minimum length of a posted roster will be 28 days.
- The roster must be posted 28 days before it comes into force, rather than 14 days currently.
- There must also be a posted roster for on-call arrangements.

From 1 July 2020 an employee who is required to change their roster without 14 days' notice (currently 7 days) will receive a change of roster allowance of \$33.10.

From 1 July 2020 an employee who is required to change their roster without 7 days' notice will receive a change of roster allowance of \$66.20.

22. Occupational health and safety and occupational violence and aggression – post incident support

The 2020–2024 EA will require an employer to improve the support it provides to nurses and midwives following an incident. This will include:

- access to post incident support services.
- appropriate action to prevent further injury to employees.
- conducting an incident investigation in a timely manner and implementing workplace controls to prevent a recurrence.
- Providing information regarding the employee's rights including workers compensation claims and reporting to police.

23. Occupational violence and aggression (OVA) reporting

The 2020–2024 EA will require an employer to provide to the OVA committee (which will continue to have a mandated requirement for ANMF representation):

- data relating to code grey and code black matters and other alerts relating to the risk and violence
- the number of reported incidents of OVA
- the number of incidents that have resulted in an injury to staff/patient/visitors, and
- the number of incidents that have resulted in property damage
- systemic recommendations and actions concerning risk management and OVA.

24. Occupational health and safety –education for managers

Employers will be required to ensure that nursing/midwifery managers and supervisors receive education and the support to ensure:

- OH&S risk assessments are undertaken.
- OH&S incident investigations occur, and
- employees are properly consulted on OH&S issues.

25. Occupational health and safety – HSR Elections

The 2020–2024 EA will require employers to provide in writing to the ANMF annually (or within 28 days of receiving a written request from ANMF) a copy of the Designated Work Group list and the names of the Health and Safety Representatives for each designated work group.

26. Post registration midwifery students

From 1 January 2020 post registration midwifery students funded through the Workforce Development Fund will be employed at a minimum of 0.6 EFT, and rotation through birthing suites is to occur in paid time.

27. Fixed term employment

The 2020–2024 EA will further limit the use of fixed term employment to ensure it is not used for filling vacant ongoing positions, but rather for things like backfill of existing positions during parental leave and other extended leave.

28. Special disaster leave

Employees unable to attend for work due to a disaster such as a fire or flood will be entitled to up to three days per year of paid leave.

29. Voluntary emergency management leave

Employees will be entitled to up to two weeks paid time to undertake voluntary emergency service, such as the SES or CFA.

30. Defence service leave

An employee undertaking defence force service will be entitled to make up pay for any pay lost when compared with payments received from the defence force.

31. Mandatory education

Any education that is a mandatory requirement from an employer must be provided in paid time, including for casual employees and not require any part of an employee's existing professional development leave to be utilised.

32. Ceremonial leave

An employee will be entitled to substitute an existing public holiday to enable attendance at a NAIDOC event, subject to operational requirements.

33. Annual leave approval process – high demand periods

Employers will be required to develop and publish a protocol to ensure that annual leave requests are managed fairly and equitably for high demand periods, such as school holidays and Christmas/New Year.

34. Study leave

From 1 January 2020, study leave has been expanded to clarify that areas of workforce priority, such as for enrolled nurses studying to become registered nurses, or registered nurses studying to become midwives, can also access study leave.

35. Superannuation contributions

The 2020–2024 EA will ensure that an employee may nominate their preferred superannuation fund and that all superannuation contributions (both the employer contribution and any employee nominated contribution) is paid into the complying fund nominated by the employee.

36. Sunday night shift allowance

From 1 July 2023, the Sunday night shift allowance rate for full and part time employees will increase from \$89.90 per shift to \$154.60 per shift.

In 2021 the parties will be collecting data to analyse whether the increased rate impacts on the capacity of a health service to meet their roster requirements from their existing full and part time staff.

37. Base employment campus – relocation payment

A new clause will be introduced to address the circumstances arising where an employer requires an employee to relocate from one campus to another location to undertake their duties. The clause does not permit an employer to relocate an employee but sets out compensation where such circumstances arise.

The clause provides for payment where an employee is required by the employer to relocate from their base employment campus before or during a shift, temporarily or permanently.

- Within rostered shift – paid time and vehicle allowance
- Outside rostered shift – vehicle allowance and travel time allowance, if additional travel time exceeds 15 minutes, and reimbursement for additional costs – e.g. car parking.
- Temporary relocation – actual cost up to \$1,900
- Permanent relocation – actual cost up to \$1,900

38. Lead apron allowance

From 1 April 2020 an employee who is required, as part of their usual duties, to wear a lead apron is to be paid a lead apron allowance of \$8 per shift or part thereof. The lead apron allowance will increase in accordance with the salary increase percentages thereafter from 1 December 2020, 1 December 2021 and 1 December 2022.

39. Biometric time keeping

An employer will be required to mitigate or avert the impact on an employee with a genuine difficulty in complying with a requirement to utilise biometric technology. This clause will apply to any or new existing biometric technology and any new or existing employee.

40. Portability of personal leave

An employee who transfers from employer A to employer B but who remains engaged as a casual employee with employer A will be entitled to transfer their accrued personal leave to employer B (subject to the existing cap contained with the 2020–2024 EA to a maximum of 180 days).

41. Qualification allowance – Certificate IV TAE

From 1 January 2021, a 3.5% allowance will be payable where the employer requires the employee to hold a current Certificate IV TAE. The new allowance will not apply to an employee who is already in receipt of a higher qualification allowance.

42. Public aged care facility – enrolled nurse – higher duties allowance

In circumstances where an employer has been unable to meet its obligations to provide a registered nurse to be in charge of a nursing home ward (as provided for in the Safe Patient Care Act 2015) an enrolled nurse who assumes the in-charge responsibilities will be paid at the ANUM rate for that period.

43. New maternal and child health nurse provisions

The MCH nurse education requirements have been updated and an appropriate definition and classification for a maternal child health co-ordinator.

44. International experience

A new clause has been included to confirm when previous experience is counted for internationally qualified nurses or midwives, in line with the new NMBA requirements.

45. Letter of appointment

Employers will be required to ensure that an updated letter of appointment is provided to an employee where their employment arrangements change.

46. Modernising and updating the proposed 2020-2024 EA

Midwives will be named in all relevant clauses in the agreement.

A campus will be defined to ensure that the associated staffing obligations are appropriately observed.

47. Scope of 2020-2024 EA

The scope of the 2020-2024 EA has been amended to clarify the applicable enterprise agreement that covers a registered or enrolled nurse who works in an AOD hub in an emergency department, providing treatment for people that present with mental health or alcohol and other drug issues.

This employee will be covered by the 2020-2024 EA as the service, department, unit or program of the employer is determinative of the applicable EA rather than the duties of the individual employee.

48. Who is covered by the 2020-2024 EA

The 2020-2024 covers any public sector registered nurse, midwife, enrolled nurse, registered under-graduate student of nursing or midwifery or a trainee enrolled nurse and early parenting workers employed by the employer covered by the 2020-2024 EA.

49. Date and period of operation of the 2020-2024 EA

The proposed 2020-2024 will operate from 7 days after its approval by the Fair Work Commission and provides for the full settlement of employment terms and conditions for employees covered by the 2020-2024 EA for the period from 1 April 2020 to 30 April 2024.

This employee will be covered by the 2020-2024 EA as the service, department, unit or program of the employer is determinative of the applicable EA rather than the duties of the individual employee.

50. Nurses to patient ratios and midwives to patient ratios

Since 2015 nurses/midwives to patient ratios are contained in the Safe Patient Care (Nurse to Patient and Midwives to Patient ratios) Act 2015 rather than the enterprise agreement.

Current and scheduled improvements and extensions to the nurse/midwife to patient ratios are contained in the PowerPoint presentation presented at the virtual statewide public sector members EBA meeting.

53. Additional variations to the 2024 EA

The parties have agreed the following additional matters:

The consultation clause has been amended to ensure roster changes that are not major changes still requires consultation. The clause has been further amended to provide for greater clarity and improved process, along with a requirement to include proposed position descriptions as part of the change impact statement process.

- Agreed transitional arrangements have been updated for RIPERN nurses, enrolled nurses and registered nurses.
- The definition of an early parenting centre has been expanded.
- The parental leave clause has been varied to provide for 20 “keeping in touch” days over a 24 month period. There is also capacity for an employee to seek to return to work earlier whilst on parental leave.
- Pay slips provided by an employer must list all deductions and the reason for the deduction.
- The definition of a registered nurse and an enrolled nurse has been updated to provide greater clarity.
- The redundancy clause has been updated to reflect nursing/ midwifery classification streams and classification levels.
- Matters associated with vehicle usage and power mass unit have been updated.
- The skill mix clause within the EA has been updated to align appropriately with the Safe Patient Care Act.
- Specific information relating to the pay rates applicable to casual workers who are employed on weekends and who perform overtime have been included in the EA.
- An individual employee is entitled to request the substitution of a public holiday for an alternative day.
- The definition of a ‘no lift coordinator’ has been updated.
- The personal leave clause has been updated to ensure that the amount of paid personal leave applicable in the first, second, third and fourth year of service is the greater of the entitlement contained within the National Employment Standards or provided for in the EA. This provision has been included to address potential matters that may arise from the High Court Mondalez proceeding.
- An employer will be required to appoint a NUM/MUM at a minimum 0.2 EFT in each week in circumstances where the ward or unit operates less than 5 days per week.

Members with any queries in relation to this matter are requested to contact the ANMF via records@anmfvic.asn.au