

**From:** Mikayla Kuhne [<mailto:mikayla.kuhne@corrs.com.au>]  
**Sent:** Wednesday, 24 May 2017 9:28 AM  
**To:** Chambers - Catanzariti VP  
**Cc:** AMOD; Nick Le Mare  
**Subject:** RE: AM2016/31 - 4 yearly review of modern awards - Nurses Award 2010  
[SEC=UNCLASSIFIED]

Dear Associate

We refer to the email correspondence below.

We inadvertently sent the Commission a witness statement without the relevant exhibit attached. Please see **attached** the complete witness statement of Maria McLaughlin-Rolfe.

Kind regards

**Mikayla Kuhne**  
Graduate Lawyer

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## IN THE FAIR WORK COMMISSION

**Matter No:** AM2016/31

**Applicant:** Australian Nursing & Midwifery Federation

**Respondent:** Blue Care

### Statement of Maria McLaughlin-Rolfe

I, Maria McLaughlin-Rolfe of c/ 129 Dennis Road, Springwood in the State of Queensland, state as follows:

1. I am employed by Blue Care as General Manager of the Metro South region. I have been employed in this position since February 2017 and am authorised to make this statement on Blue Care's behalf. I am also a registered nurse with 30 years of post-registration experience in nursing. Attached and marked "MMR-1" is a true copy of my curriculum vitae and qualifications.
2. Blue Care provides residential aged care and community care services in Queensland. Relevantly, this includes employing approximately:
  - a. 8,381 employees; and
  - b. 1,940 nursing employees under the *Blue Care/ Wesley Mission Brisbane Nursing Employees Enterprise Agreement 2013 (Blue Care Enterprise Agreement)* that is underpinned by the *Nurses Award 2010 (Award)*.
3. I have read the submissions and supporting witness statements filed by the Australian Nursing & Midwifery Federation (**ANMF**) dated 17 March 2017 in support of proposed changes to the Award and provide the following comments in respect of those matters.

#### **In-charge and leading hand allowance**

4. As I understand it, the ANMF seeks the introduction of:
  - a. An 'in charge' allowance for registered nurses (RN 2 or lower) designated to be 'in charge' of a facility during the day, evening or night; and

- b. A 'leading hand' allowance for enrolled nurses and nursing assistants placed in supervisory roles.
5. Under the Blue Care Enterprise Agreement, a nurse designated as 'in charge' for a shift is paid a supervisor allowance to compensate them for this.<sup>1</sup> A registered nurse receives an additional \$12.40 for the shift and an enrolled nurse receives an additional \$11.26.
6. The additional duties performed by nurses that are 'in charge' differ depending on the facility requirements in question, but normally include supervising staff, overseeing patient care, communicating directly with management and (if necessary) organising replacement staff.
7. In paragraphs 5 to 7 of Cherise Matthews' statement, she gives evidence that she is often required to attend to maintenance issues, supervise kitchen staff, answer phones and deal with security issues. I provide the following comments about those matters:
  - a. Tasks such as these are not generally performed by nurses but by others (e.g. maintenance staff for maintenance related tasks) and any issues arising are dealt with by their manager;
  - b. In any event, a manager is always available to nursing staff during their shift, even if that manager is not physically present on site. During ordinary business hours, a manager can typically be on site within 15-30 minutes after being contacted;
  - c. Typically, the times during which nursing staff will be asked to attend to maintenance issues, supervise kitchen staff and deal with security issues is outside ordinary business hours (ie an evening or weekend shift). Even during these times, a manager is still available to be contacted; and
  - d. In any event, the performance of these tasks is incidental to the nurses' normal duties and a small component of all duties they actually perform.

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<sup>1</sup> See clause 6.8.3 of the Blue Care Enterprise Agreement.

8. The quantum of the allowances sought by the ANMF far exceeds the current allowances under the Blue Care Enterprise Agreement. The impact of this proposed change, if applicable to Blue Care, would be an increase to its labour costs.

**Recalled to work clarification**

9. As I understand it, ANMF seeks to amend clause 28 of the Award to require a minimum three-hour payment in circumstances where a staff member performs work remotely while on-call (e.g. by taking a phone call).
10. Under the Blue Care Enterprise Agreement, nurses are paid an allowance to be on-call.<sup>2</sup> The allowance is calculated by reference to the shift they are required to be on-call for, as follows:

<b>Shift</b>	<b>Allowance</b>
Monday – Friday	\$30.91
Saturday	\$37.08
Sunday or Public Holiday	\$49.44

11. In addition to this on-call allowance, nurses are paid for time actually spent performing duties while on-call (such as time spent on a phone call). Nurses are required to submit a log detailing the time spent performing such duties while on-call so that this time can be paid.
12. In addition, if a nurse is required to actually attend a worksite while on-call (including visiting a patient in their home), they are paid a minimum three-hour payment at the relevant overtime rate.
13. In paragraph 12 of Felicity Ball's statement, she gives evidence that she has never received any compensation for giving telephone advice while on-call and was only paid the on-call allowance. However, as I have outlined above, nurses are paid for time spent giving telephone advice while on-call provided they submit the relevant log.

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<sup>2</sup> See clause 7.5.1 of the Blue Care Enterprise Agreement.

14. In my view, requiring a minimum three-hour payment at overtime rates each time a nurse receives a phone call while on-call would be grossly disproportionate to the work they perform.
15. The impact of this proposed change, if applicable to Blue Care, would be an increase to its labour costs.

#### **Extra leave for excessive on-call**

16. As I understand it, ANMF seeks to introduce a mechanism whereby nurses that are required to be on-call more than 10 times in any one year accrue additional annual leave entitlements (calculated on a sliding scale by reference to the number of times they are placed on-call during the year, up to a maximum of five additional days of annual leave per year).
17. In my view, our on-call rostering requirements are not excessive and adequate compensation is already provided to nurses (see paragraphs 10 to 12 above). I have reviewed the on-call rostering records for the last 12 months and, based on that review, the average on-call requirement for nurses across all facilities in the Metro South region is approximately nine on-call shifts per year. Managers also work closely with individual nurses to minimise any impact on family or personal commitments.
18. In paragraph 4 of Felicity Ball's statement, she gives evidence that she is rostered to be on-call, on average, once every fortnight on both Saturdays and Sundays from 06:00 to 19:00. I have reviewed Ms Ball's rostering records and provide the following comments:
  - a. From June 2013 to April 2016, Ms Ball was rostered to be on-call a total of 37 occasions, as follows:
    - i. In 2013, Ms Ball was rostered to be on-call on 8 occasions;
    - ii. In 2014, Ms Ball was rostered to be on-call on 9 occasions;
    - iii. In 2015, Ms Ball was rostered to be on call 18 occasions; and
    - iv. In 2016, Ms Ball was rostered to be on-call on 2 occasions.
  - b. From June 2013 to April 2016, all of these 37 occasions were on a Saturday shift; and

c. From June 2013 to April 2016, Ms Ball was never rostered to be on-call for a Sunday shift.

19. The impact of this proposed change, if applicable to Blue Care, would be an increase to its labour costs and it could also mean having to increase the number of nurses we employ to either reduce on-call shifts per nurse or to cover this additional annual leave.

#### **Free from duty and on-call clarification**

20. As I understand it, ANMF seeks to amend clause 21.4 of the Award to require that the 'free from duty' period include time an employee spends rostered on-call.

21. Under the Blue Care Enterprise Agreement, nurses are rostered rest breaks between shifts of at least 10 hours (or eight hours in certain circumstances, for example, if required to account for changes in rostering).<sup>3</sup> In practical terms, similar to the Award, this allows nurses to be rostered on-call during a rest break between shifts.

22. In my experience, it is a well-established practice in the industry that nurses can be and are rostered to be on-call during a rest break between shifts.

23. The impact of this proposed change, if applicable to Blue Care, could mean significant alterations to rostering arrangements. This could require increasing the number of nurses we employ and hence increasing both administrative and labour costs. In addition, it would affect the number of shifts and on-call shifts nurses can be rostered to perform and potentially reduce their overall compensation.

#### **Increase to minimum 'rest break' between shifts and penalty**

24. As I understand it, ANMF seeks to amend clause 23 of the Award to increase the minimum 'rest break' required between shifts from eight hours to 10 hours and to provide a penalty for breach of this entitlement in the form of payment at overtime rates. The Blue Care Enterprise Agreement, provides a minimum rest

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<sup>3</sup> See clause 7.1.10 of the Blue Care Enterprise Agreement.

break of ten hours, or eight hours in certain circumstances, and there is no penalty.<sup>4</sup>

25. In rostering, Blue Care endeavours to provide its nurses with adequate rest breaks, which are generally at least 10 hours and no less than eight hours. Failure to meet the minimum requirements would be a breach of the industrial instrument. In my view, this is a sufficient incentive for employers to comply.

26. The impact of increasing the minimum rest break to 10 hours in all circumstances, if applicable to Blue Care, could mean significant alterations to rostering arrangements, particularly if coupled with the variation sought to clause 21.4 of the Award. This could require increasing the number of nurses we employ and hence increasing both administrative and labour costs. In addition, it would affect the number of shifts nurses can be rostered to perform and potentially reduce their overall compensation.

#### **Timing of meal breaks and compensation**

27. As I understand it, ANMF seeks to amend clause 27.1 of the Award to:

- a. Require that meal breaks occur between the fourth and sixth hour of a shift; and
- b. Clarify that compensation be provided to employees required to be 'on duty' or 'remain available' during a meal break.

28. Under Blue Care Enterprise Agreement, a meal break is to be taken at a time not to affect the continuity of work.<sup>5</sup> Our resourcing model is consistent with this.

29. The scheduling of meal breaks differs depending on the facility in question. While all employees who work more than six hours have a thirty minute meal break scheduled as part of their shift, the timing of the meal break depends on a variety of factors, including operational requirements and individual employee preference.

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<sup>4</sup> See clause 7.1.10 of the Blue Care Enterprise Agreement.

<sup>5</sup> See clause 7.2.3 of the Blue Care Enterprise Agreement.

30. In paragraph 19 of Susan Fletcher's statement, she gives evidence that she is often too busy catching up on routine work to take a meal break and that the time to take a meal break is not written anywhere. Similarly, in paragraph 14 of Cherise Matthews' statement, she gives evidence that there is no set time to take a meal break. I provide the following comments about those matters:

- a. We roster meal breaks for all employees that work more than six hours. It is noted in the roster for managers that a meal break is to be provided;
- b. The timing of the meal break is decided between the individual employee and facility manager, taking into account operational requirements and employee preference;
- c. Notwithstanding the above, meal breaks are normally taken between the fourth and sixth hour of an employee's shift;
- d. We expect employees to take their meal break – they are an important part of managing employee fatigue; and
- e. I have observed some employees choose not to take a meal break or to take their meal break at the end of their shift in order to leave work early.

31. The impact of the proposed change in restricting the scheduling of meal breaks, if applicable to Blue Care, would be to reduce flexibility to meet both operational requirements and employee preferences.

32. Under the Blue Care Enterprise Agreement, if an employee is required to remain on the premises and available during a meal break, they are paid an allowance of \$11.26 to compensate them for this.<sup>6</sup> If the employee's meal break is interrupted by work during this period, the meal break is paid at the appropriate overtime rate.

33. The payment sought by the ANMF, of ordinary rates for remaining available during a meal break, far exceeds the current allowance under the Blue Care

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<sup>6</sup> See clause 7.2.3 of the Blue Care Enterprise Agreement.



Enterprise Agreement. The impact of this proposed change, if applicable to Blue Care, would be an increase to its labour costs.

**Overall impact**

34. All of the variations sought by the ANMF have the potential to increase Blue Care's administrative and labour costs, and otherwise impact its ability to meet operational requirements. If all of the proposed variations were to apply to Blue Care, the financial consequences could have a material impact on Blue Care's business.

The contents of my statement are true and correct to the best of my knowledge and belief.

  
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Signed

  
\_\_\_\_\_  
Witness



## MARIA MCLAUGHLIN-ROLFE

### PROFESSIONAL SUMMARY

- ❖ General Manager relief for 4 months across Metro South cluster;
- ❖ Successful Service Delivery Manager with extensive aged and community care experience;
- ❖ Registered Nurse with 30 years post registration nursing experience;
- ❖ Over 25 years aged and community care experience;
- ❖ Over 15 years of aged and community service management;
- ❖ Experience in service design and development in aged and community care service delivery models and techniques;
- ❖ Experience in task and work systems analysis and support improving individual, team and organisational efficacy;
- ❖ Experience in community compliance performance;
- ❖ Client/resident centric approach to service delivery.

### SKILLS

- ❖ Strong leadership and management;
- ❖ Strong strategic planning, risk management and care governance focus
- ❖ Excellent interpersonal and communication skills
- ❖ An ability to build effective relationships at all levels
- ❖ Skills in work systems analysis, development and implementation to build services that are sustainable and consumer focused for the future
- ❖ Safety and quality service improvement
- ❖ Innovative in approach to better practice and service delivery models and methods
- ❖ A demonstrated ability to adjust to changing environments and application of innovative methods
- ❖ A fast learner, adaptable, determined, as well as having the ability to work independently and/or as a supportive and enthusiastic member of a team
- ❖ Business minded and forward thinking

### WORK HISTORY

#### 2016 - AUGUST – NOVEMBER

*Acting General Manager* | *Blue Care Metro South*

- ❖ Oversaw and supported the services to ensure financial KPI's were effectively managed
- ❖ Coordinated and implemented service redesign through further integrating services across Metro South i.e. creation of new hubs of service operations of Bayside and Brisbane South
- ❖ Demonstrated innovative and responsive leadership in an environment of industry and organisational transformation
- ❖ Demonstrated commitment to UCQ's vision, mission and shared values through the strong relationships, both internally and externally, that I have in place

## 2012 - CURRENT

*Service Delivery Manager* | *Blue Care Metro South Cluster*

- ❖ Developed solid and trusted relationships with internal and external stakeholders across Metro South i.e. Integrated Services Managers of Blue Care and partners and contractors externally
- ❖ Provide clinical and management support to Integrated Service Managers
- ❖ Build capacity of Integrated Service Managers in meeting legislative, cultural and contractual obligations.
- ❖ Manage the cluster support team in their delegated portfolios in supporting services
- ❖ Facilitate and empower Integrated Service Managers and Support Officers to make informed decisions on service delivery
- ❖ Attended the contract management of our cluster external partnerships and contracts
- ❖ Support the provision of quality person centred care across services consistent with Blue Care integrated service model – Tailor Made
- ❖ Monitor effectively and track the cluster risk management strategies and ensure compliance with regulatory requirements
- ❖ Canvassing opportunities to further grow Blue Care business in the communities we work in e.g. Fee for service opportunities
- ❖ Challenge the current approach to systems, processes and mindsets that traditionally have supported Blue Care's business operations

## 2009 - 2012

*Care Support Officer* | *Blue Care Brisbane Central & Metro South Cluster*

- ❖ Accreditation – coordinated, supported and planned all activities
- ❖ Funding compliance – cluster contact for funding bodies external review activities.
- ❖ Coordinated, advised, supported and participated in external compliance reviews
- ❖ Responsible for care governance activities including monitoring, analysis and reporting
- ❖ Coordinated, monitored and administered all activities relating to quality improvement Risk champion for cluster with supporting, monitoring and reporting on risk activities
- ❖ Clinical practice development, coordination, implementation and evaluation
- ❖ Attended Project Management activities
- ❖ Cluster administrator and superuser of IT systems that supported care and business activities
- ❖ Supported, guided and collaborated with Community Care Manager and Service Managers
- ❖ Reviewed systems and processes associated with care delivery and program activities

## 1989 - 2009

<i>Care Support Officer</i>		<i>Blue Care Brisbane Central &amp; Metro South Cluster</i>
<i>Quality Coordinator</i>		<i>Blue Care Brisbane Central Region</i>
<i>Service Improvement Coordinator</i>		<i>Blue Care Brisbane Central Region</i>
<i>Nursing Manager</i>		<i>Blue Care Brisbane Central Region</i>
<i>Acting Director of Nursing (12mths)</i>		<i>Blue Care Brisbane Central Region</i>
<i>Nurse Practice Coordinator</i>		<i>Blue Care Brisbane Central Region</i>
<i>Clinical Nurse Consultant</i>		<i>Blue Care Brisbane Central Region</i>
<i>Registered Nurse</i>		<i>Blue Care Brisbane Central Region</i>

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## EDUCATION

## TERTIARY QUALIFICATIONS

### October 2015 – CURRENT

*Masters of Business Administration* | *Kaplan Business School Brisbane*

- ❖ Completed X5 modules including: Strategic Human Resource Management; Measurement & Decision Making (Management Accounting); Business Perspectives; Business Communications and Strategic Management (in couple of weeks).
- ❖ Undertaking 1 – 2 modules per trimester – due for completion 2018.

*Bachelor of Nursing* | *Post Registration* | *1993 – 1995*

### KEY COURSES 2004 - 2015

### July 2016 – CURRENT

*Middle Leaders Development Program* | *Blue Care & Insight* | *2016*

- ❖ Completed 11 modules including: Inspiring Personal Greatness; Leading Change; Leading for Impact; Coaching for High Performance; Maximising Performance; Influencing for Success; Building a High Performing Team; Leading Tailor Made (Customer Focus); Recruiting and Selecting.

*Leadership in Quality & Safety Management* | *Queensland University of Technology* | *2014*

*Safety Leadership Course* | *Blue Care* | *2014*

*Management Development Course* | *Blue Care* | *2008*

*Certificate IV in Assessment and Workplace Training* | *Childs Training Pty Ltd* | *2004*

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## REFERENCES

Available upon request