



australian nursing federation

16 JUN 2003

10 June 2003

Commissioner Mike Woods
Workers' Compensation and Occupational Health and Safety
Productivity Commission
PO Box 80
Belconnen ACT 2616

Dear Mr Woods

National workers' compensation and occupational health and safety frameworks

Thank you for the opportunity to contribute to the above inquiry. The Australian Nursing Federation is the largest national industrial and professional organisation for nurses with more than 120,000 members in the State and Territory Branches. Registered and enrolled nurses', and assistants in nursing and other unlicensed health care workers (however titled) are represented by the ANF.

Nurses and other health workers are unfortunately injured and occasionally killed at work (eg back injuries with manual handling, assaults by patients or visitors leading to death). They are exposed to diseases, chemicals and medicines that result in illness and death (eg SARS, HIV, hepatitis, exposure to glutaraldehyde, latex and carcinogenic drugs). A key role of the ANF is the occupational health and safety of members. It is the position of the ANF that workers' compensation and occupational health and safety frameworks must lead to a reduction in the number and severity of occupational injuries and illnesses for workers. Further, they must either facilitate a return to work following injury or illness or appropriately compensate the worker or their family when return to work is not possible.

The ANF does not support national occupational health and safety and workers' compensation legislation. It is our view that the unacceptable outcome of this approach will be a set of minimum standards for workers and employers because of the difficulties in achieving consensus. The worker for whom the legislation is designed will have their rights further eroded by this process.

There is support however for a national body such as the National Occupational Health and Safety Commission to be resourced and commissioned to provide advice to the State/Territory Ministers responsible for OHS and workers' compensation and to the heads of the workers' compensation authorities. The aim should be the development of the best possible model of OHS and workers' compensation which is available to all workers and their employers, and implemented in all jurisdictions.

Workers' compensation frameworks are to assist workers and their families to cope with the after-effects of an occupational injury, illness or death. They are not insurance models or business incentive programs. The ANF is concerned that there

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is an emphasis in the inquiry on reducing costs for employers. It is the view of the ANF and borne out by research² that employers who invest in health and safety are rewarded with fewer claims for sick leave and other compensation costs, as well as reduced insurance premiums³. Incentives to reduce the incidence of injuries and illnesses are already available to employers. Some further and more extensive financial modelling undertaken by bodies such as NOHSC may assist employers to understand the implications of effective occupational health and safety systems.

The development of advice on definitions of employer, employee, workplace, workrelated injury, illness and fatality for both workers' compensation and OHS frameworks is supported. The ANF strongly recommends that casual employees, contractors (however titled) including the self employed should be deemed as employees for the purposes of OHS and workers' compensation. Employers must provide a safe working environment for all workers irrespective of their employment status. Introduction of consistent definitions, covering all types of workers will provide a more accurate data set and an improved analysis of occupational illnesses and injuries, and their consequences (eg rate of return to work, cost of rehabilitation programs, etc.).

The ANF does not support the limitation or removal of access to common law damages. It is our position that this should be an option for any injured or ill worker as is the case for all other members of the community.

Development of innovative and responsive workplace based injury management approaches are always supported by the ANF. It is our view that most injured or ill workers are better off if they are able to return to meaningful work. The ANF recommends that a national organisation such as the National Occupational Health and Safety Commission could be funded to develop guidelines, monitor the effectiveness, and promote best practice models in this area. NOHSC may be positioned to advise employers and workers about the opportunities for rehabilitation, return to work programs, re-training options, etc.

The ANF is supportive of appropriate mechanisms that assist workers and employers to manage and resolve disputes. It must be remembered that most disputes occur when workers are recovering from illnesses or injury, and facing a significantly altered personal and working life. Systems must be in place so that the worker is treated in a fair manner.

The ANF opposes a system that allows for *suitably qualified employers* to provide national self-insurance coverage. This system will leave workers at risk and in our view will require significant monitoring systems to ensure that workers will have access to adequate compensation if an injury or illness occurs.

Any changes that would increase the opportunities for employers to avoid their responsibilities in providing a safe working environment are opposed. The ANF is not

² Eg Department of Human Services 2002 Victorian nurses back injury prevention project: Evaluation report 2002 DHS Melbourne (www.nursing.vic.gov.au)

³ from Human Services News 1(6) November 2002

however against an advisory body such as NOHSC being appropriately funded to assist employers to meet the regulatory requirements and reduce costs wherever possible.

The ANF does not support the transfer of responsibility for occupational health and safety to the community. Employers must be accountable for providing a safe working environment and they should provide compensation when a worker is injured or becomes ill as a result of the work that they are doing. The community is already bearing the cost of injured and ill workers who are unable to meet their full potential in working and personal lives. Employers must be appropriately insured and they must demonstrate that they have removed risks wherever possible.

Please contact Victoria Gilmore in the Canberra office (or professional@D-anf.org.au) if you require any other information.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'GED COWIN', with a stylized, cursive script.

GED COWIN
Acting Federal Secretary

If,

GED COWIN
Acting Federal Secretary