

# Submission

to

Senate Employment, Workplace Relations and Education  
Legislation Committee

## **Inquiry into the Workplace Relations Amendment (WorkChoices) Bill 2005**

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Secretary

**Organisation:** Queensland Nurses' Union

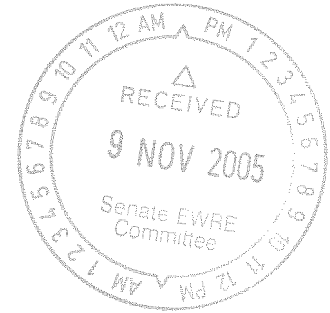
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## **Queensland Nurses' Union**

### **Submission to the**

### **Senate Employment, Workplace Relations and Education Committee**

## **INQUIRY INTO THE WORKPLACE RELATIONS AMENDMENT (WORKCHOICES) BILL 2005**

**November 2005**

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## **1. Introduction**

- 1.1. The QNU condemns in the strongest terms the destruction of Australia's industrial relations system and its replacement with a complex and unjust regime that will do immeasurable harm to the working lives of nurses in Queensland and Australia.
- 1.2. The nursing workforce is best served by comprehensive awards and agreements overseen and/or determined by a robust industrial tribunal. It is a workforce that supports a strong professional and industrial association.
- 1.3. These elements are vital, not only to the nurses themselves, 93% of whom are female, but to those many individuals and communities who rely in various ways on nursing care.
- 1.4. The Workplace Relations Amendment (Workchoices) Bill 2005 is not in the interests of nurses or those we care for, we don't want it, there is no justification for it and Australian society will suffer as a consequence of it.
- 1.5. Due to the extremely limited time frame of this inquiry which, like the proposed legislation itself, has the consequence of curtailing the democratic participation of individuals in the decisions that most effect them, this submission is necessarily brief, and is in no way exhaustive in describing the myriad wrongs that will be done to nurses as a consequence of this legislation.
- 1.6. In making this submission the QNU has had the benefit of reading the submissions of our Federal body, the Australian Nursing Federation and we adopt and endorse absolutely those submissions and commend them to the Committee.

## **2. About the QNU**

- 2.1. The QNU is the principal health union operating and registered in Queensland. The QNU also operates as the state branch of the federally registered Australian Nursing Federation.
- 2.2. The QNU covers all categories of workers that make up the nursing workforce in Queensland—registered nurses, midwives, enrolled nurses and assistants in nursing, employed in the public, private and not-for-profit health sectors including aged care. Our members work across a variety of settings from single person operations to large health and non-health institutions, and in a full range of classifications from entry level trainees to senior management.
- 2.3. The union has both industrial and professional objectives. We firmly see nurses and nursing as being situated within a societal context – nurses being both providers and “consumers” of health services. In recent years we have attempted to lead and contribute to the debate within nursing and the wider community about the role and contribution of nursing through the development, implementation and regular review of a *Social Charter of Nursing in Queensland*.

2.4. Membership of the QNU has grown steadily since its formation in 1982 and in June 2005 was in excess of 33,000 and still growing. The QNU represents the largest number of organised women workers of any union in Queensland. Like the nursing profession as a whole, the overwhelming majority of our members are female (93%). As nurses are the largest occupational group within health (nurses make up over 50% of the total employed health workforce and over 40% of the Queensland Health workforce), the QNU is the principal health union operating in Queensland.

2.5. The union has a democratic structure based on workplace or geographical branches. Delegates are elected from the branches to attend the annual QNU conference which is the principal policy making body of the union. As such it is ordinary working nurses who increasingly choose membership of the QNU that drive the agenda of the QNU. In addition to the annual conference the QNU has an elected council and an elected executive, which in turn have decision-making responsibilities between conferences. Council is the governing body of the union.

### 3. Some key issues for nurses.

#### 3.1. *Collective and Democratic Industrial Arrangements*

3.1.1. QNU members working in Queensland Health are employed under federal industrial awards and in the private sector are employed under state industrial awards. In addition, since 1994 when no enterprise agreements were in place covering nursing workers, the QNU has become party to over 300 enterprise agreements which cover a diverse range of health facilities and other non-health establishments where nursing services are provided (e.g. schools, prisons and factories).

3.1.2. Through the democratic process of the QNU nurses have been able to participate in the development of these arrangements and seek to have them remain relevant and equitable. The representations made to industrial tribunals by the QNU and the consequent deliberations of those tribunals, are thus part of a democratic process that supports underlying principles of the nursing profession.

3.1.3. The proposed legislation destroys these democratic processes by a number of means including severely curtailing the capacity of nurses' democratic organisations to represent them, removing the capacity of industrial tribunals to make determinations based on the representation of those organisations, removing the democratic process of making collective agreements from the scrutiny of industrial tribunals and democratic representative organisations, and giving pre-eminence to individual agreements over collective agreements.

### 3.2. *Part time work*

- 3.2.1. Nearly 50% of nurses are working part time. The number of nurses employed in a part-time capacity has steadily increased in recent years. By 2003 this had increased to 49.6%.<sup>1</sup> At the same time the average number of hours worked per week has decreased from 32.4 hours in 1995 to 31.7 hours in 2003.<sup>2</sup>
- 3.2.2. Nurses work part time for two principle reasons. Respite from their heavy workloads and to meet their family responsibilities and achieve work family balance. Through the use of comprehensive hours of work provisions including restrictions on the maximum and minimum number of hours, the use of shift penalties, and roster notice periods, nurses are able to have certainty in their working lives.
- 3.2.3. These protections will be lost under the proposed legislation, either by being specifically outlawed, or through the loss of the protection of a robust industrial commission. The lack of certainty for part time work will have an adverse effect on work family balance.

### 3.3. *Capacity to Bargain*

- 3.3.1. Nursing numbers in Queensland are lower than the national average. Queensland continues to fall well below the national averages in terms of both the total number of employed nurses and total full time equivalent (FTE) employed nurses.
- 3.3.2. Pronounced skills shortages exist in all areas of nursing. According to the Department of Employment and Workplace Relations (DEWR) *National Skill Shortage Survey*, the depth and breadth of the skills shortages in nursing remains the greatest of all occupational groups. Workforce modeling commissioned by the recent National Review of Nursing Education predicts that there will be 31,000 nursing vacancies in Australia by 2006.
- 3.3.3. At the same time changes have also been occurring in the wider community and health sector that have impacted on nurses and nursing. Queensland's population growth is the highest of all states and territories in recent years. This growth, which is predicted to continue, has put significant pressure on demand for health services. The ageing of the Australian community, technological advances and reform in the health sector in recent years have all also significantly contributed to changes in care and work patterns.

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<sup>1</sup> AIHW (2005), *Nursing and Midwifery labour force 2003*, Canberra.

<sup>2</sup> AIHW (2005), *Nursing and Midwifery labour force 2003*, Canberra.

- 3.3.4. Contrary to government rhetoric, these dynamics serve to restrict bargaining power in nursing. This intensification of nursing work has us under pressure to meet the increased demands on health services. There is little time left for individual bargaining. The nursing profession does not operate in a free market. Health services including aged care are subject to government policy and funding. The growing disparity between wages in different sectors where nurses work that has occurred as a consequence of the deregulation of the labour market over the last decade can only be addressed through arbitrated movement in awards by industrial tribunals (see for example *Nursing Homes &c., Nurses' (State) Award, Re (No 4) [2005] NSWIRComm 88*).
- 3.3.5. In the absence of this the pressure is for nurses to do more with less and for substitution of more qualified nursing staff with less qualified nursing staff. This results in a down grading of the nursing care being provided thus placing a greater burden on family members and others.
- 3.3.6. A significant factor in the attraction of new recruits to nursing that is of high value to students and beginning practitioners is a perception of nursing as being a collegial profession where individual practitioners are nurtured and mentored. The attack on the collective industrial processes of nursing through this proposed legislation will result in these relationships breaking down and consequently force beginners to compete with low skilled and ill prepared categories of health workers, particularly in aged care and private hospitals. The outlawing of 'pattern bargaining' for matters such as work loads provisions, professional development provisions, training provisions and classification structure improvements will damage these important relationships.
- 3.3.7. The provisions relating to essential services in the proposed legislation will mean that nurses are restrained from seeking to exercise the limited bargaining power they do possess.

#### 3.4. *Shift Penalties*

- 3.4.1. The context in which nurses do their work is also highly variable – many nurses work as independent professional agents who at any one time can be caring for a number of individuals (and their families) but also do so within a team structure. Multiple transactions between individuals occur during the course of a shift, a complex range of activities are undertaken and the working environment is often unstable. The condition of patients can rapidly deteriorate, in most areas we have a number of patients in our care (all with different needs and health status) so our clinical assessment and reaction skills must be finely tuned. We must have the ability to prioritise and respond appropriately. As we work 24/7 nurses perform the principal surveillance role in the health system – it is nurses who keep patients safe.
- 3.4.2. We doubt that the important work achieved by the whistle blower nurses in the Bundaberg Hospital affair would have occurred if they were in the vulnerable position of being on individual contracts with restraints on the assistance they could receive from their industrial organisation.

3.4.3. The 24 hour seven day a week nature of nursing is currently recognised in part through the provision of shift penalties that often comprise up to 20 to 25 percent of a nurses income. There is no protection for these penalties in the proposed legislation and nurses are amongst the most vulnerable to loss of penalties in a bargaining environment such as that proposed.

#### **4. Conclusion**

- 4.1. The planned industrial relations changes will simply serve to make health workforce planning harder. The rights of health workers to take industrial action to secure improvements in wages and conditions will be significantly curtailed through the introduction of the essential services components of the legislation. Clearly the federal government views the health workforce as being somehow "different" to the broader workforce – there is a special "public interest" to protect that is seen as taking precedence over the industrial rights of workers in this sector.
- 4.2. How are nurses expected to now try and achieve improvements to pay and working conditions (which is certainly required if we are to attract and retain people in nursing!), let alone retain what we have.
- 4.3. Nursing is a collective, democratic profession vital to the well being of all Australians. The proposed Workplace Relations Amendment (Workchoices) Bill 2005 will have an adverse effect on nurses and the well being of those we care for. It should be condemned.