



NEW SOUTH WALES NURSES AND MIDWIVES' ASSOCIATION
AUSTRALIAN NURSING AND MIDWIFERY FEDERATION NEW SOUTH WALES BRANCH



POLICY ON WORK HEALTH AND SAFETY

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NSW Nurses and Midwives' Association
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Policy on Work Health and Safety

THE PURPOSE OF WORK HEALTH AND SAFETY (WHS) LEGISLATION IS TO:

- Protect workers and other persons against harm to their health, safety and welfare through the elimination or minimisation of risks arising from work or from specified types of substances or plant, and
- Providing for fair and effective workplace representation, consultation, co-operation and issue resolution in relation to work health and safety, and
- Encouraging unions and employer organisations to take a constructive role in promoting improvements in work health and safety practices, and assisting persons conducting businesses or undertakings (PCBU) and workers to achieve a healthier and safer working environment, and
- Promoting the provision of advice, information, education and training in relation to work health and safety, providing a framework for continuous improvement and progressively higher standards of work health and safety¹.

It is the NSWNMA's expectation that facilities shall provide suitable and adequate resources for the management of WHS matters, develop and distribute policies and procedures, and provide supervision, instruction, training and communication for all workers. Facilities shall provide, maintain and review a proactive health and safety system which requires the systematic identification and reporting, assessment and elimination, or where this is not reasonably practicable, the minimisation and review of workplace health and safety hazards. In addition, the provision of adequate and suitable personal protective equipment and other equipment, to enable safe practice shall be met. The provision of an Employee Assistance Programme (EAP) and Workers Compensation and Injury Management programmes that meets legislative requirements shall also be maintained.

The above elements should form part of an overall strategy to provide a systematic program to manage Work Health Safety beyond legislative compliance. Through these measures, facilities may demonstrate that they understand and comply, as is reasonably practicable, within the broad and general duties of the *Work Health and Safety Act 2011* (the Act). This also includes the specific requirement of the associated *Work Health and Safety Regulations 2017* and supporting Codes of Practice and other documentation available under the Act².

CONSULTATION



The establishment of effective consultation mechanisms with workers on WHS and welfare matters may include through Health & Safety Representatives (HSRs), Unions and WHS Committees where requested. Section 66 of the WHS Act protects HSRs from liability who raise health and safety issues in good faith.

Consultation must occur when:

- identifying hazards and assessing risks to health and safety arising from work;
- making decisions about ways to eliminate or minimise the risks;
- making decisions about the adequacy of facilities for worker welfare;
- proposing changes that may affect the health or safety of workers;
- making decisions about how to consult workers, resolve issues, monitor worker health, monitor conditions or providing information and training.

Consultation is a two-way exchange between workers and their employer that involves:

- sharing information about health and safety;
- giving workers a reasonable opportunity to express their views and to raise health and safety issues;
- giving workers a reasonable opportunity to contribute to the decision-making process relating to the health and safety matters;
- taking those views into account;
- advising workers of the outcome of any consultation in a timely manner.

RESPONSIBILITIES

Section 27 Officers - Employer

“Duty of Care” responsibilities under the Act, and associated legislation may be met by taking on a risk management approach to ensure hazards and risks are managed in the workplace. The duty of “Officers” under Divisions 2, 3 and 4 of the *Work Health and Safety Act 2011* is to exercise “Due Diligence” keeping up to date on knowledge of WHS matters, maintain an understanding of the operations and associated hazards and risks, ensure appropriate resources and processes are in place to eliminate or minimise risk, with appropriate process to receive and consider incidents, hazards and risks so as to respond in a timely way and that the PCBU implements such processes.



The primary responsibility for Work Health Safety rests with “Officers” and such duty is not transferable.

Section 7, Section 28 Workers - Employees, Students, Contractors & Volunteers

All “Workers” must take reasonable care for the safety of themselves and others in the workplace. Workers are required to comply and cooperate with any reasonable instruction from their employer in relation to WHS matters as stated under Section 28 of the Act. Workers must take reasonable care for the health and safety of other persons at work who may be affected by the workers acts and omissions.

THE NSW NURSES AND MIDWIVES' ASSOCIATION ADOPTS THE POLICY THAT THE PCBU MUST:

1. Provide safe plant and substances and facilitate the safe use, handling, storage and transport of plant and substances.
2. Provide adequate information, instruction, education, training, equipment and supervision so that they can perform their work safely.
3. Provide workers with appropriately designed workplaces, work environments, fixtures, and furniture, equipment, systems of work and work practices that do not create, contribute to or exacerbate workplace risks.
4. Provide safe staffing levels that reflect the minimum requirements of nurse-to-patient Ratios⁴.
5. Continuously evaluate risk management programs and control strategies for their effectiveness and make the necessary improvements.
6. Nurses and midwives have the right to expect that the highest level of effective risk control measures will be implemented by the employer and that risks will be eliminated or minimised at their source as far as reasonably practicable.
7. Nurses and midwives who are affected by work injury and/or disease must have access to:
 - 7.1 Workplace-based rehabilitation and injury management,
 - 7.2 Retraining when they cannot return to their previous work,
 - 7.3 Appropriate health care and injury management services,
 - 7.4 Comprehensive no-fault financial compensation and common law entitlements.
8. Nurses and midwives who are exposed to work health and safety risks have the right to a personal health examination at the employer's expense and the right of access to their own health records.



9. Nurses and midwives have the right to expect that they will not be dismissed, have their employment altered, or be harassed for making a work health and safety complaint, for exercising their role as a WHS Representative or WHS Committee member, or for taking part in work health and safety activities.
10. Nurses and midwives must not be charged the cost of or be otherwise financially disadvantaged by the employer for equipment, immunisations, training or any other risk control measure provided to protect their health and safety.
11. Hazardous Manual Tasks: Nurses and midwives have the right to work within a workplace where the workplace design and layout, systems of work, furniture, fixtures and work practices are conducive to safe manual tasks.

Nurses and midwives shall be provided with appropriate manual handling equipment and aids; with safe staffing levels reflective of nurse-to patient Ratios and adequate resources to facilitate safe manual tasks; and be provided with competency based training in manual tasks, risk assessment and performance of safe work practices. The NSW Nurses and Midwives' Association supports manual task risk management programs that aim to eliminate manual tasks as far as reasonably practicable that include the lifting and transferring of patients by nurses and midwives as a risk managed approach.

12. Violence and Aggression: Nurses and midwives have the right to perform their work without the risk of violence and aggression, verbal or physical; and be provided with specialised training to assist them to effectively eliminate risk as reasonably practicable and effective measures to de-escalate and manage aggressive incidents. Nurses and midwives shall be provided work in a secure, appropriately designed workplace with adequate security systems (including perimeter security, car parking, duress alarms and duress response protocols); and be provided with support if they are adversely affected by aggression or wish to report an assault to the authorities.
13. Critical Incidents: Nurses and midwives have the right to be provided with adequate support following critical incidents including timely provision of treatment, debriefing, feedback of outcomes, and confidential personal support and counselling. Nurses and midwives should consider consulting the Association for advice and support where required.
14. Blood borne and other infectious viruses: Nurses and midwives have the right to be protected from blood and body fluid exposures. This includes being supplied with safe systems of work; information on current and emerging biological issues; effective personal protective equipment; and with sharps products that are of safe design. Workers have the right to be offered vaccination, at no cost, against infectious diseases to which they may be exposed (where vaccines are available) alongside an effective and confidential post exposure regime.
15. Hazardous substances and dangerous goods: Nurses and midwives have the right to be protected from risks associated with hazardous substances and dangerous goods including but not limited to cytotoxic substances, latex, surgical smoke plume, medical gases and peracetic acid, acetic acid and hydrogen peroxide used in endoscopy sterilisation. Workers should expect that adequate

information will be provided about the associated risks of substances to which they use or may be exposed to, and expect that effective risk control measures are implemented and maintained including evacuation control measures for surgical smoke plume, health monitoring for cytotoxic drugs and air monitoring for gases and sterilisation procedures.

16. Shiftwork and fatigue: Nurses and midwives have the right to work shiftwork patterns which are not adverse to their health, safety and well-being or the safety of others which provide for adequate rest between shifts. Rosters should be in a forward pattern and safe staffing levels reflective of nurse-to-patient Ratios with adequate skill mix shall be in place to minimise fatigue risks. Where emergencies require nurses and midwives to work long hours, provisions will be made to address the risks associated with fatigue, e.g. buddy system to prevent clinical errors, accommodation (sleep), rest breaks.
17. Nurses and midwives will take reasonable care of the health and safety of other persons (workers and others) who may be affected by their actions or omissions.
18. Nurses and midwives will take reasonable care of their own health and safety by cooperating with the employer's efforts to fulfil their duties under work health and safety legislation as far as reasonably practicable. This includes complying with safe work practices and using equipment in accordance with their training and manufacturers' instructions, and attending work health and safety training where possible.
19. Nurses and midwives have the right to cease, or refuse to carry out, work if the worker has a reasonable concern that to carry out the work would expose the worker or others to a serious health or safety risk, emanating from an immediate or imminent exposure to a hazard.
20. Nurses and midwives will report to management any work related injury, illness or workplace hazard including the inability to comply with safe work practices without fear of discrimination or reprisals as soon as reasonably practicable.
21. Nurses and midwives should participate in workplace work health and safety consultation opportunities such as election as WHS Representative, becoming a member of a WHS Committee, and direct consultation with employees. In workplaces where WHS Representatives or WHS Committees do not exist, nurses and midwives should request that the employer review and establish formal arrangements for consultation. Support and guidance is available from the NSW Nurses and Midwives' Association⁵. Nurses who work in executive, managerial and supervisory roles should take work health and safety implications into account before finalising and implementing decisions and in preparing briefs and reports³.
22. Nurses and midwives have the right to formally raise an issue and request a meeting with SafeWork NSW under section 82 WHS Act where a work health and safety issue has not been resolved through available workplace structures and processes.
23. The NSW Nurses and Midwives' Association will continue to:



- 23.1 Pursue work health and safety issues relevant to nurses and midwives at local, state and federal levels;
 - 23.2 Provide nurses and midwives with work health and safety information and advice; and,
 - 23.3 Support members who have been exposed to work health and safety risks,
 - 23.4 Advocate for improvements that lead to best practice by promoting a world class, well-funded, integrated systems with relevant stakeholders.
24. The NSW Nurses and Midwives' Association will intervene in work health and safety matters on behalf of members and will negotiate improvements with the employer where workplace arrangements for resolution of WHS problems have not resulted in an acceptable outcome.

REFERENCES

1. Work Health and Safety Act NSW 2011
2. Work Health and Safety Regulation NSW 2011
3. NSW Health – Work Health and Safety Better Practice Procedures, PD2013_050
4. Safe nurse-to-patient Ratios https://www.nswnma.asn.au/ratioslifeordeath/ratios_resources/
5. Resolving a WHS issue <https://www.nswnma.asn.au/wp-content/uploads/2019/09/WHS-resolving-issues-1.pdf>

REFERENCES

1. NSW WHS Act 2011 Division 2 – Object