



15 March 2023

Prosecution case launched over broken health system

The NSW Nurses and Midwives' Association (NSWNMA) today confirmed it will file a major prosecution case in the Supreme Court against the state of NSW for widespread and repeated staffing breaches of the *Public Health System Nurses' and Midwives' (State) Award*.

Data obtained from a Government Information Public Access (GIPA) application has uncovered systemic and ongoing non-compliance statewide, resulting in hundreds of thousands of missed nursing care hours.

NSWNMA General Secretary, Shaye Candish, said the sheer volume of nursing care stolen from patients demonstrated how the Nursing Hours Per Patient Day staffing model is broken, and vindicated calls for a safe and enforceable ratios system to be introduced in NSW.

"This evidence shows the NSW government's preferred staffing model is no longer fit for purpose and, despite the best efforts of nurses working short-staffed, it is not delivering a safe level of care to patients when they need it most," said Ms Candish.

"We are talking about hundreds of thousands of nursing care hours not provided on general medical and surgical wards, meaning patients may have missed timely care, such as blood pressure checks, wound care, or showers due to inadequate or unsafe staffing.

"Delays in clinical care can lead to suboptimal patient outcomes such as increased falls risks, hospital acquired infections like pneumonia, pressure area sores, and blood clots."

In its prosecution case, the NSWNMA will argue patients at multiple major hospitals including Royal Prince Alfred, Gosford, Wollongong, Westmead, Liverpool and Nepean, have missed out on almost 120,000 hours of nursing care due to systemic understaffing.

"The 1,484 contraventions we are filing today are just the tip of the iceberg. If anything, we have been conservative in this prosecution and have not included a large number of other hospitals that also breached the award repeatedly," added Ms Candish.

"Our case highlights Gosford Hospital on the Central Coast as the worst offender for staffing breaches, with 777 award contraventions over a four-year period.

"A further nine metropolitan and regional hospitals did not provide adequate staff per shift on more than 700 occasions from July to October last year resulting in substandard care."

The prosecution Statement of Claim details 1,484 contraventions across 10 principal referral hospitals (Peer Group 1A) over recent months and years. The most significant breaches, totalling 777 contraventions, occurred at Gosford Hospital between 31 December 2018 and 30 October 2022. The remaining 707 contraventions (from 1 July 2022 to 30 October 2022) include:

- Royal Prince Alfred Hospital – 155
- Concord Repatriation Hospital – 107
- Wollongong Hospital – 106
- Westmead Hospital – 99
- Liverpool Hospital – 86
- Royal North Shore Hospital – 77
- Nepean Hospital – 37



- Prince of Wales Hospital – 23
- Bankstown/Lidcombe Hospital – 17

NSWNMA Assistant General Secretary, Michael Whaites said for many years nurses and midwives had highlighted the broken public health system was not ensuring an adequate level of nursing care to patients.

“This is the system our Premier says is working and is world class. It’s clear patients across the state, along with the nurses and midwives who care for them, deserve better,” said Mr Whaites.

“A shift by shift nurse-to-patient ratio system is the solution but the government refuses to acknowledge this.

“In the past, we have taken multiple non-compliance disputes to the NSW Industrial Relations Commission, yet the non-compliance continues. Patients are missing out on basic care and staff are being worked into the ground – it has to stop.”

The Supreme Court case could result in significant financial penalties if the state is found to have contravened the various public health awards.

NB: Multiple own time rallies will be held by NSWNMA public sector branches on Thursday 16 March to highlight the widespread Award breaches to local communities. Media alerts for these activities will be issued as soon as possible.

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