The Productivity Review Team set up under the Mental Health Nurses Enterprise Agreement delivered its final report on 2nd August 1996. (copy attached) The report revealed that there was no agreement between the parties with respect to productivity improvement measures to be recommended to work sites for implementation. The report has been referred to Cabinet for clarification on whether the second 5% pay increase due to be paid from 1st July 1996 ought to be paid given there is no agreement on productivity initiatives.

The matter has also been the subject of 2 conciliation conferences before Commissioner Dight at the Australian Industrial Relations Commission. The second conference was held on 1st August at which employers suggested to the Commission that it was unlikely that Government would endorse payment of the second 5% without agreement between the parties to achieve productivity improvements of 2.5% of nursing labour costs at each Mental Health facility.

The Commission has now recommended a process which involves gathering, analysing and collecting data from around the country and further negotiations at a central level with a view to the parties reaching agreement on productivity improvements by early September. The attached statement and recommendation from the AIRC is provided for your information. The PRT report and the AIRC process has been put to government and cabinet has now endorsed the process recommended by the AIRC. Accordingly, no pay increases should be made until after the negotiations aimed at achieving agreement in relation to productivity improvements have been completed, and until you have been advised to make those increases.

Bans Clauses

In the meantime, both the ANF and the HSUA have lodged applications to insert bans clauses into the Mental Health Nurses Enterprise Agreement to try to force employers to pay the second increase. This is usually an action by employers to prevent employees from taking industrial action. In this case the Agreement (under the Dispute Settlement Clause) prevents employees from taking industrial action.

The unions have agreed not to have the applications heard until after the negotiation process referred to above has been completed or not before 9th September 1996.

HSUA Application

The HSUA has also lodged an application to extend its area of coverage into the general nursing area following amalgamations among employers which affect the employment status of large numbers of its members. Anyone wishing to discuss this application should contact Rob Lindsay on 222 2132.

John Kirwan
GENERAL MANAGER
HEALTH WORKFORCE REFORM DIVISION
AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 1988
s.99 notification of industrial dispute

Minister for Health

and

Australian Nursing Federation and another
(C No. 60445 of 1996)

MENTAL HEALTH NURSES ENTERPRISE BARGAINING AGREEMENT 1996
(ODN C No. 60176 of 1990)
(Print K1343)

Nurses
Health and welfare services

COMMISSIONER DIGHT

PERTH, 2 AUGUST 1996

STATEMENT AND RECOMMENDATION

At the Commission's instigation in this notification was the subject of a video-link conference in Melbourne and Perth on 1 August 1996. The purpose of the conference was to investigate, at the request of Deputy President Duncan, the position of the parties in the light of applications filed by the unions in C No's 33810 and 60541 of 1996. This notification, C 60445 of 1996, was the subject of an earlier conference on 6 June 1996.

At the conclusion of the second conference I advised the parties that I would issue certain recommendations to them, in addition to reporting to the Deputy President.

On the basis that:

A. The parties agree they are now moving into intensive negotiations during August as a separate phase after the Performance Review Team in an attempt to

(ii) fulfil the PRT terms of reference at the individual workplace level, and

(ii) resolve the matters in dispute such that C No's 33810 and 60541 of 1996 are not proceeded with;

B. The representatives of the Minister for Health in Western Australia take the necessary steps to ensure the parties' respective positions on the PRT Report and the circumstances and content of this Statement and Recommendations are brought to the attention of the Cabinet Industrial Relations Sub-Committee at its next meeting; and
C. The unions accept that C'Jo's 33810 and 60541 of 1996 are not listed before 9 September 1996,

the Commission recommends as follows:

1. The representatives of the parties (see below) constitute a "central committee" to oversee the gathering and analysis of relevant information and to directly participate in negotiations regarding A(i) above during the four weeks to 30 August 1996.

2. That the task of gathering and analysing information relevant to the disputed items listed in the PRT Report (eg rosters) be carried out by a mutually agreed person, commencing on 12 August 1996, or earlier if possible.

3. That Mr P. McGill be released from his normal duties for half a day or up to one day per week, at times agreed by his immediate supervisor, to consider the information referred to in paragraph 2 above.

4. That all parties acknowledge and act upon the need for concessions and compromise during the negotiation period in order to break the deadlock between them.

The Commission expects the parties to have finalised their negotiations by 30 August 1996 and will convene a further conference at 3.00pm (Perth time) on that day.

BY THE COMMISSION:

[Stamp]

Representatives:

R Lindsay, P Tibbett for the Minister for Health in Western Australia
M Vidovich, A Dzieciol for the Australian Nursing Federation
M Irving, I McLeod for the Health Services Union of Australia
PERFORMANCE REVIEW TEAM

REPORT OF CHAIRMAN.

The Mental Health Nurses Enterprise Bargaining Agreement 1996 between the Hon. Minister for Health, the Health Services Union of Australia and the Australian Nursing Federation was registered with the Australian Industrial Relations Commission on March 22, 1996.

It provides for phased increases in rates of pay and, in return, the unions agree to enter into discussions with the employer to seek changes in work practices with a view to producing increases in productivity of between 2.5 and 3.5 percent calculated by reference to nurse labour costs.

To facilitate this process, the agreement provides in clause 3(3) for the creation of a Performance Review Team comprising two representatives of the Minister for Health, one representing each of the two unions and a chairperson agreed to by all representatives. The subclause (3) is set out as Appendix 1. Terms of reference for the Performance Review Team are contained in Appendix 1 of the agreement and form part of this report as Appendix 2.

The first meeting took place on March 26 when it was agreed that the employer and the unions would produce lists of subjects considered suitable for discussion - one list from the employer and a joint agreed list from the unions.

At the next meeting on April 16, the employer raised two subjects, rosters (under three sub-heads) and patient care assistants; all of which with the exception of flexibility in rostering were rejected by the unions. The HSUA put forward the subjects of nurse training, career structure and commuted loadings. In turn, these were rejected by the employer because they failed to reveal identifiable savings. No subjects were raised by the ANF.

At the next meeting on May 7, the employer asked an employee to attend and give advice on the various forms of possible rosters. Although the unions accepted some of the principles, these were seen to be insufficient to produce results during the Team's term because nothing could be agreed to unless union members had been canvassed. There was some disagreement over whether there was a lack of flexibility in rostering. While there was some acceptance of the advantages of commuted allowances, there was no acceptance by the unions of a payment being less than the calculated commutation.

The ANF responded to the initial list submitted by the HSUA by rejecting the proposal for nurse training but accepting generally the comments on career structure, commuted loading and inservice training. In response to the employer's proposals, the ANF could see areas of rostering that were worthy of examination but rejected patient care assistants. It proposed that benefits could accrue from transition to work programs, methods of enhancing the picture of Mental Health nursing, changes to the career structure, better organisation of overtime and the use of part-time employees. These
were but brief outlines that required a lot more work to be capable of being a basis for purposeful negotiations.

Discussions took place on the intention of the agreement with the employer looking for clear cut savings agreed to before the expiry of the Team's term and coupled to the further increases provided by the agreement. The unions saw the increases to be independent of the outcome of the Team's work which need only produce areas of broad agreement with benefits accruing in the future. I believe this fundamental difference in understanding clearly inhibited the Team's ability to deal constructively with the subjects raised. I intended to refer the matter in dispute to the Commission through one of the parties so to give the Team some chance of achieving its purpose.

Meantime, the unions had discussions and on May 21 they sent a letter to the employer outlining their understanding of the agreement and setting out their joint proposals listing long service leave, commuted allowances, staff methodology, nursing career opportunities and inservice education as areas for discussion and objecting to the employer's proposals for patient care assistants and the 4 x 2 roster.

At the next meeting of the Team on May 28, the draft letter to the Commission was approved by the Team members (with some reservations by the ANF). No further discussion took place.

The Commission conference took place on June 6 and the next day the Commission published a statement setting out action to be taken during the balance of the Team's term. This included more frequent meetings and the use of a "Brain Storm" session. Facilitator R.E. Fells conducted the session on June 21. He expressed some concern with the fact that the parties were entrenched in their views but the session did have the effect of clarifying the issues before the parties with discussion on staff development, rosters, nurse training, sick leave and patient care assistants.

Following the session, the members had a meeting (without chair) on July 4 at which the education proposal was discussed with the unions to prepare a response for the next meeting. Other matters such as rosters, patient care assistants, commuted loading, review of Level 2 nurse numbers and salary packaging were mentioned but not discussed.

The next meeting took place on July 9 but, in the absence of the ANF and no response on education, nothing was achieved other than to finalise the closure of the Team's activities and to arrange for the presentation of members' papers on proposals which will form part of this report.

The final meeting took place on July 16 when the balance of the position papers were tabled. I am happy to report that, at this late stage, some progress was made in three areas and I list them.

1. Staff Development. It was accepted that better development for Mental Health nurses could be achieved by updating and enhancing their skills in a continuous process as part of a general refurbishment of the image of Mental Health nursing.

2. Flexibility in Rostering. Discussions revealed that an examination of staff levels and gender mix may well result in agreement in principle.
3. Commuted Loading. Again, there was acceptance in principle for the introduction of a commuted allowance of 1% less than the penalties currently calculated and paid. There will need to be on-site discussions based on generally accepted ground rules with significant agreement by staff members before implementation.

It is fair comment to conclude this report by saying that there are many advantages to be gained by the range of proposals put forward by the unions in improving the culture of Mental Health nursing so to contribute to a greater sense of job satisfaction hence to a more stable workforce and finally to productivity gains. But cultures are not changed overnight and, so far as the employer is concerned, there will be little to show at the end of twelve months when the agreement comes to an end from pursuing this course in return for the wages paid.

For this reason the employer's proposals go directly to areas where there are readily identifiable productivity gains, where greater flexibility would allow more economic use of labour and where greater use would be made of the skills of the nurse.

It is also fair comment to say that many of the specific items identified in the Terms of Reference were totally beyond the scope of the Team having regard for the time available and, while it is accepted by all the parties that each item deserves attention, examination in detail was not possible. For example, the establishment of performance criteria to provide agreed measures and benchmarks for productivity would seem to be outside the capabilities of the Team both in expertise and time.

I have taken the liberty of appending to this report the minutes of the meetings as Appendix 3, the position papers of the employer as Appendix 4 and the position papers of the unions as Appendix 5. I do this in the hope that the parties may be prepared to continue the discussions in another forum and the work done will not have to be repeated.

I regret the fact that the Team has completed its term without being able to to show that any increases in productivity have been agreed to but then compromise requires incentive.

I thank the members of the Team for their attendance and attention to the task making particular reference to Rosemary Hoffman for her organisation of my familiar tour of two Mental Health facilities and to Jo Keenan for organising meetings and things. Finally, I thank the Health Department for its hospitality with accommodation, lunches and coffee.

Pat McGill for
Health Services Union
of Australia.

Helen Attrill for
Australian Nursing
Federation.

Pat Tibbett and
Rosemary Hoffman for
Minister For Health

Grant Johnson
Chairman.
August 2, 1996.