

## Casualisation of the nursing workforce in Australia: driving forces and implications

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### Abstract

*This article provides an overview of the extent of casualisation of the nursing workforce in Australia, focusing on the impact for those managing the system. The implications for nurse managers in particular are considerable in an industry where service demand is difficult to control and where individual nurses are thought to be increasingly choosing to work casually. While little is known of the reasons behind nurses exercising their preference for casual work arrangements, some reasons postulated include visa status (overseas trained nurses on holiday/working visas); permanent employees taking on additional shifts to increase their income levels; and those who elect to work under casual contracts for lifestyle reasons. Unknown is the demography of the casual nursing workforce, how these groups are distributed within the workforce, and how many contracts of employment they have across the health service – either through privately managed nursing agencies or hospital managed casual pools. A more detailed knowledge of the forces driving the decisions of this group is essential if health care organisations are to equip themselves to manage this changing workforce and maintain a standard of patient care that is acceptable to the community.*

### Demand versus supply

The demand for nurses far exceeds supply nationally and internationally. The shortage of experienced and specialist nurses is a global issue receiving much media exposure over the last few years. Workforce planners and researchers overseas predicted a crisis in their own countries given factors such as the ageing of the workforce and diminished recruitment into nursing programs, but not to the extent that is now being experienced (Buchan & Secombe, 2000; O'Brien-Pallas &

Baumann, 2000). In Australia, little research has been commissioned or funded to examine the situation in more detail. As the crisis loomed here, the federal and state governments responded by commissioning various reports and reviews into nursing education, workforce issues, recruitment and retention strategies, such as the National Senate Inquiry into Nursing, 2001 and the Victorian Nurse Recruitment and Retention Committee, 2001. Some nursing industrial organisations have campaigned for increased monetary rewards and in several instances, more favourable workplace reform such as mandated staffing levels have been sought.

An increasing number of nurses in Australia are choosing to work reduced hours per week as permanent part-time employees (AIHW, 2001). In addition, the emerging evidence suggests that more nurses are seeking casual work contracts. Recent media reports highlight the concern being expressed by industrial organisations about increased casualisation of the workforce and the disadvantages of 'casual' status for many workers. Finding a balance between industrial entitlements that provide better security for the worker, increased incentives for employers to decrease the growth in casual employment and better inducements for workers to seek permanent employment, will be critical in any strategy that seeks to reverse current trends. In nursing, where demand exceeds supply, any strategy that focuses solely on benefits to the individual is likely to increase the imbalance between casual and permanent employees.

This is particularly so where the work environment is characterised by increasing workloads, loss of capacity to apply nursing models of care, loss of status and power in current organisational structures, and the problem of a power differential between medical and nursing staff in the control of workflow (Duffield & O'Brien-Pallas, 2002). A better understanding of the factors influencing the casualisation of the workforce is crucial if health service organisations are to fulfil their responsibilities to the employee, patients and the wider community.

## **Extent of the problem**

The ability of health care organisations to respond to service demand is largely dependent on the availability of nursing staff. The complex nature of managing a nursing service lies in the requirement to provide the right number and mix of staff at the right times, 24 hours a day, seven days a week. A workforce which remains predominantly female, is ageing, retiring, working reduced hours and increasingly doing so outside nursing, is challenging health services at a political and organisational level as the supply of qualified nurses diminishes (Duffield & O'Brien-Pallas, 2002). The declining number of students completing nursing courses from 5,850 in 1994 to 4661 in 1998 (AIHW, 2001) only serves to exacerbate supply problems. Correspondingly, the declining number of people commencing basic nursing courses from 7277 in 1994 to 6899 in 1997 (AIHW, 2001) may be an expression about nursing as a career choice in a society where many other career options exist (Tang et al., 1996).

The peaks and troughs in nursing workforce supply have always been part of managing a nursing service. The current difference is the increasing number of nurses who are working reduced hours on a part-time or casual basis. Over the past decade there has been a dramatic shift away from standard full-time employment to non-standard forms of employment such as part-time, temporary, casual and contract-based employment (Mangan & Williams, 1999). It is estimated that 45% of the Australian workforce is employed on a non-standard basis and that most of this is accounted for by the growth in part-time and casual employment. Compared to other OECD countries, Australia has one of the highest levels of non-standard employment where the growth in casual employment has doubled over the past decade. It is estimated that 25% of all employed persons in Australia work on a casual basis (Campbell, 1996b).

The AIHW (2001) reports a national increase in the proportion of nurses working part-time from 48.6% in 1994 to 51.8% in 1997, which resulted in a fall in the number of full-time equivalent nurses. In New South Wales, the Nursing DOHRS Report (2001) showed that supplementary utilisation of

casual nurses (defined as nursing staff that work shifts through an agency, hospital casual pool or as overtime) had increased by 20% from 2411 FTEs in 1998 to 2914 FTEs in 2001. The shift away from full-time employment adds to the complexity of managing a nursing service. Nursing unit managers who have responsibility for staffing and rostering, must balance staff needs with patient needs and provide the appropriate skill-mix and experience levels to ensure patient safety and patient wellbeing. The declining numbers of nurses working permanent full-time, and an increasing number of nurses seeking reduced hours and casual work arrangements will inevitably increase nursing turnover rates as the diminishing number of nurses are left with the less desirable rosters and a reduced quality of work-life.

Globalisation has enabled many industries to establish a base where trade unions are weaker and where working conditions are most flexible (Hildyard et al., 1996). This has created an industrial landscape that is marked by a diminution in the bargaining power of labour (workers) and a strengthening of organisational power. In Australia, major growth in non-standard forms of employment has occurred in wholesale and retail trades, agriculture, forestry, and the recreation industry. Women (32%) are more likely to be employed on a casual basis than men (21.2%) (Campbell & Burgess, 1997 in Dickson, 2001). Political support for greater workforce flexibility, the introduction of workplace agreements and the decline in union membership have strengthened the bargaining position of employers, which is likely to result in further growth in casual employment (Dickson, 2001).

The factors influencing the trend toward more transient forms of work are not conclusive in relation to the nursing workforce. It is difficult to establish if the demand for casual work contributed toward the growth in casual positions or the increasing number of casual positions attracted more people into the workforce (Kryger, 1999). This author further suggests four reasons why people seek casual work. It allows them to combine paid work with family responsibilities, to

study and pursue other interests, to ease out of the workforce as they near retirement, and to supplement the family income (Kryger, 1999). The New South Wales Nursing and Health Services Research Consortium (2001) found that many nurses who had left nursing had maintained their registration for the purpose of undertaking casual employment at some future time. Casual employment contracts were also seen by some survey participants to be part of a cost saving strategy by the employers. The full extent to which this practice exists in New South Wales is unknown. In Ontario, Canada, it was found that those nurses less than 30 years old had difficulty securing full-time employment because of shortages of full-time positions (O'Brien-Pallas & Baumann, 1999). Given the obvious trends outlined above, what are some of the impacts of an increasingly casualised nursing workforce on the health care system?

#### **Economic factors**

The growth in non-standard forms of employment has significantly changed how labour is managed and the nature of the employee-employer relationships. Hall (2000, p23) says that “outsourcing, contracting out and the use of labour hire and agency labour have been among the most significant transformations occurring in the organisation of work across all industrialised nations”. The Australian labour hire agency component was estimated to be worth \$8 billion in 1998 with a predicted growth of 15% to 20% per annum (Hartig, 1999 in Hall, 2000).

In nursing, outsourcing or contracting out is uncommon but labour hire agencies are used extensively. The employment status of the nurse is usually either as an employee of the labour hire agency or of the client organisation. In the former, the nurse is paid through the labour hire agency. In the latter, the nurse is paid through the client organisation. In both situations, the agency sets the rate at which the nurse will be paid and a fee is charged for finding the nurse. In many instances labour hire agencies charge a higher hourly rate than the relevant Nurses' Award for equivalent years of service. The same is true in England where on average agency nurses were paid

20% more than National Health Service bank staff (hospital casual pool) (Audit Commission Report England & Wales, 2001). It was also found that agency commission fees varied from 10-25% of the hourly rate between agencies and National Health Trusts; and that it was more cost-effective for Trusts to have established contracts with agencies. Commission rates for Trusts with a contract were 15% on average compared with 27% for those without a contract (Audit Commission Report England & Wales, 2001).

In the New South Wales public hospitals for the year 2000/01, it was estimated that the utilisation rate of agency and hospital pool staff was 8.1% of the total available nursing workforce, an increase of 0.5%, from the year 1999/2000 (NSW Nursing DOHRS Annual Report, 2001). It is possible this trend will continue despite the best efforts of nurse managers to provide flexible rosters and working conditions. In England, more than 40% of agency nurses and 50% of all bank-only (hospital pool) nurses gave flexible hours as their primary reason for working casually. Only a few of these staff have taken up the flexibility in working hours and times now on offer by many Trusts (Audit Commission Report England & Wales, 2001). Determining the number of nurses employed casually through agencies and hospital pools is problematic, due in part to the disparate working arrangements within the groups. In England it was found that 25% of agency nurses were registered with at least two agencies and 16.6% of agency nurses had a substantive or bank post in the National Health Service. In relation to bank staff (hospital casual pool) it was found that 60% have full or part-time jobs with the National Health Service (Audit Commission Report England & Wales, 2001).

### **Legal implications**

Where an agency nurse is fulfilling a nursing service demand within the health care system, the legal interpretation of the employment relationship raises a number of issues that go beyond the single issue of who pays the nurse. As an example, who is liable for an agency nurse who is injured in the

workplace? Who is liable for the actions of an agency nurse who negligently injures a patient or client? Does it make a difference to the determination of liability whether the agency has found work for the nurse in a private home as opposed to a health care institution?

Casual employment is defined differently by common law and the arbitral award system (Dickson, 2001). At common law, each engagement of a casual worker constitutes a separate contract of employment and it is argued, the only distinction between it and permanent forms of employment is the period of notice required for termination (Brooks, 1985 in Dickson, 2001). Watson (2000 in Hall, 2000) proposes however that the time dimension is no longer as important as the real employment status of the worker and their relationship to the host company (where they work) and the employing company (which pays them). To illustrate, one of the legal issues pertinent to the determination of the category of the employment relationship is the determination of liability when an agency nurse has negligently injured a patient or client. Where the nurse is found by the courts to be an employee, the common law doctrine of vicarious liability serves to shift the financial burden for the damages from the nurse to the employer. This however will not be the case in circumstances where the nurse is held to have been an independent contractor. It is significant therefore, that the status of the agency employed nurse is clarified, not only for the benefit of the injured patient in being able to identify those who are potentially liable, but also, for the benefit of the institution and the nurse concerned. To determine whether an employer is vicariously liable for the damages, the court must confirm that the individual whose negligent conduct caused the injury was an employee, and the negligent conduct occurred within the course and scope of the employment (Forrester & Griffiths, 2001). Whether the negligent individual is an employee or an independent contractor will be determined through an examination of the relationship with the employing institution or individual employer (Forrester & Griffiths, 2001). Three tests are applied: the control test, the part and parcel test of the organisation test, and the multiple test.

The control test requires that the employer have the legal authority to control the person, regardless of

whether or not they choose to exercise this right. As stated in *Zuijs v Wirth Bros* (1995) 93 CLR 561: “What matters is the lawful authority to command as far as there is scope for it”. Effectively this precludes the employer from claiming that there is an absence of ‘control’ based on the fact that the employer does not have the skill and knowledge necessary to control the health professional in the clinical area. Provided the employing institution or employer has the ‘lawful authority’ to control, that will be sufficient to satisfy the test. In the case of *Albrighton v Royal Prince Alfred Hospital* (1980) 2 NSWLR 542 the liability of the institution hinged on whether the Visiting Medical Officer was working within the hospital as an employee or an independent contractor. On appeal the Court of Appeal of the Supreme Court of New South Wales held the hospital to be vicariously liable for the doctor stating “... the control test is not now acceptable in its full vigour. Today, the uncontrollability of a person forming part of the organisation, as to the manner in which he performs his task, does not preclude recovery from the organisation, and does not preclude the finding of a relationship of master and servant, such as to make the former vicariously liable for the negligence of the latter.”

The organisation test, or integration test as it is sometimes called, raises the possibility that agency nurses, working in institutions which are hiring large numbers of agency staff to meet their patient and client demands may be employees of the institution, rather than independent contractors. The multiple test considers those elements that are consistent with an employee-employer relationship. These would include indicators such as

- whether tax is removed from the pay prior to receipt by the person,
- whether the person was entitled to sick leave,
- whether the employer made required superannuation contributions,
- whether the employer required the personal service of the worker,
- whether the employer provides the plant and equipment.



The employment of agency nurses is intermittent and driven by unpredictable demands of patient loads. The employing hospital therefore, has little or no control over the skill and competency of the individual nurse who is used to 'tops up' staffing requirements. The hospital's ability to be satisfied that agency nurses have the required skills and experience to work in a designated clinical area is limited by third party recruitment. This situation is further complicated by the different skills and knowledge required in each patient care setting. The increasing utilisation of agency nursing staff and the lack of legal clarity that defines the employer's liability for the negligent acts of these staff is a significant issue for health service organisations (Forrester & Griffiths, 2001).

#### **Human resource consequences**

The ability of nursing workforce managers to schedule nursing staff to work in the right place at the right time is dependant upon having a workforce that is willing and able to respond to the manager's request to do so. Where a segment of the nursing workforce voluntarily seeks casual work arrangements, the ability of the manager is significantly diminished. In the case of those nurses who are employed through the hospital casual pool the relationship between the manager and the nurse is likely to be stronger, and therefore more manageable than when nurses are employed through a labour hire agency. In the former, the expectations of each party are more likely to have developed over time and the casual nurse is more likely to be familiar with the clinical setting. In the latter, the manager in all probability will have little or no knowledge of the agency nurse and is dependent upon a third party to supply the required number of staff with the right skills at the required times.

Lowry (2001) makes a distinction between voluntary and involuntary casual employment. A casual work arrangement, where it suits the purposes of both the employee and the employer, is seen as a positive arrangement. However, where casual employment becomes the only alternative to unemployment, it has the potential to negatively impact on the individual, the organisation and the broader society. Equally, where casual work arrangements become the only means of meeting

service demand, as occurs in parts of the health service, a potential exists for this to negatively impact on the individual, the quality of care delivered and the health service generally. Lowry (2001) argues that casual workers do not enjoy the same protection or support systems as permanent employees in terms of training, development and advancement opportunities. There is potential for both hospital pool nurses and agency nurses to have unequal access to training and development opportunities by virtue of their transient employment contract. In the absence of an agreement with the employing body that mandatory and other skills development education will be provided as paid time, the likelihood that both hospital pool and agency nurses will be up to date is greatly diminished. This assertion is supported by findings in the United Kingdom, where “only 23% of registered nurses on bank only contracts attended any clinical practice training in the last year” Audit Commission Report England & Wales (2001, p38). Registered nurses with agency only arrangements were reported to have a higher uptake (57%) of training over the same period, which reflected the agencies investment in training facilities (Audit Commission Report England & Wales, 2001).

In a study of casual work arrangements and the impact on casual employees within the registered club industry in New South Wales, Lowry (2001) highlights significant levels of dissatisfaction amongst casual workers. They were dissatisfied with work scheduling, training, access to higher penalty rate shifts, problems with integration between permanent and casual employees and unequal treatment by management, which favoured permanent employees over casual employees. Two thirds of the casual workers surveyed identified themselves as involuntary casual workers.

The attitude of managers in the situation where casual work arrangements are involuntary highlights a need to explore attitudes of managers in situations where casual work arrangements are largely voluntary, as in nursing. The limited industrial award entitlements attached to casual employment such as annual leave, maternity/ paternity leave, sick and long service leave appear not to be an impediment for those people who voluntarily seek casual work arrangements over permanent

positions. In Australia, factors which may influence the decision by nurses to work casually, such as management attitudes and the nurses work environment remain unexplored.

### **Generational factors**

The change from hospital based student training to a university base in the mid-eighties in New South Wales, created the need for a cultural shift in the management of nursing personnel and in the organisation of nursing work. In keeping with the change from a student based nursing workforce to a registered nurse workforce came the need for nurse managers to change entrenched policies and processes that specified superior-subordinate relationships. The organisational structuring of superior-subordinate status along hierarchical lines, created a style of communication that was disempowering of the nursing workforce. Command and control as the primary management strategy of the past is not likely to equip contemporary managers of nurses to resolve the emerging inter-generational differences at an individual or organisational level.

Organisations are as susceptible to generational conflict as any other relationship and there are very real generational differences emerging. O'Bannon (2001) describes the Baby Boomers who were born from 1946 - 1964 and the Generation Xers, born from 1961-1981 as generations of workers who are struggling to reconcile their differences in attitude to work and lifestyle. The Xers are described as people that value flexibility, life options and who seek to achieve a balance between work and lifestyle. The Xers see themselves as individual contributors rather than team members with no aspiration to life long employment with a single company. The Net generation are those people who were born between 1977 and 1997. This group grew up with technology and an awareness of its potential to change organisational practices and processes. They have high expectations of technological advancement in the workplace, are independent thinking, inquisitive and they have expectations of a workplace that are based on collaboration, openness and transparency (Green, 2000). An understanding by the 'Boomers' in management, of the needs and expectations of the Xers and the Net generation in the workplace is essential for the

development of an effective strategy to market nursing as a career option for the young and to recruit and retain registered nurses in the workforce. The NSW Nursing Workforce Report (2000 p36) identified a deficit in workplace support, expressed by some study participants as a “ lack of consultation about clinical issues, lack of leadership, an inability to communicate and a complete disregard for the individual and the effort made to work in clinical areas under difficult circumstances”. This may be partly explained in the generational terms defined by O’Bannon (2001) and Green (2000), but it may also accurately reflect the limited control nurses have over the workload expectations imposed by others.

The problem for the nursing profession and the wider community is how to reconcile the reality of the nursing practice setting with the expectations of the younger generation should they choose nursing as a career. Nursing, in a health care system that has served the interests of the Boomers in management, has reinforced a public sector system of bureaucratic control that is in direct contrast with the work environment expectations of the Xer and Net generations. For example, the inadequacy of information technology in New South Wales to support the management of the nursing service as the largest group of employees in health care militates against a management strategy that is sensitive to the needs of a multi-generational nursing workforce. Without a radical rethink, it is difficult to imagine how public sector organisations will compete with more enlightened workplaces for future employees, particularly from the Net generation. The more immediate impact is likely to be that more staff (the Net generation) in the public sector will work casually as the only means of retaining a balance between work and lifestyle. The imperative for rethinking will gain momentum as the gap widens between birth rates and the ageing and retiring nursing workforce, which will greatly reduce the pool of Generation Xers and Net Generation from which to recruit into nursing.

## Conclusion

There is a need for health services to better understand the emerging workforce trends away from permanent full time work, in a profession that is predominantly female and whose membership frequently has multiple roles in society. The quality of the environment in which nursing is practised and the extent to which it negatively impacts on maintaining an adequate nursing workforce that ensures quality patient care, are urgent issues requiring detailed study. Casualisation of the nursing workforce may be a manifestation of a work environment that is no longer meeting the personal and professional aspirations of an increasing number of nurses. Agency and hospital pool nurses are an essential part of the health service, and they are likely to be of increasing significance if present trends continue. To date most health service efforts have been directed toward recruitment of nurses into permanent employment, with little attention being directed toward the better management of the casual working segment of the available nursing workforce. The potential risks to the patients, the health service and the profession are considerable. The savings associated with more cost-effective management of these nurses is potentially high. A better understanding of the casual nursing cohort, their work patterns, their work environments, their management experiences and the standard of nursing care they deliver, are essential if health services are to meet their responsibilities to the community.

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