

Submission
No 123

INQUIRY INTO NSW WORKERS COMPENSATION SCHEME

Name: Name suppressed
Date received: 17/05/2012

Partially Confidential

I / _____ of _____ in the state of New South Wales state:

1. I am a 26 year old Registered Nurse, registered with the Australian Health Practitioners Regulation Agency.

Employment and Qualifications

2. I completed a three year Bachelor of Nursing at the University of Technology Sydney having transferred from the University of New England after my first year of study at the end of 2006. I passed all subjects in my degree. Attached and marked as Annexure A is my academic transcript from both the universities.
3. During my studies I received 90/100 for the unit 'The Developing Family and Primary Health Care' which on my transcript is marked as a 'High Distinction'. I believe that this subject involves subject material related to the issues in the Special Care Nursery at _____ Attached and marked as Annexure B is the course outline for this subject.
4. I commenced a Bachelor of Medical Science at the University of Sydney in February 2011 and continue to study at a reduced load.
5. On 19 December 2006 I was registered as a Registered Nurse.
6. I commenced work as an Assistant in Nursing at _____ employed as a casual in early 2005. I also worked as an Assistant in Nursing at _____ initially during university breaks in 2004 and then on a regular basis up to mid 2005.
7. In January 2007 I commenced my full time New Graduate Transitional Support Programme at _____ as a Registered Nurse. I have been employed with _____ ever since. I received my certificate of completion for this programme in early 2008.
8. I have not had any warnings or counselling regarding my performance or other issues during my employment at _____
9. During my employment as a Registered Nurse I have worked in a range of areas including:
 - a. Medical Renal Gastroenterology
 - b. Head and Neck, Plastic reconstruction, breast endocrine, neurosurgery and trauma
 - c. Infection Control

- d. Pre-admissions Clinic
- e. Wound Care
- f. Haematology Oncology Day Centre
- g. I also had some brief exposure on a 'work experience arrangement' created by _____ in the following areas. The purpose of this programme was to assist me in finding an area of nursing which I would enjoy and which also was able to accommodate my injuries:
 - i. Special Care Nursery;
 - ii. Diabetes Education Centre
 - iii. Nutritional Support
 - iv. Cardiology Testing
 - v. Continence Advisory Service
 - vi. Stomal Therapy
 - vii. Intensive Care unit
 - viii. Ambulatory Care
 - ix. Day Surgery Unit
 - x. Palliative Care team
 - xi. Staff Health
 - xii. Echo Laboratory

Workplace Injury

10. On 5 April 2007 at approximately 10am a morbidly obese patient sustained a cardiac arrest at _____ in ward 4 South. I was present with three nurses and a Junior Resident Medical Officer (JRMO) at the emergency. I volunteered to take over compressions from the JRMO. Due to the patient's position and with the JRMO's agreement I got on the patient's bed to continue with the compressions. Before I had a chance to begin compressions the patient resumed cardiac rhythm. On getting off the bed, I felt a popping sensation in my hip and back region and I immediately felt there was a problem. I continued with aiding in the life saving measures which were required of me including assisting to transfer the patient to the intensive care bed. We were able to keep the patient alive long enough for her husband and child to come in and say goodbye to her. Subsequently at approximately mid-day in the ICU, the patient died.
11. The following day I returned to work, but within a few days I required assistance to get around the ward, such as utilising the medication trolley or the walls to lean on. On Monday the 16th of April 2007 I went to the Orthopaedic ward to seek assistance with the injury and pain and then went off work. I subsequently needed to use crutches as weight bearing on my right leg was unbearable.

12. My injury has been accepted as a workers compensation claim by _____'s insurer.

13. After my injury I had the following periods of time off work:

- 17-25 April 2007 unfit
- 05 May 2007 to 3 June 2007 unfit

These above days were all in _____ commenced work again in on the 18 June 2007 but was later pulled off work on the 5th of September 2007. My next Workers Compensation certificate was then filed on the 22 September 2007. Thereafter, the periods off work and surgeries were as follows;

- 22 September 2007 to 4 December 2007 unfit
- 02-14 January 2008 unfit
- 11 February 2008 to 01 April 2008 unfit
- **First surgery (microdiscectomy) performed on the 29th of February 2008.**
- 01-08 April 2008 unfit
- 24-28 April 2008 unfit
- 26-27 May 2008 unfit
- 24 June 2008 to 02 July 2008 unfit
- 13-25 August 2008 unfit
- 31 October 2008 to 04 November 2008 unfit
- **Second surgery (microdiscectomy) performed on the 26th of November 2008.**
- 26 November 2008 to 3 February 2009 unfit
- 01 May 2009 unfit for 2 hours. Required certificate.
- 08-14 July 2009 unfit
- 13 November 2009 unfit
- **Third surgery (Spinal fusion with bone graft and pedicle screws) performed on the 26th of November 2009.**
- 24 November 2009 to 2 February 2010 unfit
- 30 April 2010 unfit for final 4 hours of shift. Required certificate.
- 23-24 June 2010 unfit
- 12-16 August 2010 unfit
- 27-29 September 2010 unfit
- **Fourth surgery (revision of spinal fusion) performed on the 20th of October 2010.**
- 18/10/2010 to 20 April 2011 unfit

I have been fit for work and have not had suitable duties provided since the 20 April 2011.

14. In the beginning of October 2010 I took annual leave in advance of having surgery on my back. On 20 October 2010 I had surgery on my back. I was unfit for duties for 6 months.

Removal of Suitable Duties

15. In April 2011 I submitted an updated WorkCover medical certificate which indicated that I was fit for suitable duties. I did not receive a response from

16. Within a few weeks I contacted my insurer EML. They wanted me to commence job seeking. They asserted that my rehabilitation provider had told them that I did not want to return to This was news to me and I indicated that to EML.

17. I had a meeting on 26th of May at ' _____ ' with ' _____ '

We had a conversation with words to the following effect:

Mr _____ *We are going to withdraw suitable duties. This will allow you to job search externally and also we will look for work within the area health service, currently we don't have any duties available.*

Ms _____ *I am a little sceptical that you cannot find any suitable duties in the entire area health service.*

18. We had some discussions regarding my further study and _____ was very upbeat about my further study. ' _____ ' also indicated that due to my demonstrated intelligence and capacity menial tasks would not be appropriate for me and that further training with a view to more senior roles in my future was a good idea. ' _____ ' gave me the impression that the change to not provide me suitable duties would help me get a job as I could seek positions internally and externally.

19. I received notification of one available position in August 2011 from _____ which was a full time position at the Royal Hospital for Women in the special care unit. I did not apply for the position as my WorkCover certificate

at that time only provided for me to work 8 hours one day per week. Attached and marked as Annexure C is a copy of the position description.

20. In November 2011 I saw a position advertised as either full time or part time in the Special Care Nursery at [redacted]. My WorkCover certificate restrictions had improved and they now allowed me to work 8 hours per day 2 days per week. I thought that I could work in this position as it was advertised as both a full time and job share position. I made an application for the job, but did not get an interview. I contacted them three times and requested to know why I had been unsuccessful and was generally told "We'll get back to you." They never did get back to me.
21. At the end of January 2012, I saw a further advertisement for positions in the Special Care Nursery at [redacted] which were part time and full time. My rehabilitation provider [redacted] from [redacted] told me not to apply for this position, as she would directly request the position from [redacted]. [redacted] had told me that she had contacted [redacted] and [redacted] (to get the position held for me. When I looked for the position again approximately two weeks later to apply for it, it was missing from the system.
22. I received an e-mail which had been written by [redacted] to [redacted]. I interpreted this e-mail as indicating that [redacted] would not employ me again. Attached is a copy of the e-mail marked as Annexure D.
23. I was in contact with my trade union the NSW Nurses' Association and I understand that they had a dispute meeting with [redacted] on 9 March 2012 seeking my placement in the Special Care Nursery position.
24. I became aware of a further advertisement for positions in the Special Care Nursery at [redacted] on a temporary part time and full time basis dated 10 March 2012.
25. On 14 March 2012, the NSW Nurses' Association filed a dispute seeking my placement in the position in the special care nursery.
26. My treating doctor, [redacted] my surgeon [redacted] and an independent functional assessor jointly arranged by [redacted] and the NSW Nurses' Association [redacted], have all confirmed that I am able to physically perform work in the Special Care Nursery at [redacted]. [redacted] confirmed this to me verbally, whereas [redacted] and the functional assessor have confirmed this in writing.

27. Once it was clear that I could physically perform the functions within the Special Care Nursery, _____ commenced claiming that I was not able to perform the job on the basis of a lack of skill.

28. The matter is set down for hearing in the Industrial Relations Commission of NSW on 5 July 2012. I want to resume work and am seeking the position in the Special Care Nursery because it is an area I will be able to work in and I want to work in this job.

Date: 17-05-2012