INDEPENDENT INQUIRY into Insecure Work

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Independent Inquiry into Insecure Work in Australia

Written submission cover sheet

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Queensland Nurses' Union

Submission to the Independent Inquiry into Insecure Work in Australia

January, 2012

Introduction

The Queensland Nurses' Union (QNU) thanks the Inquiry for providing the opportunity to comment on insecure work and its impact on workers, their families and the community. Our submission highlights particular areas of concern where Queensland nurses and midwives are vulnerable to precarious employment. This is a conundrum for the profession as these conditions exist alongside an ongoing workforce shortage that is set to increase in the next few years.

Nurses and midwives are the largest occupational group in Queensland Health (QH) and one of the largest across the Queensland government. The QNU - the union for nurses and midwives - is the principal health union in Queensland. The QNU covers all categories of workers that make up the nursing and midwifery workforce in Queensland including registered nurses, registered midwives, enrolled nurses and assistants in nursing who are employed in the public, private and not-for-profit health sectors including aged care.

Our more than 45,000 financial members work across a variety of settings from single person operations to large health and non-health institutions, and in a full range of classifications from entry level trainees to senior management. The vast majority of nurses in Queensland are members of the QNU.

In our submission we draw attention to some of the issues facing nurses in aged care, 457 visa holders and graduate nurses. We also propose an alternative method of bargaining that has been effective in Queensland public sector and which we believe may offer benefits for insecure workers in other industries.

The QNU seeks to enhance and enforce industrial protections around specific characteristics of the nursing and midwifery workforce – it is feminised, part-time and ageing. The national Australian Institute of Health and Welfare 2009 Nursing and Midwifery Labour Force Survey (2011) found that

- The number of registered and enrolled nurses in the labour force (that is, employed in or looking for work in nursing in Australia) increased by 14.2% between 2005 and 2009, from 254,956 to 291,246.
- Between 2005 and 2009, the number of nurses actually employed in nursing increased by 13.3%, from 244,360 to 276,751.
- The average weekly hours worked by employed nurses and midwives increased slightly from 33.0 hours in 2005 to 33.3 hours in 2009. Over the same period, the proportion of nurses working part time (less than 35 hours per week) declined slightly from 49.8% to 47.7%.
- Between 2005 and 2009, the proportion of employed nurses aged 50 years and over increased from 35.8% to 36.3%. The average age of nurses decreased from 45.1 years in 2005 to 44.3 years in 2009.

- Nursing continued to be a female dominated profession, with females comprising 90.4% of employed nurses in 2009 (down slightly from 92.1% in 2005).

Employment of New Graduates

The QNU is faced with insecure employment of a more complex nature than that identified in the terms of reference. We are extremely concerned about the impact that budget constraints are having on the employment of new graduates and other nurses and midwives within QH. Even by QH's own data and projections it has a current shortage of nurses and midwives. This is likely to get much worse given the planned expansion of services over the next 10 years combined with increasing retirements because of the ageing of the nursing workforce.

Despite this significant problem, many new graduate nurses cannot find a job in Queensland while other experienced nurses cannot secure a position in QH. At the same time, Universities have increased the number of applicants for entry into nursing. Although we acknowledge the importance of maintaining budget integrity, this is an unsuitable short term response given the long term imperative of establishing a "pipeline" of nurses and midwives to ensure QH delivers sustainable quality health services to the Queensland community.

Through the 2010 announcement of $425 million in over three years, the federal government acknowledged the need to significantly increase funding for clinical placements for students of professional health. Yet due to current budget restrictions and low turnover and vacancy rates in health services, many of the graduates of these courses are not being employed at the end of their study.

The current situation is therefore shortsighted and insecure for trainee nurses. It makes no sense firstly to identify an imminent workforce crisis and create more university places to meet demand, and then refuse to employ the graduates. Queensland needs more nurses, not less. The current approach seriously undermines the attractiveness of nursing and midwifery as a career. Sending away recent nursing and midwifery graduates without jobs will undermine the health infrastructure of this state, affect the health of Queensland voters for years to come, and will terminate the careers of so many nurses and midwives just as they should be beginning.

We believe that the state and federal governments must inject urgent transitional funding into the health and aged care sectors to employ the many graduate nurses in Queensland who have missed out on employment since the global financial crisis hit in 2008. During 2010 alone around 1500 new graduate Registered Nurses (RNs), who applied for positions with QH were unsuccessful in gaining employment at a QH facility. We are also extremely concerned by reports indicating Queensland's private hospital and aged care sectors are not employing as many new graduates as they could and should.

All indications are that, unless QH takes urgent action, it is not likely to offer a significant number of RN graduates a position at the start of 2012. Considered in light of a similar dilemma in other states, this becomes a national problem on a large scale.

Since 2006, Queensland university nursing-course enrolments have increased by more than 60 per cent. Governments encouraged the eight universities in Queensland to increase their undergraduate numbers to address the current nurse shortage and meet predicted future demand and hospital expansions. As a result, applications for graduate employment within QH have increased by more than 100 per cent since 2006, while actual employment rates have only increased by 25 per cent. Importantly, we know there has been an increase in enrolments in both university and TAFE nursing and midwifery courses - demand for places remains strong at present. This will not continue if the state and federal governments do not urgently develop strategies to optimise the employment of all available new graduates.

This represents a serious problem for staffing facilities that will come online during 2012 – 2016 and remains one of the unaddressed consequences of the Global Financial Crisis. As a result of the Global Financial Crisis, many nurses are delaying retirement and this has temporarily reduced the natural vacancies for new graduates. However, this will only postpone the inevitable outcome of an ageing workforce. Over the next twenty years around two thirds of the currently employed registered and enrolled nurses in Queensland will be reaching retirement age.

QH's Workforce Analysis and Research Unit predicts a state-wide deficit of Registered Nurses in Queensland of up to 5000 by year 2017. This is inclusive of the 'More Beds for Hospitals Strategy', which requires an additional 5550 extra full-time nurses. The QNU believes the shortage could be worse than expected, especially when the health sector continues to deny these new graduates work in nursing. We need more, not less, nurses to support the growing demand for and expansion of health and aged care services in both the acute and non-acute sectors.

The QNU believes there are no valid reasons why nursing and midwifery graduates are not employed permanently. Correct implementation of the QH's workloads and staffing tool, the Business Planning Framework (BPF), would clearly identify additional hours for nurses and midwives, including graduates, are needed to meet demand for nursing services.

During the Global Financial Crisis, the Australian government won local and international praise for its timely and decisive action, through temporary funding injections to protect the Australian economy. The QNU believes that it is now time to inject urgent funding into the health and aged care systems, for nurse graduate employment programs, to protect our nursing workforce and our health and aged care systems from the fallout of that same financial crisis. That is, we need some stimulus funding for a few years targeted at graduate nurses.

The QNU has urged the state and federal governments to work together to address this problem before it exacerbates. To relieve the increasing burden on nurses and midwives, on health services, and on patients, governments need to ensure that all nursing and midwifery graduates who apply for permanent work have jobs available. We believe that both governments should develop a new model for the employment of newly graduated nurses, one that is centrally co-ordinated and funded. The provision of central 'seed' funding for the

next three to five years is critical to ensure sufficient staff are available for the significant number of planned expansion of QH services.

Our new graduate nurses and midwives are a precious resource, an investment for the future that will achieve a healthier Australian community, not simply a threat to the budgetary bottom line.

The underemployment of new graduate nurses and midwives comes at a time when QH continues to engage agency staff (casual nurses and midwives employed by agencies) on a widespread basis. The following table provides an indication of the number and percentage of hours worked by agency staff in comparison with the QH nursing and midwifery workforce. QH compiles this data annually for the Nurses and Midwives Implementation Group (NaMIG) that oversees implementation of the *Nurses and Midwives (Queensland Health) Certified Agreement EB7 2009* covering nurses and midwives employed by QH.

All nurses						
	2005	**2006**	**2007**	**2008**	**2009**	**2010**
Total Productive hours	29,058,483.94	30,835,401.52	33,781,428.86	36,451,243.16	38,811,757.09	42,606,862.21
Productive - External Employment Agency	28,653,096.19	29,938,373.08	32,538,784.47	35,014,975.77	37,681,273.52	41,736,890.45
Ordinary	28,363,675.43	29,544,761.33	32,039,348.18	34,406,509.07	37,076,698.35	41,093,840.12
Overtime	289,420.76	393,611.75	499,436.29	608,466.70	604,575.17	643,050.33
External Employment Agency	405,387.75	897,028.44	1,242,644.39	1,436,267.39	1,130,483.57	869,971.76
Overtime vs Productive	1.01%	1.31%	1.53%	1.74%	1.60%	1.54%
External vs Productive	1.41%	3.00%	3.82%	4.10%	3.00%	2.08%

Source: *Nurses and Midwives Implementation Group (NaMIG) Progress Report on Implementation of Nurses and Midwives EB7 Agreement as at 30 June, 2011* (unpublished data).

Notes about this data:

- *'Total Productive Hours' is defined as the actual number of hours worked including overtime but is not reliant on the salary equivalent paid to the employee.*
- *Effective March 2010, Time in Lieu - Leave has been included in the Ordinary hours. This amount was retrospective and is reflected in the amounts of previous financial years.*
- *Data has been supplied by HR Informatics and complies with the Minimum Obligatory Human Resource Information definitions.*
- *The data is based on Hours – there is NO headcount available for External.*
- *The measure used is Total Productive Hours (Based worked and Overtime) Vs External Hours (Worked and Overtime) Only Agency staff paid through "XMAN" are captured as External Agency. Staff supplied by External Agencies and paid through QHHRMIS (SAP) are not identified as Agency but are included in the Total Productive Hours.*
- *External Agency is a component of Productive therefore subtracting External from Total Productive yields QHHRMIS Productive Hours.*

It is evident from this data, that QH spends a significant amount on employing agency staff, yet has difficulty offering permanent employment to new nursing graduates.

457 Visa holders

Registered nurses were among the top 15 nominated occupations for primary 457 visa applications granted for 2011-2012 to October 2011 (Department of Immigration and Citizenship, 2011).

In our experience, many 457 Visa nurses have endured the most stressful of situations. They have sold most of their assets in their home country to fund medical assessments and an airfare to Australia. On arrival, they are presented with extreme challenges of securing accommodation, working within a foreign health care system and coping with culture shock and isolation. In some cases, 457 nurses have the responsibility of setting up a home for the family they have had to leave behind. The prospect of being destitute in a foreign country and/or having to return home is undoubtedly the most severe stressor. For many, the prospect of returning to a politically volatile country, where there are very few employment opportunities and where their previous attempt to migrate to Australia is viewed as dissent by the ruling authority, the pressure to obtain secure employment is even higher. These workers are completely vulnerable to exploitation by the sponsor or the recruitment agency.

The QNU recognises that the migration of nurses is an international phenomenon which can positively contribute to the nursing profession and the provision of nursing care in Australia. However, governments should not rely on migration programs to overcome labour market deficiencies and must not use them as a primary strategy to overcome nursing shortages. Employers wishing to recruit nurses from overseas must demonstrate that they have offered identical employment conditions to nurses in Australia and they are not vulnerable to insecure arrangements.

A workforce to care for the elderly

In March, 2009, the Australian Nursing Federation (ANF) launched the *Because We Care* campaign for quality aged care. The key objectives of this campaign seek to improve the industry for aged care nurses and the residents in their care.

While the 2010 and 2011 federal budgets delivered some new spending on aged care, we believe the federal government needs to commit much more funding and attention towards this sector to meet the needs of the ageing population. One of the most important areas that is fundamental to any further reforms is closing the wages gap and maintaining wage parity for nurses working in aged care with their colleagues in other sectors.

Pay is an important symbolic indicator of the value placed on work by employers and the community. It is understandable that aged care nurses feel underpaid and undervalued when their colleagues in acute settings earn significantly more. Assistants in Nursing who legitimately view their work as of great social value feel slighted when they see their children earning similar wages to themselves in check-outs at the local supermarket (Martin & King, 2008). Indeed, the symbolic value of increased pay is likely to be substantial, and to have direct effects on job satisfaction and commitment.

Prior to 1996 when there was centralised wage fixation, there was generally parity between nursing wages in the public acute hospital sector and residential care establishments. Since that time, the gap has widened considerably as nurses in the private and public acute sectors have obtained more favourable outcomes through enterprise bargaining. In 2010, the wages gap stood at $393.77 per week national average under an Award or $168.52 per week national average under an Enterprise Bargaining Agreement (ANF, 2010)[1]. Such a significant disparity makes it virtually impossible to attract adequate numbers of nursing staff to aged care.

In late 2009, the Australian Industrial Relations Commission made the *Nurses Award 2010* which in part set pay rates at levels significantly below those contained in the *Nurses Aged care Award State – 2005* (the Notional Agreement Preserving State Awards) which applied at the time. The new award provided challenges for the QNU in our quest to maintain and improve the terms and conditions of employment our aged care members who are award-reliant for the following reasons:

- It required award-reliant employers not to reduce wages for nursing employees but gave no certainty as to how this would occur or whether there would be future increases in their actual rates of pay through safety net adjustments;
- Award-reliant Queensland aged care employers have a history of minimal and sporadic engagement with the QNU. It is unclear how many are members of Aged Care Queensland (ACQ), but we understand the number is small;

[1] Based on rates for RN level 1 at the top of the scale.

- There is minimal engagement between ACQ and the QNU on industrial matters. ACQ appears to rely on advice from external advisers;
- There appears to be no industrial organisation for aged care providers in Queensland who do not have the benefit of in-house expertise. Many are small providers in terms of industry representation and have limited expert Human Resources advice;
- In our view, many of these award-reliant employers are likely to lack adequate information in order to make decisions related to their obligations under the *Nurses Award 2010;*
- In recent years, aged care providers have employed significant numbers of employees from Non-English Speaking Backgrounds (NESB). These workers are not always aware of their award entitlements or remedies and are vulnerable to award breaches.

In Queensland, approximately 60% of aged care employers have, over time, negotiated enterprise agreements with the QNU. There are disparate outcomes among these agreements where some provide wages that are only marginally greater than those set out in the *Aged Care Award 2010* (the award) and others have significantly reduced (but not closed) the gap with the public sector rates (See Attachment A - Union Negotiated Agreements Compared with the *Nurses Award 2010*).

In our experience, it is common for aged care employers to argue that any significant increase in wages will require a reduction in care hours. This approach has a number of effects on recruitment and retention of the workforce. In Queensland, staff turnover rates of between 20-30% are not uncommon, particularly among new recruits to aged care nursing. As the workforce in predominantly part-time (Martin & King, 2008), there are significant levels of 'under-employment' where many nurses have more than one part-time nursing job.

There are limited career opportunities in aged care nursing compared with other sectors and a sense of professional isolation. As well as lower wages, aged care agreements also provide lesser entitlements in long service leave, annual leave and parental leave. The overall package leaves aged care nurses severely disadvantaged in comparison to their counterparts in the public and private sectors.

The federal government's commitment to provide some additional funding for aged care initiatives is welcome, however, lack of wage parity with other areas of nursing remains for the QNU the most significant issue in addressing the future of aged care. While employers continue to pay aged care staff on relatively poor wages, the inability to recruit and retain appropriate numbers of aged care nurses will continue. Wages and conditions must improve to attract nurses into the sector.

For some time, the QNU has been concerned that two of the most significant reform agendas of the federal government (the reform of the industrial relations system and health reform) could be working at cross purposes. The support and promotion of enterprise based bargaining and rejection of the concept of industry wide bargaining through the industrial relations framework contributes to the development of significant pay and condition

differentials across the health and aged care systems (within states and between states). This is occurring at a time when it is critical for our health and aged care systems to act as one system without significant labour market distortions. The QNU has consistently argued for some time now that this discrepancy needs closer examination.

There are specific aspects of the aged care workforce that make these workers vulnerable to low pay and second rate conditions of employment.

Female Dominated

In residential aged care settings males make up only 6% of nurses. These figures do not include Assistants in Nursing (AINs), who actually make up the majority of nursing employees in the Residential Aged Care setting. We have no firm data on gender breakdown of AINs, however anecdotally, they are overwhelmingly female.

Lower level of unionisation

The aged care sector has substantially fewer members than the acute sector (public and private hospitals), although membership has grown over the past three years. A number of factors contribute to the difficulty in organising small workplaces where women predominate. The sheer number of workplaces creates a difficulty and (anecdotally) where the aged care nurse holds the 'second' job in the household as is very often the case, the male breadwinner is more likely to join a union than the female who is working part-time or casually.

Furthermore, levels of activism are low and the capacity to organise to the extent necessary to achieve real gains in enterprise bargaining through industrial activity is a contributing factor to gender inequity, especially when combined with the difficulties that nurses have in withdrawing their labour through strike action.

Large Component of Part-time and Casual Workers

The aged care industry is predominantly characterised by part-time and casual employment with fluctuations and uncertainty around hours of work. It is difficult to find evidence on the proportion of casual nurses in the aged care sector, but anecdotally we know that there are significant numbers of them, especially in the AIN classifications. Some facilities employ a majority of AINs as casuals and many seem to have a larger than usual ratio of casual to permanent employees. This suits many AINs because their wages are so low that they need the casual loading (currently as minimum of 23.4%) to increase their earnings. There is therefore sometimes a preference for the higher hourly casual rate rather than the security and the other benefits permanent work brings. This contributes to the high level of casualisation. Many aged care providers employ very few full time nursing staff at all and some providers admit that they employ none except in management positions.

The following table shows the average hourly earnings of employees employed on a full-time, part-time and casual basis. It is not specific to nurses but is indicative of the trend for casual and part-time workers to earn lower wages than their full-time counterparts. It also

breaks this into male and female earnings. Interestingly, female part-time workers earn slightly more than males. We suggest that this is because females in higher paid positions work part-time to a greater degree than do men. Male part-time workers would tend to be over represented in lower paid jobs.

Type of Employment and Average Earnings – (ABS 2008 Employee Earnings and Hours, Cat No. 6306.0)

	Female $ per hour	**Male $ per hour**
Full-time	27.60	31.10
Part-time	25.30	25.00
Casual	21.80	24.60

Lack of or inadequate recognition of qualifications

The following table shows the comparison between the rates of the modern award and the *Manufacturing and Associate Industries Award 2010* (the Metals Award), the federal award used as a benchmark for setting wages. It demonstrates that in its development of 'modern awards', the AIRC placed a lower value on the qualifications of nurses than those of a metal worker. The move from the *Queensland Nurses' Aged Care Award – State* to the modern award actually eroded the work value by reducing wages generally and removing the classification and wage rate for AINs with a Certificate IV.

Nurses v Metal workers

	Nurses Award 2010 (NA2010)	**Manufacturing and Associated Industries Award 2010 (Metals award)**
C10- Cert III	$663.60	$663.60
C7 – Cert IV	(would have been in Nurses Aged Care award) $676.78	$724.20
C5 - Diploma	$676.11	$776.40
C2(b) – Advanced Diploma	N/A	$897.50
Degree	$723 - $869 (annual increments over 8 years)	N/A

Low level of over award payments in minimum rates awards

Minimum rates awards operate as a safety net, below which pay and conditions must not legally fall. In most male dominated occupations, employers pay workers well in excess of this minimum rate, either by the operation of collective agreements, unregistered or informal over-award arrangements. For many female dominated occupations minimum rates awards actually operate as paid rates awards, with employees earning small or no over award payments. Obviously this has a direct and very significant effect in keeping wages low in female dominated industries.

In the case of aged care nurses, enterprise agreements sometimes provide for wages that are not significantly higher than the award, especially at the lower levels of the AIN classifications. (This is related to the relatively low rate of union activism a mentioned above.) Nurses do not generally have the opportunity or capacity to negotiate their own over award entitlements, which many men in male dominated occupations, such as construction, engineering and other trades, do. (See table below for the high level of individual arrangements in the manufacturing industry.)

Method of Pay Setting by Industry (ABS 2008 Employee Earnings an Hours Cat No. 6306.0)

Industry	**Award**	**Collective Agreement**	**Individual Agreement (Registered or Unregistered)**
Manufacturing	12.2%	29.9%	54.3%
Health Care and Social Assistance	17.2%	64.5%	16.2%

Limited access to training or career paths

Many aged care nurses only have access to the mandatory training required for the aged care facility to meet their licensing requirements. While some employers do provide other training and some access to seminars and conferences, there is no general entitlement for this and employers only provide it sporadically.

Small workplaces

There are a couple of reasons why employment in small workplaces can lead to insecure or undervalued work arrangments. The first is the inability of the employees to organise collectively. The second is that the direct relationship between the employer and the employee can make the employee reluctant to claim their entitlements or seek promotion. A substantial minority of aged care facilities in Queensland are stand alone facilities which are

community run, not for profit organisations or owned by investors who may manage the facility and/or be a constant or regular presence.

Size of Workplace, Method of Pay Setting and Average Total Cash Earnings (ABS 2008 Employee Earnings and Hours, Cat No. 6306.0)

Number of Employees	Award reliant - $	Collective Agreement - $	Individual Agreement - $
20-49	491	898.80	1062.90
500-999	585.20	1050.10	1526.90

Possibilities for engagement

During the last decade, the shortages of nursing staff, especially in hospitals and aged care that had been threatening for years reached crisis point. It was the beginning of a period of chronic skills shortages that still looms on the horizon. The recruitment and retention of the nursing workforce depends on reasonable workloads and appropriate remuneration. In 2005, following an arbitrated outcome of the 2002 bargaining dispute, many nurses remained embittered by what they felt was a lack of recognition for their efforts - in their remuneration and in their professional contribution to quality health care. Rebuilding the relationship with QH at a time of deep distrust and scepticism required the QNU to open itself to a new way of thinking and bargaining.

At this time, the parties entered into an 'interest based' form of bargaining (IBB). This move required a large element of trust and information sharing and was not an easy shift for either party. IBB is distinguished by a focus on the parties' interests rather than their positions or the outcomes they seek. The parties acknowledge that they can have shared, conflicting or different interests, but work in partnership to achieve durable outcomes. Through the IBB process, the QNU and QH were able to define the problems and establish a vision for a way forward.

In the positional bargaining regime that had previously existed, the nurses were still exposed to unilateral management actions to force their position at the table or to introduce new measures. In response, the QNU demonstrated that although its members were not necessarily keen to take industrial action, they would do so in pursuit of their claims. This was likely to lead to the stalemate that existed during the 2002 bargaining round. Neither party really benefitted from that experience which could have sealed a complete breakdown in the long term relationship. Although both parties still stood to lose in any confrontation, there was much more to be gained through co-operation and goodwill.

IBB produced successful outcomes for several reasons. IBB offered the parties more flexibility because it did not lock them into predetermined issues and bargaining positions. Instead the process allowed them to explore the serious problems confronting the nursing

workforce and the health system itself. Nurses as well as QH shared a strong common interest in ensuring they provide quality health care for Queenslanders.

IBB requires commitment, but it also demands time. IBB takes more time than traditional bargaining because it widens the range of matters for discussion and decision making. This can cause frustration in a seeming lack of progress, but the creation of long term goodwill outweighs the short term difficulties. Those outside the process often misunderstand IBB. It may be misinterpreted and misrepresented as co-option or a "soft" approach as the focus is on solving problems in the context of mutual trust and respect rather than conflict and distrust where the parties tend to personalise the debate.

The QNU recognises that IBB is not likely to be the next great transformation in the enterprise bargaining process. It cannot replace positional bargaining in every negotiation and particularly not in situations where there is no possibility of increasing trust. It also relies on continued commitment and goodwill by the parties involved. However, IBB may be one way to achieve more secure working arrangements through a process that recognises mutual gains for employers, workers and unions.

Conclusion

The erosion of job security and predictable incomes produces anxiety and stress. Employers have imposed these conditions on many workers who are already struggling with varying degrees of personal debt. This is not the hallmark of a civil society, nor a 'productive' one. Australian workers who struggled so tirelessly to improve pay and conditions now face a trade-off of some of these hard won gains in order to retain employment or have a reasonable work/life balance. In the quest for 'flexible', 'productive' workplaces, now, more than ever, labour is becoming a disposable commodity. Despite their difficulties with the *Fair Work Act 2009,* employers have turned the tables on providing flexibility 'for' workers to enabling flexibility 'of' workers. The QNU stands united with its union colleagues in the pursuit of secure jobs and a better future for Australian workers.

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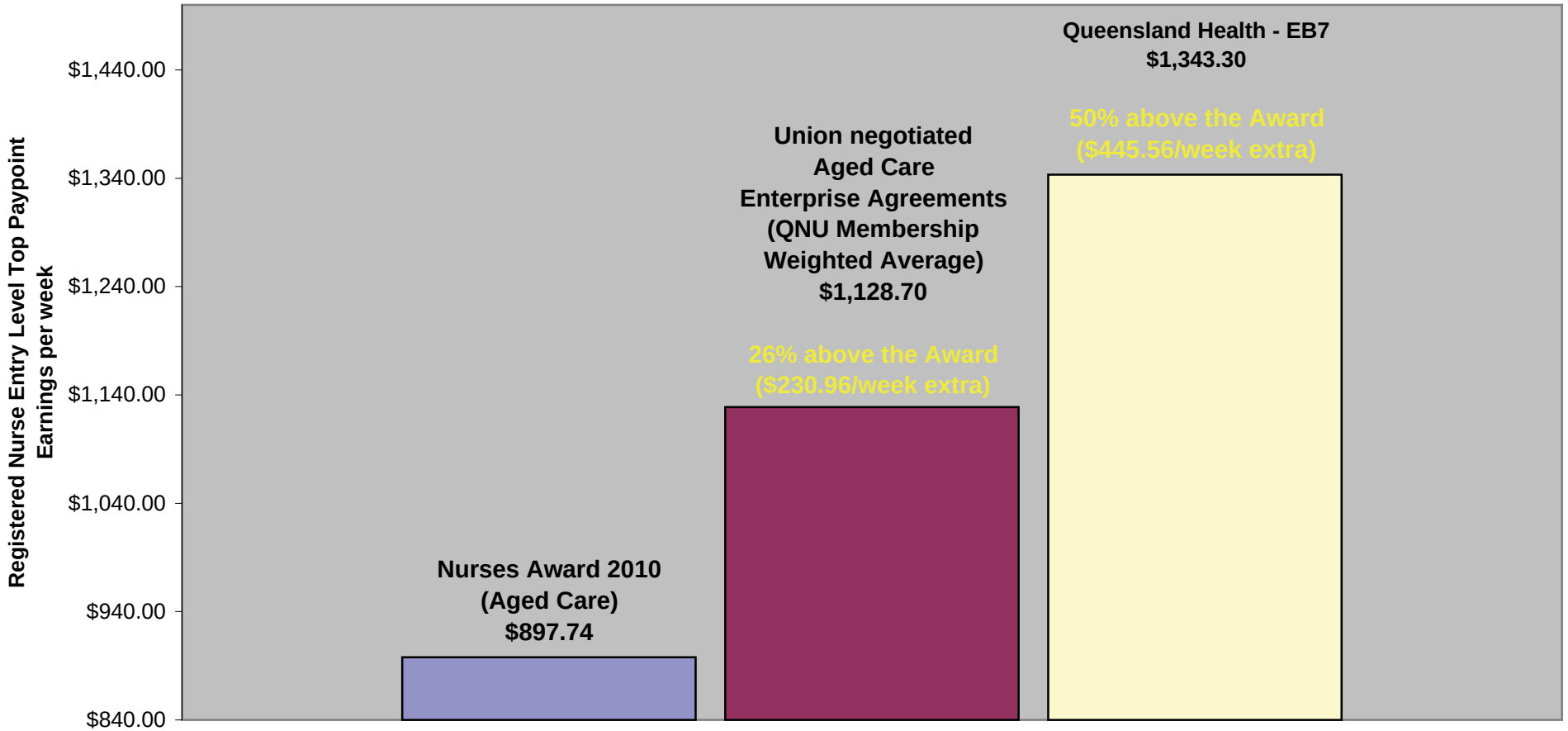
Union negotiated Enterprise Agreements compared with the *Nurses Award 2010* (Aged Care transitionary conditions) and the *Nurses and Midwives (Queensland Health) Certified Agreement (EB7) 2009*

1 July 2010



Note: QNU 'Membership Weighted Average Figure' is calculated by factoring in the number of members covered by a particular agreement. For example, Blue Care membership makes up 39% of the members in this statistic. The weighted average gives their earnings a 39% weighting in the average.