

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Bay of Plenty District Health Board and Lakes District Health Board

AND Association of Professionals & Executive Employees Inc

REPRESENTATIVES J Coates and H Kynaston, counsel for Applicants
W Manning, counsel for Respondents

MEMBER OF AUTHORITY R A Monaghan

DATE OF DETERMINATION 14 May 2007

INTERIM DETERMINATION OF THE AUTHORITY BY CONSENT

[1] The Bay of Plenty District Health Board and the Lakes District Health Board have filed an employment relationship problem in respect of aspects of the provision of life preserving services ("LPS") under the Code of Good Faith for the Public Health Sector (Schedule 1B of the Employment Relations Act 2000), where notice of industrial action has been given. The other party to the problem is the Association of Professionals and Executive Employees Inc ("the union").

[2] The parties have reached an interim agreement in the matter and have asked the Authority to formalise the terms in an order by consent.

[3] I am satisfied that is the wish of both parties, that the terms of their agreement are as I am about to set out, and make the orders as requested.

Orders of the Authority

[4] On an interim basis and without prejudice to the position of either party until 5 June 2007, or such date as the parties receive a determination by the Employment Relations Authority, the following 'gatekeeper' protocol shall apply:

1. Decisions about requests for LPS cover shall be made by the SMO on-call responsible for the particular patient or an appropriately qualified delegate, but a decision having been made, the request may be made by that SMO or the registrar on duty.

2. Before making a decision whether to request LPS cover, the SMO on-call must first consult a member of the 'advisory team', except where:
 - (i) the LPS assistance being requested is of such urgency that the delay caused by consultation with the Advisory Team would put the patient at any increased risk; or
 - (ii) the patient's circumstances are such that they clearly meet the LPS criteria, such that consultation with the Advisory Team would be otiose.
3. To avoid doubt the consultation function referred to in paragraph 2 above cannot be delegated by the SMO.
4. The Advisory Team shall consist of the radiologist who, from time to time is on call, and at least one other appropriately qualified SMO. The DHB will provide the union in advance with a list of the proposed members of the Advisory team. The union will be given a reasonable opportunity to object to any proposed member, and the DHB will consider any such objection in good faith.
5. To avoid doubt this agreement amends the current LPS agreements in place at Lakes and BOP DHBs, and, to the extent necessary, completes the LPS agreements between BOP DHB and the union for the period 14 May to 28 May 2007.

[5] Costs shall lie where they fall.

[6] I order accordingly.

Rosemary Monaghan
Member of Employment Relations Authority