

FAIR WORK COMMISSION

# 4 YEARLY REVIEW OF MODERN AWARDS

Health Professionals and  
Support Services Award 2010

Matter no. AM2016/31

SUBMISSIONS OF AUSTRALIAN MEDICAL  
ASSOCIATION (NSW) LIMITED

28 FEBRUARY 2020

**Submissions of Australian Medical Association (NSW) Limited  
Health Professionals and Support Services Award 2010 (AM2016/31)**

1. The Australian Medical Association (NSW) Limited (AMA (NSW)) support the submissions of the Australian Medical Association Limited dated 5 February 2020 and provide the following supplementary submissions.
2. In light of the determination that the List in Schedule C of the Health Professionals and Support Services Award 2010 (HPSSA) is indicative and not exhaustive, AMA (NSW) submit that medical practitioners (doctors) should not be covered by the HPSSA.
3. Historically, medical practitioners in private practice are not persons who have been covered by awards.
4. Consideration should be given to the principles for interpretation of modern awards - that is, to have regard to the natural and ordinary meaning of the words and the industrial context and purpose and commercial and legislative context (*Swissport Australia Pty Ltd v Australian Municipal Administrative Clerical and Services Union (No 3)* [2019] FCA 37).
5. It was never intended for doctors to be covered by the HPSSA and moreover, it is commonly understood that doctors are not covered by the HPSSA. We note that:
  - a) when discussing the exposure draft of an early version of the HPSSA, the AIRC said:

*"We have sought, in the salary structure and level of salaries, to accommodate all health professionals (except doctors and nurses) employed in both the health industry and industry generally";*
  - b) when discussing coverage under the HPSSA, Catanzariti VP said in relation to doctors (and nurses):

*"they're actually out";*
  - c) in submissions dated 3 September 2019, the HSU said:

*"It is the HSU's view that the Health Professional and Support Services Award was never intended to cover doctors. We do not seek to extend coverage under the HPSS Award to doctors in these proceedings".*
6. In an industrial context, doctors are referred to as "medical practitioners" rather than "health professionals". For example, the Medical Practitioners Award 2010 covers certain medical practitioners.
7. To the extent it was intended for doctors to be covered by a modern award, they are covered by the Medical Practitioners Award 2010. The Medical Practitioners Award 2010 does not apply to doctors working in private practice.
8. If it was intended for doctors working in private practice to be covered by a modern award, the HPSSA would not be the most appropriate modern award.

9. There are two streams of employees in the HPSSA: support services employees (schedule B.1) and health professionals (schedule B.2) and clauses in the HPSSA apply across both streams. It would be inappropriate to apply the same terms and conditions of employment to a doctor in a private medical practice as apply to others who are appropriately covered under the HPSSA due to the different nature of the work undertaken.
10. The work of a doctor in private practice demands flexibility and autonomy. Decisions are made based on patient care and relationships. Doctors working in private practice need to be responsive and available in order to grow their practice and patient base. Working arrangements for doctors in private practice, in terms of days and hours of work and starting and finishing times, are often variable to meet patient needs.
11. Doctors working in private practice earn competitive remuneration that is reflective of the nature of their work, working arrangements and market forces.



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**On behalf of Australian Medical Association (NSW) Limited**  
**28 February 2020**