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25 November 2014

Ms Anastasia Kyriakidis
Associate to Justice Ross, President
Fair Work Commission

By email: chambers.ross.j@fwc.gov.au

Dear Ms Kyriakidis

**AWARD STAGE, GROUP 2 MODERN AWARDS
AM2014/204 – OUTLINE OF ISSUES**

We refer to our correspondence dated 4 August 2014 and to Statement [2014] FWC 7743 made by Justice Ross on 30 October 2014 regarding Group 2 awards (**Statement**).

In accordance with paragraph 5 of the Statement, we **enclose** a short outline of issues relevant to the *Health Professionals and Support Services Award 2010*.

Please do not hesitate to contact our office if you require anything further.

Yours faithfully

CORNWALL STODART

Enclosure

GROUP 2 – HEALTH PROFESSIONALS AND SUPPORT SERVICES AWARD 2010 (HPSS AWARD)

4-YEARLY REVIEW OF MODERN AWARDS – OUTLINE OF ISSUES

- 1 The Chiropractors' Association of Australia (National) Ltd (CAA) provides the following outline of issues in relation to the HPSS Award:

Issue 1 – Span of hours: Clause 24

The CAA will seek to vary the span of hours contained in Clause 24 for chiropractic practices.

Issue 2 – Definition of “ordinary hours”: Clause 3.1

The HPSS Award does not contain a definition of “ordinary hours”. The absence of a definition for “ordinary hours” and the interchangeable use of that term in clauses 24, 26 (Saturday and Sunday Work) and 28 (overtime penalty rates) have led to uncertainty. The CAA will seek to vary these clauses to remove the uncertainty.

Issue 3 – Definition of “shiftworker”: Clauses 3.1 and 31.1

The definition of “shiftworker” (see clauses 3.1 and 31.1) and entitlements of shiftworkers under the HPSS Award are not clear. The CAA will seek to vary these clauses to remove the uncertainty.

Issue 4 – Shiftwork loading: Clause 29

It is unclear in some circumstances whether and when a shiftworker loading applies. The CAA will seek to vary clause 29 to remove the uncertainty.

Issue 5 – Interaction between shift loadings and weekend penalties: Clauses 26 and 29

There is ambiguity in relation to the interaction between shift loadings and weekend penalties (clauses 26 and 29). The CAA will seek to vary these clauses to remove the ambiguities.

Issue 6 – Annualised salaries

The CAA will seek the inclusion of an annualised salaries provision.

- 2 The Fair Work Ombudsman (FWO) has identified a number of issues with the HPSS Award in correspondence to the Fair Work Commission (**Commission**) dated 11 April 2014 (AM2014/1 – ‘FWO Research for Modern Award Review on base rates of pay, overtime and penalties’) and 24 November 2014 (AM2014/198 – ‘Award Stage, Group 2 Modern Awards’). The CAA supports the variation of the HPSS Award to address the issues identified by FWO, which relevantly include that:

- (a) the comparison required by clause 31.2 (annual leave loading) is uncertain;
- (b) the hours when overtime applies are not clearly stated;
- (c) it is unclear whether overtime calculations are on a daily or weekly basis;
- (d) it is unclear whether casuals are entitled to overtime (or whether casual loadings would apply in addition to overtime);
- (e) hours when penalties apply are not clearly stated; and
- (f) it may be unclear whether the minimum period of engagement for casual employees must be worked consecutively.

The CAA will seek to vary those provisions to remove the uncertainty.