



## IN THE FAIR WORK COMMISSION

Matter No: AM2014/206

Title: Modern Award Review 2014

Medical Practitioners Award 2010

### SUBMISSIONS ON THE EXPOSURE DRAFT TECHNICAL AND DRAFTING MATTERS AND OUTLINE OF SUBMISSIONS ON SUBSTANTIVE CLAIMS

16 July 2015

<b>Filed on behalf of:</b>	Health Services Union		
<b>Filed by:</b>	Leigh Svendsen, National Industrial Officer	<b>Mobile:</b>	0418 538 989
<b>Address:</b>	Suite 1, Level 3, 377 Sussex St. Sydney NSW 2000		
	PO Box 20349, World Square NSW 2002		
<b>Phone:</b>	02 8203 6066	<b>Email:</b>	<a href="mailto:leighs@hsu.net.au">leighs@hsu.net.au</a>

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## Introduction

1. The Health Services Union (HSU) makes these submissions on the technical and drafting issues related to the Exposure Draft Medical Practitioners Award 2014 released by the Fair Work Commission (the Commission) on 8 December 2014, and outlines its submissions in relation to its substantive claims being pursued, in accordance with the Statement issued by Justice Ross on 30 March 2015<sup>1</sup> and amended directions issued on 6 May 2015<sup>2</sup>.
2. The HSU relies upon its submissions concerning the Exposure Draft, which were filed on 28 January 2015. Those submissions did not address the 23 December 2014 Full Bench decision<sup>3</sup>.
3. The HSU also notes the Full Bench Decision of 13 July 2015<sup>4</sup>, and more specifically the sections that relate to general drafting and technical issues common to multiple exposure drafts. Whilst there have been no changes made to this Exposure Draft at this stage the HSU expect that the Medical Practitioners Award Exposure Draft will be varied to reflect these Decisions and as such makes no submissions concerning the matters addressed by the decisions. If the Commission requires submissions on these matters the HSU is happy to provide them.
4. The HSU further notes and relies upon the comments included at the commencement of the Exposure Draft, which state *'This exposure draft does not seek to amend any entitlements under the Health Award but has been prepared to address some of the structural issues identified in modern awards.'*

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<sup>1</sup> [\[2015\] FWC 2194](#)

<sup>2</sup> [\[2015\] FWC 3148](#)

<sup>3</sup> [\[2014\] FWCFB 9412](#)

<sup>4</sup> [\[2015\] FWCFB 4658](#)

## Technical and drafting issues relating to the exposure draft

5. The HSU has read and supports the submissions lodged by the Australian Salaried Medical Officers on 6 March 2015<sup>5</sup> and does not intend to provide further submissions at this stage

## Outline of submissions in relation to HSU substantive claims

### Ceremonial leave

6. The HSU has proposed a variation to the Medical Practitioners Award to include an entitlement for Ceremonial consistent with the entitlement proposed in the other Group 2 Health awards.
7. The HSU proposes the addition of a clause as follows:

#### ***17 Ceremonial Leave***

*An employee who is legitimately required by Aboriginal or Torres Strait Islander tradition to be absent from work for ceremonial purposes will be entitled to up to 10 working days unpaid leave in any one year, with the approval of the employer.*

8. The HSU submits the variation meets the modern award objectives, and particularly the objective at s.134(1)(c) of the Act of promoting social inclusion through increased workforce participation. Recognition of ceremonial obligations, and an entitlement to leave in that event, will assist to facilitate and promote the participation of Aboriginal and Torres Strait Islander peoples in the workforce, and the application should be granted by the Commission.
9. Clauses in the same or very similar words are a common feature of modern awards. The HSU believes failure to include Ceremonial leave at the time of making the Award was an oversight and as such is an anomaly. The HSU does not intend to lead further evidence in respect of this claim unless requested by the Commission.
10. A draft determination, reflecting the agreed proposal has been provided at Appendix A.

A handwritten signature in black ink, appearing to read 'Leigh Svendsen'.

Leigh Svendsen

Senior National Industrial Officer

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<sup>5</sup> [ASMOF Submissions](#)

Appendix A

**SCHEDULE X**

<<FileNo>> <<PrintNo>>

FAIR WORK COMMISSION

**DRAFT DETERMINATION**

*Fair Work Act 2009*

Part 2-3, Div 4 – 4 Yearly reviews of modern awards

**Medical Practitioners Award 2010**

(ODN AM2014/206) MA000031

Health and Welfare

<<FWC MEMBER>>

<<PLACE, MONTH, YEAR>>

Review of modern awards to be conducted.

A. The above award is varied

[1] Insert a new clause 17 Ceremonial leave as follows:

17 Ceremonial leave

An employee who is legitimately required by Aboriginal or Torres Strait Islander tradition to be absent from work for traditional ceremonial purposes will be entitled to up to 10 working days unpaid leave in any one year, with the approval of the employer.

[2] Renumber the remaining clauses as follows:

18 Personal/carer's leave and compassionate leave

19 Parental leave and related entitlements

20 Community service leave

21 Termination of employment

- 22 Redundancy
- 23 Consultation
- 24 Dispute resolution

B. The determination shall operate on and from <<date>>