



SUBMISSION ON BEHALF OF THE AUSTRALIAN FEDERATION OF  
EMPLOYERS AND INDUSTRIES (AFEI)

AM2008/13

AWARD MODERNISATION

**AFEI**  
Australian Federation of  
Employers & Industries

**BEFORE THE AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION**

**AWARD MODERNISATION**

**MATTER NO. AM2008/13 – HEALTH AND WELFARE SERVICES**

**(EXCLUDING SOCIAL AND COMMUNITY SERVICES)**

**DRAFT EXPOSURE DOCUMENTS**

**HEALTH PROFESSIONALS AND SUPPORT SERVICES  
INDUSTRY AND OCCUPATIONAL AWARD 2010**

1. AFEI has previously provided submissions on this industry.
2. AFEI opposes the making of the proposed award for health professionals and support services staff (the Award) for the following reasons:
  - (i) It extends coverage to classes of employees who have traditionally been award free;
  - (ii) It attempts to group classifications that have previously not been grouped together due to the diversity in the nature of their work and differences in their work environments;
  - (iii) It does not include a minimum weekly wage structure which includes trainees and students who currently have strong career and wage structures in place;
  - (iv) The span of hours proposed are highly restrictive for an industry and for occupations whose services are in demand by the community for extended hours including weekends.
3. This submission does not attempt to identify all the problems that would arise in regards to the implementation of the Award but aims to highlight the definitive operative issues surrounding it.

### **Award-free classifications**

4. AFEI submits that current award-free classifications should not be placed under the Award.
5. The following classifications which are listed in Schedule B of the Award are not currently covered by an award in Australia: Acupuncturist, Aromatherapist, Counsellor, Exercise Physiologist, Genetics Counsellor, Homeopathist, Musculoskeletal Therapist, Myotherapist, Naturopathist, Osteopath, Pastoral Carer, Play Therapist and Reflexologist. There are other classifications such as physiotherapists and dentists who are employed by small practices (outside of institutions such as hospitals) and are not currently covered by awards in NSW.
6. To include all of these health professionals in an award would mean that it would cover classifications previously award-free. Such a result would appear to be directly contrary to clause 2 (a) of the Minister's Request. Specifically it would *"extend award coverage to those classes of employees... who, because of the nature or seniority of their role have traditionally been award free."*
7. The Award appears to be designed for a large public hospital, containing an extremely broad range of occupations and providing the type of extended career paths, and range of pay points that might be available in a large institutional setting. It also seems to be predicated upon the operation of continuous shift arrangements rather the work of day work for extended hours. Such an award is not easily extended to non – institutional settings such as private practice.

8. Private practice is, for example, generally dominated by small business employing not more than about three people. They do not operate shifts as such but have extended hours on an ordinary day work basis (e.g. to 9 pm during the week and on weekends). They are unlikely to have dedicated human resources specialists, for example, to work through such a large and complex classification structure and assign pay points.
9. If clerks were to be placed under the Award this could unnecessarily disturb existing arrangements. For example, employees might be paid the exemption rate under the Notionally Preserved Clerical and Administrative Employees (NSW) State Award at the moment, which could not continue as there is no exemption provision under the exposure draft. Employees may work ordinary hours until 7pm which is allowed under the NSW Clerks Award but would be restricted to 6pm under the exposure draft (unless paid a 15% penalty for the whole of the shift). Under the proposed Clerks-Private Sector Award 2010 work on a Saturday morning attracts a penalty of 25% compared to a 50% loading under the exposure draft. Health is an industry which clearly needs to service clients on an extended hours basis and on weekends. The penalties should not be higher in such an industry than they are for general clerical employees. Rather than increase penalties and restrict hours a modern award should facilitate more flexible arrangements.
10. The effect of not making the Award would be to retain the status quo and health professionals in these classifications in the private sector would remain award free (at least in NSW). Dentists should remain award free but a Dental Industry award should be created covering dental assistants and secretaries, dental technicians, etc. Clerical employees would remain or be placed under the Clerks – Private Sector Award 2010. This outcome would be more consistent with the Minister’s Request than including them in the Award.

11. In order to affect this change in the Award, AFEI proposes the following amendments:

- Amend definition of health industry in clause 3.1 as follows -

*“Health Industry means hospitals, hospices, aged care, charitable institutions, community health centre, medical imaging and pathology employers.”*

- Amend clause 4.1, coverage, as follows -

*“This industry award covers employees throughout Australia in the health industry and their employees listed in clause 14 – Minimum weekly wages for support service employees and 15 – Minimum weekly wages for health professional employees to the exclusion of any other modern award.”*

12. The change sought would have the effect of limiting the coverage of the award to institutional settings, mainly hospitals and to medical imaging and private pathology. AFEI’s proposal would not extend the award to cover private health and medical practices more generally. This proposal would not provide for occupational coverage of health professionals outside of the health industry. AFEI’s view is that such health professionals employed outside of institutional settings such as in private practices should remain award free.

### **The grouping of disparate classifications**

13. The classifications that are grouped together in this Award are not currently grouped together in the private sector. In NSW they are covered under the following Federal Award and NAPSAs:

- Health Services Union of Australia (Aboriginal and Torres Strait Islander Health Services) Award

- Notional Agreement Preserving Aged Care General Services (NSW) State Award
- Notional Agreement Preserving Charitable Institutions Professional Staff Social Workers (NSW) State Award
- Notional Agreement Preserving Charitable Sector Aged Care & Disability Services (NSW) State Award
- Notional Agreement Preserving Charitable Sector (Professional – Paramedical Staff) (NSW) State Award
- Notional Agreement Preserving Community Pharmacy (NSW) State Award
- Notional Agreement Preserving Dental Assistants and Secretaries (NSW) State Award
- Notional Agreement Preserving Dental Technicians (NSW) State Award
- Notional Agreement Preserving Nursing Home Professional Employees (NSW) State Award
- Notional Agreement Preserving Private Hospital Employees (NSW) State Award
- Notional Agreement Preserving Private Hospital Professional Employees (NSW) State Award
- Notional Agreement Preserving Private Medical Imaging & Radiation Technology (NSW) State Award
- Notional Agreement Preserving Private Pathology Laboratories (NSW) State Award

14. They are a diverse group of classifications with different wage levels and structures and do very different work each to the other. Some examples of such diverse classifications are: dentist compared with aromatherapist and medical imaging technologist compared with chiropractor.

15. When some of these classifications are grouped together they have their own wage rates and structures as seen in the list above. They have very different levels of work value and to ignore this would mean that inequities would be created in a new wage structure. It would also increase costs to employers if the structure, as proposed in the Award, did not reflect the current minimum wage rates and wage structures. AFEI is therefore opposed to an occupational award being created for "health professionals" and especially opposes these diverse classifications being put on the same wage scale.

### **Span of hours**

16. The span of hours provided in the exposure draft is not suited to the industry. In particular, the span of hours for employees of medical practices has been dramatically restricted considering they can operate seven day a week practices and many staff in these practices are employed under the Notional Agreement Preserving Divisions of General Practice (NSW) State Award. This award covers employees at medical practices except for general practitioners and registered nurses. Clause 26(b) of that award states:

*"Span of Working Hours*

*Agreed ordinary hours must be worked between 8.00am and 6.00pm, except by mutual agreement between the employer and employee. The actual starting and finishing time within the span of working hours will be agreed by the employee and management."*

17. There is no loading on ordinary hours worked on a Saturday or Sunday (not including public holidays) contained in that award.

18. The provision of health services by medical practices outside of Monday to Friday 8.00am to 6pm is important to support the public and private health systems across Australia. This is especially important given the role that these practices play in reducing emergency department attendances by patients who could be treated effectively by a General Practitioner or a health professional.
  
19. Similar constraints have been placed on the operation of the pathology sector. AFEI notes that separate span of hours provisions have been made for private medical imaging practices and dental practices.
  
20. It is therefore proposed that the span of hours in the exposure draft be amended to be 7am to 9pm Monday to Sunday.