

**Form F46—Application to Vary a Modern Award**

**IN FAIR WORK AUSTRALIA**

*FWA use only*

FWA Matter No.:

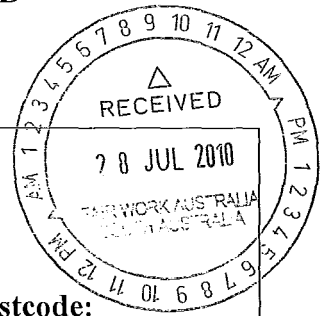
*AM2010/114*

**APPLICATION TO VARY A MODERN AWARD**

*Fair Work Act 2009—ss.157–160*

**Applicant**

<b>Name:</b>	Julie Fallon		
<b>Title:</b>	Mr [ ] Mrs [ X] Ms [ ] Other [ ] specify:		
<b>Address:</b>	22 Walter Street		
<b>Suburb:</b>	North Adelaide	<b>State:</b>	SA
		<b>Postcode:</b>	5038
Where the Applicant is a company or organisation:			
<b>Contact person:</b>		<b>ABN:</b>	77 688 935 050
Contact details for the Applicant or contact person (if one is specified):			
<b>Telephone:</b>	08 8334 5900	<b>Mobile:</b>	0408891896
<b>Facsimile:</b>	08 8334 5999	<b>Email:</b>	manager@footandanklecentre.com.au



**Applicant's representative (if any)**

<b>Name:</b>		<b>ABN:</b>	<i>[If applicable]</i>
<b>Address:</b>			
<b>Suburb:</b>		<b>State:</b>	<b>Postcode:</b>
<b>Contact person:</b>			
<b>Telephone:</b>		<b>Mobile:</b>	
<b>Facsimile:</b>		<b>Email:</b>	

1. What is the name of the modern award to which the application relates?

Health Professionals and Support Services Award 2010  
MA000027

2. What is the industry of the employer?

Multi disciplinary Medical Practice – mainly orthopaedic but with GP, Physio, Podiatry, Rheumatology, Sports.

3. Variation(s) sought: 28.1 1.1. (d)

1.1 Overtime rates

(a) An employee who works outside their ordinary hours on any day will be paid at the rate of:

- (i) time and a half for the first two hours; and
- (ii) double time thereafter.
- (b) All overtime worked on a Sunday will be paid at the rate of double time.
- (c) These extra rates will be in substitution for and not cumulative upon the shift loading prescribed in clause 29 – shiftwork.
- (d) **Part-time employees**

[28.1(d) varied by PR994550 from 01Jan10]

Where agreement has been reached in accordance with clauses 10.3 (b) or (c) a part-time employee who is required by the employer to work in excess of those agreed hours must be paid overtime in accordance with this clause.

**4. Grounds:**


Medical practices do not work around set hours, this is too limiting for both the employer and the employee. For most medical practices the majority of staff are part-time and casual employees. This clause makes medical practice hours too inflexible, particularly when relating to part-time and casual employees. Even with the flexibility clause in the award, the cost to practices is excessive. Rosters will change in a medical practice literally from day to day due to leave, sickness, emergency patients, change in clinics etc. Most part-time and casual employees will be employed on the proviso that they cover sickness and holiday leave. As this is now outside of their ordinary hours overtime is to be paid, as well as when doctors run late or need to see emergency patients.

Practice managers need to change hours regularly (particularly in smaller practices). This makes it just too difficult to function.

With the flexibility clause the employee has to be 'better off overall', so even when included in an hourly rate, employers have to estimate the increased cost and pay accordingly.

My concern is that in some cases this will lead to the 'young casuals' and working mothers not being employed by some practices, full-timers will be preferred and the increasing costs to medical practices already struggling with increasing expenditure and a shortage of doctors will close down (possibly joining the bigger medical practices) rather than weather the increasing staff cost. The alternative is that the increased cost be passed on to patients. Part-timers in particular must have a greater flexibility of rostered hours, within the ordinary span of hours at no extra cost to the employer or the patient.

**Date:** 26/07/2010

**Signature:** 

**Name:** Julie Fallon

**Capacity/Position:**  
Practice Manager