

**SUBMISSION TO  
FAIR WORK COMMISSION**

**Matter No:**

**AM 2014/1**

**4 Yearly Review of Modern Awards – Award Stage – Technical and  
Drafting Issues**

**Updated Group 2 Exposure Drafts**

***NURSES AWARD 2010  
(MA000034)***

***March 2019***

**SUBMISSION BY  
PRIVATE HOSPITAL INDUSTRY EMPLOYER ASSOCIATIONS**

**Australian Private Hospitals Association  
Australian Private Hospitals Association – South Australia  
Australian Private Hospitals Association – Victoria  
Australian Private Hospitals Association – Tasmania  
Australian Private Hospitals Association - Western Australia  
Catholic Health Australia  
Private Hospitals Association of Queensland  
Private Hospitals Association of New South Wales**

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## **PARTIES TO THIS SUBMISSION**

- [1] This submission is being lodged on behalf of the Private Hospital Industry Employers' Associations (PHIEA) which includes: Australian Private Hospitals Association (APHA), the Private Hospitals Association of Queensland (PHAQ), APHA – South Australia, APHA – Tasmania; APHA – Victoria, APHA – Western Australia, Private Hospitals Association of New South Wales, Catholic Health Australia and Day Hospitals Australia. These organisations collectively represent approximately 95% of licensed private hospital beds in Australia and in addition, represent approximately 90% of all Free Standing Day Hospitals.
- [2] This submission is being lodged in response to the President's statement of 13 February 2019 [2019] FWC 932 inviting interested parties to comment on the updated Group 2 Exposure Drafts by 15 March 2019.

PHIEA's submissions are confined to Clause 17.8 – Annual Leave Loading in the Nurses Award. A note to parties on page 31 of updated exposure draft asks parties to clarify whether the leave loading in clauses 17.8 (b)(i) and 17.8 (b)(ii) is based on 4, 5, or 6 weeks.

### **17.8 Annual Leave Loading**

- [3] 17.8 *Annual leave loading*

*For the period of annual leave in addition to their ordinary pay:*

- (a) *an employee, other than a shift-worker, will be paid an annual leave loading of 17.5% of their **ordinary pay** on a maximum of 152 hours/four weeks annual leave per annum;*
- (b) *a shift worker will be paid the higher of:*
- (i) *an annual leave loading of 17.5% of **ordinary pay**; or*
  - (ii) *the weekend and shift penalties the employee would have received had they not been on leave during the relevant period.*

The parties have been asked to clarify whether the leave loading in clauses 17.8 (b)(i) and 17.8 (b)(ii) is based on 4, 5 or 6 weeks.

PHIEA is of the view that leave loading only applies to 4 weeks of annual leave as stated in 17.8 (a).

PHIEA considers that 17.8 (b) does not replace the provisions contained in 17.5 (a) but merely clarifies how the loading, which is to apply over the 4 weeks, is to be calculated for a shift worker.

Given the change in terminology the words '*ordinary pay*' as highlighted in bold above, should be replaced with the words '*their minimum pay*.'

**[END OF SUBMISSION]**