

## CHIEF EXECUTIVE OFFICER'S REPORT

*Annual General Meeting of Members  
Friday, 23 October 2009*

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### **A BIRD'S EYE VIEW.....**

The 2008/09 year was, as in the previous year, operationally dominated by major EBA related activities. These were principally the Doctors' EBA process, the HSU No 3 Branch claims arbitration by a Full Bench of the AIRC, the Award Modernisation process of the AIRC, drafting of the HSU No 2 and 4 EBA's, the fastest EBA negotiations on record (4 days) to secure an agreement with HSU No 1 and many other matters.

All of this was conducted within the Victorian Government wages and industrial relations policy framework, particularly where the wages policy changed from annual 3.25% to 2.5% wages funding in May 2009. Collective, central negotiations continue to be the policy imperative and the continued pursuit of modest productivity and efficiency gains for employers via an employer bargaining agenda tend to not bear substantive fruit in the industrial environment in which such negotiations are conducted. This scenario is likely to continue unless employers express their concerns at treading this path in the future. This central question is to be comprehensively considered by the VHIA Board in late 2009, early 2010, given that 2010 is an EBA "in between year", and not insignificantly, a state election year.

The funding regime for EBA outcomes continues to generate concerns and frustrations for employers and needs to be subjected to rigorous examination and high level discussion with the funding authority. The scope to influence change is contingent upon the willingness of members to address these matters in a strong spirit of collegiality and unanimity.

Workforce challenges are ever present and in this regard, particular efforts to introduce a "3<sup>rd</sup> level" nursing assistant classification met with concerted resistance from the ANF. The two pilot projects at Bendigo and Austin are now proceeding but the government has now instructed health services to not initiate similar pilots. Expressed another way, the attempts to engage in labour micro-reform outside the EBA settings has received a seeming setback that may be perceived by the field in decidedly negative terms. Whether the restructuring of DHS into two (2) distinct departments impacts positively on the program of workforce reform is at best a moot point but we can only continue to strongly advocate the need for such reform and to minimise any loss of momentum in the coming 12 months or more.

The financial performance of VHIA for 2008/09 has shown a dramatic turnaround from last year. We have generated a surplus of \$121K for this year and are clearly on track to further strengthen our balance sheet position in the 2009/10 year. This has been achieved with a mixture of revenue improvements and rigorous control of costs. The impact of the growing success of our related entities, Health Legal, Health Financial and Workplace Legal, has contributed to this position and fully vindicates their creation in the past few years.

## A GROUND LEVEL VIEW

**The Doctors' EBA in 2008/09** has brought into sharp relief the complexities and inherent difficulties of a negotiation process that, near the end marginalised the employers because of perceived funding and political sensitivities. The Heads of Agreement entered into by the AMA, DHS and VHIA is, in respect of senior medical staff, now bedevilled by disputation over interpretation and intent of the Agreement. This is heavily overlaid with the market reality that senior medical staff invariably enjoy diverse contractual arrangements that tend to use the central EBA outcomes as the spring board for new, enhanced contractual arrangements.

For a variety of reasons, a growing case can be made to abandon such central negotiations for senior medical staff as they have no particular "checking" or "evening out" effect on the localised, individualised or craft based negotiation outcomes. The irony should not be lost on anyone that the Heads of Agreement package attempted to address the key theme of the Ministerial Review into Medical Workforce - the sense of alienation by doctors - yet it has mostly generated disputation and widespread frustration for all concerned because of the details associated with the intent and implementation of an agreement that delivered strong increases in remuneration arrangements.

As the Agreement expires in November 2012, there is considerable time to consider the central question, "would we do this again?" At this stage, there is no case to abandon central negotiations in respect of junior doctors who generally have short term contractual arrangements reflecting the actual remuneration rates of the centrally negotiated agreements.

**The HSU No 3 arbitration case** conducted in late 2008 resulted in a decision of the Full Bench of the AIRC in April 2009. The decision largely adopted the submissions presented by VHIA and supported by DHS. In short, the decision awarded wage increases more modest than those offered to the union in the "last ditch" conciliation at the AIRC in August 2008.

Relevantly, the arbitration of the matters in dispute allowed VHIA, on behalf of the members, to mount a cogent, comprehensive case supported by significant evidence from a cross section of members that substantially rebutted the various union claims and evidence. Importantly, such a process is devoid of the usual sensitivities around "political imperatives", thus making it a more even playing field on which the debate is held.

The decisions outcomes will be reflected in individual Workplace Determinations and will expire in 2011, in time to join the major EBA cycle in the public health sector when Nurses, Psych Services, Health and Allied also come up for renewed agreement negotiations.

**The HSU No 1 2006 EBA** expired in April 2009 and VHIA, together with DHS, initiated urgent negotiations in the absence of any claims from the union. The union leadership disputes seemed to have distracted union attention from EBA matters and in the context of an imminent change in government wages policy (going down from an annual 3.25% increase to 2.5%), it was imperative that the lower paid classifications not be disadvantaged through no fault of theirs. Within four days a Heads of Agreement was completed with the then Secretary of the union, together with a commitment to examine and negotiate a range of matters over the life of the agreement, without commitment to any particular outcome. A clear priority is to bring to a conclusion the stalled Clerical Review that is a left over from the 2006 EBA.

**During this year the Nurses EBA** was formally certified by the AIRC, completing the process following on from the October 2007 Heads of Agreement with the ANF (Vic Branch). This has resulted in one comprehensive industrial instrument incorporating the relevant award, the 2004 EBA, the 2007 Heads of Agreement and associated Deed.

The parties have, at the time of writing, virtually finalised the **Psychiatric Services and the Medical Scientists EBAs**, with the respective HSU Branches, Nos 2 and 4 and expect these to be certified in late 2009. Both these agreements expire in late 2011.

**Award Modernisation**, initiated by the federal Labour government, was and is intended to create some 130 or so modern industry awards out of the thousands that presently exist. In respect of the public health sector, the AIRC determined that it would not make one industry award. Rather it decided to create several occupational awards each covering the major professional groupings, nurses, doctors, health professionals, aged care and aboriginal health services. Whilst this outcome does not accord with the primary objective of the government, it is not at odds with the current industrial arrangements under the enterprise bargaining system which is profession based and not reliant on the award minimum standards for bargaining and employment purposes.

The Fair Work Act, whilst introducing or altering some of the technical rules of industrial governance, will not materially affect the manner in which EBAs are negotiated in the public health sector, when it becomes fully operational in January 2010. The new representational rights provisions of the Act will undoubtedly be legally tested but hold the prospect of a freeing up of current arrangements.

### **VHIA Consulting Services**

The consulting services of VHIA incorporate not just Naomi Boyle, James Hooper, Beatrice Nielsen, Anna Pannuzzo, Ruth Hutchison and Ignatius Oostermeyer, but also the lawyers in WPL such as Stuart McCullough, Maurice Addison, David Wenban and Gareth Wee. All of them have extensive experience in the health sector and in employment related matters. Members are well advised to use the Team as their first point of contact.

It is a tight, senior and very experienced team which can assist members with all and any employment issues.

This financial year has been very busy. The Team has dealt with many issues such as bullying and harassment in the workplace, individual contracts, remuneration reviews, classification issues, payroll reviews, VMO's and many others. The team also provides on-site HR services whereby for a retainer, you obtain your own HR advisor for an agreed period of time on specific days. The members are also extremely well serviced by Beatrice Nielsen who deals with WorkCover issues. She is probably one of the best in this field, and members who use her are very satisfied with the outcomes.

### **VHIA Training**

VHIA's Training Services continued to strengthen its reputation for providing practical, relevant and topical training to the health sector. This was evident in the high average attendances at scheduled training events and the demand from members for onsite training. The Training Services Unit also received recognition for its efforts after being shortlisted for a state training award by the Community Services and Health Industry Training Board.

Building on the foundation of IR courses that established the VHIA training program, offerings now include a range of management and leadership courses designed specifically for the health sector. The VHIA's Management Induction Program, designed to facilitate the transition to manager or team leader, continued to enjoy an appreciative audience with strong attendances. The Management Induction Program provided the basis for various leadership development courses including those delivered at Banyule Community Health, Numurkah District Health and Seymour District Health.

VHIA Training further broadened its range of course offerings to meet the learning and development needs of the sector. New courses included the CEO's and Senior Executives Forums as well as a suite of breakfast seminars for Executive Assistants and PAs. A series of on-line webinars was offered for the first time, providing the opportunity for those unable to attend face to face training to participate in professional development.

VHIA's commitment to its non-metropolitan members saw training scheduled and delivered at a range of regional centres throughout the year, including a 2 day leadership development program in Mildura where 19 new managers participated in the course.

The demand for sector relevant qualifications continued with the delivery of the Advanced Diploma of Management at Colac Area Health and the Certificate IV Training and Assessment at Colac and Barwon Health as well as intakes at the VHIA offices. The Diploma of Project Management was added to the suite of VHIA/Gordon Institute offerings.

### **VHIA Related Entities**

As mentioned by the President's Report, the Related Entities of VHIA, Health Legal, Health Financial and Workplace Legal, are successful enterprises in their own rights as outlined below:

#### ***Health Legal***

Health Legal continues to go from strength to strength. 2008/2009 was another great year for the Health Legal team with profit exceeding forecast and the team consolidating its relationships with all parts of the health sector. The team now consists of 11 individuals with further growth in personnel numbers likely.

One of the highlights of the year was the opening of an office in Hobart and the firm being ranked the number 1 health and aged care legal team in Melbourne by *Australia's Best Lawyers*. Natalie Franks was also selected as one of *Australia's Best Lawyers* in the speciality of Health and Aged Care, as published in the Australian Financial Review in March. This is the second time in the 2 years that this award has been available that Natalie has been given this award.

In addition to continuing to provide contract, litigation, legislative compliance and advisory services in 2009/2010 Health Legal will concentrate on the expansion of services in Tasmania and the delivery of medico-legal training. At the time of this Report, Health Legal was awaiting approval by the Royal Australian College of GPs to become their only accredited provider of medico-legal training throughout Australia.

#### ***Health Financial***

Health Financial is now 3 years old. It has grown significantly during this period. It now supplies Salary Packaging Services to almost 70 employers and is becoming a major player in this field. Its salary packaging services is regarded as one of the best in the field.

Health Financial has also established a new business model which is in the form of a private/public partnership in the area of medical clinics in rural areas. It currently has four clinics in rural Victoria and the plan is to grow this service significantly. Furthermore, the vision is to establish multi purpose clinics which contain dentists, dental therapists, health professionals and others to supply services to rural communities in the area of primary care.

Over the last 18 months, Health Financial has also conducted at least 60 governance sessions with different Boards. These sessions are done on site at a time convenient to volunteer Boards. In addition Health Financial has carried out governance reviews with the aim of establishing the effectiveness of the governance process in organisations.

Health Financial has also been very active in CEO recruitment over the last 12 months. It will continue to be active in this area and it is also in the process of establishing a recruitment services in the area of medical staff. This is primarily done to staff Health Financial's medical clinics, but also to assist members in the area of medical recruitment.

Further areas of services are being explored with the aim of building Health Financial into a major commercial company which adds significant value to health care in Victoria. This will be achieved through the establishment of new initiatives as well as building the capacity of Boards and Management within the sector.

### ***Workplace Legal***

The period 2008/9 saw continued growth for Workplace Legal. In particular, we were joined by an additional solicitor, Natasha Cushway. This assisted the firm to grow its income by around twenty percent as a result and to continue to achieve strong results for clients.

Workplace Legal has delivered low-cost legal services to VHIA clients whilst also developing a distinct client base outside the health and community services sector. This diversity of clients has assisted to support revenue growth. Whilst recent economic conditions may arguably have impacted on the willingness of clients to seek advice or broad-scale industrial relations support, the introduction of the *Fair Work Act* has meant that industrial relations issues have not been delayed and clients have continued to seek assistance.

Further, the addition of an incorporated legal practice to the services available to VHIA clients has been well-supported by the membership. In particular, that clients can continue to have their work place issues handled by an entity associated with VHIA through the litigation process where required has been well received.

We have projected further growth for the coming year and anticipate the need for additional solicitors to join our growing firm.

### **Conclusion**

In conclusion, I wish to acknowledge the support provided by the Board of VHIA in achieving the results for 2008/09 in a year of financial and governance challenge. The particular support of Ignatius Oostermeyer and Lisa Iacobucci in these challenges, together with our Finance Manager, Peter Doughty succeeded by Robert Bell is acknowledged and greatly appreciated. Also, during this period we lost Simon Chant back to DHS and our significant loss is their gain.



**Alec Djoneff**  
**Chief Executive Officer**  
**Victorian Hospitals' Industrial Association**