

FAIR WORK COMMISSION

Matter No.: AM2016/31

Four Yearly Review of Modern Awards – Health Professionals and Support Services Award

**JOINT SUBMISSION FROM DENTAL HYGIENISTS ASSOCIATION OF
AUSTRALIA (“DHAA”) AND AUSTRALIAN DENTAL AND ORAL
HEALTH THERAPISTS’ ASSOCIATION (“ADOHTA”)**

AM2016/31

Date: 24 April 2020

Lodged by:

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Introduction

1. This Submission is filed on behalf of the Dental Hygienists Association of Australia Limited (“DHAA”) and the Australian Dental and Oral Health Therapists’ Association (“ADOHTA”) in accordance with the revised Directions issued by Vice President Catanzariti on 1 April 2020.
2. Both Associations have differing views and have expressed those views via previous submissions with regard to whether Dental Hygienists and Oral Health Therapists should be covered by the Health Professionals and Support Services Award.
3. The two Associations wish now to make a Joint Submission to respectfully advise the Full Bench that the Associations will work together co-operatively to seek the best possible outcomes for the professions of Dental Hygiene, Dental Therapy and Oral Health Therapy, across all States and Territories of Australia, whatever the Full Bench’s decision may be with regard to Award coverage of their members.
4. To that end, the Associations wish now to write jointly to the Full Bench to seek your help. This is because hundreds of members of both Associations are experiencing unnecessarily severe distress and hardship due to the harsh treatment by their employers since the advent of the COVID19 pandemic at the beginning of March 2020.
5. Both Associations believe that whether the occupations are covered by the HPSS Award or not, the assistance of Fair Work Commission is urgently required to address the following emergencies which are occurring in the dental sector:
 - 5.1. Indefinite and prolonged stand down of Dental Hygienists and Oral Health Therapists by private sector dental employers relying on section 524 (1)(c) of Fair Work Act, with access denied to some or all accrued leave entitlements. Some employees are being warned against seeking alternative employment during the stand down periods by their employers. They are being denied redundancy benefits. Many are being “encouraged” to resign.
 - 5.2. Members being pressed to sign at short notice, temporary or permanent contract variations seeking to significantly reduce the member’s hourly rate and/or have leave accruals pro-rated to new reduced hours.
 - 5.3. Members have been told by their employers that unless they sign the variations, JobKeeper payments will not be available to them. Both elements of these contractual variations (which DHAA has copies of) are contrary to section 789GDB Hourly Rate of Pay Guarantee and the Accrual Rules of section 789GS of the Coronavirus Economic Response Package Omnibus (Measures No. 2) Act 2020 temporary amendments to Fair Work Act.
 - 5.4. Members being made redundant but not receiving statutory entitlements of redundancy pay/payment in lieu of notice and accrued unused annual leave. The employers concerned have to date not made application to Fair Work Commission under section 120 of Fair Work Act.

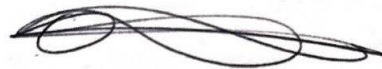
6. DHAA and ADOHTA have been providing individual advice and assistance to members to seek to assist them via their industrial relations advice services for their members.
7. DHAA has engaged in written consultation with the Australian Dental Association (ADA) concerning the matters raised in this submission on 4, 7 and 16 April 2020. Unfortunately, there has been no appreciable difference in the suffering of DHAA and ADOHTA members since this consultation occurred.
8. We wish to advise the Commission that there are large numbers of employees suspended in indefinite unpaid stand down, with no guaranteed access to JobKeeper and no access to their paid leave accrual.
9. We seek the Commission's assistance by way of guiding comments to dental employers on these COVID19 occurrences in your final decision on occupational award coverage. In addition, if the Full Bench decides in favour of award coverage for Dental Hygienists and/or Oral Health Therapists, we respectfully request some comments on the existing contractual obligations of employers which prohibit them from unilaterally reducing wages to minimum applicable award levels and/or terminating employees (or constructively dismissing them) with the purpose of engaging new employees or re-engaging old employees on lower minimum award rates of pay. DHAA and ADOHTA are concerned about the timing of your decision coinciding with an unprecedented dive in market forces on salary rates for the two professions, due to the COVID19 economic crisis.
10. If deemed appropriate by the Full Bench, we also seek Directions as to how these pressing issues may be dealt with expeditiously and preferably collectively by DHAA and ADOHTA, given that both DHAA and ADOHTA are small professional associations with limited budgets.
11. We respectfully seek your assistance.

Yours sincerely



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