

**From:** Katrina Murphy [<mailto:Katrina.Murphy@kmir.com.au>]

**Sent:** Friday, 9 June 2017 6:55 PM

**To:** Chambers - Catanzariti VP

**Cc:** [president@dhaa.info](mailto:president@dhaa.info)

**Subject:** Dental Hygienists Association of Australia Ltd - Two Witness Statements re AM2014/204 and AM2016/31: Health Professionals and Support Services Award

Dear Sir,

Please find attached two witness statements submitted by the Dental Hygienists Association of Australia Limited, in relation to AM2014/204 and AM2016/31, Health Professionals and Support Services Award, as per Directions of 23 May 2017. These witness statements support submissions already filed with Fair Work Commission, as per previous Directions.

The witness statements are from:

- . Dr Melanie Hayes (**amended** from witness statement previously submitted) and
- . Ms Carol Tran, Oral Health Therapist.

Yours sincerely,

*Katrina Murphy*

Managing Director

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# IN THE FAIR WORK COMMISSION

**Matter No:**

AM2014/204

**Matter: Health Professionals and Support Services Award 2010**

**Applicant:**

Dental Hygienists Association of Australia Ltd

**WITNESS STATEMENT OF DR MELANIE HAYES, PRESIDENT, DENTAL HYGIENISTS ASSOCIATION OF AUSTRALIA LTD**

I, **DR MELANIE HAYES** of [REDACTED] in the State of Victoria 3072, Occupation, Senior Lecturer at the University of Melbourne, Melbourne Dental School and Dental Hygienist at Mitcham Dental Care, make the following statement with regard to the matter before Fair Work Commission, Health Professionals and Support Services Award 2010, Matter Number AM2014/204.

1. I am the President of the Dental Hygienists Association of Australia Ltd (DHAA.)
2. DHAA is the peak professional body representing dental hygienists and oral health therapists in Australia. The National Association was formed in 1991. The mission of the Association is to support the continuing development of the oral health professions and preventive models of care.
3. The DHAA has 1,377 members representing all States and Territories of Australia.
4. I am aware that none of DHAA's members are covered by the Health Professionals and Support Services Award. A small minority of our members (dental hygienists, oral health therapists and dual qualified members) who are employed by larger organisations, particularly universities and larger corporate dental firms, are covered by enterprise agreements.
5. Our professional association provides dedicated industrial relations support to our members and has done so on a State by State basis since 1994 and on a National basis since 2003.
6. In 2003, DHAA has offered a national IR advice line to our members as part of member benefits. This is an email based source of written responses on industrial relations and employment conditions queries submitted by our members. DHAA IR Advice Line is co-ordinated administratively on a volunteer basis by DHAA members and utilises the professional services of Katrina Murphy. The purpose of DHAA IR advice line is to provide advice and guidance on employment conditions and employee relations matters. Our members conduct their own individual advocacy for their employment conditions, based on this advice and guidance. DHAA IR advice line service is used extensively by our members, receiving over 200 queries per annum. DHAA derives statistical data on trends and usage from this service.
7. DHAA supplements the IR advice Line service with "special case" support for industrial relations advice and serious member cases, where an individual case has potential deleterious impact on our

professions in general. Such cases are identified from IR advice line queries, and are subject to Board approval. These special cases differ from the usual model of IR advice line because DHAA assumes the direct advocacy role for the dental hygienist or oral health therapist, rather than providing behind the scenes advice.

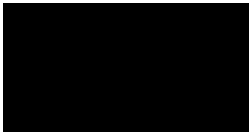
8. The IR advice line is also complemented by regular presentations and question and answer sessions on topical industrial relations issues by Katrina Murphy at DHAA conferences throughout Australia for the last 15 years.
9. I am aware that the most common serious industrial relations problems for our members identified via IR advice line and DHAA conference question and answer sessions are sham contracting, forced stand-down and/or unreasonable restrictions on use of annual leave.
10. I am aware that no IR queries, cases or trends of significant concern identified through IR advice line records, relate to problems caused by non-coverage of the Health Professionals and Support Services Award.
11. As President of DHAA, I liaise with the Australian Dental Association (ADA) on a collegiate basis to work through significant employment conditions issues of concern and this has been largely successful to date. Past Presidents of DHAA have done the same. The ADA is aware that DHAA has the professional industrial relations resources necessary to commence Fair Work Commission and Fair Work Ombudsman proceedings, if necessary, and will do so when and if required, on behalf of our members.
12. I am aware that the DHAA Board engaged Katrina Murphy in 2015 to participate on DHAA's behalf in the AM2014/204 proceedings to ensure that the occupations of dental hygienist and oral health therapist retained their current award free status.
13. I am aware that DHAA engaged Katrina Murphy in 2009 with regard to Australian Industrial Relations Commission proceedings which culminated in the AIRC Full Bench decision of 24 December 2009, [2009] AIRCFB 948, because dental hygienists were initially on the list of "Common Health Professionals" for the Health Professionals and Support Services Award.
14. I am aware that dental hygienists were on this list was because in 2006, dental hygienists had become covered by an award in Victoria, due to an application from the HSUA which was contrary to the wishes of the DHAA Vic Branch and the National DHAA Association.
15. I am aware that due to advice the Victorian branch was given in 2006 by a private industrial relations advocate, the Victorian Branch decided that it was impossible to fight State award coverage of dental hygienists at that time. As a consequence, the HSUA's application for award coverage for dental hygienists in Victoria went through unopposed. However the profession of dental hygiene remained award free in the rest of Australia.
16. I am aware that in 2009, DHAA engaged Katrina Murphy to conduct a national case in the Australian Industrial Relations Commission to correct the effect of the Victorian anomaly which had resulted in inclusion of the occupation of dental hygiene in the new modern Award, by way of a successful application by DHAA to vary the award under section 576H of the Workplace Relations Act. This application was not opposed by ADA or by the HSUA.

17. As a consequence on 24 December 2009, when the AIRC Full Bench decision was handed down on our application to vary the award, the occupation of dental hygiene was restored to its correct position of being an award-free occupation.
18. The occupation of oral health therapy was not included as part of these proceedings by DHAA as it was not on the common health professionals list and therefore remained award free. Registration and the dental board had nothing whatsoever to do with the fact that the occupation was traditionally award free and therefore was not included on the award list.
19. The DHAA and the ADA were the only dental professional associations that were involved in the 2009 AIRC award modernization proceedings. DHAA retains all our supporting documents and correspondence from that time.
20. I am aware that the concern of the DHAA Board, a concern that I share, is that any variation to the award that results from these proceedings most not disturb or in any way result in any ambiguity with regard to the current award-free status of the two occupations of dental hygienist and oral health therapist.
21. The view of the DHAA was, and still is, that the traditional award-free status of dental hygienists and oral health therapists is in the best interests of our members, and our association's infrastructure is designed specifically to support our members' interests in the context of supporting them to negotiate terms and conditions that are significantly more favourable (and different) to the Award.
22. The main employment conditions problems that our members (dental hygienists and oral health therapists) experience, namely sham contracting, stand down and incorrect payment of long service leave, would not be improved by coverage by the award.
23. A petition on change.org supporting the award-free status of dental hygienists and oral health therapists has 1,450 signatures, demonstrating the support of our industry.
24. A recent survey of DHAA members (n=338) revealed that over 65% earn in excess of \$50 per hour, while over 87% earn at least \$40 per hour. Inclusion in the Award would be have a negative impact on dental hygienists and oral health therapists ability to negotiate such wages.

I declare that this witness statement is true and correct:

Name: Dr Melanie Hayes

Signature:

A solid black rectangular box used to redact the signature of Dr. Melanie Hayes.

Date: 9 June 2017

# IN THE FAIR WORK COMMISSION

**Matter No:**

AM2014/204

**Matter: Health Professionals and Support Services Award 2010**

**Applicant:**

Dental Hygienists Association of Australia Ltd

**WITNESS STATEMENT OF CAROL TRAN, MEMBER OF DENTAL HYGIENISTS ASSOCIATION OF AUSTRALIA LTD**

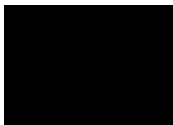
I, **CAROL TRAN** of [REDACTED] in the State of Queensland, Occupation, Oral Health Therapist, make the following statement with regard to the matter before Fair Work Commission, Health Professionals and Support Services Award 2010, Matter Number AM2014/204.

1. I graduated from the University of Melbourne in 2008. I am 30 years old. I am a young and independent woman who has a large mortgage to repay.
2. I am currently employed as an Oral Health Therapist in the private sector across three practices.
3. My salary ranges from \$55-65 per hour, dependent on which practice I am at.
4. My view is that market rates for Oral Health Therapists and Dental Hygienists would inexorably drift downwards to award minimum rates of pay, if these professions became covered by the Health Professionals and Support Services Award. Therefore employees in these professions would be seriously disadvantaged by such a change from their current award-free status.
5. My view is that my personal ability to continue to negotiate favourable wage rates and conditions with my employers would be seriously compromised if my profession became subject to award coverage, particularly the unsuitable Health Professionals and Support Services Award.
6. I am a member of the DHAA, as they represent me as an Oral Health Therapist.
7. I am not a member of ADOHTA, as they do not represent my professional interests as an Oral Health Therapist.

I declare that this witness statement is true and correct:

Name: Carol Tran

Signature:



Date: 9 June 2017