

FAIR WORK COMMISSION

Title of Matter:	Four yearly review of modern awards
Section:	s.156 -4 yearly review of modern awards
Subject:	Health Professionals and Support Services Award 2010
Matter Number:	AM2016/31

**SUBMISSIONS BY THE AUSTRALIAN DENTAL ASSOCIATION
AND THE AUSTRALIAN DENTAL PROSTHETISTS ASSOCIATION**

A. Exclusion clause

1. On 19 December 2019 the Commission issued a decision which determined that the List in Schedule C of the HPSS Award is to be indicative, that it was premature to determine whether any particular Health Professional occupations should not be covered by the HPSS Award and made directions for determining which Health Professional occupations should not be covered by the HPSS Award.
2. At the hearing on 27 October 2020 the full bench invited parties to provide a draft clause giving effect to their submissions in relation to the evidence led in cross examination.

Titles and duties

3. The titles and duties of dentists and dental prosthetists are protected under the Health Practitioner Regulation National Law, and are restricted to registered practitioners. Whilst there are recognised specialties in relation to dentistry, these all require registration as a dentist such that they are covered by the title dentist.
4. It follows that a reference to the titles of dentist and dental prosthetist do not need further expansion or definition.

Location of the exclusion clause

5. The coverage of the HPSS Award is contained in clauses 4 Coverage, 17 Minimum rates for Health Professional employees, Schedule B and Schedule C. The relevant exclusion could quite comfortably be contained in any of these locations.
6. Submissions of the Dental Hygienists Association helpfully provide nine examples of modern awards that contain inclusion and exclusion provisions.¹ Each of those examples deal with the question of exclusion directly in clause 4 and this would appear to be the most appropriate.
7. The ADA and ADPA submit that the Award should properly contain an exclusion clause in replacement for clause 4.6 of the HPSS Award as set out in the attached.
8. The ADA and ADPA do not make any submission as to whether or not other occupations should be excluded from coverage of the award. The reference to medical practitioners has been included only because it appears to be uncontroversial that they should be excluded from coverage of the award.
9. The cross examination of the various witnesses on 27 October 2020 did not touch upon any issue relating to Dentists or Dental Prosthetists and accordingly the ADA and ADPA rely upon the submissions filed,² the submissions in reply,³ and do not make any supplementary submission.



BRUCE MILES

Frederick Jordan Chambers

3 November 2020

¹ Submissions of the Dental Hygienists Association [filed on 14 October 2019](#) at paragraphs [21] to [29].

² Submissions of the ADA and ADPA [uploaded on 2 March 2020](#).

³ Submissions of the ADA and ADPA in reply [uploaded on 13 May 2020](#).

HEALTH PROFESSIONALS AND SUPPORT SERVICES AWARD 2010

Exclusion clause proposed by the Australian Dental Association and the Australian Dental Prosthetists Association

4.6 *This award does not cover:*

- (a) Medical Practitioners;*
- (b) Dentists;*
- (c) Dental Prosthetists;*
- (d) [such other occupations as the Commission determines]*
- (e) employees excluded from award coverage by the Act;*
- (f) employees who are covered by a modern enterprise award, or an enterprise instrument (within the meaning of the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 (Cth)), or employers in relation to those employees; or*
- (g) employees who are covered by a State reference public sector modern award, or a State reference public sector transitional award (within the meaning of the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 (Cth)), or employers in relation to those employees.*