

HEALTH EMPLOYEES' ORAL HEALTH THERAPISTS (STATE) AWARD 2023

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by NSW Ministry of Health.

(Case No. 213125 of 2023)

Before Chief Commissioner Constant

17 August 2023

AWARD

1. Arrangement

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2. Definitions

"Dental Clinic" means any dental clinic whether fixed or mobile or any Oral Health Training School.

"Dental Therapist" means a person appointed as such and who possesses an approved qualification of proficiency in theory and technique in preventative and operative dental care of children. A dental therapist must hold the relevant registration from the Dental Board of Australia.

"Dental Hygienist" means a person appointed as such and who possesses an approved qualification of proficiency in theory and technique in dental hygiene. A dental hygienist must hold the relevant registration from the Dental Board of Australia.

"Ministry" means the Ministry of Health.

"Oral Health Therapist" means a person appointed as such and who holds the relevant registration from the Dental Board of Australia as an oral health therapist or both the registrations of dental therapist and dental hygienist.

"Service" unless the context otherwise indicates or requires, means relevant service before and/or after commencement of this Award in any one or more New South Wales public health organisations or any other organisations deemed acceptable by the Ministry of Health.

"Union" means the Health Services Union NSW.

3. Classification Structure

3.1 Level 1

- (a) Oral Health therapists who hold an approved qualification requiring less than three years of full-time study shall commence on the level 1, Year 1 salary. Single registered dental therapist and dental hygienists also commence on this rate. Single registered dental therapist and dental hygienists have limited progression entitlements as described in the Clause 4 Transition Arrangements.
- (b) Oral health therapists who hold an appropriate degree, or other qualification deemed equivalent by the Ministry of Health, requiring three years of full-time study shall commence on the level 1, year 2 salary.
- (c) Oral health therapists who hold an appropriate degree, or other qualification deemed equivalent by the Ministry of Health, requiring four years or more full-time study shall commence on the level 1, year 3 salary.
- (d) Oral health therapists employed at level 1 are newly qualified employees. Oral health therapists at this level are beginning practitioners who are developing their skills and competencies.
- (e) Level 1 staff are responsible and accountable for providing a professional level of service to the health facility.
- (f) Level 1 staff work under discipline specific professional supervision. Level 1 staff exercise professional judgment commensurate with their years of experience, as experience is gained, the level of professional judgment increases and professional supervision decreases.
- (g) Level 1 staff participate in quality activities and workplace education.
- (h) After working as a health professional for 12 months, level 1 staff may be required to provide supervision to undergraduate students on observational placements and to work experience students.

3.2 Level 2

- (a) Progression to level 2 from level 1 is automatic following completion of 12 months satisfactory service at the level 1 year 4 salary step. Single registered dental therapist and dental hygienists have limited progression entitlements as described in the Clause 4, Transition Arrangements.
- (b) Level 2 oral health therapists are expected to have obtained respective new practitioner competencies and to perform duties in addition to those at level 1.
- (c) Oral health therapists at this level are competent independent practitioners who have at least 3 years clinical experience in their profession and work under minimal professional supervision.
- (d) Positions at this level are required to exercise independent professional judgement on routine matters. They may require professional supervision from more senior staff members when performing novel, complex or critical tasks.
- (e) Level 2 staff may be required to supervise level 1 oral health therapists and technical and support staff as required.
- (f) Level 2 oral health therapists may be required to teach and supervise undergraduate students, including those on clinical placements.
- (g) Positions at this level assist in the development of policies, procedures, standards and practices, participate in quality improvement activities and may participate in clinical research activities as required.
- (h) Sole Practitioner Allowance

- (i) The sole practitioner allowance is payable to positions at level 1 or level 2 where they:
 - are the only oral health practitioner at the site; and
 - are required to exercise independent professional judgement on a day to day basis without ready access to another like professional for informal consultation, assistance and advice; or
 - undertake administrative and/or managerial responsibilities that would otherwise not be expected of a level 1 or level 2 position.
- (j) The allowance paid to sole practitioners at levels 1 and 2 is equal to the difference between the maximum level 2 salary and the minimum level 3 salary.

3.3 Levels 3 and 4

- (a) Creation of positions at levels 3 and above will be on a needs basis as determined by the employer.
- (b) Positions at Levels 3 and 4 may have a clinical, education or management focus or may have elements of all three features.
- (c) Oral health therapists working in positions at Levels 3 and 4 are experienced clinicians who possess expertise or a high level of broad generalist knowledge within their discipline.
- (d) Level 3 and 4 staff demonstrate advanced reasoning skills and operate autonomously with minimum direct clinical supervision. Level 3 and 4 staff provide clinical services to client groups and circumstances of a complex nature requiring advanced practice skills. They are able to apply professional knowledge and judgement when performing novel, complex or critical tasks specific to their discipline.
- (e) Staff at this level are expected to exercise independent professional judgement when required in solving problems and managing cases where principles, procedures, techniques and methods require expansion, adaptation or modification.
- (f) Level 3 and 4 staff have the capacity to provide clinical supervision and support to Level 1 and 2 oral health therapists, technical and support staff. Level 3 and 4 staff are involved in planning, implementing, evaluating and reporting on services. Level 3 and 4 staff identify opportunities for improvement in clinical practice, develop and lead ongoing quality improvement activities with other staff.
- (g) The expertise, skills and knowledge of a Level 3 or 4 oral health therapist is such that they may have the responsibility of a consultative role within their area(s) of expertise. Level 3 and 4 staff may also conduct clinical research and participate in the provision of clinical in-service education programs to staff and students.
- (h) Level 3 and 4 staff may be required to manage specific tasks or projects. Roles that may be undertaken at Levels 3 and 4 include, but are not limited to, the following:
 - (i) Senior Clinician

The employer will establish Senior Clinician positions at Level 3 or Level 4 as it deems appropriate based on the needs of the service.

Oral health therapists at Level 2 may also make application to the employer for personal progression to a Senior Clinician Level 3. A Senior Clinician Level 3 may make such an application to progress to Level 4.
 - (j) Senior Clinician Level 3

Level 3 Senior Clinicians are oral health therapists who, in addition to performing the full range of activities permitted under the relevant scope of practice, are recognized as having high levels of knowledge and clinical expertise in several areas of their scope of practice.

A Level 3 Senior Clinician may have an operational/supervisory role in a small facility.

(k) Senior Clinician Level 4

In addition to applying high level clinical skills as expected for a Senior Clinician, Level 4 Senior Clinicians may have the following roles:

A Level 4 Senior Clinician's expert level of knowledge and clinical practice in several areas of the scope of practice is such that they provide a consultancy service in these areas across an Area, geographic region or clinical network.

A Level 4 Senior Clinician's high-level knowledge and clinical expertise across all areas of the relevant scope of practice is such that they provide a consultancy service within their discipline across an Area, geographic region or clinical network. A "generalist" Level 4 Senior Clinician would usually work in a rural or regional area.

(l) Level 4 Senior Clinicians provide advice to service managers on clinical service delivery development, practice and redesign. A Level 4 Senior Clinician will have the ability to assist and provide guidance to service managers in the development of clinical services in response to demand and client needs. Level 4 Senior Clinicians make a contribution to education activities related to their area of expertise.

(m) Student Educator - (Level 4)

A student educator is responsible for the discipline specific clinical supervision, teaching and co-ordination of educational activities for students on clinical placements within one or more health facilities. This involves liaison with education providers regarding educational outcomes of the clinical placement and student education and placement quality evaluation within an area, region, network or zone. The work may include contributing to discipline workforce research or clinical placement improvement initiatives.

A student educator may also be required to undertake research into adult education principles, models of best practice in training and education and training program development as required, in order to support and improve the delivery of training to students.

The student educator may also have a clinical load.

4. Transition Arrangements

Single registered therapists and hygienists will have limited transition to the new oral health therapists scale, until the full oral health therapist qualifications are obtained. This is due to the broader scope of work of the oral health therapist over the existing classifications.

The transition will be:

Existing Grade 1 dental therapists and dental hygienists move to the new oral health therapist scale based on years of service to a maximum of level 2 year 2. Incremental progression beyond this can only occur with registration for the full scope of work of the oral health therapist.

Existing Grade 2 and Grade 3 Therapists move to the new oral health therapist scale based on years of service to a maximum of level 2 year 4.

Existing Community Dental Health Programs Officers move to level 3 of the new oral health therapist scale based on years of service.

New positions of level 3 or level 4 will be advertised based upon the broader scope of work of the oral health therapist. If these are unable to be filled by suitably qualified applicants, consideration will be given to re-advertising the position(s) with single registration criteria.

There will be no new appointments to the classification of Community Dental Health Programs Officer or Dental Therapist Tutor. Any new appointments to the classifications of single registered dental therapist or dental hygienist will be employed against the new oral health therapist scale with the limited progression entitlements as prescribed in the transition arrangements for current employees.

5. Anti-Discrimination

- (i) It is the intention of the parties bound by this Award to seek to achieve the object in section 3 (f) of the *Industrial Relations Act 1996* to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- (ii) It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this Award the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this Award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the Award which, by its terms or operation, has a direct or indirect discriminatory effect.
- (iii) Under the *Anti-Discrimination Act 1977*, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- (iv) Nothing in this clause is to be taken to affect:
 - (a) any conduct or act which is specifically exempted from anti-discrimination legislation;
 - (b) offering or providing junior rates of pay to persons under 21 years of age;
 - (c) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
 - (d) a party to this Award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.
- (v) This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.

NOTES -

- (a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- (b) Section 56(d) of the *Anti-Discrimination Act 1977* provides:

"Nothing in this Act affects ... any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion.

6. Salaries

Full time Oral Health Therapist employees shall be paid the salaries as set out in the Health Professional and Medical Salaries (State) Award 2023, as varied or replaced from time to time.

7. Conditions of Employment

Conditions of Employment for employees shall be those prescribed in the Public Hospitals (Professional and Associated Staff) Conditions of Employment (State) Award 2023, as varied or replaced from time to time, subject to the preservation of accrued rights for employees transferred from the Public Service on 1 October 1986.

8. Dispute Resolution

The dispute resolution procedures contained in the said Public Hospitals (Professional and Associated Staff) Conditions of Employment (State) Award 2023, as varied or replaced from time to time, shall apply.

9. No Extra Claims

Other than as provided for in the *Industrial Relations Act* 1996 and the Industrial Relations (Public Sector Conditions of Employment) Regulation 2014 (or its successor however described), there shall be no further claims/demands or proceedings instituted before the Industrial Relations Commission of New South Wales for extra or reduced wages, salaries, rates of pay, allowances or conditions of employment with respect to the employees covered by the Award that take effect prior to 30 June 2024 by a party to this Award.

10. Area, Incidence and Duration

- (i) This Award takes effect from 1 July 2023 and shall remain in force for a period of one year.
- (ii) This Award rescinds and replaces the Health Employees Oral Health Therapists (State) Award 2022 published 16 December 2022 (393 I.G. 769) and all variations thereof.
- (ii) This Award shall apply to persons employed in classifications contained herein employed in the New South Wales Health Service under s115(1) of the *Health Services Act* 1997, or their successors, assignees or transmittes.

N. CONSTANT, *Chief Commissioner*

Printed by the authority of the Industrial Registrar.