

PUBLIC HOSPITALS DENTAL ASSISTANTS (STATE) AWARD 2023

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by NSW Ministry of Health.

(Case No. 214582 of 2023)

Before Chief Commissioner Constant

17 August 2023

AWARD**1. Arrangement**

Clause No.	Subject Matter
1.	Arrangement
2.	Definitions
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2. Definitions

"Employee" means a person employed in any Hospital or Local Health District in the classification of Junior Dental Assistant or Dental Assistant, Grade 1, 2 or 3.

"Hospital" means a public hospital as defined under section 15 of the *Health Services Act 1997*, as amended or varied from time to time.

"Local Health District" means a Local Health District constituted pursuant to section 17 of the *Health Services Act 1997*, as amended or varied from time to time.

"Ministry" means the Ministry of Health.

"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 other organisations deemed acceptable by the Ministry.

"Union" means the Health Services Union NSW.

3. Classifications**3.1 Dental Assistant Grade 1**

- (a) A Dental Assistant Grade 1 means a person appointed as such who has successfully completed a qualification in a relevant field recognised by the Dental Assistant Education Council of Australia or up to the level of Certificate III issued by a tertiary education institution or qualifications deemed by the Ministry to be equivalent.
- (b) Unqualified but experienced dental assistants can be employed as Dental Assistants Grade 1. Such employees commence and remain on level 1 year 1 until they obtain formal qualifications through study or recognition of prior learning. The employee is responsible for obtaining formal qualifications in their own time and at their own expense.

3.2 Dental Assistant Grade 2

- (a) A Dental Assistant Grade 2 means a person who is appointed to such a position and who has successfully completed a nationally recognised Dental Assisting Certificate course at Certificate Level IV or qualifications deemed by the Ministry to be equivalent.

3.3 Supervision Allowance

- (a) A dental assistant who, in addition to the normal range of duties, is required to supervise two or more dental assistants will be paid a supervision allowance. In order to be paid this allowance, the supervising dental assistant must be responsible for:
 - (i) A range of administrative tasks associated with clinical operations as required by the Health Service, and
 - (ii) The day to day supervision of staff including functions such as rostering, allocation of duties, conduct of or participation in performance reviews and input into management decisions.
- (b) The supervision allowance is to be paid as part of the employee's permanent salary, following a merit selection process. The rate of allowance paid is dependent upon the number of employees supervised and is contained in Table 1 of Part B, Monetary Rates in the Health Professional and Medical Salaries (State) Award 2023, as varied or replaced from time to time. If an employee is required to relieve for 5 days or more in the role of the supervisor, and performs all of the duties of the supervisor, then the supervision allowance will be paid to such employee.

3.4 Dental Assistant Level 3

- (a) Dental Assistant Grade 3 means a person who is appointed to such a position and who has a co-ordinating role across either a number of clinics in a Local Health District(s) or has the same level of responsibility in large teaching hospitals. The Level 3 dental assistant is a promotional position and is not eligible for a supervision allowance. Generally, if a level 3 dental assistant is responsible in one location, no other dental assistants in that clinic would be in receipt of a supervision allowance as prescribed in clause 3.3 above.
- (b) The scope of grade 3 positions is Local Health District(s)-wide or a comparable level of responsibility in a large clinic. Positions which require employees to perform the duties outlined below, will be graded at level 3.
- (c) A level 3 dental assistant will be required to do most or all of the following duties:
 - (i) Perform the usual range of dental assistant duties when required.
 - (ii) Recruitment of dental assistants.
 - (iii) Manage trainee dental assistant programs.
 - (iv) Participate in sector or area wide committees such as infection control, education, and performance improvement.
 - (v) Manage/participate in conflict resolution where required.
 - (vi) Chair dental assistant forums and meetings.
 - (vii) Mentor other dental assistants in their role as supervisors, including performance management and review processes.
 - (viii) Assist in managing safety issues.

- (ix) Manage the educational needs of dental assistants.
- (x) Manage staff relief across the sector/area.
- (xi) Prioritising of workload in conjunction with oral health practitioners.
- (xii) Co-ordinate and order all stock and consumables including:
 - liaison with external providers, and
 - being fully conversant with State contract processes.
- (xiii) Ensure the proper maintenance of equipment through:
 - training and monitoring of dental assistants in maintenance duties,
 - effecting minor repairs,
 - co-ordinate the repair services provided by external and internal providers, and
 - ensure contractual requirements of external providers are met.

4. Anti-Discrimination

- (a) 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.
- (b) 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.
- (c) 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.
- (d) Nothing in this clause is to be taken to affect:
 - (i) any conduct or act which is specifically exempted from anti-discrimination legislation;
 - (ii) offering or providing junior rates of pay to persons under 21 years of age;
 - (iii) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
 - (iv) a party to this Award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.
- (e) 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 -

- (i) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.

(ii) 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.

5. Conditions of Employment

Conditions of Employment for employees shall be those prescribed in the Public Hospital (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.

6. Rates of Pay

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

Previous service as a Dental Assistant is to be taken into account in determining the commencing salary on employment.

7. 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.

8. Area, Incidence and Duration

- (a) This Award takes effect on 1 July 2023 and shall remain in force for a period of one year.
- (b) This Award rescinds and replaces the Public Hospitals Dental Assistants (State) Award 2022 published 16 December 2022 (393 I.G. 832) and all variations thereof.
- (c) 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.