

**SUBMISSION TO
FAIR WORK COMMISSION**

Matter No:

AM2016/31

4 YEALY REVIEW OF MODERN AWARDS

***HEALTH PROFESSIONALS AND SUPPORT SERVICES AWARD
(MA000027) AM2014/204***

MAY 2018

SUBMISSION IN REPLY

Re:

**APESMA's Application to Vary the Award to Achieve Occupational
Coverage of the Award for Translators and Interpreters**

SUBMISSION BY

PRIVATE HOSPITAL INDUSTRY EMPLOYER ASSOCIATIONS

**Australian Private Hospitals Association
Australian Private Hospitals Association – South Australia
Australian Private Hospitals Association – Tasmania
Australian Private Hospitals Association – Victoria
Catholic Health Australia
Day Hospitals Australia
Private Hospitals Association of Queensland
Private Hospitals Association of New South Wales
Private Hospitals Association of Western Australia**

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PARTIES TO THIS SUBMISSION

- [1] This submission is being lodged on behalf of the Private Hospital Industry Employers' Associations (PHIEA) which includes: Australian Private Hospitals Association (APHA), the Private Hospitals Association of Queensland (PHAQ), APHA – South Australia, APHA – Tasmania; APHA – Victoria, Private Hospitals Association of New South Wales, Private Hospitals Association of Western Australia, Catholic Health Australia and Day Hospitals Australia. These organisations collectively represent approximately 95% of licensed private hospital beds in Australia and in addition, represent approximately 90% of all Free Standing Day Hospitals.
- [2] PHIEA notes that APESMA has amended its original application which not only sought to expand occupational coverage under the Health Professionals and Support Services Award to cover translators and interpreters working in any industry, but also proposed to reclassify translators and interpreters from the existing Support Services stream to the Health Professionals stream of this award.

APESMA is now proposing that:

1. Translators and Interpreters continue to sit in the Support Services stream of the Award
 2. Add two clauses (c) and (d) to the Coverage clause which would expand coverage such that interpreters and translators working in any industry would be covered by the Health Professionals and Support Services Award
 3. Amend the current wording in Schedule B – Classification Definitions B.1.5 Support Services Employee L5 as under:
 - Delete Interpreter Unqualified and replace with non-NAATI Credentialed Interpreter/Non-NAATI Credentialed Translator
 4. Amend the current wording in Schedule B – Classification Definitions B.1.7 Support Services Employee L7 as under:
 - Delete Interpreter Qualified and replace with NAATI Credentialed Interpreter/ NAATI Credentialed Translator
- [3] PHIEA relies on its submission in reply dated May 2017 pages 11-13, but in response to the latest variation by APESMA would make the following comments:

The Health Professionals and Support Services Award is a hybrid award in so far as it is an industry award for support service employees and an occupational award for health professionals.

On pages 11-12 of our submissions of May 2017 we provided two definitions of a Health Professional, one from the World Health Organisation and the other from Wikipedia. It is self evident from these definitions that a translator or interpreter in no way meets the occupational definition of a health professional, but these personnel

do provide a support service to the health industry and therefore translators and interpreters are correctly classified in the support services stream of this award.

APESMA is now seeking to add to Coverage, new clauses (c) and (d) to expand coverage under the Health Professionals & Support Services Award to interpreters and translators working in any industry.

[4] In an email to the parties dated 23 January 2018, APESMA circulated its suggested amended clause however, it would appear that this contained an error as underlined below:

(c) *employers throughout Australia engaging employees performing the indicative roles NAATI credentialed Interpreter or NAATI credentialed Translator, falling within the classification B.1.5 Support Services employee - Level 5 listed in Schedule B.*

PHIEA believes this is intended to state *B.1.7 Support Services Employee – Level 7 listed in Schedule B.*

As currently written, it is anomalous to the proposed amended definition in Schedule B which has non-NAATI credentialed translators and interpreters listed at L5 and those who are NAATI credentialed at L7.

(d) *employers throughout Australia engaging employees performing the indicative roles non- NAATI credentialed Interpreter or non - NAATI credentialed Translator, falling within the classification B.1.5 Support Services employee - Level 5 listed in Schedule B*

[5] With regard to the proposed extended coverage aspect of the APESMA application, PHIEA considers that it would be inappropriate to comment at this point, as we have no knowledge of the implications that this proposal may have for employers in other industries who may engage interpreters and translators – for example the legal profession, local councils etc.

As previously noted, the Health Professionals and Support Services Award is an occupational award for health professionals only and an industry award for all other workers covered by it. In consequence, we have similar reservations to the concerns expressed by Ai Group in correspondence dated 12 March 2018 in which it states:

We are concerned about the precedent that this might set and the many other applications to the Commission that could be made by unions in the future relating to occupational award coverage of numerous classifications that are found in both the health industry and other industries.

[6] Prior to considering whether or not the coverage clause should be expanded to include translators and interpreters working in industries other than health, PHIEA is of the view that all employer stakeholders likely to be affected by this proposed

application to extend the coverage clause in the Health Professionals and Support Services Award, should be given the opportunity to file submissions.

[7] It should be noted that the Aged Care Industry Award also provides coverage for interpreters at Level 5 (unqualified) and L7 (Qualified) with the same minimum weekly rate as interpreters in the support services stream of the Health Professionals and Support Services Award.

[8] The final aspect of the APESMA claim is to amend the definitions to replace Interpreter (Unqualified) and Interpreter (Qualified) with non-NAATI Credentialed Interpreter/Translator and NAATI Credentialed Interpreter/Translator.

PHIEA has no objection to expanding the current definition to also include translators, however we do not support the proposed change to the current wording from Unqualified/Qualified to specify non-NAATI credentialed/NAATI Credentialed.

[9] NAATI offers various levels of certification from certified provisional interpreter through to certified specialist interpreter, with clearly varying skill capability at these different levels. There is no indication by APESMA as to what level of certification would qualify for L7.

Theoretically it may be possible for someone to seek NAATI certification as a provisional interpreter and attract say a L7 pay level when someone else may have a higher level of expertise or greater experience but who has not sought to be NAATI credentialed, but because of the precise terminology of the proposed definition, may be denied the potential to advance from L5.

[10] There are various forms of certification offered by NAATI and some quite significant fees attached to the certification process, with re-certification required every three years. Whilst some employers may require NAATI certification there is no law that specifies that NAATI certification is a requirement to work as a qualified translator/interpreter.

[11] PHIEA is of the view that the proposed amendment would introduce an overly prescriptive requirement that is better left as 'unqualified'/'qualified', particularly for those situations where someone may have a qualification satisfactory to the employer but chooses not to seek NAATI certification because of the associated cost.

[END OF SUBMISSION]