

WESTERN AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

CITATION : 2015 WAIRC 00763

CORAM : PUBLIC SERVICE ARBITRATOR
ACTING SENIOR COMMISSIONER P E SCOTT

HEARD : TUESDAY, 28 JULY 2015, WEDNESDAY, 29 JULY 2015

DELIVERED : FRIDAY, 31 JULY 2015

FILE NO. : PSA 24 OF 2014, PSA 25 OF 2014, PSA 26 OF 2014,
PSA 27 OF 2014, PSA 28 OF 2014, PSA 29 OF 2014,
PSA 30 OF 2014, PSA 31 OF 2014, PSA 32 OF 2014,
PSA 33 OF 2014, PSA 34 OF 2014, PSA 35 OF 2014,
PSA 36 OF 2014, PSA 37 OF 2014, PSA 38 OF 2014,
PSA 39 OF 2014, PSA 40 OF 2014, PSA 41 OF 2014,
PSA 42 OF 2014, PSA 43 OF 2014, PSA 44 OF 2014,
PSA 45 OF 2014, PSA 46 OF 2014, PSA 47 OF 2014,
PSA 49 OF 2014, PSA 50 OF 2014, PSA 51 OF 2014,
PSA 52 OF 2014, PSA 53 OF 2014, PSA 54 OF 2014,
PSA 55 OF 2014, PSA 56 OF 2014, PSA 57 OF 2014,
PSA 58 OF 2014, PSA 59 OF 2014, PSA 60 OF 2014,
PSA 61 OF 2014, PSA 62 OF 2014, PSA 63 OF 2014,
PSA 64 OF 2014, PSA 65 OF 2014, PSA 66 OF 2014,
PSA 67 OF 2014, PSA 68 OF 2014, PSA 69 OF 2014,
PSA 70 OF 2014, PSA 71 OF 2014, PSA 72 OF 2014,
PSA 73 OF 2014, PSA 74 OF 2014, PSA 75 OF 2014,
PSA 76 OF 2014

BETWEEN : ELIZABETH BALSHAW AND OTHERS
Applicants

AND

DIRECTOR GENERAL OF HEALTH AS DELEGATE OF THE
MINISTER FOR HEALTH IN HIS INCORPORATED CAPACITY
UNDER S7 OF THE HOSPITAL AND HEALTH SERVICES ACT
1927 AS THE EMPLOYER
Respondent

CatchWords : Public Service Arbitrator – Reclassification appeals – Pharmacy Assistants – Pharmacy Technicians – Senior Pharmacy Technicians – Job Description Forms – Work Value Principle in State Wage Order – Work Value test – BiPERS – Higher level duties – Classification Assessment Report– Pharmacy Board of Australia Code of Conduct and Guidelines for Dispensing of Medications – Society of Hospital Pharmacists of Australia Code of Ethics

Legislation : *Industrial Relations Act 1979*

Result : Applications dismissed

Representation:

Applicant : Ms P Marcano and with her Mr S Fairclough

Respondent : Mr J Ross and with him Mr J Sheppard

(Given extemporaneously at the conclusion of the proceedings
as edited by the Arbitrator)

Reasons for Decision

- 1 These are claims for reclassifications of positions within pharmacy within the WA public health sector. They cover Pharmacy Assistants, Pharmacy Technicians and some positions at a higher level involving supervisory responsibilities.
- 2 I recognise the extensive work which has been put into providing comprehensive documentation, witness statements and submissions which have greatly assisted me in preparation for this hearing and for the decision, and I thank the witnesses for their evidence.

Background

- 3 The most significant part of these claims relates to Pharmacy Technicians seeking reclassification from Level G3 to Level G4, and they bear the main focus of attention. There was also evidence relating to Pharmacy Assistants seeking reclassification from Level G2 to Level G3. There were also claims for reclassification in respect of Senior Pharmacy Technician positions.
- 4 The evidence demonstrates that the number of FTE positions within tertiary and other metropolitan and regional facilities are 75 Technicians and 43.3 Assistants. In around 2002 to 2004, most Pharmacy Technician positions were reclassified to Level G3 and Pharmacy Assistants' positions from Level G1 to G2.
- 5 The parties have developed generic Job Description Forms (JDFs) in both metropolitan and country services. These are said to reflect the wide range of duties that may be undertaken. Individual positions may have duties which differ from site to site and position to position, however, they have been categorised according to a fairly standardised range of skills and responsibilities covering all of the likely combinations of duties and responsibilities.
- 6 The Agreed Documents include the Classification Assessment Report by Mr Ron Gabelish, dated 10 April 2014. It describes the generic JDFs and the roles in the following way:

The agreed Generic JDF's representing a typical Pharmacy Assistant and Pharmacy Technician role in Health are included at **Appendix 4**. These were designed and agreed to cover requirements for both metropolitan and country based Technician and Pharmacy Assistant positions and reflect the wide range of duties that may be undertaken.

The role of the Technician based on the agreed JDF is to:

- Maintain stock inventory of all pharmaceuticals and consumables.
- Facilitate imprest stock of pharmaceuticals including S8 and S4R medications, in wards, theatres and departments.

- Ensure prescriptions conform to legal and hospital requirements and that the prescription documentation requirements of PBS Reform are met. Perform calculations/balancing for correct dosing of medication. (These are checked by the Pharmacist)
- Assist in the generation and maintenance of PBS claims.
- Repack bulk drugs into unit of issue under supervision and assist with preparation for production.
- Prepare pharmaceuticals including; extemporaneous preparations, parenteral nutrition solutions, cytotoxic drugs and other aseptically dispensed products including cleaning of specialised equipment. (These are checked by the Pharmacist)
- Participate in cashier duties relating to Outpatient Pharmacy.
- Organise the postage of patient medication and assists in the generation of invoices.
- Undertake stores responsibilities including generating purchase orders, liaising with vendors, processing accounts and other general stores procedures.

There is a notation on the JDF's that 'Position may undertake some or all of these duties depending on location and specific requirements'.

It is acknowledged therefore that not all hospitals including tertiary hospitals will undertake all these duties and this is dictated by local policy and/or requirements for particular services or facilities present, or dedicated positions on site such as Purchasing Officers and Cashiers (some being HCN provided). Non-tertiary sites do not have aseptic dispensing and preparation facilities which is a prime difference in work undertaken. Additionally not all sites are PBS designated (e.g. PMH and KEMH).

Purchasing is normally undertaken by designated Purchasing Officers at tertiary sites who are not involved in Technician activities, although at some sites Technical staff may provide leave relief cover or assist in purchasing activities. WACHS technical staff may undertake or assist in purchasing activities where there are no dedicated Purchasing staff.

It is problematic then to categorise all Pharmacy Technicians as undertaking the same role and having the same work value.

Core duties for tertiary sites can be considered to be:

- Stock imprest, inventory, distribution duties and repacking of bulk drugs
- Dispensing from prescriptions including calculations/balancing for correct dosing of medication
- Preparation of sterile and non-sterile pharmaceuticals including; compounding, extemporaneous preparations, parenteral nutrition solutions, cytotoxic drugs and other aseptically dispensed products

Non tertiary sites will have similar duties and may include purchasing activities and some other duties but will not have aseptic preparation and dispensing duties which is a point of differentiation and discussed later in this report.

The agreed competencies included in the agreed generic Technician JDF are:

- Demonstrated relevant pharmacy experience including experience in drug distribution, dispensing or manufacturing services and a working knowledge of PBS and its application in the community and hospital sectors.

- Computer literacy and ability to use computer based inventory programs.
- Well developed oral and written communication skills to effectively interact with clients of this position and other hospital staff.
- Effective interpersonal, organisational and time management skills and ability to work flexibly and co-operatively in a team environment and independently with minimal supervision.
- Current knowledge of Occupational Health and Safety and Risk Management, including safe handling of general loads and how it impacts on employment and service delivery.

...

Pharmacy Assistant Duties

The role of the Pharmacy Assistant as shown on the generic JDF is to assist with the ordering, distribution and dispensing of medicines, drug packaging and related clerical and stores procedures as referenced in the generic JDF's. As with the Pharmacy Technician the duties will vary from site to site and this is acknowledged with the JDF notation that 'Position may undertake some or all of these duties depending on location and specific requirements'.

7 The Classification Assessment Report goes on to note:

There is a considerably higher ratio of Technician and Pharmacy Assistant staff to Pharmacists in regional areas compared to metropolitan sites and this is partly due to the technical staff undertaking a range of general administrative duties done by clerical staff in metropolitan hospitals. Pharmacy Stores (purchasing) positions have not been included in the table.

Agreed document 1, page 10

Consideration and conclusions

8 Claims for reclassification of positions are dealt with under the Work Value Principle contained in the State Wage Order. It provides for a Work Value test, and the test is described as this:

- 7.1 Applications may be made for a wage increase under this Principle based on changes in work value.
- 7.2 Changes in work value may arise from changes in the nature of the work, skill and responsibility required or the conditions under which work is performed. Changes in work by themselves may not lead to a change in wage rates. The strict test for an alteration in wage rates is that the change in the nature of the work should constitute such a significant net addition to work requirements as to warrant the creation of a new classification or upgrading to a higher classification.
- 7.3 In addition to meeting this test a party making a work value application will need to justify any change to wage relativities that might result not only within the relevant internal award classifications structure but also against external classifications to which that structure is related. There must be no likelihood of wage "leapfrogging" arising out of changes in relative position.
- 7.4 These are the only circumstances in which rates may be altered on the ground of work value and the altered rates may be applied only to employees whose work has changed in accordance with this provision.

...

- 7.7 The time from which work value changes in an award should be measured is any date that on the evidence before the Commission is relevant and appropriate in the circumstances.
- 7.8 Care should be exercised to ensure that changes which were or should have been taken into account in any previous work value adjustments or in a structural efficiency exercise are not included in any work evaluation under this provision.
- ...

2015 State Wage Order [2015] WAIRC 00444; (2015) 95 WAIG 691
Schedule 2 – Statement of Principles, [7]

Work value claim for Pharmacists

- 9 The submission made by the Pharmacy Technicians refers to the work value claim for pharmacists in the Health Professions Reclassification Case (*Hospital Salaried Officers Association of Western Australian (Union of Workers) v Hon Minister for Health and Others* [2006] WAIRC 03473; (2006) 86 WAIG 279). It is said that the work value claim for pharmacists in that case provides some context and background to the changes to working conditions and requirements in the field of pharmacy work generally, which is said to have an impact on the working conditions and requirements of these positions. I find that while the work value submission by Pharmacists does provide some background and context, the responsibilities, duties and qualifications which apply to Pharmacists do not, generally speaking, automatically flow through to the requirements on Technicians or Assistants, and is mostly of little relevance or assistance for the reasons set out in the report by Mr Gabelish.
- 10 It is true that in some cases there has been a devolution of some responsibilities and functions from Pharmacist to Pharmacy Technicians, however, those are not typically the sorts of duties that are of a higher level than the remainder of the Technicians' duties as they currently exist. In the Front Line Clerical Positions case, I described a similar situation in this way:

...the mere fact that new duties, formerly undertaken by a higher level position, have been taken on by the FLCs does not necessarily, and in this case does not actually, mean that the duty or responsibility is of a higher level justifying a claim of increased work value. I conclude that the evidence of duties and responsibilities taken on from higher level positions does not, in this case, demonstrate higher work value.

The Minister for Health in his incorporated capacity under s.7 of the Hospitals and Health Services Act 1927 (WA) as the hospitals formerly comprised in the Metropolitan Health Service Board v The Health Services Union of Western Australia (Union of Workers) [2013] WAIRC 00836; (2013) 93 WAIG 1565 [128]

Duties and responsibilities

- 11 As to the particular aspects of the duties, responsibilities, skills and educational requirements for Pharmacy Technicians in particular, I note the following.

(a) Dispensing role

- 12 There has been reference to the role of Technicians in dispensing medications and, in particular, duty 3 in the generic JDF specifies:

Ensure prescriptions conform to legal and hospital requirements...

Agreed document 1, page 7

- 13 Ms Bascombe and Mr Jenkins both gave evidence that the Pharmacy Board of Australia Code of Conduct and the Guidelines for Dispensing of Medications, and the Society of Hospital

Pharmacists of Australia Code of Ethics provide that dispensing is the overall responsibility of Pharmacists. This is confirmed by the work value case that was pursued by Pharmacists.

- 14 It is clear that Pharmacy Technicians and Assistants undertake the administrative and process work to assist the Pharmacist to perform their role. They are an essential support to the Pharmacist and to the efficient and safe provision of pharmacy services, but they do not carry the responsibility – it is the responsibility of the Pharmacist.
- 15 I recommend to the parties that to avoid any confusion, the generic JDFs be amended to clarify this situation and to assist pharmacy staff at all levels to understand the true roles and responsibilities they bear, that is, that these tasks are undertaken under the direction and supervision of the Pharmacist.

(b) *The clinical role*

- 16 There are two aspects to this issue. One relates to Pharmacy Technicians dealing with patients and the other is to them telephoning doctors.
- 17 It is clear to me that in dealing with patients, the Pharmacy Technician is performing a basic information exchange with the patient, usually of an administrative nature. The information they might gather from the patient could include Medicare number, their doctors' details or their community pharmacy name. In providing information to the patient, this may be very basic instructions regarding the medication, such as 'shake the bottle' or 'take twice, daily' – things which are on the label – and this was confirmed in the evidence of Mr O'Connor. Any real clinical exchange must be with the Pharmacist, not with the Technician.
- 18 In regard to contacting doctors, this issue came to light during the exchange of evidence between the parties. Both Ms Bascombe and Mr Jenkins made clear that this is a serious issue which is appropriate to draw to the attention of Chief Pharmacists because it should not be occurring. Mr Jenkins, in particular, gave evidence of the good reasons why, for clinical purposes and patient safety, asking follow-up questions of the doctor requires detailed professional knowledge and so this is the responsibility of the Pharmacist.
- 19 Therefore, any contact a Pharmacy Assistant has with either a patient or a doctor requires a delegation or direction by the Pharmacist and can be for the exchange of administrative and basic information, not for any clinical purpose.

(c) *PBS dispensing*

- 20 For many of the positions, this is a new requirement and has resulted in technicians being required to:
- (1) Have greater knowledge of the legislation and the PBS Scheme;
 - (2) Correctly check the claims; and
 - (3) Contact relevant practitioners and others to provide correct information.
- 21 However, the Austral report which assessed the role and responsibilities of Technicians in 2004 noted that at Armadale Hospital, amongst others, the Level 3 Pharmacy Technician is also expected to coordinate the preparation of claims for the new PBS dispensing system being trialled in regional hospitals. This demonstrates that while the PBS system may be new for many positions, it was included in the assessment in 2004 and recognised in the Level G3 classification. Therefore, it is not a new duty for the Pharmacy Technician according to the generic JDF.

(d) S8 drugs

22 At many sites, the work such as regarding S8 drugs in ordering, receipting, supplying and recording is undertaken under the supervision of a Pharmacist. However, the technical staff order and deliver products to the ward, helping free up the Pharmacist to perform clinical duties. I am not satisfied that this constitutes a higher level duty.

(e) Aseptic preparation and dispensing

23 There are claims of new duties and responsibilities which are said to add a significant work value increase to these positions relating to a range of functions. However, the evidence demonstrates that these were largely recognised in the 2004 review. While some positions were not, at that point, subject to some of those changes, the changes were recognised in other positions and resulted in the reclassification to Level G3 at that time.

(f) The collation and provision of data

24 Technicians and Assistants collate and provide data on drug expenditure, amongst other things. It is not clear how this is a higher level duty compared with other administrative duties such as maintaining stock inventories, facilitating imprest stock, participating in cashier duties and processing accounts. I note the evidence of Heather Sheldon as to what this involves, however, I am not satisfied that it is in fact a higher level duty than those other duties I have set out.

(g) Training and mentoring

25 In respect of training Pharmacy Students and mentoring Student Technicians and others, many clerical, administrative and technical staff assist in training professionals and others by demonstrating the skills they use in their own work. Ms Bascombe gave evidence of some training she received as a Pharmacist from a Technician.

26 Almost all jobs contain an element of training and mentoring new or inexperienced staff or students in their own and others' areas of work. It is part of what goes with having that skill and having used it over time, to show others how it is done. In the Frontline Clerical Positions Work Value case, I made the following comments:

There is nothing unique or of a higher skill or responsibility level in employees, at every level, training and orientating new staff members, be that at their own level or higher, as to the requirements of their own positions. Once a person has become familiar with the requirements of their own job, it is not difficult to show a suitably qualified person how that job is done. Further, when a person is familiar with a particular computer package, it requires no higher level of skill to help someone who is having difficulty. If they are unable to resolve the problem, there are specialist IT staff to assist. There is no real difference between the ordinary training and orientation of a new person of the same level or the orientation of, for example, a nurse, in the clerical aspects of the use of a particular computer programme. These situations apply to FLCPS whether training new or relief FLCPS holders or clinical staff about computer records access. This does not constitute a real change, nor is it beyond the requirements of Level G2.

The Minister for Health in his incorporated capacity under s.7 of the Hospitals and Health Services Act 1927 (WA) as the hospitals formerly comprised in the Metropolitan Health Service Board v The Health Services Union of Western Australia (Union of Workers)
[2013] WAIRC 00836; (2013) 93 WAIG 1565 [180]

(h) Computer skills and literacy

27 It is claimed that the requirements to utilise particular computer skills has increased significantly and computer software changes, sometimes increasing complexity and at other

times reducing it. However, this is common in contemporary workplaces and has gone on for many, many years. Of itself, it does not add markedly to work value unless something additional is involved.

(i) Qualifications

28 The evidence is that some pre-existing JDFs list a Certificate III Medical Technicians and Assistants course or Certificate IV in Pharmacy or equivalent as an essential criteria for appointment as a Pharmacy Technician. However, the generic JDF now contains no essential minimum educational qualification but includes the above qualifications as desirable rather than essential.

Conclusion regarding work value increases

29 Having considered all of the evidence, and particularly regarding those issues I have noted above, I have no hesitation in acknowledging the important role undertaken by Pharmacy Technicians and Pharmacy Assistants in our state's public health system. However, I am unable to find that there has been a demonstration of significant net addition to work value which has not been accounted for already.

The BiPERS assessment

30 BiPERS is a tool to aid in the classification of positions. The assessment in this case shows a marginal increase from 224 to 234 in the case of the Level G3. I am satisfied that this is correct and is within the appropriate range, although it is at the very top of that range.

Supervisory positions

31 The evidence has demonstrated that when the Senior Pharmacy Technician positions at Fremantle Hospital, South Metropolitan Health Service and Sir Charles Gairdner Hospital were previously reclassified, that review took account of responsibility for the complete selection and recruitment process for all technical staff and for preparing rosters, not merely for day shift but also for evening, weekend and public holiday rosters; that is, for more complexity than merely the weekday Monday to Friday roster, or for determining lunchbreak arrangements. Therefore, these are not new responsibilities or duties for Level 5 positions generally, even if the individuals did not at that time fulfil the whole of the scope of those duties.

Conclusion

32 I noted during the course of the hearing that it has been my experience that the exchange of information and views in the preparation for and the hearing of reclassification claims, including the evidence during the hearing, often disclose issues which one side or the other had not been aware of previously. This often leads to a better understanding of practices and procedures, duties and responsibilities. In this case, a number of things became clear that I think were not previously understood. I trust that this has been of value to both sides in understanding, at least in part, the outcome of the hearing.

33 Orders will issue for the dismissal of the applications.