

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

Workplace Relations Act 1996
s.170LJ certification of agreement

Australian Salaried Medical Officers Federation and Others
(AG2004/2346)

**AMA - BALLARAT HEALTH SERVICES VISITING MEDICAL OFFICERS
AGREEMENT 2003**

Health and welfare services

SENIOR DEPUTY PRESIDENT KAUFMAN

MELBOURNE, 30 APRIL 2004

Certification of Part VIB Division 2 agreement with organisations of employees.

PREAMBLE

On 27 April 2004 I certified the abovementioned agreement. My reasons and the certificate follow.

This is an application to certify an agreement, to be known as the *AMA - Ballarat Health Services Visiting Medical Officers Agreement 2003*, that is made pursuant to s.170LJ in Division 2 of Part VIB of the *Workplace Relations Act 1996*.

Having heard Mr R. Felmingham for the Australian Salaried Medical Officers Federation (ASMOF) and for the Australian Medical Association (AMA) and Mr T. Olsson for Ballarat Health Services, and having read the statutory declarations of Andrew Rowe filed on behalf of Ballarat Health Services and Geoffrey O’Kearney filed on behalf of the ASMOF and AMA, I am satisfied that the agreement filed is about matters pertaining to the relationship between an employer in Victoria that is carrying on a part of a single business and employees in Victoria employed by the employer in the part of the single business and whose employment is subject to the agreement. I am also satisfied that the union has at least one member employed in the part of the single business to which the agreement relates and is entitled to represent the industrial interests of its member.

I am also satisfied that:

- the agreement passes the no disadvantage test;
- the agreement was made in accordance with s.170LJ and a valid majority of persons employed at the time whose employment would be subject to the agreement genuinely approved the agreement;
- the explanation of the terms of the agreement was appropriate having regard to the persons’ particular circumstances and needs;

- the agreement includes procedures for preventing and settling disputes between the employer and the employees whose employment will be subject to the agreement;
- the agreement specifies a nominal expiry date which is not more than three years after the date on which the agreement will come into operation.

I am also satisfied that there are no reasons set out in s.170LU of the Act why I should refuse to certify the agreement.

Accordingly, the agreement will be certified to operate from 27 April 2004 in accordance with its terms which provide that it shall have effect from 1 July 2002.

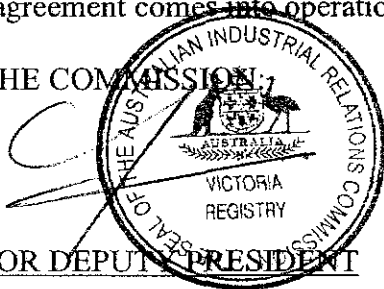
Although the AMA, an association not registered under the Act, is a party to the agreement, this does not detract from the fact that the agreement is made pursuant to s.170LT between an employer and an organisation of employees. The certification only extends to the employer and the registered organisation of employees.

CERTIFICATION OF AGREEMENT

In accordance with s.170LT of the *Workplace Relations Act 1996*, the Commission hereby certifies the attached agreement between Ballarat Health Services on the one part and the ASMOF and AMA on the other part.

This agreement comes into operation on the date of certification, being 27 April 2004.

BY THE COMMISSIONER



SENIOR DEPUTY PRESIDENT

Appearances:

R. Felmingham on behalf of the ASMOF and the AMA.

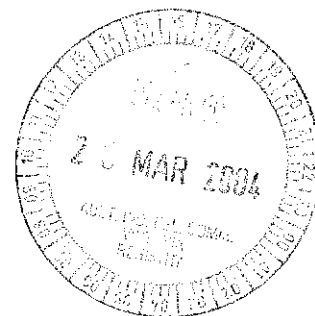
T. Olsson on behalf of Ballarat Health Services.

Hearing details:

2004.
Melbourne:
April, 27.

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**AMA - BALLARAT HEALTH SERVICES
(VISITING MEDICAL OFFICERS)
CERTIFIED AGREEMENT 2003**

**AMA – BALLARAT HEALTH SERVICES (VISITING MEDICAL OFFICERS)
CERTIFIED AGREEMENT 2003**

PART 1 – APPLICATION AND OPERATION OF AGREEMENT

1. TITLE

This agreement will be known as the AMA - Ballarat Health Services Visiting Medical Officers Agreement 2003.

2. ARRANGEMENT

Part 1 – Application and operation of agreement

1. Title
2. Arrangement
3. Operation, duration and variation to the agreement
4. Parties bound
5. Incidence of agreement
6. General definitions
7. Anti-discrimination
8. Savings, no extra claims and continuity of employment

Part 2 – Enterprise issues

9. Physical working conditions
10. Telephone call protocols

Part 3 – Dispute Resolution

11. Procedure for dispute resolution

Part 4 – Employment Relationship

12. Type of employment and duties of medical practitioners
13. Duration of contracts
14. Alteration in hours of work
15. Fractional allocation
16. Termination of employment
17. Record of service

Part 5 – Wages and Related Matters

18. Wages
19. Allowances
20. Superannuation
21. Salary Packaging

Part 6 – Hours of work, breaks, overtime, shiftwork, weekend work

- 22. Hours of duty
- 23. Safe hours of work

Part 7 – Types of leave and public holidays

- 24. Annual leave
- 25. Sick and Personal Leave
- 26. Bereavement Leave
- 27. Long service leave
- 28. Parental leave
- 29. Sabbatical leave
- 30. Public holidays
- 31. Accident Pay
- 32. Jury Service
- 33. Conference Leave

3. OPERATION, DURATION AND VARIATION TO THE AGREEMENT

- 3.1** This agreement comes into force under the terms of Part VIB of the Workplace Relations Act 1996 from the beginning of the first pay period commencing on or after 1 July 2002 and remains in force until 30 June 2005.
- 3.2** The Agreement may be varied pursuant to the *Workplace Relations Act 1996* (as amended).
- 3.3** At least six months prior to the expiration of this Agreement, the parties will commence discussions with a view to negotiating a further agreement.

4. PARTIES BOUND

4.1 This agreement binds:

- 4.1.1** employees of Ballarat Health Services who are employed in a fractional capacity as medical specialists, clinical academics and medical administrators;
- 4.1.2** the Australian Medical Association (Victoria) Limited (“the AMA”), its officers and its members;
- 4.1.3** the Australian Salaried Medical Officers Federation (“ASMOF”), its officers and its members; and
- 4.1.4** Ballarat Health Services

5. INCIDENCE OF AGREEMENT

This Agreement applies in respect of practitioners who are employed as visiting medical officers.

6. GENERAL DEFINITIONS

6.1 **Act** means the *Workplace Relations Act 1996* (Cth).

6.2 **Association** means the Australian Medical Association (Victoria) Limited or the Australian Salaried Medical Practitioners Federation.

6.3 **Board** means the Board of Management, or the governing body of a hospital however styled.

6.4 **Commission** means the Australian Industrial Relations Commission.

6.5 **Higher Qualification** means a qualification appropriate to the specialty in which a practitioner is employed conferred upon the practitioner by a University, Medical School or Learned College including:

- postgraduate degrees and diplomas of Universities;
- membership or fellowship of a College or Association of Specialists;
- any other postgraduate qualification at the level of Masters or above appropriate to the specialty in which an practitioner is employed.

Where the minimum compulsory training period in that specialty required to qualify for the postgraduate qualification exceeds four years, years in excess of four will be counted as experience after obtaining higher qualification in the definition of Senior Specialist, Principal Specialist and Senior Principal Specialist.

6.6 **Hospital** means Ballarat Health Services which is a Public Hospital or denominational Hospital within the meaning of the *Health Services Act 1988*, and includes the Board and/or the authorised agent of the Board.

6.7 **Practitioner** means a registered medical practitioner employed as specialist, senior specialist, principal specialist or executive specialist.

6.8 **Principal specialist** means a practitioner appointed as such by the Hospital.

In addition to the qualifications for a Specialist role they must have

- not less than nine years practical experience in that specialty after obtaining the higher qualification, or
- sufficient experience in the specialties to satisfy the hospital that the appointment is warranted.

A Practitioner appointed by the Board as a head of department or unit in a teaching hospital Group 1A or Group 1B will be paid no less than a Principal Specialist Level 2. A medical practitioner appointed by the Board as a deputy to a head of department or unit, and/or as an associate professor will be paid no less than a Principal Specialist Level 1. Where the Practitioner has a first specialist qualification and is undergoing further specialist training, the time spent since acquiring their first specialist qualification shall be counted as experience within this and any higher classification.

6.9 **Specialty** means a field of work requiring the application of special experience and qualifications in a particular branch of medicine.

6.10 **Specialist** means a practitioner who possesses a higher qualification appropriate to the specialty in which they are employed or have sufficient experience in their specialty to satisfy the hospital that the appointment is warranted.

6.11 Senior specialist means a practitioner who in addition to the qualifications for a Specialist role has

- not less than three years practical experience in that specialty after obtaining the higher qualification, or
- sufficient experience in the specialties to satisfy the hospital that the appointment is warranted.

Where the Practitioner has a first specialist qualification and is undergoing further specialist training, the time spent since acquiring their first specialist qualification shall be counted as experience within this and any higher classification.

6.12 Hourly rate means the rate set out in Clause 18 - Wages.

6.13 Visiting Medical Officer means a practitioner employed on an hourly basis for less than 35 hours per week.

7. ANTI-DISCRIMINATION

7.1 It is the intention of the respondents to this agreement to achieve the principal object in s.3(j) of the *Workplace Relations Act 1996* through respecting and valuing the diversity of the work force by helping to prevent and eliminate discrimination on the basis of race, colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin.

7.2 Accordingly, in fulfilling their obligations under the dispute avoidance and settling clause, the respondents must make every endeavour to ensure that neither the agreement provisions nor their operation are directly or indirectly discriminatory in their effects.

7.3 Nothing in this clause is taken to affect:

7.3.1 any different treatment (or treatment having different effects) which is specifically exempted under the Commonwealth anti-discrimination legislation;

7.3.2 junior rates of pay;

7.3.3 a practitioner, employer or registered organisation, pursuing matters of discrimination in any State or federal jurisdiction, including by application to the Human Rights and Equal Opportunity Commission;

7.3.4 the exemptions in s.170CK (3) and (4) of the Act.

8. SAVINGS, NO EXTRA CLAIMS AND CONTINUITY OF EMPLOYMENT

8.1 Savings

Nothing in this agreement will affect any current superior term or condition of employment.

8.2 No Extra Claims

The AMA/ASMOF, employees and employers bound by this Agreement acknowledge that this Agreement settles all claims in relation to the terms and conditions of employment of the employees to whom it applies and agree that they will not pursue any extra claims during the term of this Agreement.

Subject to an employer meeting its obligations to consult arising under the Award, this Agreement or a contract of employment binding on that employer, it is not the intent of this provision to inhibit, limit or restrict an employer's right or ability to introduce change at the workplace.

8.3 Continuity of Employment

8.3.1 Nothing in this Agreement affects the continuity of employment of the Specialist for the purpose of any entitlements.

8.3.2 If the Specialist was employed by the Health Service prior to certification of this Agreement, then the Specialist's leave entitlements which have accrued during that period of service with the Health Service will be recognised by the Health Service, and those accrued entitlements will not be diminished in any way.

8.4 Other Rights Unaffected

The rights created under this Agreement are not intended to affect any rights which either of the Specialist or the Health Service may have apart from this Agreement.

PART 2 – ENTERPRISE ISSUES

9. PHYSICAL WORKING CONDITIONS

9.1 It is agreed that the following infrastructure standards should be met

- Access to workstations, telecommunication and information technology capable of ensuring administrative and similar work can be accomplished efficiently
- Access to dressing rooms, rest rooms, bathrooms or shower rooms and lockers for practitioners on duty who do not live in.
- 24 hour access to library and all of its resources
- reserved car parking paid for by the hospital and available for a Doctor during their normal working hours of duty. The parking spaces must be well lit and in a secure place within 200 metres from the front door of the Hospital main entrance
- access to Internet and e-mail facilities for work purposes
- office available for private discussion with patient's relatives
- access to security escort at night

9.2 Where this is currently not the case the Hospital, DHS and the AMA/ASMOF will consult to discuss how quickly the situation can be remedied within available capital funding budgets and within the term of the current agreement.

10. TELEPHONE CALL PROTOCOLS

- 10.1** The Hospital must introduce a protocol to govern the use of telephone consultations with Practitioners who are on-call. The protocol must include the following governing points
- That the introduction of the changed on-call allowance will not lead to an increased incidence of telephone calls being made to Practitioners, particularly in comparison with other health professionals
 - That the incidence of trivial or unnecessary telephone calls is controlled
- 10.2** The form and application of the protocol may be reviewed at the request of the AMA to ensure it's effectiveness.

PART 3 – DISPUTE RESOLUTION

11. PROCEDURE FOR DISPUTE RESOLUTION

Framework for Resolution

- 11.1** The parties intend that most issues will be resolved informally between a Practitioner and the Practitioner's immediate supervisor. The parties agree that they will promptly resolve any industrial dispute by informal conciliation without resort to industrial action of any kind by Practitioner's or stand downs by the Hospital.
- 11.2** Every effort will be made to ensure that any dispute will be resolved under this clause within 7 days or as close to 7 days as practical circumstances will allow. This time frame includes disputes relating to the work required, overtime, and unrostered hours and the appropriate rate of payment as specified in the Agreement
- 11.3** Until the dispute is resolved, work shall continue normally while discussions take place. Health and safety matters may be exempted where appropriate.
- 11.4** No party is prejudiced as to final settlement of the dispute by continuing to work during the dispute.

Process for Resolving Disputes

- 11.5** The Practitioner shall attempt to resolve the dispute directly with their Unit Head. The Practitioner and/or the Unit Head may request the presence of another member of staff or representative to represent their interests.
- 11.6** If the matter is still unresolved it shall be referred to the Director of Medical Services (or equivalent), who will meet with the Practitioner and, if the Practitioner chooses, an Association representative or any other person.
- 11.7** If the matter is still unresolved it shall be referred to the Chief Executive Officer who will meet with the Practitioner and, if the Practitioner chooses, an Association representative or any other person.

- 11.8** If the matter is still unresolved it may be referred to a Board of Reference in accordance with the Workplace Relations Act 1996.
- 11.9** If the Parties are still unable to reach a resolution, the matter shall be referred to the Australian Industrial Relations Commission for resolution by conciliation and, if necessary, arbitration, pursuant to s.170LW of the Workplace Relations Act 1996.

Establishment of a Board of Reference

- 11.10** The Board of Reference will consist of one person to be from time to time appointed by the Association and one person from time to time appointed by the Victorian Hospitals Industrial Association, with the Industrial Registrar of the Australian Industrial Relations Commission or his/her nominee as Chairperson, three of whom shall form a quorum.

PART 4 – EMPLOYMENT RELATIONSHIP

12. TYPE OF EMPLOYMENT AND DUTIES OF MEDICAL PRACTITIONERS

- 12.1** Practitioners under this agreement will be employed to work a specified number of hours per week (otherwise known as a “fractional allocation”) under a fixed term or ongoing contract of employment. Medical Practitioners are employed by Ballarat Health Service to provide and facilitate the provision of medical services to Ballarat Health Service clients. Medical Practitioners shall:

- Undertake such duties and exercise such powers in Ballarat Health Service as the Head of Department or Divisional Director, from time to time, reasonably assigns or vests in the Medical Practitioner.
- In the discharge of such duties and in the exercise of such powers, observe and comply with Ballarat Health Service’s policies, all resolutions passed by the Board, all lawful directions from time to time given by or through the Head of Department and Divisional Director and with the terms of agreements and directions which are binding on Ballarat Health Service pursuant to the Health Services Act, to the extent that each is consistent with this Agreement.
- Maintain current registration as required by the Medical Practice Act 1994.

12.2 Insurance

Ballarat Health Service represents to each Medical Practitioner (with the intention that the Medical Practitioner should rely upon that representation) that pursuant to its insurance cover the Medical Practitioner is entitled to indemnity in respect of all medical services provided to public (standard) patients of Ballarat Health Services.

13. DURATION OF CONTRACTS

Contracts of no less than three (3) years in the first instance and (5) years thereafter are standard save for identifiable and appropriate circumstances. Appropriate circumstances do not include circumstances where a short term contract extension is used as a device to avoid responsibilities under what is in effect an ongoing employment relationship.

14. ALTERATION IN HOURS OF WORK

- 14.1** Variation of fractions will not be harsh, unjust or unreasonable.
- 14.2** The work hours of VMOs can be changed either at the end of a contract period or, where allowed by the contract, within three months or another period as mutually agreed.
- 14.3** Where a change proposed during a contract period is of such magnitude that it alters the fundamental nature of the contract and the VMO does not agree to the change, then the entire contract of employment will be terminated as a retrenchment and the VMO will be entitled to the normal Hospital practice in relation to retrenchment notice periods and payments.
- 14.4** A reduction in working hours to less than 50% of the hours agreed at the commencement of the contract period will be considered a change to the fundamental nature of the contract.

15. FRACTIONAL ALLOCATION

- 15.1** The method of fractional allocation for VMOs should be as per the Lochtenberg Implementation Guidelines finalised in 1995 as follows.
- 15.2** All VMOs, in conjunction with hospital management should determine their hospital workload on a monthly basis. Activities to be specifically considered are listed below. Not all areas may be applicable to all specialists.

15.2.1 Direct Public Patient Care and Related Activities

Includes ward rounds, outpatient clinics, pre-operative assessment, operating time, post-operative care, unit clinical meetings, inter-unit consultations, completion of operation reports, discharge summaries, casemix information and management of waiting lists.

15.2.2 Management/Administrative Responsibilities

Duties Associated with management and/or administration of a unit, department or division e.g. roster preparation, budget documents, hospital reports.

15.2.2 (a) Hospital Meetings

Attendance at meetings constituted by the hospital or at the request of the hospital, including for example:

- When appointed to represent the medical staff on a hospital committee
- When appointed to represent hospital management on a committee
- Business or management meetings of a unit/department/division
- Routinely scheduled meetings with administration
- Meetings of the medical staff group when related to hospital business

15.2.2 (b) Participation in Quality Assurance Activities as Required by the Hospital

- Includes reasonable time directly spent in the collection, analysis and presentation of quality assurance data and attendance at scheduled unit/divisional audit meetings.

Also included is:

- Attendance at committees established under ACHS guidelines
- Inter-unit clinical meetings e.g Grand Rounds

15.2.2 (c) Teaching and Research as Required by the Hospital and Not Directly Funded by the University

15.2.2 (d) On-Call/Re-Call

As per the Lochtenberg Implementation Guidelines 1995 where, by agreement, on-call and/or notional recall payments may be included in the fractional allocation where they are not paid as an additional allowance.

15.2.2 (e) Practice in a Distant Location

Only to be included where an allowance is not being paid

15.3 When calculating the actual fraction it will be clear that some aspects of the routine workload occur more frequently than others. For instance, meetings may occur monthly whereas ward rounds may occur daily or a couple of times a week. Calculations should take account of weekly rosters being transposed on a monthly basis.

15.4 It is recommended that hours required to be worked should be determined monthly.

16. TERMINATION OF EMPLOYMENT

16.1 Either the employer or practitioner may terminate the contract of employment by giving three months written notice to the other party.

16.2 Payment in lieu of the notice prescribed in clause 16.1 will be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part payment in lieu of the remaining period.

16.3 Failure by either the practitioner or employer to provide sufficient notice will result in the disadvantaged party being entitled to receive from the other an amount equal to the unworked notice.

16.4 In calculating any payment in lieu of notice, the wages to be used will be those the practitioner would have received in respect of the ordinary time worked during the period of notice had the practitioner's employment not been terminated.

16.5 The period of notice in this clause shall not apply where the conduct of a practitioner justifies instant dismissal, or to practitioners reaching the end of a contract of employment.

16.6 Ballarat Health Service may terminate the employment of a Medical Practitioner if the Medical Practitioner shall at any time:

- commit any serious or persistent breach of any of the provisions of this Agreement,
- be guilty of any serious misconduct or neglect in the discharge of his/her duties,
- cease to hold current registration as required by the Medical Practice Act,
- be found to have engaged in unprofessional conduct of a serious nature as referred to in Section 50 of the Medical Practice Act or if any limitation, condition or restriction on the practice of the Medical Practitioner is imposed pursuant to the Act,
- be found guilty of any criminal offence other than an offence, which in the reasonable opinion of Ballarat Health Service should not affect the Medical Practitioner's employment, by Ballarat Health Service,

- 16.7** In the exercise of its powers in relation to any Medical Practitioner, Ballarat Health Service shall make due inquiry, apply the principles of natural justice and comply with all applicable laws of the Commonwealth and the State.
- 16.8** Nothing in this clause shall be construed as to deny or limit the remedies at law of the Medical Practitioner where his or her appointment to Ballarat Health Service is wrongfully terminated or to deny or limit the rights of review of administrative decisions, which may be available at law.

17. RECORD OF SERVICE

- 17.1** A hospital will record the following particulars in respect of each practitioner:
- date of commencement;
 - date of termination;
 - total period of service (years and months);
 - long service leave taken during the period of service, or payments made; and
 - accumulated sick leave at termination.
- 17.2** On request, a copy of the record will be furnished to a practitioner upon termination. A practitioner must produce the record to any subsequent centre respondent to this agreement to be entitled to the accumulation of entitlements, as provided for in clauses 27.1 and 29.2.

PART 5 – WAGES AND RELATED MATTERS

18. WAGES

- 18.1** Hourly wages from the first pay period to commence on or after the indicated dates are shown below. The remuneration rates set out below are minimum rates. Actual salaries will be increased by four 3% increases during the life of this agreement. The increases will apply from the first pay period to commence on or after 1 July 2002, 1 January 2003, 1 January 2004 and 1 January 2005 respectively. On each occasion these rates will be rounded off to the nearest 10 cents.
- 18.2** Salary increases under this agreement apply to the current salary of each member of medical staff. Where the Specialist's remuneration has been negotiated as an "annualised" salary, the increase will apply to this "annualised" rate. Annualised Salaries include salaries which are "rolled-up" and may include payments in lieu of overtime allowances, loadings in lieu of private practice income etc.

1/7/2002	0.1-7.0 HPW *	7.1 - 10.5 HPW *	10.6 – 14 HPW *	14.1 - 17.5 HPW *	17.6+ HPW *
Specialist					
Year 1	\$ 79.10	\$ 79.90	\$ 81.70	\$ 83.30	\$ 84.80
Year 2 and 3	\$ 81.00	\$ 81.80	\$ 83.60	\$ 85.20	\$ 86.70
Senior Specialist					
4th year as Specialist	\$ 82.30	\$ 83.20	\$ 85.10	\$ 86.70	\$ 88.30
5th year as Specialist	\$ 85.70	\$ 86.40	\$ 88.50	\$ 90.20	\$ 91.80
6th year as Specialist	\$ 88.90	\$ 89.80	\$ 91.90	\$ 93.60	\$ 95.30
7th year as Specialist	\$ 92.20	\$ 93.10	\$ 95.40	\$ 97.10	\$ 98.90
8th year as Specialist	\$ 95.60	\$ 96.40	\$ 98.80	\$ 100.60	\$102.40
9th year as Specialist and thereafter	\$ 98.80	\$ 99.65	\$ 102.10	\$ 103.90	\$105.85
Principal Specialist					
Level 1 Bottom of Range	\$102.00	\$ 102.90	\$ 105.40	\$ 107.20	\$109.30
Level 1 Top of Range	\$105.50	\$ 106.40	\$ 109.00	\$ 110.80	\$113.00
Level 2	\$105.50	\$ 106.40	\$ 109.00	\$ 110.80	\$113.00
Executive Specialist					
Bottom of Range	\$105.50	\$ 106.40	\$ 109.00	\$ 110.80	\$113.00
Top of Range	\$120.50	\$ 121.50	\$ 124.50	\$ 126.90	\$129.20

1/1/2003	0.1-7.0 HPW *	7.1 - 10.5 HPW *	10.6 – 14 HPW *	14.1 - 17.5 HPW *	17.6+ HPW *
Specialist					
Year 1	\$ 81.50	\$ 82.30	\$ 84.20	\$ 85.80	\$ 87.30
Year 2 and 3	\$ 83.40	\$ 84.30	\$ 86.10	\$ 87.80	\$ 89.30
Senior Specialist					
4th year as Specialist	\$ 84.80	\$ 85.70	\$ 87.70	\$ 89.30	\$ 90.90
5th year as Specialist	\$ 88.30	\$ 89.00	\$ 91.20	\$ 92.90	\$ 94.60
6th year as Specialist	\$ 91.60	\$ 92.50	\$ 94.70	\$ 96.40	\$ 98.20
7th year as Specialist	\$ 95.00	\$ 95.90	\$ 98.30	\$ 100.00	\$101.90
8th year as Specialist	\$ 98.50	\$ 99.30	\$ 101.80	\$ 103.60	\$105.50
9th year as Specialist and thereafter	\$101.80	\$ 102.60	\$ 105.20	\$ 107.00	\$109.00
Principal Specialist					
Level 1 Bottom of Range	\$105.10	\$ 106.00	\$ 108.60	\$ 110.40	\$112.60
Level 1 Top of Range	\$108.70	\$ 109.60	\$ 112.30	\$ 114.10	\$116.40
Level 2	\$108.70	\$ 109.60	\$ 112.30	\$ 114.10	\$116.40
Executive Specialist					
Bottom of Range	\$108.70	\$ 109.60	\$ 112.30	\$ 114.10	\$116.40
Top of Range	\$124.10	\$ 125.10	\$ 128.20	\$ 130.70	\$133.10

1/1/2004	0.1-7.0 HPW *	7.1 - 10.5 HPW *	10.6 – 14 HPW *	14.1 - 17.5 HPW *	17.6+ HPW *
Specialist					
Year 1	\$ 83.90	\$ 84.80	\$ 86.70	\$ 88.40	\$ 89.90
Year 2 and 3	\$ 85.90	\$ 86.80	\$ 88.70	\$ 90.40	\$ 92.00
Senior Specialist					
4th year as Specialist	\$ 87.30	\$ 88.30	\$ 90.30	\$ 92.00	\$ 93.60
5th year as Specialist	\$ 90.90	\$ 91.70	\$ 93.90	\$ 95.70	\$ 97.40
6th year as Specialist	\$ 94.30	\$ 95.30	\$ 97.50	\$ 99.30	\$101.10
7th year as Specialist	\$ 97.90	\$ 98.80	\$ 101.20	\$ 103.00	\$105.00
8th year as Specialist	\$101.50	\$ 102.30	\$ 104.90	\$ 106.70	\$108.70
9th year as Specialist and thereafter	\$104.90	\$ 105.70	\$ 108.40	\$ 110.20	\$112.30
Principal Specialist					
Level 1 Bottom of Range	\$108.30	\$ 109.20	\$ 111.90	\$ 113.70	\$116.00
Level 1 Top of Range	\$112.00	\$ 112.90	\$ 115.70	\$ 117.50	\$119.90
Level 2	\$112.00	\$ 112.90	\$ 115.70	\$ 117.50	\$119.90
Executive Specialist					
Bottom of Range	\$112.00	\$ 112.90	\$ 115.70	\$ 117.50	\$119.90
Top of Range	\$127.80	\$ 128.90	\$ 132.00	\$ 134.60	\$137.10

1/1/2005	0.1-7.0 HPW *	7.1 - 10.5 HPW *	10.6 – 14 HPW *	14.1 - 17.5 HPW *	17.6+ HPW *
Specialist					
Year 1	\$ 86.40	\$ 87.30	\$ 89.30	\$ 91.10	\$ 92.60
Year 2 and 3	\$ 88.50	\$ 89.40	\$ 91.40	\$ 93.10	\$ 94.80
Senior Specialist					
4th year as Specialist	\$ 89.90	\$ 90.90	\$ 93.00	\$ 94.80	\$ 96.40
5th year as Specialist	\$ 93.60	\$ 94.50	\$ 96.70	\$ 98.60	\$100.30
6th year as Specialist	\$ 97.10	\$ 98.20	\$ 100.40	\$ 102.30	\$104.10
7th year as Specialist	\$100.80	\$ 101.80	\$ 104.20	\$ 106.10	\$108.20
8th year as Specialist	\$104.50	\$ 105.40	\$ 108.00	\$ 109.90	\$112.00
9th year as Specialist and thereafter	\$108.00	\$ 108.90	\$ 111.70	\$ 113.50	\$115.70
Principal Specialist					
Level 1 Bottom of Range	\$111.50	\$ 112.50	\$ 115.30	\$ 117.10	\$119.50
Level 1 Top of Range	\$115.40	\$ 116.30	\$ 119.20	\$ 121.00	\$123.50
Level 2	\$115.40	\$ 116.30	\$ 119.20	\$ 121.00	\$123.50
Executive Specialist					
Bottom of Range	\$115.40	\$ 116.30	\$ 119.20	\$ 121.00	\$123.50
Top of Range	\$131.60	\$ 132.80	\$ 136.00	\$ 138.60	\$141.20

* HPW = Hours per Week

19. ALLOWANCES

19.1 On call

19.1.1 A visiting specialist is entitled to the following payments in respect of on-call / re-call services.

19.1.2 A Visiting Specialist may be required to be on-call or available to attend the campus for medical emergencies. The Visiting Specialist may be rostered for “exclusive”, “consultative” on-call or to be “available” or by chance contacted by the hospital in case of emergency. In these instances the following payments are to be made.

19.1.2.1 **“Exclusive on-call” (Visiting Specialists)** means a period of on-call where a Visiting Specialist is required to be on-call only to a specified campus and available to attend the campus as soon as clinically required, usually within thirty minutes for life threatening emergencies. (If a clinician is called to an emergency in private, he/she will arrange for a colleague to provide a category 1 response capacity to the public hospital and notify the relevant switchboard etc.). The pay per on-call period will be the following set amounts: 1/1/2003–31/12/2003: \$325.80; 1/1/2004-31/12/2004: \$335.70; 1/1/2005-31/12/2005: \$345.90.

19.1.2.2 **“Consultative on-call” (Visiting Specialists)** means a period of on-call where the Visiting Specialist is required by the Health Service to be available for telephone consultations and to return to the specified campus, usually within two hours, having regard for other commitments, including on-call to other institutions. The pay per on-call period will be the following set amounts: 1/1/2003–31/12/2003: \$108.60; 1/1/2004-31/12/2004: \$111.90; 1/1/2005-31/12/2005: \$115.30.

19.1.3 The on-call periods generally mean between the hours of 7.00pm and 8.00am Monday to Friday all weekend and Public Holidays.

19.1.4 There are generally 9 on-call periods per week (one per weeknight and two for each day of the weekend or public holiday).

19.2 Recall

19.2.1 If a Visiting Specialist on Exclusive or Consultative on-call is recalled to duty, the following payments apply:

8.00 am to 7.00 pm Monday to Friday	Weeknights	Weekends and Public Holidays
100% CMBS*	125% ordinary hourly rate	150% ordinary hourly rate

19.2.2 One hour minimum payment is to be made per re-call.

19.2.3 One hour’s additional pay at the ordinary time rate applies to each recall to cover travel time.

19.2.4 A practitioner recalled who does not use personal transport will be provided at the expense of the Hospital with suitable return transport.

19.2.5 CMBS* payments for recalls when not on-call and where fee for service arrangements apply will be based on the current schedule as amended on November 1st of each year.

19.3 Mobile Telephone

When the hospital requires a Practitioner to be in telephone contact for work purposes and the practitioner receives calls related to Ballarat Health Services patients when not on Exclusive On-call for the Service, fractional (visiting) specialists shall be paid an allowance of \$1,000 per annum.

20. SUPERANNUATION

20.1 Relevant legislation

The subject of superannuation contributions is dealt with extensively by legislation including the *Superannuation Guarantee (Administration) Act 1992*, the *Superannuation Guarantee Charge Act 1992*, the *Superannuation Industry (Supervision) Act 1993* and the *Superannuation (Resolution of Complaints) Act 1993* (collectively, the superannuation legislation). This legislation, as varied from time to time, governs the superannuation rights and obligations of the parties.

20.2 Definitions

20.2.1 Complying superannuation fund means a fund which complies with the superannuation legislation.

20.2.2 Ordinary time earnings means remuneration for a practitioner's weekly number of hours of work calculated at the ordinary time rate of pay, including the cash value of any deduction for Board and Lodging, shift work premiums and Saturday and Sunday premiums, where they are a part of regular work.

20.3 Employer contributions

An employer must, in accordance with the governing rules of the relevant Fund, make such superannuation contributions for the benefit of a practitioner as will avoid the employer being required to pay superannuation guarantee charge under the superannuation legislation with respect to that practitioner. For the purposes of the superannuation legislation, a practitioner's ordinary time earnings are intended to provide that practitioner's notional earnings base.

20.4 Paid absences

Contributions will continue during periods of paid leave, including during any period in respect of which a practitioner is entitled to receive accident pay in accordance with 23.3. Contributions will not be paid in respect of accrued annual leave paid on termination.

20.5 Unpaid absences

Contributions will not be paid whilst a practitioner is absent on unpaid leave.

21. SALARY PACKAGING

Employees are permitted to salary package in accordance with the Salary Packaging policy of the Hospital. This policy may be amended without notice to reflect the impact of legislative change. If changes to legislation result in the cost of this arrangement to the employer increasing, then any continuation of a salary packaging arrangement will be dependant on the participating Practitioner meeting any additional costs, including taxation, associated with such changes.

PART 6 – HOURS OF WORK, BREAKS, OVERTIME, SHIFTWORK, WEEKEND WORK

22. HOURS OF DUTY

A practitioner's ordinary hours of duty are those agreed between the practitioner and the hospital.

23. SAFE HOURS OF WORK

- 23.1** It is agreed that the National Code of Practice – Hours of Work, Shiftwork and Rostering for Hospital Doctors forms a suitable framework under which to consider safe working hours issues.

PART 7 - TYPES OF LEAVE AND PUBLIC HOLIDAYS

24. ANNUAL LEAVE

- 24.1** A practitioner shall be entitled to four weeks annual leave without deduction of pay on completion of each year of service in the hospital.

24.2 Time of taking leave

Annual leave shall be granted and taken within a period of 12 months of its becoming due (being twelve months after commencement and every twelve months thereafter), at a time suitable to Ballarat Health Service and the Medical Practitioner. Ballarat Health Service may direct the Practitioner to take annual leave, which has not been taken within 12 months of accrual

24.3 Sickness while on leave

If the Medical Practitioner becomes sick for a period of not less than 5 days whilst on annual leave and upon return from leave provides Ballarat Health Service with a certificate of another registered medical practitioner, then the number of days not less than 5 specified in the certificate shall be deducted from any sick leave entitlement standing to the Practitioner's credit, and shall be re-credited to the annual leave entitlement.

24.4 Proportionate leave on termination

A practitioner whose employment is terminated with less than twelve month's service in any qualifying twelve monthly period will be granted pro rata leave or payment in lieu.

25. SICK AND PERSONAL LEAVE

25.1 Sick leave

25.1.1 An officer becoming unfit for duty due to personal ill health or injury is entitled to sick leave on full pay for a period not exceeding in the aggregate 28 working days for each year of service, such leave as is not taken being cumulative from year to year.

25.1.2 Where a practitioner transfers from one Hospital to another under this award, accumulated sick leave (if any) to the officer's credit up to a maximum of two hundred and eighty working days shall be credited to the officer in his/her new employment. The onus of proving accumulated sick leave credit shall rest with the officer, but a statement signed by an authorised Officer of the officer's former Hospital certifying the amount of accumulated sick leave credit shall constitute acceptable proof.

25.2 The Practitioner may be required to produce a Medical Certificate for any sick leave of greater than 2 days duration.

25.3 If a Medical Practitioner satisfies his or her immediate superior that he/she is unable to attend work due to a significant personal reason (which may include providing care or support for a spouse, de facto spouse, partner, parent, parent in-law, child, grandchild, sibling, grandparent, or significant other) the Medical Practitioner may take up to five days of paid leave in any one year. A Medical Practitioner may be required to submit a statutory declaration which shall be retained by Ballarat Health Service as a confidential record to be destroyed 12 months after the conclusion of the calendar year to which it relates. An entitlement to personal leave shall not accumulate from year to year and the Practitioner's accrued sick leave entitlement will be reduced by the amount of personal leave taken.

26. BEREAVEMENT LEAVE

26.1 A practitioner is entitled to up to four days bereavement leave if a member of the practitioner's immediate family or household in Australia dies or is seriously ill.

26.2 Where a practitioner has exhausted their annual bereavement leave entitlement, including accumulated entitlements, they will be entitled to four days unpaid bereavement leave.

26.3 Proof of such death or illness shall be furnished by the practitioner to the satisfaction of the employer, if requested.

27. LONG SERVICE LEAVE

27.1 Entitlement

27.1.1 A practitioner shall be entitled to long service leave with pay, in respect of continuous service with Institutions or Statutory Bodies in accordance with the provisions of this clause.

27.1.2 The amount of such entitlement will be:

27.1.2 (a) upon the completion of ten (10) years continuous service - four (4) months prorated long service leave and thereafter an additional two (2) months prorated long service leave on the completion of each additional five (5) years service prorated.

27.1.2 (b) in addition, in the case of a practitioner who has completed more than fifteen years' service and whose employment is terminated otherwise than by the death of the practitioner, an amount of long service leave equal to one-thirtieth of the period of her/his service since the last accrual of entitlement to long service leave under 27.1.2(a);

27.1.2(c) in the case of a practitioner who has completed at least ten years' service but less than fifteen years' service and whose employment is terminated for any cause other than serious and wilful misconduct, such amount of long service leave as equals 1/30th of the period of service.

27.2 Service entitling to leave

27.2.1 The service of a practitioner shall include service for which long service leave or payment in lieu has not been received in one or more Institutions including Statutory Bodies directly associated with such Institutions or Institution for the period required by 27.1.

27.2.2 Service also includes all periods during which a practitioner was serving in Her Majesty's Forces or was made available by the employer for National Duty.

27.2.3 When calculating the aggregate of service entitling to leave any period of employment with any one of the said Institutions or Statutory Bodies of less than six months' duration shall be disregarded.

27.2.4 Where a business is transmitted from one employer (the transmittor) to another employer (the transmittee) a practitioner who worked with the transmittor and who continued in the service of the transmittee shall be entitled to count her/his service with the transmittor as service with the transmittee for the purposes of this clause.

27.2.5 For the purposes of this clause service shall be deemed to be continuous notwithstanding:

27.2.5 (a) the taking of any annual leave or Long Service Leave or other paid leave approved in writing by the hospital and not covered by clauses 27.2.5(b) and 27.2.5(d);

- 27.2.5 (b)** any absence from work of not more than fourteen days in any year on account of illness or injury or if applicable such longer period as provided in clause 25 – Sick and Personal Leave;
- 27.2.5 (c)** any interruption or ending of the employment by the employer if such interruption or ending is made with the intention of avoiding obligations in respect of long service leave or annual leave;
- 27.2.5 (d)** any leave of absence on account of injury arising out of or in the course of the employment of the practitioner for a period during which payment is made under clause 25 – Sick and Personal Leave;
- 27.2.5 (e)** any leave of absence of the practitioner where the absence is authorised in advance in writing by the employer to be counted as service;
- 27.2.5 (f)** any interruption arising directly or indirectly from an industrial dispute;
- 27.2.5 (g)** any period of absence from employment between the engagement with one of the said Institutions or Statutory Bodies and another provided it is less than the practitioner's allowable period of absence from employment. A practitioner's allowable period of absence from employment shall be five weeks in addition to the total period of paid annual leave and/or sick leave which the practitioner actually receives on termination or for which the practitioner is paid in lieu;
- 27.2.5 (h)** the dismissal of a practitioner if the practitioner is re-employed within a period not exceeding two months from the date of such dismissal;
- 27.2.5 (i)** any absence from work of a female practitioner for a period not exceeding twelve months in respect of any pregnancy;
- 27.2.5 (j)** any other absence of a practitioner by leave of the employer, or on account of injury arising out of or in the course of his employment not covered by 27.2.5(d).

27.2.6 In calculating the period of continuous service of any practitioner, any interruption or absence of a kind mentioned in clauses 27.2.5(a) to 27.2.5(d) will be counted as part of the period of his service, but any interruption or absence of a kind mentioned in clauses 27.2.5(e) to 27.2.5(i) will not be counted as part of the period of service unless it is so authorised in writing by the employer.

27.2.7 The onus of proving a sufficient aggregate of service to support a claim for any long service leave entitlement shall at all times rest upon the practitioner concerned.

27.3 Payment in lieu of long service leave on the death of a practitioner

Where a practitioner who has completed at least ten years' service dies while still in the employ of the employer, the employer shall pay to such practitioner's personal representative, a sum equal to the pay of such practitioner for one-thirtieth of the period of the practitioner's continuous service in respect of which leave has not been allowed or payment made immediately prior to the death of the practitioner.

27.4 Payment for period of leave

27.4.1 Payment to a practitioner in respect of long service leave will be made in one of the following ways:

27.4.1 (a) in full in advance when the practitioner commences leave; or

27.4.1 (b) at the same time as payment would have been made if the practitioner had remained on duty; or

27.4.1 (c) in any other way agreed between the hospital and the practitioner.

27.4.2 Where the employment of the practitioner is for any reason terminated before taking long service leave to which the practitioner is entitled or where any long service leave accrues to a practitioner pursuant to 27.1.2(b), the practitioner will, subject to the provisions of 27.4.3, be entitled to pay in respect of such leave as at the date of termination of employment.

27.4.2 (a) Where any long service leave accrues to a practitioner pursuant to 27.1.2(a), the practitioner will be entitled to pay in respect of such leave as at the date of termination of employment.

27.4.2 (b) Provided in the case of a practitioner who accrues entitlement pursuant 27.1.2(a), and who intends to be re-employed by another Institution or Statutory Body:

(i) such a practitioner may in writing request payment in respect of such leave to be deferred until after the expiry of the practitioner's allowable period of absence from employment provided in 27.1.5(g).

(ii) except where the practitioner gives notice in writing that the practitioner has been employed by another Institution or Statutory Body, payment will be made in respect of such leave at the expiry of the practitioner's allowable period of absence from employment;

(iii) where a practitioner gives notice in writing that the practitioner has been employed by another Institution or Statutory Body, the Hospital is no longer required to make payment to the practitioner in respect of such leave.

27.4.3 Where an increase occurs in the ordinary time rate of pay during any period of long service leave taken by the practitioner, the practitioner will be entitled to receive payment of the amount of any increase in pay at the completion of such leave.

27.5 Taking of leave

27.5.1 When a practitioner becomes entitled to long service leave, such leave will be granted by the hospital within six months from the date of the entitlement but the taking of such leave may be postponed to such date as is mutually agreed.

27.5.2 Any long service leave will be inclusive of any public holiday occurring during the period when the leave is taken.

27.5.3 If the hospital and a practitioner so agree:

27.5.3 (a) the Practitioner who is entitled to long service leave may take the whole or part of that leave at:

- (i) half the Rate of Remuneration for a period equal to twice the period to which the Practitioner would otherwise be entitled subject to appropriate rostering within the Practitioner's department; or
- (ii) twice the Rate of Remuneration for a period equal to half the period to which the Practitioner would otherwise be entitled; and

27.5.3 (b) Long service leave and prorated long service leave may be taken by mutual agreement or upon 12 weeks notice in writing, in instalments of not less than one week prorated.

27.5.4 Where the employment of a practitioner who has taken long service leave in advance is subsequently terminated for serious and wilful misconduct before entitlement to long service leave has accrued, the employer may, from whatever remuneration is payable to the practitioner upon termination, deduct and withhold an amount in respect of the leave in advance.

27.6 Definitions

For the purposes of this clause the following definitions apply:

27.6.1 Pay means remuneration for a practitioner's weekly hours of work averaged over the preceding five years of employment calculated at the practitioner's ordinary time rate of pay provided in clause 18 – Wages, at the time leave is taken or (if the practitioner dies before the completion of leave so taken) as at the time of death; and shall include the amount of any increase to the practitioner's ordinary time rate of pay which occurred during the period of leave as from the date such increase operates provided that where accommodation is made available to a practitioner during his period of leave and where a deduction is made for the rental pursuant to the Board and Lodging clause, such amount shall be deducted from the pay for the period of leave.

27.6.2 Month means a calendar month. For example:

27.6.2 (a) a month commencing on 15 April will end at the close of business on 14 May; and

27.6.2 (b) a month commencing on 31 October will end at the close of business on 30 November.

27.6.3 Institution shall mean any hospital or benevolent home, community health centre, Society or Association registered pursuant to the *Health Services Act 1988*.

27.6.4 Statutory body means the Department of Human Services Victoria.

27.6.5 Transmission includes transfer, conveyance, assignment or succession whether by agreement or by operation of law and **transmitted** has a corresponding interpretation.

28. PARENTAL LEAVE

28.1 Definitions

28.1.1 For the purpose of this clause **child** means a child of the employee under the age of one year except for adoption of a child where 'child' means a person under the age of five years who is placed with the employee for the purposes of adoption, other than a child or step-child of the employee or of the spouse of the employee or a child who has previously lived continuously with the employee for a period of six months or more.

28.1.2 Subject to 28.1.3, in this clause, **spouse** includes a de facto or former spouse.

28.1.3 In relation to 28.5, spouse includes a de facto spouse but does not include a former spouse.

28.2 Basic entitlement

28.2.1 After twelve months continuous service, parents are entitled to a combined total of 52 weeks unpaid parental leave on a shared basis in relation to the birth or adoption of their child. For females, maternity leave may be taken and for males, paternity leave may be taken. Adoption leave may be taken in the case of adoption.

28.2.2 Subject to 28.3.6, parental leave is to be available to only one parent at a time, in a single unbroken period, except that both parents may simultaneously take:

28.2.2(a) for maternity and paternity leave, an unbroken period of up to one week at the time of the birth of the child;

28.2.2(b) for adoption leave, an unbroken period of up to three weeks at the time of placement of the child.

28.3 Maternity leave

28.3.1 An employee must provide notice to the employer in advance of the expected date of commencement of parental leave. The notice requirements are:

28.3.1(a) of the expected date of confinement (included in a certificate from a registered medical practitioner stating that the employee is pregnant) - at least ten weeks;

28.3.1(b) of the date on which the employee proposes to commence maternity leave and the period of leave to be taken - at least four weeks.

28.3.2 When the employee gives notice under 28.3.1(a) the employee must also provide a statutory declaration stating particulars of any period of paternity leave sought or taken by her spouse and that for the period of maternity leave she will not engage in any conduct inconsistent with her contract of employment.

28.3.3 An employee will not be in breach of this clause if failure to give the stipulated notice is occasioned by confinement occurring earlier than the presumed date.

28.3.4 Subject to 28.2.1 and unless agreed otherwise between the employer and employee, an employee may commence parental leave at any time within six weeks immediately prior to the expected date of birth.

28.3.5 Where an employee continues to work within the six week period immediately prior to the expected date of birth, or where the employee elects to return to work within six weeks after the birth of the child, an employer may require the employee to provide a medical certificate stating that she is fit to work on her normal duties.

28.3.6 Special maternity leave

28.3.6 (a) Where the pregnancy of an employee not then on maternity leave terminates after 28 weeks other than by the birth of a living child, then the employee may take unpaid special maternity leave of such periods as a registered medical practitioner certifies as necessary.

28.3.6 (b) Where an employee is suffering from an illness not related to the direct consequences of the confinement, an employee may take any paid sick leave to which she is entitled in lieu of, or in addition to, special maternity leave.

28.3.6 (c) Where an employee not then on maternity leave suffers illness related to her pregnancy, she may take any paid sick leave to which she is then entitled and such further unpaid special maternity leave as a registered medical practitioner certifies as necessary before her return to work. The aggregate of paid sick leave, special maternity leave and parental leave, including parental leave taken by a spouse, may not exceed 52 weeks.

28.3.7 Where leave is granted under 28.3.4, during the period of leave an employee may return to work at any time, as agreed between the employer and the employee provided that time does not exceed four weeks from the recommencement date desired by the employee.

28.4 Paternity leave

28.4.1 An employee will provide to the employer at least ten weeks prior to each proposed period of paternity leave, with:

28.4.1 (a) a certificate from a registered medical practitioner which names his spouse, states that she is pregnant and the expected date of confinement, or states the date on which the birth took place; and

28.4.1 (b) written notification of the dates on which he proposes to start and finish the period of paternity leave; and

28.4.1 (c) a statutory declaration stating:

28.4.1 (c) (i) he will take that period of paternity leave to become the primary care-giver of a child;

28.4.1 (c) (ii) particulars of any period of maternity leave sought or taken by his spouse; and

28.4.1 (c) (iii) that for the period of paternity leave he will not engage in any conduct inconsistent with his contract of employment.

28.4.2 The employee will not be in breach of 28.4.1 if the failure to give the required period of notice is because of the birth occurring earlier than expected, the death of the mother of the child, or other compelling circumstances.

28.5 Adoption leave

28.5.1 The employee will notify the employer at least ten weeks in advance of the date of commencement of adoption leave and the period of leave to be taken. An employee may commence adoption leave prior to providing such notice, where through circumstances beyond the control of the employee, the adoption of a child takes place earlier.

28.5.2 Before commencing adoption leave, an employee will provide the employer with a statutory declaration stating:

28.5.2 (a) the employee is seeking adoption leave to become the primary caregiver of the child;

28.5.2 (b) particulars of any period of adoption leave sought or taken by the employee's spouse; and

28.5.2(c) that for the period of adoption leave the employee will not engage in any conduct inconsistent with their contract of employment.

28.5.3 An employer may require an employee to provide confirmation from the appropriate government authority of the placement.

28.5.4 Where the placement of child for adoption with an employee does not proceed or continue, the employee will notify the employer immediately and the employer will nominate a time not exceeding four weeks from receipt of notification for the employee's return to work.

28.5.5 An employee will not be in breach of this clause as a consequence of failure to give the stipulated periods of notice if such failure results from a requirement of an adoption agency to accept earlier or later placement of a child, the death of a spouse, or other compelling circumstances.

28.5.6 An employee seeking to adopt a child is entitled to unpaid leave for the purpose of attending any compulsory interviews or examinations as are necessary as part of the adoption procedure. The employee and the employer should agree on the length of the unpaid leave. Where agreement cannot be reached, the employee is entitled to take up to two days unpaid leave. Where paid leave is available to the employee, the employer may require the employee to take such leave instead.

28.6 Variation of period of parental leave

Unless agreed otherwise between the employer and employee, an employee may apply to their employer to change the period of parental leave on one occasion. Any such change to be notified at least four weeks prior to the commencement of the changed arrangements.

28.7 Parental leave and other entitlements

An employee may in lieu of or in conjunction with parental leave, access any annual leave or long service leave entitlements which they have accrued subject to the total amount of leave not exceeding 52 weeks.

28.8 Transfer to a safe job

28.8.1 Where an employee is pregnant and, in the opinion of a registered medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned to the employee make it inadvisable for the employee to continue at her present work, the employee will, if the employer deems it practicable, be transferred to a safe job at the rate and on the conditions attaching to that job until the commencement of maternity leave.

28.8.2 If the transfer to a safe job is not practicable, the employee may elect, or the employer may require the employee to commence parental leave for such period as is certified necessary by a registered medical practitioner.

28.9 Returning to work after a period of parental leave

28.9.1 An employee will notify of their intention to return to work after a period of parental leave at least four weeks prior to the expiration of the leave.

28.9.2 An employee will be entitled to the position which they held immediately before proceeding on parental leave. In the case of an employee transferred to a safe job pursuant to 28.8, the employee will be entitled to return to the position they held immediately before such transfer.

28.9.3 Where such position no longer exists but there are other positions available which the employee is qualified for and is capable of performing, the employee will be entitled to a position as nearly comparable in status and pay to that of their former position.

28.10 Replacement employees

28.10.1 A replacement employee is an employee specifically engaged or temporarily promoted or transferred, as a result of an employee proceeding on parental leave.

28.10.2 Before an employer engages a replacement employee the employer must inform that person of the temporary nature of the employment and of the rights of the employee who is being replaced.

29. SABBATICAL LEAVE

29.1 For the purposes of this clause only, the following definitions shall apply -

29.1.1 Practitioner means:

A Senior Specialist, Principal Specialist or Executive Specialist who has been engaged in medical undergraduate or postgraduate teaching or research with a Hospital for the period specified as entitling him/her to sabbatical leave

29.1.2 Salary or Wage shall mean the practitioner's salary or wage (including allowances) at the time leave is taken.

29.1.3 Service shall mean service from the date of first entering employment with the Hospital or Statutory Body (whether or not such Hospital or Statutory Body has been transmitted from one employer to another during the period of such employment), and shall include all periods of paid leave including all periods during which the practitioner was serving in Her Majesty's Forces or was made available by the Hospital or Statutory Body for National Duty.

29.1.4 Where, for the sole purpose of undertaking a course of study or research related to his work, a practitioner is with the written approval of the Hospital or Statutory Body absent without pay for up to but not exceeding 52 weeks, the absence shall not be deemed to have broken continuity of service but shall not be counted in aggregating service for the purpose of establishing an entitlement to sabbatical leave.

29.2 Subject to the provisions set out in clause 29.3, a practitioner after the completion of a period of six years' continuous service shall be entitled to leave of absence.

29.3 Entitlement

29.3.1 A practitioner who has been in the service of the Hospital for the period specified in clause 29.2 shall be entitled to a maximum of 26 weeks' leave of absence on full salary or wages.

29.3.2 Sabbatical Leave may be taken in two periods of up to 13 weeks duration which are taken within 2 years of each other. Sabbatical Leave may be taken at twice the rate of pay for a period equal to half the period to which the Practitioner would otherwise be entitled, as mutually agreed by the Practitioner and the Hospital.

29.3.3 The sabbatical leave shall be given as soon as practicable having regard to the needs of the Hospital, but the taking of such leave may be postponed to a mutually agreed date.

29.3.4 The practitioner's application for sabbatical leave shall be in writing and shall contain adequate details of the proposed programme of study or research. The onus of providing a sufficient aggregate of service to support a claim for sabbatical leave shall rest with the practitioner.

- 29.3.5** The application will be reviewed by the Credentials Committee which will make a recommendation to the Board of Management regarding the approval of the practitioner's programme of study or research within three months of the written application. In the event that the programme is not approved, the Hospital shall refer the matter to the Credentials Appeals Tribunal and, if the practitioner remains aggrieved by the decision, will invoke the dispute resolution procedure (Clause 11).
- 29.3.6** Where a practitioner has served as a Specialist, and such service is continuous with his service as a practitioner, a maximum of three years' service as a Specialist shall be counted in aggregating his eligibility for sabbatical leave under this clause.
- 29.3.7** Where a practitioner proceeds on sabbatical leave of less than 26 weeks' duration, the practitioner shall be deemed to have received his full entitlement under this clause and he shall not be entitled to claim an entitlement representing (in part or in whole) the balance of the 26 weeks (if any). The absence of a practitioner on sabbatical leave shall be prima facie evidence that he/she has received his/her full entitlement under this clause. Where Sabbatical Leave is taken in two periods of 13 weeks as allowed under clause 29.3.2 the provisions of this clause will apply to each 13 week period.
- 29.3.8** Where a practitioner has proceeded on sabbatical leave, a subsequent qualifying period as specified in clause 29.2 shall not commence to run until the date of the practitioner's return to duty following sabbatical leave; provided that where by mutual agreement a practitioner has delayed the taking of sabbatical leave, that period of service between the end of the qualifying period and the taking of such leave shall be included as part of a subsequent qualifying period.

30. PUBLIC HOLIDAYS

30.1 Entitlement to public holidays

30.1.1 A practitioner will be entitled to the following holidays without loss of pay:

- 30.1.1 (a)** New Year's Day, Good Friday, Easter Saturday (in respect to Easter Saturday a Medical Practitioner who ordinarily works Monday to Friday only and who does not work on Easter Saturday, shall not be entitled to any benefit for the said public holiday), Easter Monday, Christmas Day and Boxing Day; and
- 30.1.1 (b)** the following days, as prescribed in the relevant States, Territories and localities: Australia Day, Anzac Day, Queen's Birthday and Eight Hours' Day or Labour Day, on the day and in the locality for which it is gazetted; and
- 30.1.1 (c)** one other day being specified according to States, Territories or localities or on some other basis.

30.2 Public holidays falling on a weekend

30.2.1 When Christmas Day is a Saturday or a Sunday, a holiday in lieu thereof will be observed on 27 December.

30.2.2 When Boxing Day is a Saturday or a Sunday, a holiday in lieu thereof will be observed on 28 December.

30.2.3 When New Year's Day or Australia Day is a Saturday or Sunday, a holiday in lieu thereof will be observed on the following Monday.

30.3 Prescription of additional days

Where in the relevant States, Territories or localities, public holidays are declared or prescribed on days other than those set out in clauses 30.1 and 30.2 above, those days shall constitute additional holidays for the purpose of this agreement.

30.4 Substitution of other days

30.4.1 An employer, with the agreement of the majority of the practitioners, may substitute another day for any prescribed in this clause.

30.4.2 An agreement pursuant to 30.4.1 will be recorded in writing and be available to every affected practitioner.

30.5 Additional payment

A practitioner who is required to work on a day specified in clauses 30.1 and 30.2, in addition to payment for the time so worked at ordinary time rates is entitled to one day off which shall be added to the practitioner's annual leave, or by mutual agreement one day without loss of pay may be taken at some other time.

31. ACCIDENT PAY

31.1 Definitions

31.1.1 Accident pay

31.1.1 (a) Accident pay – Total Incapacity

Accident pay in respect of a practitioner deemed to be totally incapacitated under the Act means a weekly payment of an amount representing the difference between:

- the total amount of compensation paid under Part IV of the Act for the week in question, and
- the rate payable under this Agreement.

31.1.1 (b) Accident pay - Partial Incapacity

Accident pay in respect of as such deemed to be partially incapacitated under the Act means a weekly payment of an amount representing the difference between:

- the total amount of compensation paid under Part IV of the Act for the period in question together with the average weekly amount the practitioner is earning or is able to earn in some suitable employment or business (as determined expressly or by implication by the WorkCover Authority or as agreed between the parties), and
- the rate payable under this Agreement.

The rate will be the same as that applying for a total incapacity. However, where a practitioner receives a weekly payment under this clause and the payment is subsequently reduced pursuant to the Act, the reduction will not increase the liability of the employer to increase the amount of accident pay in respect of that injury.

31.1.1 (c) Where a practitioner receives accident pay and the pay is payable for incapacity for part of a week, the amount will be a direct proportion.

31.1.2 The Act

31.1.2(a) **Act** means the *Accident Compensation Act 3385 (Vic)*.

31.1.2(b) Where an entitlement to accident pay arises under this Agreement any reference to the *Accident Compensation Act 3385 (Vic)* will be deemed to include a reference to the *Workers Compensation Act 3358 (Vic)*.

31.1.3 Injury

Injury has the same meaning and application as applying under the Act. No injury will result in the application of accident pay unless an entitlement exists under the Act.

31.2 Entitlement to Accident pay

31.2.1 An employer will pay a practitioner accident pay where the practitioner receives payment in respect of a weekly incapacity (within the meaning of the Act) in respect of which the employer is liable to pay compensation under the Act. The employer's liability to pay accident pay may be discharged by another person on the employer's behalf.

31.2.2 Accident pay does not apply:

31.2.2 (a) for the first five normal working days of incapacity;

A practitioner who contracts an infectious disease in the course of duty and is entitled to receive workers compensation will receive accident pay from the first day of the incapacity.

31.2.2 (b) to any incapacity occurring during the first two weeks of employment, unless the incapacity continues beyond this time. Subject to clause 31.3.2(a) and clause 31.4 accident pay will only apply to the period of incapacity after the first two weeks of employment;

31.2.2 (c) to industrial diseases contracted by a gradual process or injuries subject to recurrence, aggravation or acceleration (as determined by the Act) unless the practitioner has been employed with the employer at the time of the incapacity for a minimum period of one month.

31.2.3 A practitioner on engagement may be required to declare all workers compensation claims made in the previous five years. In the event of false or inaccurate information being knowingly declared by the practitioner the employer is entitled to require the employer to forfeit his or her entitlement to accident pay under this clause.

31.3 Cessation of Accident pay

A practitioner's entitlement to accident pay ceases:

31.3.1 when the incapacity ceases; or

31.3.2 on the death of the practitioner; or

31.3.3 when the practitioner has received a total of 39 weeks accident pay for any one injury; or

31.3.4 when there is a cessation or redemption of weekly compensation payments under the Act, in which case accident pay will cease from the date of such cessation or redemption; or

31.3.5 where a practitioner refuses or fails to commence work after a medical referee, in accordance with the Act, has given a certificate specifying work for which the practitioner is fit and the employer makes this work available to the practitioner, in which case accident pay will cease from the date of the refusal or failure to commence work.

31.4 Termination of employment

31.4.1 Subject to clause 31.3 and clauses 31.4.3 and 31.4.4, a practitioner's entitlement to accident pay will continue on termination of employment by their employer, if the practitioner was incapacitated and receiving accident pay at the date of termination.

31.4.2 A practitioner with a partial incapacity will continue to receive accident pay from their employer on termination of their employment if:

- the employer cannot provide suitable employment for the practitioner to perform; and
- alternative employment is available with another employer.

31.4.3 To qualify for the continuance of accident pay on termination of employment, a practitioner will provide evidence to their employer of the continuing payment of weekly workers compensation payments.

31.4.4 A practitioner's entitlement to accident pay on termination of their employment will cease if the termination is due to serious and/or wilful misconduct on the part of the practitioner.

31.5 Absences on other paid leave

A practitioner is not entitled to payment for Accident pay in respect of any period of other paid leave of absence.

31.6 Notice of Injury

A practitioner on receiving an injury for which the practitioner claims to be entitled to receive accident pay, will give notice in writing of the injury to their employer as soon as reasonably practicable after the occurrence of the injury. Notice may be given by a representative of the practitioner.

31.7 Medical examination

To receive entitlement to accident pay a practitioner will conform to the requirements of the Act as to medical examinations.

31.8 Civil damages claims

31.8.1 A practitioner receiving or who has received accident pay will advise his or her employer of any action the practitioner may institute or any claim the practitioner may make for damages. The practitioner, if requested, will provide an authority to the employer entitling the employer to a charge upon any money payable pursuant to any judgment or settlement on that injury.

31.8.2 Where a practitioner obtains a judgment or settlement for damages in respect of an injury for which they have received accident pay, the employer's liability to pay accident pay will cease from the date of judgment or settlement. However if the judgment or settlement for damages is not reduced either in whole or part by the amount of accident pay made by the employer, the practitioner will pay to the employer any amount of accident pay already received in respect of that injury by which the judgment or settlement has not been reduced.

31.8.3 Where a practitioner obtains a judgment or settlement for damages against a person other than the employer in respect of an injury for which the practitioner has received accident pay, the employer's liability to pay accident pay will cease from the date of judgment or settlement. However if the judgment or settlement for damages is not reduced either in whole or part by the amount of accident pay made by the employer, the practitioner will pay to the employer any amount of accident pay already received in respect of that injury by which the judgment or settlement has not been reduced.

31.9 Variation in compensation rates

Any changes in compensation rates under the Act will not increase the amount of Accident pay above the amount that would have been payable had the rates of compensation remained unchanged.

31.10 Insurance Against Liability

Nothing in this Agreement requires an employer to insure against liability for accident pay.

32. JURY SERVICE

A Medical Practitioner required to attend for jury service shall be paid the difference between the amount paid for such service and the amount he or she would have received for rostered work that otherwise would have been performed during such jury service.

33. CONFERENCE LEAVE

33.1 The Medical Practitioner shall be entitled to paid leave of absence up to a maximum of two weeks in any one year to attend a conference or conferences approved by Ballarat Health Service. Conference leave may be accumulated to a maximum of 4 weeks only. Whilst on leave the Medical Practitioner shall be paid the remuneration he or she would have received had he or she attended the Hospital during the period of leave.


33.2 The application for conference leave shall be in writing to the Head of Department and shall contain adequate details of the conference or conferences proposed to be attended.


33.3 Where the Department Head does not within six weeks of the receipt of such application approve the Medical Practitioner's attendance at such conference or conferences, the employee shall refer the matter to their Divisional Director for determination. If the matter remains unresolved it will be dealt with under clause 11 Dispute Resolution.

SIGNATORIES

For and on behalf of

BALLARAT HEALTH SERVICES.

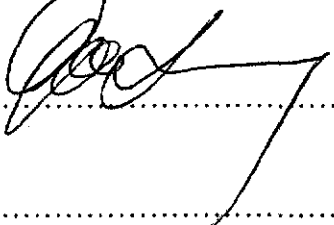
 Andrew R. Rowe, C.E.O.
.....


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(Witness)

..... 21.3.2004
(Date)

For and on behalf of

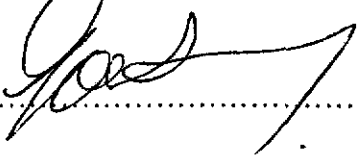
AUSTRALIAN MEDICAL ASSOCIATION (Victoria) LIMITED


.....
.....
(Witness)

..... 22.3.2004
(Date)

For and on behalf of

AUSTRALIAN SALARIED MEDICAL OFFICERS FEDERATION


.....
.....
(Witness)

..... 23.3.2004
(Date)