

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

Workplace Relations Act 1996

S.170LJ - Agreement with organisations of employees (Division 2)

Australian Salaried Medical Officers Federation

and

St Vincent's Health (Melbourne) Limited

and

Australian Medical Association

(AG2004/8758)

**ST VINCENT'S HEALTH (MELBOURNE) LIMITED FULLTIME MEDICAL
SPECIALISTS (ANAESTHETISTS) CERTIFIED AGREEMENT 2004**

Health and welfare services

COMMISSIONER CRIBB

MELBOURNE, 1 FEBRUARY 2005

CERTIFICATION OF AGREEMENT

In accordance with section 170LT of the *Workplace Relations Act 1996*, the Commission hereby certifies the attached written agreement.

This agreement shall come into force from 1 February 2005 and shall remain in force until 1 February 2008.

BY THE COMMISSION:

COMMISSIONER



ST VINCENT'S HEALTH (Melbourne)
FULL TIME MEDICAL SPECIALISTS
(Anaesthetists) CERTIFIED AGREEMENT 2004

**AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION
WORKPLACE RELATIONS ACT 1996**

CERTIFIED AGREEMENT

1 Title

This Agreement shall be known as the St Vincent's Health (Melbourne) Limited Fulltime Medical Specialists (Anaesthetists) Certified Agreement 2004.

2 Date and Period of Operation

This Agreement shall take effect from the beginning of the first full pay period commencing on or after this Agreement's certification under the provisions of the *Workplace Relations Act 1996* (as amended) and shall remain in force for a period of thirty six (36) months.

3 Parties to this Agreement

The Parties to this Agreement shall be St Vincent's Health. (SVH) incorporating St. Vincent's Hospital (Melbourne) Limited and St. Georges Health Service Ltd and Caritas Christi Hospice Ltd (hereafter "the Hospital"); the Australian Medical Association (Victoria) and the Australian Salaried Medical Officers Federation.

4 Application

4.1 This Agreement applies to the Parties with respect to the employment of Anaesthetists by the Hospital on a fulltime basis.

4.2 This Agreement will be a Certified Agreement registered under the provisions of Division 2 of Part VIB of the *Workplace Relations Act 1996* (as amended).

5 Relationship to the Award

This Agreement shall be read in conjunction with the Hospital Specialists and Medical Administrators Award 2002, provided that to the extent of any inconsistency the Agreement shall prevail.

6 Objectives of the Agreement

6.1 Inspired by the caring tradition of the Sisters of Charity and the healing ministry of Christ, the Hospital strives to be leader in providing high quality and innovative health care to the community. The Hospital's values and concern for all people permeate every aspect of life and work at the Hospital. The Hospital's leadership is achieved by the outstanding contribution of its people in delivering a range of specialist hospital and community services underpinned by excellence in education and research. The Hospital recognises and supports these values within the Department of Anaesthesia.

6.2 This Agreement seeks to ensure the ongoing viability, growth and competitiveness of the Hospital's services, whilst providing quality patient care through establishment of a commitment between the Hospital and the Practitioner to continuous improvement in all aspects of the Hospital's operations with the view to achieving private and public best practice benchmarks in the delivery of health care.

6.3 The Practitioner agrees the Hospital is best able to provide proper remuneration, security of employment and improved job satisfaction where the Hospital is in a sound financial and competitive position.

6.4 The purpose of this Agreement is to recognise the contributions of Practitioners towards continuous improvement through the provision of additional benefits.

7 Principles of the Agreement

No Practitioner will be required to perform work outside the tasks, functions and responsibilities that would normally be performed by that specific classification of employment without consultation and agreement.

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9 Continuity of Employment

- 9.1 Nothing in this Agreement affects the continuity of employment of a Practitioner for the purpose of any entitlements.
- 9.2 If a Practitioner was employed by the Hospital prior to certification of this Agreement, then the Practitioner's leave entitlements which have accrued during that period of service with the Hospital will be recognised by the Hospital, and those accrued entitlements will not be diminished in any way.

10 Medical Appointment

- 10.1 A Practitioner's employment with the Hospital is contingent upon the Practitioner holding a current Medical Appointment to provide services at the Hospital.
- 10.2 A Practitioner who wishes to seek reappointment shall advise the Hospital of such intention no less than six (6) months prior to the expiration of his/her current Medical Appointment.
- 10.3 Non-renewal of an appointment shall not be harsh, unjust or unreasonable.

11 Duties of the Practitioner

- 11.1 The Practitioner must carry out the duties set out in Schedule A including the commitment to On Call.
- 11.2 The hours of duty set out in Schedule A shall be reviewed eighteen (18) months after the certification of this Agreement, and subject to mutual agreement between the Hospital and the Practitioner, may be changed to reflect the current working arrangements of the Hospital at that time.
- 11.3 In addition the Practitioner must:
- 11.3.1 comply with the Hospital By-laws, resolutions, policies (by whatever name called), all lawful directions of the Executive Director and with the terms of agreements and directions which are binding on the Hospital pursuant to the Act;
 - 11.3.2 comply with all legal requirements statutory or otherwise pertaining to the position and responsibility of the Practitioner, including but not limited to maintaining current registration as required by the *Medical Practice Act 1994* or such other relevant legislative obligation having regard to the speciality of the Practitioner;
 - 11.3.3 maintain membership of a recognised medical defence organisation and provide evidence of this membership when requested by the Hospital;
 - 11.3.4 faithfully serve the Hospital and at all times use the Practitioner's best endeavours to promote the interests of the Hospital;
 - 11.3.5 at all times adhere to the Health Care Philosophy, Vision, Mission and Values of the Sisters of Charity Health Service.
- 11.4 The Practitioner is committed to implement specific workplace reforms and such reforms shall include but not be limited to the following:
- 11.4.1 maintenance and expansion of the Quality Improvement Programme;

- 11.4.2 development and implementation of pre-admission clinics to ensure each prospective patient of the Hospital has an examination by an appropriately qualified Medical Practitioner (not necessarily an Anaesthetist) before admission to the Hospital;
- 11.4.3 commitment to and implementation of the Patient Care Model operating in the Hospital;
- 11.4.4 constructive involvement in the development and operation of efficient day procedure and day surgery areas;
- 11.4.5 subject to the Hospital facilitating appropriate preoperative assessments of patients according to the Department of Anaesthesia guidelines, commitment to increased productivity in operating theatres of the Hospital including:
 - 11.4.5(a) reduction in theatre costs;
 - 11.4.5(b) reduction in turnaround time;
 - 11.4.5(c) optimisation of start times;
- 11.4.6 acceptance of workplace reform may lead to less fulltime employees and a commitment to establish flexibility to review the mix of sessional and fulltime Anaesthetists' workload and character of workload;
- 11.4.7 commitment to meet private sector benchmarks in the delivery of day procedures subject to the Hospital at all times acknowledging its commitment to teaching and research;
- 11.4.8 commitment to accept industry standard Performance Indicators for teaching, quality assurance and research activities.

12 Remuneration of Practitioners

- 12.1 Subject to Practitioners at all times carrying out the duties set out in Schedule A and the performance by the Practitioners of the obligations set out in this Agreement, Practitioners are entitled to the rates of remuneration set out in Schedule B inclusive of Leave Loading penalties, Fringe Benefits Tax and allowances ("Total Remuneration Package").
- 12.2 Employment benefits may be accessed in accordance with the salary packaging policy of the Hospital.
- 12.3 The Hospital agrees to provide the prescribed minimum level of superannuation support required under the *Superannuation Guarantee (Administration) Act 1992* (Commonwealth) in addition to the Total Remuneration Package.
- 12.4 The Hospital shall, where requested by the Practitioner, make provision to pay the Practitioner's superannuation entitlements to a regulated Superannuation Fund of the Practitioner's choice.

13 Additional Remuneration and Benefits

- 13.1 In addition to monetary remuneration and employment benefits the Practitioner is entitled to the following benefits and allowances which are excluded from the calculation of the annual cost to the Hospital of the Total Remuneration Package:
 - 13.1.1 Where a Practitioner is recalled, they shall be entitled to the RVG unit value as set out in Schedule B as applicable from time to time.

- 13.1.2 Meetings - the Practitioner must be paid one hundred and twenty five percent (125%) of their ordinary hourly rate of pay for each full hour in attending meetings outside ordinary hours at the request of the Hospital.
- 13.1.3 Higher duties - the Practitioner must be paid for the full day applicable to a higher classification if the Practitioner works at least eight (8) hours at that level.
- 13.1.4 Overtime - The Practitioner will be entitled to overtime in respect to list overruns resulting in time worked greater than two (2) clinical activity sessions on any one day and such overtime shall be paid at the time value of the RVG Unit Value as set out in Schedule B and varied from time to time on the basis of one (1) RVG Unit for each fifteen (15) minutes worked or part thereof. In other circumstances, the Practitioner will be entitled to one hundred and twenty five percent (125%) of their base rate of pay.
- 13.1.5 Business Travel - Where the Practitioner is undertaking work pursuant to this Agreement at the Hospital and is requested by the Hospital to travel to another Hospital, expenses incurred shall be reimbursed in accordance with Victoria Public Service rates as circularised from time to time upon completion of a travelling expenses claim form which will need to be submitted to the Finance Department.
- 13.1.6 The Hospital undertakes to make sufficient funds available to the Department of Anaesthesia for its administration by the Department Head. Without limiting the generality thereof, such funds shall include:
- (i) funds to enable the Practitioner (as may be approved by the Department Head) to attend conferences as approved by the Hospital including reimbursement for airfares, food, accommodation and conference expenses (including conferences attended whilst on sabbatical leave) approved by the Department Head;
 - (ii) funds to procure appropriate journals, texts and subscriptions from the Department;
 - (iii) subscriptions or dues for Practitioners for membership to professional associations;
 - (iv) purchase of text books, professional periodicals and journals for use by Practitioners;
 - (v) educational programs and professional development activities of Practitioners;
 - (vi) the membership fee of one (1) of the conventional indemnity funds in respect to the Practitioner as and when that fee is due. The Hospital will continue to indemnify the Practitioner for all claims against the Practitioner by Public Patients.

14 14 Private Practice

The Practitioner has a limited right to engage in Private Practice at St Vincent's Health expressly endorsed by the Chief Medical Officer. Where such endorsement is given a separate Private Practice Agreement will be executed between the Practitioner and St Vincent's Health.

15 Allocated Days Off

The Practitioner shall not be entitled to Allocated Days Off.

16 Performance Criteria and Review

- 16.1 It is the Hospital's policy to review the Total Remuneration Package of the Practitioner on or before 31 December of each year for the duration of the Agreement.
- 16.2 The Hospital has introduced a Performance Management System and the Practitioner shall be required to participate in this System.
- 16.3 It is the Hospital's policy to undertake a formal review of performance pursuant to Clause 16.2 on a minimum twelve (12) monthly basis or within thirty (30) days of the end of the financial year. This review will involve a meeting between the Practitioner and the Department Head (or the appointed Review Committee of the Hospital), culminating in a written report on the Practitioner's performance which is to be signed off by both the Hospital representative and the Practitioner.

17 Termination of Employment

- 17.1 Either party may terminate employment by giving three (3) months notice of termination in writing to the other party. The Hospital has the right to make payment in lieu of giving notice.
- 17.2 If Major Change Processes result in the abolition of the Practitioner's position and there is no equivalent position available in which to redeploy the Practitioner within the Hospital, then the Practitioner shall be entitled, in addition to his/her accrued entitlements, to the following payments only:
 - 17.2.1 two (2) weeks salary prorated per year of continuous service to a maximum of thirty (30) weeks;
 - 17.2.1 (a) "**Weeks Salary**" means in this sub paragraph the Total Remuneration Package for the Practitioner for the week.
- 17.3 Subject only to summary dismissal set out in clause 17.5, if the Hospital for any reason, including but not limited to non-compliance by the Practitioner with the Performance Criteria or the abolition of the position due to Major Change Processes, is considering terminating the Practitioner's employment, the Hospital must, before giving notice of termination to the Practitioner, consult and confer with the Practitioner and give the Practitioner the reasons for and details of the proposed action. If the proposed termination relates to the Practitioner's behaviour the Practitioner must be given an appropriate written warning or if due to unsatisfactory performance, must be given appropriate instructions, a written warning and the opportunity for a reasonable period of time to improve that performance.
- 17.4 Providing that the Hospital complies with the requirements of the *Act*, the Hospital may summarily dismiss the Practitioner at any time without the requirement to give notice, counselling or warning if the Practitioner is guilty of misconduct such as would at common law give the right to summary dismissal. This may include but is not limited to:
 - 17.4.1 neglect of duty of a serious nature or acts of dishonesty;
 - 17.4.2 breach of confidentiality or a serious conflict of interest affecting the performance of the duties of the Practitioner;
 - 17.4.3 revocation of the Practitioner's clinical credentials;
 - 17.4.4 failure to carry out lawful requests or directions;
 - 17.4.5 alcohol abuse or improper drug or substance use adversely affecting the performance and behaviour of the Practitioner;

- 17.4.6 ceasing to hold current registration as required by the *Medical Practice Act 1994*, such other registration as is acceptable to the Hospital or ceasing to hold membership of a recognised medical defence organisation;
- 17.4.7 being found to have engaged in unprofessional conduct of a serious nature as referred to in section 50 of the *Medical Practice Act 1994* or having any limitation, condition or restriction imposed on the Practitioner's right to practice by the Medical Board of Victoria;
- 17.4.8 failing to meet the standards required by the Practitioner's specialist medical college in respect of continuing education of the Practitioner;
- 17.4.9 being found guilty of an indictable offence under the *Crimes Act 1958*.

18 **Renewal of Certified Agreement**

- 18.1 At least three (3) months prior to the expiration of the Certified Agreement, the Hospital and the Practitioners must confer with a view to reaching agreement about whether the Certified Agreement will be replaced with a new Agreement and, if so, on what terms.
- 18.2 Each party must advise the other no later than 1 month (or such other period as they may agree in writing) prior to the expiration of the Certified Agreement of their decision regarding the matters referred to in clause 18.1.
- 18.3 If agreement is reached to replace the Certified Agreement, the continued service of the Practitioners will be recognised under the new agreement so as to avoid any break in service and any accrued or pro-rata entitlements will be carried forward into the new agreement.

19 **Variation**

This Agreement can only be varied pursuant to the *Workplace Relations Act 1996* (as amended).

20 **Leave**

- 20.1 The Practitioner is entitled to the following leave entitlements:

20.1.1 Annual Recreation Leave

Four (4) weeks paid leave shall accrue at the end of each year of employment prorated provided that the Practitioner must take leave within twelve (12) months of it accruing. One (1) week's additional paid leave accrues for each year of employment the Practitioner is required to be On Call by the Hospital (prorated).

Any annual leave accrued by the Practitioner by virtue of continuous service with the Hospital as at the commencement date of this Agreement shall be credited to the Practitioner and accrued by the Practitioner pursuant to the Hospital's policy.

20.1.2 Sick Leave

Twenty eight (28) days paid leave for each year of employment pro-rated with the entitlement to sick leave being cumulative. The accrual of sick leave does not carry the right to be paid for any untaken sick leave on the termination of the Practitioner's employment and sick leave in excess of two (2) days must be supported by a medical certificate.

Any sick leave accrued by the Practitioner and recognised by the Hospital as at the commencement date of this Agreement shall be credited to the Practitioner.

20.1.3 Compassionate Leave

Two (2) days paid leave at any time during the period of employment prorated upon the death of a Close Family Relative in Australia or the illness or death overseas of a spouse (including de facto spouse of the opposite or same sex), parent, partner, sibling or child provided that the Practitioner must not take compassionate leave whilst on other leave and must provide proof of illness or death or relationship when requested by the Hospital.

20.1.4 Approved Conference Leave

Two (2) weeks paid leave for each year of employment provided that a Practitioner may carry up to four (4) weeks conference leave into a subsequent year. The accrual of conference leave does not carry the right to be paid for any untaken conference leave on the termination of this for any reason. The Practitioner must seek prior approval to attend from the Department Head or nominee and provide the Director of Clinical Services with a written report of conferences attended.

20.1.5 Long Service Leave

The Practitioner is entitled upon the completion of ten (10) years continuous service with the Hospital - four (4) months prorated long service leave and thereafter an additional two (1) months prorated long service leave on the completion of each additional five (5) years service with the Hospital prorated.

If the Hospital and the Practitioner agree, 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.

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. The number of instalments taken is limited only by the requirement that there be mutual agreement.

If the Practitioner has been employed by the Hospital for at least ten (10) years and resigns or retires, or if the Practitioner's appointment expires and he/she has not received Long Service Leave for the period to which the Practitioner would have been entitled, the Hospital shall pay the Practitioner the amount to which he/she would have been entitled plus a pro rata amount for all service with the Hospital in excess of ten (10) years, provided that such resignation or retirement is not due to serious or wilful misconduct.

Upon death from any cause of the Practitioner who, at the date of death was eligible for a grant of long service leave, the Hospital shall pay to the personal representative of the deceased Practitioner the amount that the Practitioner would have been entitled to receive had he/she retired immediately prior to

the date of his/her death. Upon the death of the Practitioner while on long service leave, the Hospital shall pay to the personal representative of the deceased Practitioner a sum equal to the amount which would have been payable to the Practitioner had he/she retired immediately prior to his/her taking such leave less any amount already paid to the Practitioner in respect of such leave.

Where a Practitioner is employed by the Hospital subsequent to the certification of this Agreement, the Practitioner shall be entitled to long service leave in accordance with the Award.

20.1.6 Sabbatical Leave

The Practitioner is entitled to a maximum of twenty six (26) weeks paid leave for each six (6) years of continuous employment (which may be taken in four (4) week periods) provided that:

- (i) the Practitioner is a Specialist of at least three (3) years standing and has engaged in medical undergraduate and graduate teaching in the Hospital;
- (ii) the dominant purpose of the leave is to undertake a course of study or research related to the Practitioner's work;
- (iii) the course of study or research is of benefit to the Hospital and is approved by the Hospital;
- (iv) the Practitioner undertakes to remain in the employment of the Hospital for at least two years after returning from leave;
- (v) the Hospital may recover costs in excess of the monetary remuneration paid to the Practitioner or incurred by the Hospital in respect of the leave if the Practitioner voluntarily leaves the employment of the Hospital within two years of returning from leave;
- (vi) the Hospital must recognise the Practitioner's employment in excess of six (6) months in the Australian Defence Forces when calculating the continuous period of employment required.
- (vii) Upon termination the Practitioner has no entitlement to be remunerated for any accrued Sabbatical Leave.

20.1.7 Family Leave

In recognition of the need for leave to care for family members, Practitioners are entitled to up to five (5) paid days per annum for this purpose. This leave is to enable the Practitioner to provide care for dependants, which include spouse, de facto spouse of the opposite or same sex, child, parent, grandparent, grandchild, or siblings of the Practitioner or the spouse or de facto spouse of the Practitioner. The Practitioner must have responsibility for the care of the dependant person concerned and must provide, if required by the Hospital, a medical certificate provided by a registered Medical Practitioner verifying the nature of the illness and stating its expected duration. Family leave is non-cumulative from year to year.

21 Parental Leave

21.1 Definitions

21.1.1 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.

21.1.2 Subject to 21.1.3, in this clause, spouse includes a de facto or former spouse.

21.1.3 In relation to 21.5, spouse includes a de facto spouse but does not include a former spouse.

21.2 Basic entitlement

21.2.1 After twelve months continuous service, parents are entitled to a combined total of 52 weeks 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. Parental leave is unpaid leave, except that six weeks of maternity leave will be on full pay, and one week of paternity leave will be on full pay. Adoption leave may be taken in the case of adoption.

21.2.2 Subject to 21.3.6, 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:

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

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

21.3 Maternity leave

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

21.3.1(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;

21.3.1 (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.

21.3.2 When the employee gives notice under 21.3.1(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.

21.3.3 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.

21.3.4 Subject to 21.2.1 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.

21.3.5 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.

21.3.6 Special maternity leave

21.3.6(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.

21.3.6(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.

21.3.6(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.

21.3.7 Where leave is granted under 21.3.4, 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.

21.4 Paternity leave

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

21.4.1(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

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

21.4.1(c) a statutory declaration stating:

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

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

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

21.4.2 The employee will not be in breach of 21.4.1 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.

21.5 Adoption leave

21.5.1 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.

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

21.5.2(a) the employee is seeking adoption leave to become the primary care-giver of the child;

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

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

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

21.5.4 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.

21.5.5 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.

21.5.6 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.

21.6 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.

21.7 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.

21.8 Transfer to a safe job

21.8.1 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.

21.8.2 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.

21.9 Returning to work after a period of parental leave

21.9.1 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.

21.9.2 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 21.8, the employee will be entitled to return to the position they held immediately before such transfer.

21.9.3 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.

21.10 Replacement employees

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

21.10.2 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.

22 Public Holidays

22.1 A practitioner shall be entitled to be absent without deduction of pay as rostered on the following public holidays: New Years Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Labour Day, Anzac Day, Queen's Birthday, Melbourne Cup Day, Christmas Day and Boxing Day. A practitioner who ordinarily works Monday to Friday and who does not work on Easter Saturday (Easter Eve) is entitled to one days pay, or by mutual consent may take one day off in lieu within four weeks following that day or have one day added to annual leave.

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

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

22.4 When New Year's Day or Australia Day is a Saturday or Sunday a holiday in lieu thereof shall be observed on the next Monday.

22.5 Where in the State of Victoria public holidays are declared or prescribed on days other than those set out in sub-clause 22.1 above, those days shall constitute additional holidays for the purpose of this agreement.

22.6 A practitioner who is required by the Hospital to attend on a day specified as a public holiday in addition to payment for the time so worked at ordinary time rates is entitled to one and one half days off which shall be added to the practitioner's annual leave, or by mutual agreement one and one half days without loss of pay may be taken at some other time.

23 Disputes

23.1 Framework for Resolution

23.1.1 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.

23.1.2 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

- 23.1.3 Until the dispute is resolved, work shall continue normally while discussions take place. Health and safety matters may be exempted where appropriate.
- 23.1.4 No party is prejudiced as to final settlement of the dispute by continuing to work during the dispute.
- 23.2 Process for Resolving Disputes
 - 23.2.1 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.
 - 23.2.2 If the matter is still unresolved it shall be referred to the Chief Medical Officer (or equivalent), who will meet with the Practitioner and, if the practitioner chooses, an Association representative or any other person.
 - 23.2.4 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.

24 Confidential Information

- 24.1 Information, whether or not in material form, other than that generally published and available regarding the Hospital's business transactions, operations and systems, financial affairs and structures, is of value to the Hospital, and is of a restricted, confidential nature. During the continuance of this Agreement and for any time thereafter, the Practitioner must not use or disclose any such confidential information to any other person, firm or corporation without the prior written consent of the Hospital.
- 24.2 On completion or termination of his/her employment, the Practitioner must immediately deliver to the Hospital all books, notes and other records based on or incorporating information referred to in clause 24.1, and all keys, computer software or other property relating to the business of the Hospital which belongs to the Hospital or relates to the duties of the Practitioner during the period of the employment.
- 24.3 The Practitioner acknowledges and agrees that the Practitioner is aware of the provisions of *Section 141* of the *Act* which relates to the unlawful disclosure of patient information.

25 Insurance

- 25.1 The Hospital represents to the Practitioners intending that the Practitioners rely on the representation, that under the Liability and Malpractice Insurance Contract made between the Victorian Managed Insurance Authority and the Minister for Human Services for the State of Victoria and in force at the date of this Agreement the Hospital is a named insured therein and the Practitioners are entitled to indemnity subject to the terms and conditions of that insurance contract.
- 25.2 The Practitioners acknowledge the requirement to maintain membership of a recognised medical defence organisation (see clause 11.2.3) and that the insurance contract referred to in clause 25.1 of this Agreement provides very limited indemnity to the Practitioner for any legal liability arising in connection with the Practitioner's treatment of Private and Compensable Patients.

26. Provision of Mobile Telephones

When the hospital requires a Practitioner to be in telephone contact for work purposes, the hospital must provide a fully funded mobile phone for the Practitioner's work use; OR fully

reimburse the practitioner for all reasonable and actual costs incurred by the Practitioner when making or receiving work related telephone calls.

27. Physical Working Conditions

- 27.1 It is agreed that the following infrastructure standards should be met:
- (a) Access for Practitioners to workstations, telecommunication and information technology capable of ensuring administrative and similar work can be accomplished efficiently;
 - (b) 24 hour access to the library and all of its resources;
 - (c) Reserved car parking paid for by the hospital and available for a Practitioner on call and recalled. The parking spaces must be well lit and in a secure place within 200 metres from the front door of the Hospital main entrance;
 - (d) Access for Practitioners to Internet and e-mail facilities for work purposes;
 - (e) Availability of an office for Practitioners for private discussion with patient's relatives;
 - (f) Access for Practitioners to a security escort at night.
- 27.2 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.

28 Research Material

- 28.1 Any research materials, documentation, literature, manuals, records and other materials brought into existence by the Practitioner in the course of performing the duties under this Agreement or which are the property of the Hospital at the commencement of this Agreement, are and will remain the property of the Hospital and will be left with the Hospital on the termination of employment.
- 28.2 Any property whether real or personal, tangible or intangible, which is created, expanded, added to or modified in any matter or to any extent whatsoever by the Practitioner in the course of performance of the duties under this Agreement, is and will remain the sole and exclusive property of the Hospital at all times during the continuance and after the termination of employment. No right, title or any interest of any nature whatsoever will accrue or deemed to have accrued to the Practitioner at any time in respect of all or any of the abovementioned property.
- 28.3 On termination of employment for whatever reason, the Practitioner will immediately deliver to the Hospital all records whatsoever in the Practitioner's possession or control which relate directly or indirectly to the Hospital's business or patients.

29 No Extra Claims

29.1 The parties 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.

29.2 Subject to the Hospital meeting its obligations to consult arising under the Award or this Agreement, 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.

30 Notices

Any notice required to be given under this Agreement must be delivered to the Hospital at 41 Victoria Pde, Fitzroy 3065 and if to the Practitioner must be delivered or sent by pre-paid post to the Practitioner's last known address. Any notice given accordingly to this clause is deemed to have been served at the time of delivery, if delivered, and on the day following posting, if posted.

31 Other Rights Unaffected

The rights created under this Agreement are not intended to affect any rights which either the Practitioner or the Hospital may have apart from this Agreement.

32 Definitions

- 32.1 "Act" means the *Health Services Act 1988*;
- 32.2 "Award" means the *Hospital Specialists and Medical Administrators Award 2002*;
- 32.3 "Chief Medical Officer" means the person appointed by the Hospital to this role, or their nominee;
- 32.4 "Classification" means the bands, determined by years of service as a Specialist, which will be used as the determinant for establishing the remuneration package of the Practitioner;
- 32.5 "Clinical Activity Session" means a clinical session of five (5) hours duration;
- 32.6 "Close Family Relative" means a spouse, partner, parent, sibling, child, step-child, grandparent, grandchild and parent-in-law and includes a de facto spouse and their parents and children;
- 32.7 "Compensable Patient" means an eligible person as defined in section 3(1) of the *Health Insurance Act 1973 (Commonwealth)* who is entitled to be paid compensation damages, or other benefits in respect of an injury, illness or disease for which he or she is receiving hospital services and includes a WorkCover patient, Accident Compensation Commission and Veterans Affairs patients;
- 32.8 "Department Head" means the Head of the Anaesthesia Department;
- 32.9 "Family Leave" means leave allowed to a Practitioner being required to provide primary care to a sick partner, parent, brother, sister, child or stepchild;
- 32.10 "Health Care Facilities" means a facility in Victoria which provides public hospital services to patients;
- 32.11 "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:
- (i) postgraduate degrees and diplomas of Universities;
 - (ii) membership or fellowship of a College or Association of Specialists;
 - (iii) any other postgraduate qualification at the level of Masters or above appropriate to the speciality in which a Practitioner is employed.
- 32.11 "Hourly Rate" means 1/38th of the Practitioner's weekly monetary remuneration;
- 32.12 "Major Change Processes" includes changes in the role or functions of the Hospital or a constituent hospital, the cessation of the provision of medical or surgical services in a Practitioner's discipline or speciality and the abolition of the Unit or Department in which a Practitioner works;
- 32.13 "Medical Appointment" means appointment of the Practitioner to the Senior Medical Staff of the Hospital with clinical credentials applicable to the medical services to be provided by the Practitioner pursuant to this Agreement and shall be for a fixed term of not less than one (1) year and not more than five (5) years;

- 32.14 **"On Call Period"** means the hours where the Practitioner is not rostered on duty;
- 32.15 **"Ordinary Hours"**¹ means the hours between 0630 and 1830 Monday to Friday, except days appointed as Public Holidays;
- 32.16 **"Practitioner"** means a fulltime Anaesthetist employed by the Hospital;
- 32.19 **"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 as a head of department or unit will be paid no less than a Principal Specialist Level 2. A medical practitioner appointed 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.

- 32.20 **"Private Patients"** means an eligible person as defined in section 3(1) of the *Health Insurance Act 1973 (Commonwealth)* who elects to be treated on Hospital premises as an inpatient or day patient by a medical practitioner of his or her choice and is responsible for paying for the provision of medical services, but does not include a Public Patient or a Compensable Patient;
- 32.21 **"Private Practice"** means the rendering by a Practitioner of professional services at the Hospital to private patients for which fees are charged in the name of the Practitioner or the Hospital, and includes the preparation and signing of reports and certificates.
- 32.22 **"Public Patient"**¹ means an eligible person as defined in section 3(1) of the *Health Insurance Act 1973 (Commonwealth)* who elects to be treated as a public inpatient or a public outpatient in respect of whom the Hospital provides comprehensive care, including all necessary medical, nursing and diagnostic services by means of its own staff and by other agreed arrangements without charge to the eligible person;
- 32.23 **"Relative Values Guide" (RVG)** means a fee for service provided to a Practitioner during the On Call period and defined in accordance with the AMA List of Medical Services and Fees in force at the time a service is provided;
- 32.24 **"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.

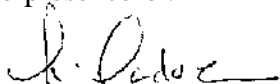
- 32.24 **"Specialist"** means a Practitioner who possesses a higher qualification appropriate to the specialty in which they are employed or have sufficient experience in their specialty to satisfy the Hospital that the appointment is warranted.

Executed as an Agreement.

~~SIGNED SEALED and DELIVERED~~

by a duly authorised officer of
**ST VINCENT'S
HEALTH (MELBOURNE)**

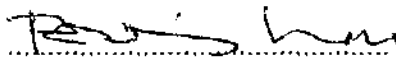
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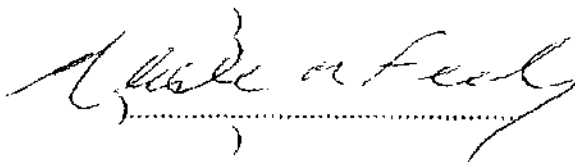

..... Witness

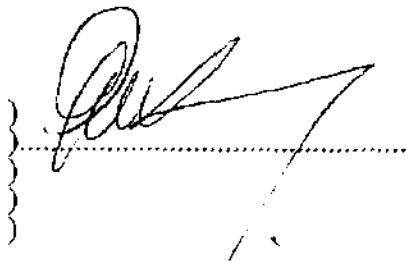
Signed for and on behalf of
the **AUSTRALIAN MEDICAL
ASSOCIATION (Victoria) LIMITED**
representing the Practitioners
in the presence of:

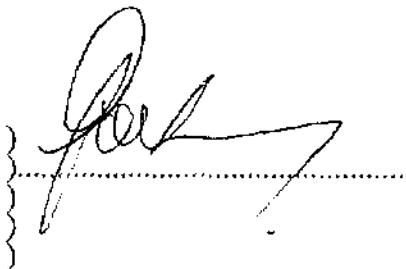

..... Witness

Signed for and on behalf of
the **AUSTRALIAN SALARIED MEDICAL
OFFICERS FEDERATION**


..... Witness







SCHEDULE A
HOURS OF DUTY

The ordinary hours of duty of the Practitioner are thirty eight (38) hours per week to be worked between 0630 and 1830 hours, during a minimum of four (4) days, Monday to Friday except days referred to as public holidays in the Award. The Practitioner must be available to perform duties outside those ordinary hours of duty.

a) **Practitioners**

Practitioners are required to work a minimum of six (6) clinical activity sessions per week.

A "Clinical Activity Session"* is defined as five (5) hours.

b) **Department Head and Deputy Department Head**

The Department Head and Deputy Department Head are required to work a minimum of eight (8) clinical activity sessions between them per week.

A "Clinical Activity Session" is defined as five (5) hours.

DUTIES

A. **CLINICAL ACTIVITIES**

Anaesthetists must provide exclusive care to their patients including:

- Pre and post-op consultation
- Acute pain service
- Special consultations
- Ward procedures
- Chronic pain management
- Theatre relief- leave/sickness
- Quality assurance activities
- Patient complaints
- Supervision of cardiopulmonary bypass
- Preadmission clinics
- Colonoscopies
- Endoscopies
- Clinical Research

B. **OTHER PROFESSIONAL ACTIVITIES**

Include the following activities:

- i) Teaching and Education

- Anaesthetic Trainees
 - Residents
 - Anaesthetic Nurses or Technician
 - Recovery room nurses
 - Theatre nurses
 - Medical students
 - Exam preparation
 - Simulator based training
- ii) Continuing Education
- Personal - Journals, books, abstracts, videos
 - Department meetings
- iii) Research
- Preparation
 - Data Collection
 - Analysis
- iv) Administration
- Departmental meetings
 - Management strategies
 - Job interviews
 - Trainees
 - Staff
 - Financial planning
 - Training program
 - Leave relief
 - Private Patient Billing
 - 'On Call' audit processes and procedures

- Rostering
 - Specialists
 - Trainees
- Visa/medical registration
- Hospital committees
- Performance Appraisals
- Equipment planning
- Individual contracts
- Trade liaison

v) Quality Assurance Activities

A report on other professional activities including departmental responsibilities and research activities will be presented to the Department Head by each Practitioner each six months.

SCHEDULE B

REMUNERATION ENTITLEMENTS

- 1 Practitioners employed pursuant to this Agreement will be paid the following minimum annualised salaries (inclusive of payments in lieu of overtime penalties and loadings for private practice arrangements) from the first pay period to commence on or after the dates indicated.

Classification		Annual salary from 1 July 2002	Annual salary from 1 January 2003	Annual salary from 1 January 2004	Annual salary from 1 January 2005
Specialist	Year 1	\$161,817.54	\$166,672.06	\$171,672.23	\$176,822.39
	Year 2	\$164,956.48	\$169,905.16	\$175,002.33	\$180,252.39
	Year 3	\$168,085.21	\$173,127.76	\$178,321.60	\$183,671.24
Senior Specialist	Year 4	\$179,712.33	\$185,103.70	\$190,656.81	\$196,376.52
	Year 5	\$186,893.96	\$192,500.78	\$198,275.80	\$204,224.07
	Year 6	\$194,370.82	\$200,201.94	\$206,208.00	\$212,394.24
	Year 7	\$202,149.77	\$208,214.27	\$214,460.70	\$220,894.52
	Year 8	\$210,237.68	\$216,544.81	\$223,041.16	\$229,732.39
	Year 9	\$214,362.75	\$220,811.19	\$227,428.38	\$234,250.77
Principal Specialist Level 1		\$218,647.24	\$225,206.65	\$231,962.85	\$238,921.74
Principal Specialist Level 2		\$227,395.30	\$234,217.16	\$241,243.67	\$248,480.98

2. **Recall**

- a) RVG Unit rate will be \$36.89 (as at November 2003).
- b) If the Practitioner is recalled to the Hospital for required clinical care, the Practitioner is entitled to be paid at the RVG Unit value and the Director Clinical Services (or nominee) shall be the sole arbiter.

AG833762 PR953870

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

Workplace Relations Act 1996
S.170MD variation of certified agreement

Australian Salaried Medical Officers Foundation
(AG2004/8106)

**ST VINCENT'S HEALTH (MELBOURNE) MEDICAL SPECIALISTS
(PATHOLOGISTS) CERTIFIED AGREEMENT 2003**
(AG2004/2428)
[AG833762 PR946111]

Health and welfare services

DEPUTY PRESIDENT HAMILTON

MELBOURNE, 1 DECEMBER 2004

Variation of certified agreement - clause 19 to be replaced.

ORDER

A. In accordance with S.170MD of the Act the above agreement is varied as follows:

1. By deleting clause 19 and replacing it with

19. PRIVATE PRACTICE

19.1 The Practitioner has a limited right to engage in Private Practice at St Vincent's Health expressly endorsed by the Chief Medical Officer. Where such endorsement is given a separate Private Practice Agreement will be executed between the Practitioner and St Vincent's Health.

B. This order shall come into force from Wednesday 1 December 2004 and shall remain in force for a period of three months.

BY THE COMMISSION:

DEPUTY PRESIDENT

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