

Doctors in Training Enterprise Agreement 2018-21

Part A

NB: Part 2 content has been removed

1 Title

This Agreement is called the *AMA Victoria - Victorian Public Health Sector - Doctors in Training Enterprise Agreement 2018-2021*.

3 Definitions

3.1 In this Agreement except where the context requires otherwise:

- (a) **Act** means the *Fair Work Act 2009* (Cth), as varied from time to time, and any successor to that Act.
- (b) **Agreement** means the *AMA Victoria - Victorian Public Health Sector - Doctors in Training Enterprise Agreement 2018-2021*, including all Schedules.
- (c) **Association** means the Australian Medical Association (Victoria) Limited ("**AMA**") or the Australian Salaried Medical Officers Federation (Victoria Branch) ("**ASMOF**").
- (d) **CMBS** means Commonwealth Medical Benefits Schedule.
- (e) **CME** means Continuing Medical Education.
- (f) **Doctor** means a registered medical practitioner employed by a Health Service as a Hospital Medical Officer, Medical Officer, Senior Medical Officer, Registrar or a person enrolled in a General Practice Training Program.
- (g) **Duty Hours** means those hours for which a Doctor is rostered or paid by the Hospital.
- (h) **EO Act** means the *Equal Opportunity Act 2010* (Vic), as amended or replaced from time to time.
- (i) **Experience** means the number of years the Doctor has been employed in a full-time or part-time capacity as a Doctor or any experience as a medical practitioner in Australia or other country where the Medical Board of Australia has accepted the qualifications held for the purposes of full registration. A year of experience is 52 weeks or, if necessary to even out a roster, 53 weeks. The exceptions to this definition are as follows:
 - (i) If the Doctor has worked a total average of 24 hours per week or less in a year, another year of employment must be completed before advancement to the next level of experience;
 - (ii) If, for a period of 5 years or more, the Doctor has not actively practised medicine or has not been regularly employed as a Doctor over a 5 year period, any prior service and experience will not be taken into account; and
 - (iii) Experience as a Registrar while performing Higher Duties pursuant to clause 51 (Higher Duties) will be counted as Experience for the purpose of the above where the Higher Duties period is continuous with a subsequent appointment to a Registrar position.

- (j) **FWC** means the Fair Work Commission.
- (k) **Health Service** means a public hospital or health service listed in Schedule A.
- (l) **Health Services Act** means the *Health Services Act 1988* (Vic), as amended or replaced from time to time.
- (m) **Higher Qualifications** means qualifications obtained by a Doctor after graduation and includes:
 - (i) post-graduate university degrees and diplomas for the purposes of registration as a Medical Specialist in Australia;
 - (ii) membership or fellowship of a Specialist Medical College for the purpose of registration as a Medical Specialist in Australia;
 - (iii) any other post-graduate qualification for the purposes of registration as a Medical Specialist in Australia;
 - (iv) the first part or equivalent of a higher qualification as defined in this Agreement.
- (n) **Hospital Medical Officer (“HMO”)** means a Doctor with three or less years of experience and who is not performing the duties of a Medical Officer or a Registrar.
- (o) **Hourly Rate for Hospital Medical Officers, Medical Officers and Senior Medical Officers** means 1/38th of the relevant weekly rate.
- (p) **Hourly Rate for Registrars** means 1/43rd of the relevant weekly rate as the ordinary hours of work for Registrars are made up of 38 hours of ordinary duty plus 5 reasonable additional hours of training time, equalling 43 hours per week or an average of 43 hours per week for up to 4 weeks pursuant to subclause 34.
- (q) **HSR** means a health and safety representative (including a deputy health and safety representative) elected under the OHS Act.
- (r) **Institution** means any hospital, health service (whether or not listed in Schedule A) or benevolent home, community health centre, Society or Association registered pursuant to the Health Services Act.
- (s) **Medical Officer (“MO”)** means a Doctor with three or more completed years of experience and who is not performing the duties of a Registrar or performing medical work covered by another Award or agreement. A Medical Officer employed solely in an administrative position and who is not eligible to be covered by any other medical Award or agreement must be paid as a Medical Officer 5th year of experience.
- (t) **NES** means the National Employment Standards.
- (u) **OHS Act** means the *Occupational Health and Safety Act 2004* (Vic).
- (v) **Parent Hospital** means a Hospital that employs a Doctor, typically on a one year contract from the first week of February, on the understanding that the Doctor may be directed to work at a Rotation Hospital in order to meet the requirements of a structured training program OR to meet service demands. Separate campuses of amalgamated health services are deemed to be the one Parent Hospital.

- (w) **Registrar** means a Doctor who is either appointed to an accredited Specialist training position (refer subclause 42.8(c)) or who holds a position designated as such by the Health Service.
- (x) **Rotation** means a period during which a Doctor is directed to work at a Hospital other than the one by which they are employed (the "Rotation Hospital"), or otherwise who is engaged by more than one Health Service in a calendar year at the direction of a Specialist Medical College, as part of a structured training program or to meet service demands. The Doctor remains an employee of the Parent Hospital for the rotation period.
- (y) **Rotation Hospital** means a hospital that receives a Doctor on rotation.
- (z) **Senior Medical Officer ("SMO")** means a Doctor who is employed as a Head of Department or equivalent role within the Health Service.
- (aa) **Shiftworker**, for the purposes of the NES, is any Doctor who is required to work in excess of their ordinary hours, or works ordinary hours on more than 10 weekends (defined as a Saturday or Sunday or both) during the leave accrual year.
- (bb) **Specialist Medical College** means a medical college accredited by the Australian Medical Council.
- (cc) **Statutory Body** means the Department of Health and Human Services (Victoria) and, formerly, the Department of Health (Victoria) and the Department of Human Services (Victoria).
- (dd) **Training Time** means a rostered period of time available to Registrars for five hours per week dedicated for training which is free from service calls, with the exception of calls about genuine medical emergencies or disaster situations. Forms of Training Time are set out in subclause 34.4.
- (ee) **VHIA** means the Victorian Hospitals' Industrial Association.
- (ff) **Week** means seven consecutive days reckoned from and to midnight on Saturday night.
- (gg) **WIRC Act** means the *Workplace Injury Rehabilitation and Compensation Act 2013* (Vic), or if applicable in the particular situation the *Accident Compensation Act 1985* (Vic) or the *Workers Compensation Act 1958* (Vic).

3.2 Except where the context requires otherwise, a reference in this Agreement to "Hospital", "hospital" or "health care facility", "public health sector agency" or similar term is a reference to the hospital, health care facility, public health sector agency operated by a Health Service listed in Schedule A to this Agreement.

3.3 Where an Act of Parliament or Regulation referred to in this Agreement is or has been replaced by another Act of Parliament or Regulation, the reference to such an Act or Regulation shall be taken to refer to the successor Act or Regulation.

3.4 Where this Agreement refers to a condition of employment provided for in the NES, the relevant definitions in the Act apply.

4 Coverage

4.1 Subject to subclause 4.2, this Agreement covers:

- (a) the Health Services (referred to in Schedule A) as employers;
- (b) all registered medical practitioners employed by a Health Service as a:
 - (i) Hospital Medical Officer;
 - (ii) Medical Officer;
 - (iii) Senior Medical Officer;
 - (iv) Registrar; or
 - (v) person enrolled in a General Practice Training Program; and

provided the FWC so notes in its decision to approve this Agreement:

- (c) the Australian Salaried Medical Officers' Federation.

4.2 For the avoidance of any doubt, this Agreement does not cover any person in relation to ordinary work performed wholly on a fee for service or scheduled fee basis (including, by way of example only, the Commonwealth Medical Benefits Schedule (**CMBS**)).

5 Date and Period of Operation

5.1 This Agreement will operate seven days after the date upon which it is approved by the FWC.

5.2 The nominal expiry date of this Agreement is 31 December 2021.

5.3 The Agreement will continue in force after the nominal expiry date until replaced by a further enterprise agreement.

6 Relationship to Previous Awards, Agreements and the NES

6.1 This is a comprehensive agreement that regulates all terms and conditions of employment and expressly excludes and displaces the operation of all prior agreements and any Award(s) that may otherwise apply.

6.2 The Schedules to this Agreement form part of the terms of the Agreement and are to be read in conjunction with this Agreement for all purposes, including for enforcement.

6.3 This Agreement is not intended to exclude any part of the NES or to provide any entitlement which is detrimental to a Doctor's entitlement under the NES. For the avoidance of doubt, the NES prevails to the extent that any aspect of this Agreement would otherwise be detrimental to a Doctor.

7 Savings

7.1 This Agreement does not disturb the continued application of employment entitlements received by a Doctor prior to this Agreement, which are over and above the provisions of this Agreement.

8 No Extra Claims

- 8.1** The parties covered by this Agreement acknowledge that this Agreement settles all claims in relation to the terms and conditions of employment of the Doctors to whom it applies and agree that they will not pursue any extra claims during the term of this Agreement.
- 8.2** The Health Services agree to commence discussions with the Association no later than six months prior to the nominal expiry date of this Agreement. Provided that any claim made by a person covered by this Agreement during that six-month period is not supported by industrial action, subclause 8.1 does not prevent a person covered by this Agreement from making a claim during the six-month period (or such earlier period as may be agreed) prior to the nominal expiry date of this Agreement.

9 Nature of Relationship

- 9.1** All minimum entitlements available to the Doctor arise through this Agreement and the NES. In most cases, the employment contract will only prescribe and enforce the time period for the employment relationship, whether the employment is full time or part time or casual and require the Doctor to abide by Health Service policies and procedures.
- 9.2** A Rotation Hospital must apply the Parent Hospital employment contract (refer to Definitions (subclauses 3.1(v), 3.1(x) and 3.1(y)) and clause 24).
- 9.3** Doctors participating in accredited Specialist training are generally required to maintain two discrete relationships: a trainee relationship with a Specialist Medical College and an employment relationship with a Health Service.
- 9.4** Where a Doctor takes up a Specialist training position accredited by the Specialist Medical College, it is the Health Service that employs the Doctor into the allocated position.