Doctors in Training Enterprise Agreement 2018-21

Part D – Hours of Work and Related Matters

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33 Hours of work

33.1 Ordinary Hours of Work per Week

(a) Doctors other than Registrars

The ordinary hours of full time work will be 38 hours per week or an average of 38 hours per week over a period of up to four weeks. (b) Registrars

(i) The ordinary hours of full-time work will be 38 hours plus five reasonable additional hours of Training Time (as defined at subclause 3.1(dd)) equalling 43 hours per week or an average of 43 hours per week over a period of up to four weeks.

(ii) The arrangement of hours for Registrars is a long-standing industry arrangement that ensures Registrars have access to Training Time.

(c) Work continuous except for meal break

(i) A Doctor's ordinary hours of work and any required extra work, excluding oncall or recall (clauses 38 and 39), shall be continuous except for meal breaks.

(ii) A meal break must be at least 30 minutes and is counted as time worked unless the Doctor is unavailable to answer calls during such break.

(iii) A meal break should occur every 6 hours from commencement of the shift.

33.2 Maximum hours and consecutive shifts

(a) A Doctor's hours of work must not exceed:

(i) 75 hours in any seven consecutive shifts; or

(ii) 140 hours in any 14 consecutive days; or (iii)

280 hours in any 28 consecutive days.

(b) Notwithstanding the above, a Doctor will not work more than seven consecutive night shifts, unless the Doctor has given written consent to waive this entitlement, or where a genuine medical emergency or disaster situation exists.

33.3 Hours per Day

Doctors must not be rostered for duty for more than 16 consecutive hours on any given shift unless, in the case of a Registrar, exceptional circumstances exist that require a greater shift length.

33.4 Minimum shift length

Full-time HMOs, MOs and SMOs must not be rostered for duty for less than four hours.

33.5 Averaging does not apply to overtime

Averaging of hours under this clause must not be utilised to reduce or avoid an entitlement prescribed in subclause 36.2 (Overtime Entitlement).

33.6 Breaks Between Ordinary Rostered Shifts

(a) Doctors must be free from duty for at least 10 hours between rostered ordinary shifts.

(b) Doctors should be free from duty for at least forty-eight (48) hours when moving from night shifts to any other shift arrangement.

(c) Where a Doctor is on General On-Call or Stand-by On-Call and performs duty during an on-call period (either by returning to their usual place of work or performing duty remotely), a Health Service must have regard to (a) above as well as the obligation to arrange work hours in a way that does not cause an excessive or unsafe work pattern to exist.

(d) It is acknowledged that duty performed during an on-call period may impact on occupational health and safety. As such, a Health Service must:

(i) Develop a procedure that addresses how occupational health and safety considerations are addressed where they arise (which may include but not be limited to later starting times, earlier finishing times, additional breaks) and expressly encourages Doctors to contact the relevant manager where they have not received a 10-hour break and it may impact on occupational health and safety,

(ii) Provide the procedure to all Doctors on General On-Call,

(iii) Provide induction and training regarding the procedure to all Doctors on General On-Call.

Examples

A Doctor is rostered 7am to 6pm with the same roster the following day. Overnight the Doctor is 'on call' for the Health Service.

If after leaving the hospital the Doctor is disturbed by telephone calls and the last call is received at 11pm, the Doctor is entitled to have 10 hours off duty and is not required to present to the hospital before 9am the following day. The Doctor will work through to 6pm without loss of pay for the day.

If the same Doctor finishes at 6pm on day one and the last telephone call from the Health Service to the Doctor is received by 9pm on day one, the Doctor is required to start work at their normal starting time of 7am the next day.

If the same Doctor finishes at 6pm on day one and a call is received at 4.30am the following day, the Doctor has already received a 10 hour break and can start at their normal starting time of 7am.

33.7 Days Off per Fortnight

(a) A Doctor must receive 3.5 days off work in each two week period (for a Doctor on night shift the word 'days' is replaced by the word 'nights') as follows:

(i) two days off must be consecutive;

(ii) the remainder must be either 1.5 consecutive days off or three half days off.

(b) One half day is defined as a period of at least four hours.

34 Training Time

34.1 Arrangements for rostering and taking Training Time - Protocol

(a) Any arrangement for rostering and taking Training Time is subject to the overarching principles set in this clause.

(b) Training Time must be:

(i) rostered within an applicable roster period in a period of five hours per week, unless otherwise agreed in accordance with subclause 34.2(a) below;

(ii) rostered in blocks of no less than 30 minutes duration on each occasion;

(iii) published in accordance with subclause 34.5;

(iv) arranged in a manner that assists in the provision of Training Time where the Doctor is rostered on nights or weekends.

(c) At the commencement of a Registrar's employment or rotation the Registrar and Health Service must discuss:

(i) the forms of training available to the Registrar at the Health

Service; and (ii) the most appropriate method of arranging and rostering

Training Time.

(d) In the case of the Health Service designating an accredited Specialist training position, the Doctor is entitled to the same educational opportunities pursuant to this clause (that is, five hours of Training Time as available to a Doctor in an accredited position). In this case, the Health Service must advise the Association.

34.2 Other arrangements by agreement

(a) Where there is a demonstrable benefit to the Registrar to arrange Training Time in a manner other than that prescribed in subclause 34.1(b)(i) above, Training Time may be arranged in a manner other than 5 hours per week, as follows:

(i) a Registrar may agree to accumulate a portion of their weekly Training Time to be utilised in a larger block; and

(ii) at all times, Training Time must be arranged in an agreed manner that ensures the quantum of Training Time is not less than what the Registrar would have received if their Training Time was arranged as prescribed in subclause 34.1(b)(i) above.

(b) Following reaching agreement in accordance with this subclause, the Health Service must provide the Registrar with a written schedule of activities that meet the forms and schedule (including dates and times) of Training Time to be undertaken by the Registrar.

34.3 Written schedule, changes and disputes

(a) Any change to rostered Training Time shall be recorded in writing by the Health Service with that written record being available for inspection.

(b) Any concerns about compliance with the principles set out in this clause may be referred to the Agreement Implementation Committee established in accordance with subclause 76.10 and any dispute will be dealt with in accordance with clause 12 (Dispute Resolution).

34.4 Forms of Training Time

(a) The types of activities that are undertaken by Registrars in Training Time each week must be agreed between the Registrar and the Health Service but may include:

(i) lectures, tutorials or other situations where formal teaching of the Hospital
Registrar(s) occurs in a non-service situation;

(ii) clinical meetings organised by a Specialist or university staff equivalent for the purposes of training and education;

(iii) personal reading and study, and research activities where a Health Service or university staff Specialist is directly involved in supervision and the results of the research are intended for publication; and

(iv) Grand (teaching) ward rounds can be included if specifically designed for teaching purposes and attended and run by an eminent medical person.

(b) Training Time activities can be undertaken on or off site.

(c) Unplanned or impromptu training opportunities may be considered to be part of the Doctor's Training Time.

34.5 Rostering of Training Time

(a) Training Time must be published on the document that is relied upon by all clinical and non-clinical staff within the Health Service to identify Registrars' hours of work, such as a Roster in accordance with subclause 35.1 (Roster Hours) or in another agreed document in accordance with subclauses (b)-(d) below.

(b) In circumstances where the current rostering technology does not allow Training Time to be adequately published in the roster, another agreed document may be utilised provided the document is relied upon by clinical and non-clinical staff within the Health Service to identify a Registrar's hours of work.

(c) For the purposes of reaching agreement on the document prescribed in subclause (b) above, any proposed alternative document will be referred to the local Agreement Implementation Committee.

(d) For the avoidance of doubt, the recording of Training Time in a manner visible to relevant clinical and non-clinical staff is to ensure the rostered Training Time can be dedicated to training and free from service calls, with the exception of calls about genuine medical emergencies or disaster situations. Any arrangement should identify appropriate alternative clinical contacts and the forfeiture of the Registrar's pager for the duration of the Training Time where this

does not create an identifiable clinical risk that cannot be managed in the Registrar's absence.

34.6 Inspection of Training Time records

(a) Training Time records will be available for inspection by an accredited representative of the Association.

34.7 Reallocation of Training Time

(a) Where a Doctor is rostered to undertake scheduled Training Time and:

(i) is unable to be released, or

(ii) Training Time is interrupted due to a genuine medical emergency or disaster situation, or

(iii) the scheduled Training Time does not occur for any other reason,

the Health Service must re-allocate the Training Time to be undertaken by the end of the following pay period or, at the Registrar's election, a later roster period.

34.8 Inability to take Training Time when allocated

(a) In the instance where a Doctor cannot take Training Time when allocated, the Health Service must reallocate any untaken Training Time by no later than four weeks from the date the Training Time was originally scheduled.

(b) If at the end of the four week period, Training Time has not been taken, the hospital must pay the Doctor:

(i) at the applicable overtime rates for the times in the roster when work was performed in excess of ordinary hours; and

(ii) any portion of Training Time not taken in the pay period at the ordinary rate of pay.

Example 1

A Doctor is rostered to perform 76 ordinary hours plus 10 hours Training Time in a pay period across a pay fortnight. She subsequently is not able to take the Training Time and performs work for the 10 hours that was rostered for Training Time. The Training Time is not able to be reallocated in the pay period.

The appropriate payment to be made is:

- *76 hours paid at the ordinary rate of pay.*
- *10 hours paid at the appropriate overtime rates where work was performed above ordinary hours.*
- *10 hours paid at the ordinary rate of pay for Training Time that was rostered, not able to be taken and not able to be reallocated within the pay period.*

Example 2

A Doctor is rostered to perform 76 ordinary hours plus 10 hours Training Time in a pay period across a pay fortnight. He is able to access 4 hours of scheduled Training Time in the fortnight. The remaining 6 hours of Training Time was agreed to be carried over and rostered into the next pay period and the Doctor performed work during these 6 hours.

The appropriate payment to be made is:

- *76 hours paid at the ordinary rate of pay.*
- *6 hours paid at the appropriate overtime rates where work was performed above ordinary hours.*
- *4 hours paid at the ordinary rate of pay for Training Time that was rostered and taken.*
- *The remaining 6 hours of Training Time that was agreed to be carried over and rostered into the next pay period would be rostered in addition to the Doctor's Training Time entitlement for that following fortnight.*

35 Rosters

35.1 Roster Hours

(a) The ordinary hours of work for full-time and part-time Doctors must be worked in accordance with the roster or rosters.

(b) Rosters must include all working hours including theatre preparation, ward rounds, completing discharge summaries and (for Registrars only) Training Time in accordance with subclause 34.5.

35.2 Roster Posting

(a) A roster of at least 28 days duration that states each Doctor’s daily working hours and start and finishing times must be posted at least 14 days before the roster comes into operation.

(b) The roster or rosters must be exhibited at a convenient place accessible to the Doctors to whom it applies.

35.3 Roster Design – Safe Hours of Work

(a) The provisions of this subclause 35.3 are to be read in conjunction with clause 41 (Workload Management and Review).

(b) The Health Service must not roster or arrange work hours in a way that causes an excessive or unsafe work pattern to exist.

(c) The obligation to work safe hours applies to both the Health Service and Doctors.

(d) The National Code of Practice – Hours of Work, Shiftwork and Rostering for Hospital Doctors is a suitable framework under which to consider safe working hours issues.

35.4 Roster Requests

(a) A Doctor may make a specific request concerning an upcoming roster period. Such request must be made in writing to the Health Service at least one week prior to the date on which the roster must be posted.

(b) On receipt of a request made pursuant to subclause 35.4(a) above, the Health Service must consult with the Doctor and other Doctors on the roster to try and accommodate all such requests.

(c) The final roster will be determined by the Health Service in consideration of all requests received pursuant to subclause 35.4(a) above. The Health Service must advise the Doctors involved of the reasons for its determination where requests have not been satisfied.

35.5 Roster Change

(a) Seven days' notice must be given of a change to a roster unless a medical emergency or disaster situation exists.

(b) If the Health Service requires a Doctor to work ordinary hours outside of the existing roster and has not given seven days' notice of the change and there is no genuine medical emergency or disaster situation:

(i) the Doctor must be paid a daily allowance of 2.5% of the Doctor's ordinary weekly rate of pay for the rostered hours worked per shift; unless

(ii) the Doctor is part-time and has agreed to work shifts(s) in addition to those rostered. In this case, the Doctor is not entitled to the allowance in subclause 35.5(b)(i) above.

35.6 A Doctor may request in writing to alter the roster. The roster may then be altered by agreement with the Health Service.

35.7 Where Doctors swap rostered shifts, only the penalties and allowances for the shift that the Doctor actually works are payable.

36 Overtime

36.1 The provisions of this clause 36 are to be read in conjunction with clause 33 (Hours of Work).

36.2 Entitlement

(a) Overtime is payable for working:

(i) rostered hours in excess of ordinary hours, pursuant to subclause 33.1;

or (ii) authorised hours in excess of rostered hours.

(b) Notwithstanding the provisions of subclause 36.2(a) above, where a part-time Doctor is directed by the Health Service to work rostered hours in excess of their contract hours, overtime will be paid pursuant to this clause for all hours worked in excess of their contract hours. A Doctor who offers to work additional hours will be paid their

ordinary rate of pay until their total weekly hours of work exceed the full time ordinary hours for their classification, as prescribed in clause 33 (Hours of Work).

(c) The payment of overtime is one and one half (1½) times the Doctor's ordinary hourly rate of pay for the first two hours overtime in a week and then double the Doctor's ordinary hourly rate of pay for all additional overtime hours in that week.

(d) Overtime may be converted into carer's leave in accordance with subclause 61.3(c).

36.3 Protocols – Authorised Un-rostered Overtime

(a) A Protocol must exist in the Health Service whereby overtime that cannot be authorised in advance but has been worked will be paid if it meets appropriate, clearly defined criteria.

(b) The protocols described in subclause 36.3(a) will be structured on the following basis:

(i) the Doctor has performed the overtime due to a demonstrable clinical need and that need could not have been met by some other means;

(ii) authorisation of the overtime could not reasonably have been made in advance of the Doctor performing the work;

(iii) the Doctor has claimed for retrospective authorisation of overtime on the first occasion possible after the overtime was worked and on no occasion later than the completion of that pay fortnight;

(iv) the Doctor has recorded the reason for working the overtime and the duties performed in a form capable of Health Service audit and review; and

(v) the claim for overtime must be reviewed by a Senior Doctor authorised by the Health Service to do so within 14 days of the claim being submitted.

37 Penalty payments

37.1 The provisions of this clause 37 are to be read in conjunction with subclauses 42.8(d) and 42.8(e) (Rate of Pay).

37.2 Saturday and Sunday Work

(a) Any ordinary hours performed between midnight Friday and midnight Sunday must be paid at one and one half (1½) times the Doctor's ordinary hourly rate of pay.

(b) For hours worked between midnight Friday and midnight Sunday that are in excess of ordinary hours pursuant to subclause 33.1, overtime rates pursuant to subclause 36.2 must be paid.

37.3 Shift Penalty

(a) An additional 2.5% of the ordinary weekly rate of pay for the 1st year of experience rate applicable to the Doctor's classification must be paid for each shift worked for a rostered shift finishing after 6 p.m.

37.4 Night Duty Allowance

(a) An additional 25% of the Doctor's ordinary base hourly rate of pay must be paid for:

(i) each hour worked during a rostered shift finishing the day after work began; or

(ii) each hour worked during a rostered shift beginning after midnight and before
6.30 a.m.

38 On-call

38.1 On-call must be identified in the roster including whether it is General On-Call at subclause 38.2(a) or Stand-by On-Call at subclause 38.2(b). The provisions of this clause 38 are to be read in conjunction with clause 40 (Telephone Calls to Doctors Outside of Working Hours), clause 39 (Recall) and clause 54 (Telephone Allowance).

38.2 Entitlement

(a) **General On-call**

(i) General on-call means an on-call period where the Doctor is rostered to hold themselves available to:

(A) provide clinical advice by telephone; and/or

(B) be recalled to their usual place of work (for which payment will be made in accordance with clause 39).

(ii) A Doctor rostered on General on-call must be paid the General on-call Allowance pursuant to Schedule B, Table 2.2(a). In such circumstances, the entitlement at subclause 38.2(b) below does not apply. (b) **Standby On-call Allowance**

(i) Standby on-call means an on-call period where the Doctor is rostered to hold themselves available to be on-call solely for the purpose of returning to the Health Service (for which payment will be made in accordance with clause 39) in circumstances such as replacing unplanned absences or to address clinical need and does not provide any advice by telephone.

(ii) A Doctor rostered on Standby on-call must be paid the Standby on-call Allowance pursuant to Schedule B, Table 2.2(b) which has been calculated on the following basis:

(A) 2.5% of the Doctor's ordinary weekly rate of pay; or

(B) on a public holiday pursuant to clause 63 (Public Holidays), 3.5% of the Doctor's ordinary weekly rate of pay.

38.3 Limitations

(a) For the purposes of calculating payment, each period of on-call must not exceed 16 hours.

(b) Where a Doctor is rostered to perform six times 16 hour periods of on-call within six consecutive days, that Doctor must be released from on-call duty for 24 hours paid or unpaid as according to the roster or projected roster.

(c) The on-call payment does not apply to Doctors who receive payment on a percentage of fees generated basis for out of hours work when on a General Practice Training Program Rotation pursuant to clause 31 (Rotation to a General Practice Training Program).

39 Recall

39.1 The provisions of this clause 39 are to be read in conjunction with clause 55 (Travelling Allowance – Use of Private Motor Vehicle).

39.2 Entitlement

(a) A Doctor who is recalled to duty outside rostered hours of duty must be paid for the actual time worked, including time reasonably spent in travelling to and return from work, as follows:

(i) 1.5 times the ordinary hourly rate of pay for the first two hours; and

then (ii) double the ordinary hourly rate of pay for all additional hours.

39.3 Calculation

(a) Each recall must stand alone, with a minimum payment of three hours per recall, except as follows:

(i) Where a Doctor has been recalled to duty, a further recall payment cannot occur within the initial three hour period except where the Doctor has left the vicinity of the hospital and/or returned to his/her place of residence.

(b) Recall can only occur where the Doctor is rostered on-call and where an authorised Senior Officer of the Health Service has given authority for the recall. This subclause does not apply where there is a genuine medical emergency or disaster.

(c) Where a Doctor is recalled for more than 10 hours the Doctor must receive 24 hours free from duty, paid or unpaid according to the roster or the projected roster.

(d) Recall payments must not apply to Doctors who receive payment on a percentage of fees generated basis for out of hours work whilst on Rotation to a General Practice Training Program pursuant to clause 31 (Rotation to a General Practice Training Program).

40 Telephone Calls to Doctors Outside of Working Hours

40.1 The provisions of this clause 40 are to be read in conjunction with clause 38 (On-call).

40.2 The Health Service must have mandatory Protocols in operation that govern the use of telephone consultations with Doctors who are on-call. The Protocols must ensure:

(a) the number of trivial or unnecessary telephone calls made to Doctors are controlled; and

(b) the overall numbers of telephone calls made to Doctors do not increase over time as a result of the changed on-call allowance and particularly in comparison with other health professionals.

40.3 The Association may review the form and application of the Protocols to ensure their effective operation.

41 Workload Management and Review

41.1 The provisions of this clause are to be read in conjunction with subclause 35.3 (Roster Design – Safe Hours of Work).

41.2 Safe Workload

(a) The Health Service is obliged by the OHS Act to provide a safe workplace. This includes ensuring that workloads are not unreasonable. It is recognised that managing workload is necessary to ensure a safe work environment and to ensure that the operational requirements of the Health Service are met.

(b) Where a Doctor believes that a Health Service requires the Doctor to perform work in a manner that is unsafe, the Doctor may first discuss the matter with the Health Service to resolve the issues. If no resolution can be found, the Doctor may utilise the Dispute Resolution Procedure set out in clause 12 of this Agreement.

(c) Nothing in this clause restricts the Association from assisting a Doctor during discussions with the Health Service for the purpose of this clause or utilising the Dispute Resolution Procedure set out in clause 12 of this Agreement.

41.3 Assignment of Work

(a) The Health Service will ensure that the type and volume of work assigned to the
Doctor is reasonable with regard to the Doctor's skills, abilities, capacity and availability to perform.

(b) In considering the work to be assigned to the Doctor, the Health Service must identify the level and type of administrative support available to the Doctor, and must ensure that appropriate levels of administrative support are provided.

41.4 Consultation

(a) The Health Service and Doctor shall consult regularly regarding the Doctor's workload.

41.5 Review

(a) A Doctor may request a workload review at any time. The purpose of the review is to identify whether the Doctor's workload is safe and reasonable. Where a review is requested, the Health Service and Doctor shall consult and set out the Doctor's current duties and responsibilities in writing including each of the following elements where relevant:

(i) **Direct Public Patient Care and Related Activities** – including ward rounds, outpatient clinics, pre-operative assessment, operating time, post-operative care, unit clinical meetings, inter-unit consultations, completion of operation reports, discharge summaries, case mix information and management of waiting lists.

(ii) **Management Administrative Responsibilities** – including roster preparation, budget documents, Health Service reports.

(iii) **Clinical Research** as required by the Health Service.

(iv) **Practice in a Distant Location** – including time taken to travel to and from the distant location.

(b) The Health Service and Doctor shall calculate the hours required to perform the tasks and responsibilities set out in writing. This includes taking into account that some aspects of the routine workload occur more frequently than others.

(c) The Health Service and Doctor shall review the responsibilities and duties and any amendment to the responsibilities and duties to ensure a safe and reasonable workload shall be recorded in writing.

41.6 Disputes

(a) In the event of a dispute as to whether a workload is safe, clause 12 (Dispute Resolution) shall apply. Neither party will be prejudiced by any alteration to workload to ensure a safe workload before the dispute is resolved.