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AMA Victoria - Victorian Public Health Sector – Medical Specialists Enterprise Agreement 2018 – 2021
EBA Forum

1,300

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When does the Agreement come into operation?

- The Agreement does not come into operation until 7 days after it is approved by a Member of the Fair Work Commission
- EBA was lodged with the FWC on 27 March 2018
- FWC website suggests the process takes 12 weeks; recent experience tells us it's closer to 16 weeks

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Agreement Structure


- Drafted to maintain structure and format of other recently negotiated Agreements
- Common items grouped together (e.g. Hours of Work & Related Matters)
- Additional Schedules to address Manager Allowance and Local Certified Agreements and Enterprise Agreements prior to 17 December 2013



Part A – Preliminary

This part covers:

- Definitions
- Coverage
- Saving of Local Agreements
- Date and Period of Operation; and,
- The Agreement's interaction with previous Awards, Agreements and the National Employment Standards.




Clause 3.1(k) – Definition – Executive Specialist

Modified Clause

Key Change:

- The limitation on Executive Specialist only being utilised in major teaching Health Services has been removed;
- Definition otherwise remains the same.



Clause 7 – Saving of Local Agreements

Modified Clause

The existing clause has been amended to provide for a review of employment entitlements which were in operation immediately prior to the 2013 Specialists Agreement.

Expansion of preliminary work that was conducted in late 2017/early 2018.

Aim to develop Health Service specific Schedules which contain Pre-Existing Entitlements



Part B – Consultation, Dispute Resolution, Discipline & Flexible Working Arrangements

This part covers:

- Consultation;
- Dispute Resolution;
- Discipline; and
- Flexible Working Arrangements.



Clause 9 - Consultation

Common Clause

The clause obliges Employers to consult with employees and unions about major changes in the workplace.

The Agreement provides both Employees and Employers with a structured process to follow, with indicative time frames.

NES Compliance

The Clause also provides for consultation on roster changes



[VHIA Podcast – Episode 8 – Consultation](#)

Clause 10 - Redundancy

Common Clause

Provides for transparent arrangements addressing:

- Redeployment;
- Support to affected Employees;
- Salary Maintenance – 52 weeks;
- Relocation;
- Retraining;
- Termination due to redundancy.

[VHIA Podcast – Episode 14 - Redundancy](#)

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Clause 11 – Dispute resolution

Common Clause

This clause provides for a common approach across all employee cohorts.

If a dispute results in a finding by the FWC that a breach of the Savings provision of the Agreement has occurred.

- The FWC under this provision will restore all rights and entitlements which would have prevailed had the breach not occurred.

[VHIA Podcast – Episode 7 - Dispute Resolution](#)

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Clause 12 - Discipline

Common Clause

The Agreement defines the following for the purpose of the Disciplinary Procedure:

- Performance;
- Misconduct; and
- Serious Misconduct.

First and final warnings only in summary dismissal circumstances.

Long Service Leave not affected by employee being dismissed for serious and wilful misconduct.

[VHIA Podcast – Episode 16 - Discipline](#)

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Clause 13 – Internal Training & Anti Bullying

NEW Clause

Where a Health Service requires compulsory training to be undertaken by a Doctor, they must provide reasonable time within work hours to complete the training.



Clause 14 – Flexible Working Arrangements

Common Clause

This clause:

- Incorporates the wording of the *Fair Work Act 2009* – section 65 (1).
- Defines **carer** within the *Carer Recognition Act 2010* and have been expanded to include Employees experiencing family violence.
- Allows doctors with 12 months service to request flexible working arrangements in certain circumstances.



[VHIA Podcast – Episode 21 – Flexible Working Arrangements](#)

Clause 15 – Individual Flexibility Arrangements

Amended Clause

Amended to ensure compliance with NES.

Mutually agreed arrangements to vary certain terms of the Agreement in order to meet the genuine needs of the Doctor and the Health Service

An individual flexibility arrangement must be about arrangements for when hours are worked.



Part C – Types of Employment, End of Employment & Related Matters

This part covers:

- Modes of Employment
- Rights of Private Practice Administration
- Clinical Support Time
- Roster Design – Safe Hours of Work
- Transition to Retirement
- Termination

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Clause 16.4 – Fixed Term Employment

NEW Clause

- This clause provides that fixed term or maximum term contracts can only be used to meet genuine fixed term needs.
 - (i) a replacement for a Doctor on a period of absence;
 - (ii) undertaking a specified task which is funded for a specified period;
 - (iii) for the first year of employment with the Health Service.
- Additional arrangements for immigration visa holders and Doctors with limited registration
- Does not disturb existing fixed term or maximum term contracts that exist at the commencement date of the Agreement

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Clause 17 – Rights of Private Practice Administration

NEW Clause

Facilitates the obligations of a Health Service and a Doctor, where the Doctor engages with the Health Service as an agent to bill his or her private patients

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Clause 18 – Clinical Support Time

Amended Clause

What has stayed the same?

- Entitled to devote 20% of their normal weekly hours to Clinical Support Time (CST) (subject to local agreement);
- CST allocated to a Doctor is to be locally agreed between the Doctor and the Health Service;
- Fractional Doctors may not be allocated Clinical Support Time where:
 - They work minimal hours in the public sector
 - They are directed in writing to not perform Clinical Support Duties

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Clause 18 – Clinical Support Time

Amended Clause

What has been amended?

- Introduces the definition of Clinical Support Duties;
- Provides that Unit Heads will be provided with a minimum of 50% CST;
- Allows for Doctors (other than Unit Head) within a unit to pool up to half of their CST.

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Clause 20 – Roster Design – Safe hours of work

NEW Clause

- The new clause provides for the arranging of work hours that are not unsafe or an excessive pattern to exist.
- Imposes a mutual obligation on the Health Service and the Doctor to work safe hours
- The National Code of Practice – Hours of Work, Shiftwork and Rostering for Hospital Doctors

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Clause 21 – Workload Management and Review

NEW Clause

This clause provides for:

- For the safe assignment of work;
- Regular consultation about Doctor's workload;
- Capacity for workload to be reviewed;
- Disputes about safe workload to be dealt with via the dispute resolution clause (clause 11).

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Clause 22 – Transition to Retirement

Common Clause

Allows Doctors transitioning into retirement:

- to reduce their ordinary hours of work;
- Enter into a job share arrangement;
- Work in a lower classification or rate of pay;
- Or any other agreed arrangement.
- Maintain the value of their existing LSL.

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[VHIA Podcast – Episode 24 – Transition to Retirement](#)

Part D – Hours of Work & Related Matters

This part covers:

- Hours of work;
- Rosters
- Continuous Duty (F/T Doctors only)
- On-Call/Recall (F/T Doctors only)
- Fractional Allocation (Fractional Doctors only)

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Clause 28 – Hours of Work (Full time Doctors)

Modified Clause

By Agreement with the Health Service, ordinary hours of work for a full time Doctor can be worked over four days per week.

The above must be done in writing and the Doctor must be provided with a response in writing.



Clause 29 – Hours of Work (Fractional Doctors)

Modified Clause

At engagement Health Services and Fractional Doctors can agree in writing on a particular pattern of work.

Any agreed variation after employment may be done so in writing.



Part E – Wages & Related Matters

This part covers:

- Remuneration;
- Recovery of Overpayments
- Shift Penalty Payments



Clause 31 – Remuneration and Remuneration Increases

NEW Clause

This clause provides:

- For 3% increase to wages, salaries and allowance commencing FFPOA 1 January 2018, 2019, 2020, 2021.
- Additional 6% increase to wages and salaries only commencing FFPOA 1 January 2018.

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Clause 31 – Remuneration and Remuneration Increases

NEW Clause

This clause provides:

- For a Doctor whose employment is subject to the Agreement and was employed as of January 1 2018, they will receive a one off lump sum payment of \$3,500 (or pro-rata).
- Generally, the employer of the Doctor as of 1 January 2018 is responsible for the payment
- More information is available in Bulletin 2297

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Clause 35 – Recovery of Overpayments

NEW Clause

To recover overpayments the Health Service must write to the Doctor detailing the overpayment and meet with the Doctor.

Does not limit rights or obligations under the *Financial Management Act 1994*.

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Clause 36 – Shift Penalty Payments

Amended Clause

Ordinary hours of work performed between these times will attract penalty payments under Schedule B:

- Mon – Fri (6.00 pm to Midnight) = 25%
- Mon – Fri (Midnight to 7.00 am) = 75%
- Sat (Midnight to 7.00 am (Sun)) = 75%
- Sun (Midnight to 7.00 am (Mon)) = 100%

*Shift payments not mentioned remain unchanged

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Part F – Allowances and Related Matters

This part covers:

- CME Support
- Insurance Allowance
- Rotation Allowances
- Telephone, Travelling, Uniform/Laundry Allowances

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Clause 41 – Continuing Medical Education Support (CME)

Amended Clause

Key changes:

- Provides for the reimbursement of CME expenses linked to Sabbatical Leave, registration costs;
- Where the Doctor is the Primary Carer during the CME period they will receive \$250 per day for child care;
- Claims are to be submitted within the financial year the expense is incurred and extends the deadline for submission to no later than 3 months after the financial year to which they relate;
- Requires Health Services to accept or reject claims for reimbursements within 30 days;
- Doctors prevented from utilising the leave due to various leave, responsibilities or illnesses may carry over the unused CME entitlement provided that they have given the Health Service evidence which would satisfy a reasonable person.

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VHA Podcast – Episode 63 – CME

Part G – Accommodation & Facilities

This part covers:

- Breastfeeding
- Board and lodging

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Clause 46 - Breastfeeding

Common Clause

Inserted to provide clear rights associated with breastfeeding the year following birth.

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Part H – Public Holidays, Leave and Related Matters

This part covers:

- Replacement of Doctors when on Leave
- Fitness for Work
- Annual, Personal, Parental; Long Service and other Leave types
- CME Leave
- Family Violence Leave

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Clause 50 – Compassionate Leave

NES Compliance

“**Permissible Occasion**” refers to the circumstances in which a Doctor is entitled to access Compassionate Leave.



Clause 51 – Fitness for Work

Common Clause

Provides for the process to be followed when the Employer may have reasonable belief that the Employee is unfit for work.

Clarifies Employer’s requirement to make reasonable adjustments.



[VHIA Podcast – Episode 20 – Fitness for Work](#)

Clause 52 – Prenatal Leave

Common Clause

Allows Doctors to access personal leave entitlements in order to attend pre-natal appointments or parenting classes.



Clause 53 – Pre-adoption Leave

NEW Clause

Entitles Doctors to unpaid leave to attend interviews or examinations necessary in the adoption process – subject to evidence.

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Clause 54 – Parental Leave

Replace with Common Clause

Extends old clause by:

- Removing gender related terms;
- Incorporating various obligations that exist in relation to adoption and pregnancy.

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Clause 55 – Long Service Leave

Modified Clause

Clause has been clarified:

- Where a Doctor was employed as part of accredited specialist training by an employer not covered by the Agreement their service will be recognised.

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Clause 56 – Public Holidays

Modified Clause

Key Changes:

- Clarity of entitlements for Doctors on their rostered day off;
- Added provisions relating to substitution of public holidays for Clinical Academics at Austin Health; Melbourne Health; Northern Hospital; Western Health.



Clause 59 – Continuing Medical Education Leave

Modified Clause

Provides that the attendance of a Clinical Academic at a conference to deliver medical education is not a CME activity.

Approval of attendance at such conference in paid time will be agreed between the Clinical Academic, Health Service and relevant University.



Clause 60 – Family Violence Leave

Common Clause

- Uses the definition of 'Family Violence' from the *Family Violence Protection Act 2008 (Vic)*.
- Provides for twenty (20) days paid Family Violence Leave for Doctors experiencing family violence.
- Doctors can access personal leave to provide support to someone experiencing family violence.
- Provides for the development of internal support arrangements for Doctors experiencing or supporting someone experiencing family violence

[VHA Podcast – Episode 42 – User Notes FV Leave](#)

[VHA Podcast – Episode 58 – The Strengthening Hospital Responses to FV Initiative](#)



Clause 61 – Replacement of Doctors when on Leave

NEW Clause

Requires Health Services to replace a Doctor who is on leave if not doing so will result in an unreasonable workload.

'unreasonable workload' means being unable to perform all aspects of their position and/or role during their ordinary hours of work.

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Part I – Union Matters & Service Delivery Partnership Plan

This part covers:

- Union matters; and
- Service delivery partnership plan.

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Clause 62 – Union Matters

Common Clause

Simplifies the rights of HSR's, delegates and Doctors that hold elected AMA / ASMOF positions.

[VHIA Podcast – Episode 17 – Union Matters](#)

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Clause 63 – Service Delivery Partnership Plan

NEW Clause

Details what the parties are committed to for the improvement of productivity and efficiency within Victorian Public Health.

Ensures proper implementation of the Agreement.



[VHIA Podcast – Episode 44 – SDPWWG](#)

Clause 77 – Service Delivery Partnership Plan

NEW Clause

- Reduce duplication of training
- Monitor onboarding and credentialing practices
- Review of paper vs actual rates and other conditions
- Identify arrangements to better accommodate concurrent employment and LSL
- Fatigue management review
- Flexible employment arrangements
- Review of existing manager allowances



Schedule A – List of Employers/Health Services

<ul style="list-style-type: none"> Alford Woodroffe Health (Melbourne Hospital site) Arden Health Aurora Health Bairnsdale Regional Health Service Bairnsdale Health Services Bayswater Health Box Hill Health Brands Hatch Care Group Calvary Health Care (Melbourne) Limited Cardinal Diocesan Health Service Case Health Services Cheltenham Health Services Clayton Health Edwards Regional Health Epworth Southern Health Services Geelong Valley Health Latrobe Regional Hospital Melbourne Health Monash Health Victoria Ltd 	<ul style="list-style-type: none"> Monash Health Northeast Health (Warragamba) Northmead Health Parade Health Peter MacCallum Cancer Institute Princess Alexandra Hospital Shepparton Health Care Australia Pty Limited (Shepparton Base Hospital site) South West Healthcare St Vincent's Hospital (Melbourne) Limited Swan Hill District Health The Royal Children's Hospital The Royal Victorian Eye and Ear Hospital The Royal Women's Hospital West Gippsland Healthcare Group Western District Health Services Wentworth Health Whittlesea Health Care Group The Victorian Institute of Forensic Mental Health (Building on Ferntreegully)
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**Schedule B – Medical Specialist
Remuneration, Allowances and
Deductions**

- Shift Penalty Payments for Full Time Doctors should reflect *per week* not *per shift*

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**Schedule C - Continuing Medical
Education Standard Claim Form**

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**Schedule D - Template Certificate of
Service**

A revised template certificate of service which facilitates the changes to the Transfer of Accrued Personal/Carer's Leave and Long Service Leave clauses

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**Schedule E - Manager Allowance
Descriptors and Principles**

- Value of Manager Allowance reserved for discussion within SDPPWG
- Schedule E contains the agreed descriptors and principles to facilitate the development of a Managers Allowance structure



**Schedule F - List of local certified agreements
and enterprise agreements**

- The list of the Local Certified Agreements and Enterprise Agreements in operation immediately prior to 17 December 2013
- Forms the basis of the review of Pre Existing Entitlements under clause 7 (Saving of Local Agreements).



More Information?

- Bulletins
- Podcasts
- DIT EBA Implementation Guide
- Implementation Tracker
- VHIA Community App