

St John of God Healthcare – AMA (WA) – Medical Practitioners Agreement 2016 **SJOG MIDLAND – NON TRANSFERRING PRACTITIONERS**

The Australian Medical Association (WA) has reached agreement with St John of God Healthcare (SJOG) over the provisions that will cover doctors directly employed by SJOG, at all of their healthcare facilities in Western Australia.

The negotiation process has been protracted. SJOG had insisted that all employed practitioners should be covered by one industrial agreement, despite there currently being two distinct industrial instruments and multiple, varying sets of contractual obligations that apply to different groups of medical practitioners employed by SJOG. The initial proposals from SJOG failed to account for the multiple contractual obligations that existed for different groups of practitioners and the process of reviewing these entitlements and ensuring they were fairly maintained further delayed the negotiation process. In addition, SJOG was under no legal obligation to replicate or match the provisions of any other industrial instrument that currently applies to SJOG employees and until recently, their proposals represented a significant reduction in the proposed terms, conditions and salaries of practitioners currently employed at SJOG Midland Hospital compared with other public hospitals in WA.

After lengthy negotiations, the AMA (WA) has now secured agreement on the terms of the *St John of God Healthcare – AMA (WA) – Medical Practitioners Agreement 2016* (the SJOG EBA), containing salaries, terms and conditions that are comparable with or better than those presently enjoyed by practitioners employed in the public sector or provided for by the current Copied State Instrument that covers employees at SJOG Midland Hospital who transferred from Swan District Hospital.

What is the Agreement and how does it affect my employment?

The SJOG EBA is a collective agreement, negotiated between SJOG and the Australian Medical Association (WA) (through ASMOF (WA)) acting as your bargaining representative. Following a positive ballot and seven days after registration by the Fair Work Commission, the SJOG EBA will become an enforceable, legal document that prescribes the minimum salaries, terms and conditions of your employment with SJOG, but does not replace your Contract of Employment.

Your Contract of Employment remains a valid legal document that sets out the length of employment, your employment particulars and any other special arrangements you have negotiated with SJOG on an individual basis. Your Contract of Employment cannot reduce any of the conditions prescribed by the SJOG EBA but SJOG is legally bound to meet any contractual obligations which are better than or additional to those terms and conditions set out in the SJOG EBA.

Who is covered by the new SJOG EBA?

The SJOG EBA applies to all medical practitioners employed by SJOG in Western Australia, whose positions are set out in the classifications table in Schedules A and B of the SJOG EBA. Senior Executives and practitioners working in research and non-medical roles are not covered by the SJOG EBA.

What is the operative date?

Following a successful ballot and in accordance with the *Fair Work Act 2009*, the SJOG EBA will operate 7 days from approval by the Fair Work Commission. SJOG has, however, agreed to apply all terms and conditions, including salaries and allowances, from the first full pay period commencing 27 March 2017. In addition, it has inserted a provision in the Agreement to provide for retrospectivity to this date. This means that practitioners will receive a 1.5% salary increase and all hours worked from that

date will be recalculated on the basis of the new base salary prescribed in the SJOG EBA (see ‘Base Salaries and Shift Penalties’).

How will the Agreement affect me?

The following information applies to practitioners employed by SJOG in WA, who has until now been employed pursuant to the provisions of a common law contract.

Initially, SJOG sought to replicate the conditions prescribed in the standard SJOG common law contracts as the basis for a new single agreement applying to all practitioners. The AMA (WA) has advocated strongly that these conditions represented a significant reduction on those prescribed at every other public hospital in WA. After lengthy negotiations the AMA (WA) has secured conditions that both fairly compensate practitioners employed at SJOG and cater to the unique environment of both private hospitals and privately operated public hospitals operated by SJOG.

Doctors In Training

With the exception of Long Service Leave and Paid Parental Leave, Doctors in Training will receive the same salaries, terms and conditions as Doctors in Training employed in the public sector.

The Long Service Leave provisions prescribed in the SJOG EBA are as follows:

- 10 years of continuous service – 8.66 weeks (representing 0.866 weeks’ leave per annum)
- Every 5 years thereafter– 4.33 weeks (representing 0.866 weeks’ leave per annum).

Following a period of Paid Parental Leave, practitioners must have worked continuously for at least 6 months prior to the expected birth or adoption placement of a subsequent child in order to be eligible for subsequent periods of paid parental leave.

Senior Practitioners

The SJOG EBA represents a significant improvement to the salaries, allowances, terms and conditions that have previously been individually agreed with practitioners and include:

Base Salary and Shift Penalties

- A salary increase of 1.5 per cent, effective 27 March 2017, with additional salary increases on 1 October 2017 and 1 October 2018 respectively.
- An increase in the number of hours per week that attract shift penalties and increased penalties. The shift penalties applicable from 27 March 2017 are as follows:
 - 6pm to midnight on weekdays – 12.75%
 - Midnight to 7am – 16.5%
 - Midnight Friday to midnight Saturday – 32.5%
 - Midnight Saturday to 7 am the following Monday – 47.5%
 - Public Holiday - 100%

Professional Development Allowance

Throughout the bargaining process the AMA (WA) has argued that a Professional Development Allowance should be paid as a cash allowance to practitioners. Initially, SJOG refused to pay any such allowance, and agreed to reimbursement of expenses on production of receipts only. The AMA (WA) recognised that this position was unworkable, as precedent had shown.

After length advocacy on behalf of Senior Practitioners, the AMA (WA) has secured a cash allowance of \$27,732 per annum. This payment is called an Ex-Gratia Payment, is prescribed in Clause 28 of the SJOG EBA and is payable to all Senior Practitioners except those who are covered by the provisions in Schedule B.

Non-Clinical and Clinical Duties

SJOG has continued to refuse to specify a percentage of a practitioner's duties to be allocated for Non-Clinical Duties. While the AMA (WA) recognises that at other public hospitals there is only a "guide" of 20% for Non-Clinical Time, it is an essential component of a practitioners work and employers must provide adequate staffing numbers and rostered time to enable practitioners to complete non clinical duties during rostered hours. On that basis, SJOG has agreed that the expectation is that non clinical time should be rostered.

On Call Allowance and Call-In Payments

An hourly On Call Allowance of \$21.73 is payable from 27 March 2017. This amount shall increase by 1.5 per cent per annum, in line with salary increases.

Clause 34(9) of the SJOG EBA prescribes Call-In rates of pay.

Authority to Render Accounts

In acting as a billing agent, SJOG shall ensure that no account is rendered which could place the practitioners in breach of the *Health Insurance Act 1973*. Further, following negotiation, the AMA (WA) has secured provisions which allow practitioners to request a statement detailing the total amount of accounts rendered in their name and access to information of a patient's election to be a private patient.

Additional Annual Leave

All practitioners are able to accrue an additional 40 hours of annual leave per annum, regardless of their fractional appointment. The additional 40 hours can be accrued the following ways:

- One weeks' additional leave (pro rata) for practitioners who are continuous shift workers.
- 8 hours of additional annual leave for each completed period of 120 hours rostered on call, to a maximum of 40 hours per annum.

Private Practice Cost Allowance

SJOG will employ practitioners on either a full time or part time basis. Practitioners will not be employed as Sessional Practitioners. The AMA (WA) has successfully argued that the Private Practice Cost Allowance should be payable to all part time practitioners whose commitment to contracted hours impacts on the operation of their private practice.

The Private Practice Cost Allowance has been reduced to an hourly rate of pay and will be increased by 1.5 per cent per annum, in line with salary increases.

Professional Development Leave

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Practitioners are eligible for up to three weeks paid Professional Development Leave per annum, for the purposes of attending conferences, undergoing additional training or courses of study.

Improved Productivity & Direction to Work at another Location

The SJOG EBA includes express provisions which provide for a joint commitment to actively cooperate in implementing changes in work and staffing procedures designed to improve productivity. While the AMA (WA) is not opposed to the philosophy behind these provisions, the AMA (WA) had serious concerns over the initial drafting of the clauses.

Direction to Work at another Location

Following negotiation, the AMA (WA) successfully advocated for the removal of provisions which could have been utilised to direct practitioners to work at other SJOG locations.

Christmas and New Year Closedown

SJOG insisted upon including provisions to allow direction to take paid annual leave over Christmas and New Year. However, leave can only be directed if SJOG temporarily closes a ward, unit or department and practitioners must be provided with at least three months' notice. The AMA (WA) successfully argued for the inclusion of non-clinical work as an alternative, in addition to alternative clinical work, which SJOG must use its best endeavours to identify and offer, where the practitioner does not wish to take such directed leave for any reason.

Leave Management

The parties have ultimately reached agreement on the principles around which a practitioner can, in very limited circumstances, be required to take leave. Safeguards have been included to ensure practitioners have reasonable access to leave and that practitioners who wish to accrue excess leave are given the opportunity to enter into a recorded leave management plan. The practitioner must have an accrued balance of at least: 2 years annual leave; one year Shift/On Call Leave; and any Long Service Leave which remains untaken more than 3 years after having accrued.

Head of Department Allowance

The AMA (WA) argued strongly for the inclusion of a minimum monetary allowance payable to Heads of Department. SJOG initially refused to include a minimum amount but have now agreed to reflect the minimum amounts payable to Heads of Department employed in the public sector.

The allowance has increased by 1.5%, in line with salary increases.