

## COVID-19 and Public Sector Medical Practitioners Workplace Relations FAQ

### ***Who was does this advice apply to?***

*Employees of WA Health and Department of Justice (including doctors on secondment from WA Health and Department of Justice)*

*DiTs and Senior Practitioners*

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## *General Questions*

### **How are the terms and conditions of my employment affected by COVID-19?**

They are not. WA Health employees continue to be covered by the WA Health System – Medical Practitioners – AMA (WA) Industrial Agreement 2016 (“AMA (WA) Agreement”) and subsidiary Agreements. Terms outlined in your contract of employment continue to apply.

- Overtime penalties and call back rates should continue to be paid in accordance with the industrial agreement.
- You can still apply for leave entitlements, although you should be aware that requests may be reasonably refused in light of the current circumstances.
- You should still be paid according to your classification or the higher salary rate where you have been directed to perform higher duties in accordance with Clause 19 of the Agreement.

Medical practitioners employed by the Department of Justice are employed on terms and conditions reflective of the AMA (WA) Agreement, and so should continue to follow AMA (WA) guidance in relation to WA Health employees. Contact the AMA (WA) Workplace Relations Team if you have any queries.

### **Can my employer change my roster with short notice?**

The AMA (WA) considers it appropriate for Employers to rely, if necessary, on those provisions which allow roster changes at short notice, as per Clause 16 and 33 of the Agreement.

Employers must continue to provide a safe working environment and comply with occupational health and safety regulations.

While we recognise that the work of WA doctors is critical to the wellbeing of all West Australians, now more than ever, it is important that doctors avoid burnout and maintain their own wellbeing.

We encourage you to raise concerns with your employer if you think workplace demands are excessive and contact the AMA (WA) Workplace Relations Team if you need further guidance or support.

### **I am being redeployed to another work location. What are my rights?**

As a public sector employee you can be redeployed to another location within WA Health. Consideration to employee’s personal and family circumstances should be made when relocating doctors.

While the AMA (WA) Agreement permits temporary redeployment for Senior Practitioners and secondment for DiTs, your employer should still hold discussions with you as to how such deployment will affect you and what alternatives there may be.

Ultimately any change in work location must be appropriate to the practitioner’s skill set and credentialing parameters, and deploying you into a area other than your usual field of practice may require you to do some training, which must be provided and supported by your employer.

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It is important that practitioners raise personal concerns in the context of redeployment, including your family and health situation and the need to accommodate your personal circumstances as best as possible.

The AMA (WA) is lobbying for the establishment of a voluntary register for doctors who are ready and able to be redeployed to another location.

The AMA (WA) recommends managers speak to their staff to ascertain whether there are any volunteers within their teams.

### **I am concerned about PPE supplies at my work.**

The AMA (WA) has been lobbying the WA Government to publish PPE supply data and ensure sufficient access and supplies for all health care workers and those working in high risk environments, such as Residential Aged Care Facilities and WA's prisons.

A PPE Dashboard, outlining available supplies, is now available on the WA Health Intranet.

If you are concerned about your access to PPE, the training you have received or the outcome of fit tests, you should raise these concerns with your employer. Contact the AMA (WA) Workplace Relations Team if you have any outstanding enquiries.

### **What happens if my employer is unable to provide me with PPE?**

WA Health has advised that there is sufficient PPE with more stocks arriving. It is critical that all healthcare workers have access to appropriate PPE and have the required support and training to effectively utilise it. WA Health has advised there will be a revised policy on PPE, the AMA (WA) will provide an update on that, as and when it is received.

Employers must provide a safe working environment for employees. Exactly what that means depends on the individual situation, but doctors should not be asked to have contact with patients without appropriate PPE, as prescribed by clinical guidelines.

## COVID-19 Leave

### As a public sector employee do I receive any specific leave to deal with COVID-19?

The West Australian Public Service has introduced COVID-19 Leave for employees who are impacted by COVID-19.

### Who is eligible for COVID-19 Leave?

1. Employees who are sick
  - a. Employees who are sick can access existing personal or sick leave entitlements prior to accessing COVID-19 Leave.
  - b. An employee who has either exhausted their personal or sick leave entitlements or has no personal or sick leave entitlements can access COVID-19 Leave if they have been diagnosed with COVID-19.
2. Employees who are required to self-isolate, but are not sick
3. Employees who are absent from work because of an Australian or State Government requirement that they self-isolate:
  - a. may work from home in appropriate circumstances where there is a business need and subject to applicable agency procedures; or
  - b. may access COVID-19 leave if working from home arrangements are not available.
    - i. An employee in this category who is self-isolating because of returning from overseas, where the outbound flight left Australia on or after 16 March 2020, cannot access COVID-19 leave for the period of absence from work unless the employer determines otherwise for compassionate reasons. An employee in this category can access existing leave types or leave without pay.
4. Employees who have caring responsibilities
  - a. Employees with caring responsibilities can access existing carer's leave entitlements.
  - b. Schools are open for all parents and carers who choose to send their children beginning on Wednesday 29 April
    - i. Public sector employees choosing to keep children home will need to make arrangements to cover any absence from work. Depending on the individual case, arrangements might include accessing existing leave entitlements such as annual leave, long service leave, or accrued flexi leave.
    - ii. Personal leave remains available for parents and carers absent from work where a child needs care or support because the child is sick or injured, for children with complex medical needs based on medical advice, or in an unexpected emergency. Personal leave may also be available where a parent or carer must care for a child on Tuesday 28 April.

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- c. An employee who has no carer's leave entitlements can access COVID-19 leave if they are caring for someone else because:
  - i. the other person has COVID-19 or is in self-isolation; or
  - ii. the other person's school has closed or other care arrangements are unavailable because of COVID-19.

The AMA (WA) has been advised that a whole of government approach is required to review the 10 day cap on Carer's Leave. If you think you will be impacted by this cap, we encourage you to contact the AMA (WA) Workplace Relations Team.

#### **How much COVID-19 Leave can I access?**

If your situation permits access to COVID-19 Leave, the current cap is 20 days.

The AMA (WA) is lobbying for unlimited leave with pay for practitioners who are COVID-19 positive or are absent from work whilst awaiting test results.

#### **AMA (WA) Advocacy on COVID-19 Leave**

The AMA (WA) has written to Minister for Health urging him to ensure all medical practitioners working in our public health system are provided unlimited leave with pay, in the event that they are unable to work due to a suspected or confirmed COVID-19 diagnosis.

This measure is critical to protecting frontline health workers from the impact of COVID-19, with international experience indicating significantly higher infection rates amongst frontline health workers.

The AMA (WA) will update members on the outcome of our advocacy.

## *Flexible Working Arrangements*

### **Can my employer direct me to change my FTE?**

Your employer can ask you to change your hours, but they cannot force you to do so. Any changes to a contract have to be by agreement between the parties.

Given the current crisis, it is not surprising that doctors may be approached to alter their FTE, but especially if you have caring responsibilities at home, you have every right to respectfully decline such a request.

The AMA (WA) encourages doctors to be open with reasons for not being able to change FTE and offer their employer the opportunity to assist them, if possible, to assist doctors to respond to these requests. (eg. Roster according to child caring responsibilities.)

It is important that any changes to your contract are agreed in writing as a temporary contract variation, unless you and your employer are satisfied for these changes to apply for the remaining term of your employment contract.

The AMA (WA) Workplace Relations Team can assist members where necessary.

### **Can I work from home?**

If it is possible for some or all of your duties to be completed from home, you can request to work from home. Your employer does not have to comply with this request and for most medical practitioners, working from home may not be a viable option.

If there are parts of your role that can be completed from home, we encourage doctors to discuss this with their employer and place any reasonable request to work from home in writing.

The AMA (WA) has been advised that each HSP will have a working from home policy, which you should be able to access on via your intranet once published.

WA Health System Wide Industrial Relations have advised that working from home arrangements will be considered on case by case basis, where practicable.

If you have any questions contact the AMA (WA) Workplace Relations Team.

### **I need to temporarily alter my working arrangements to facilitate family responsibilities. What are my options?**

Do not resign.

Full time Doctors in Training can request in writing to work on a part time basis, which your employer must appropriately consider and should not unreasonably refuse. Please note, this does not give you a right to part time employment.

We recommend discussing your family situation with your Head of Department and/or Medical Workforce Department. Options may include:-

1. Carers Leave (currently capped at 10 days per year)
2. COVID-19 Leave (currently capped at 20 days per year)

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3. Temporary reduction in hours
4. Utilisation of accrued leave entitlements
5. Leave without pay
6. Temporary conversion to casual (please be aware you will cease accruing leave entitlements)

Contact the AMA (WA) Workplace Relations Team for further advice.

#### **I am an employee at higher risk. What are my rights?**

Under the most recent public sector circular (PSLR Circular 6) employees at higher risk are encouraged to attend work where possible. However, if medical advice dictates otherwise, employees in this category may work from home in appropriate circumstance or may access other accrued leave to support absence from work.

It would be unreasonable for your employer to demand your continued presence at work in contravention of medical opinion.

WA Health System Wide Industrial Relations have advised the AMA (WA) that Health Service Providers are engaging with staff to identify those at risk and working with individuals at a local level to facilitate alternative work arrangements or access to leave on a case by case basis, where achievable.

It is entirely sensible to access accrued entitlements if you are unable to attend work due to you being at higher risk, and are not able to work from home. The AMA (WA) expects that your leave application should be approved and your employer to consider requests to take leave at half pay.

#### **My employer has directed that I can cancel or alter approved annual leave. What are my rights?**

Your employer can only REQUEST that you cancel approved annual leave. You are within your rights to decline the invitation.

Given the current situation, the AMA (WA) encourages doctors to consider such requests from their employer. Should you agree to cancel annual leave you should ask whether your employer will reimburse costs incurred should you cancel your leave. e.g cancelled booking fees, childcare (provided you now need to pay someone to mind your children).

#### **My employer has asked me to take annual leave. What are my rights?**

Your employer cannot direct you to take annual leave. Contact the AMA (WA) Workplace Relations Team for advice.

#### **I am experiencing difficulty negotiating alternative working arrangements with my employer. What do I do?**

The AMA (WA) advises discussing options in first instance with your Head of Department and then putting a request in writing to Workforce Management.

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**My question is not covered by this FAQ.**

All AMA (WA) members are encouraged to seek industrial advice and support from the AMA (WA). You can email your enquiry to [covid19@amawa.com.au](mailto:covid19@amawa.com.au).

If you are not an AMA (WA) member, but would like to join, complete our online application form. Please note, the AMA (WA) can only provide limited advice to members in relation to issues that pre-date their membership.

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