

OTARA WHANAU MEDICAL CENTRE DOCTORS COLLECTIVE AGREEMENT

1 FEBRUARY 2018 TO 31 JANUARY 2019



L11 The Bayleys Building, 36 Brandon Street, PO Box 10763 Wellington, New Zealand
P + 64 4 499 1271 **F** + 64 4 499 4500 **E** asms@asms.nz **W** asms.org.nz



CONTENTS

PART ONE - COVERAGE AND APPLICATION MATTERS.....	1
1 UNDERLYING PRINCIPLES	1
2 NATURE OF AGREEMENT	1
3 PARTIES TO THE AGREEMENT	1
4 COVERAGE.....	2
5 ROLE OF THE ASSOCIATION.....	2
6 NEW EMPLOYEES	2
7 VARIATION.....	2
8 MUTUAL OBLIGATIONS	2
9 APPOINTMENT OF MEDICAL PRACTITIONERS.....	3
10 TERM	3
11 DEFINITIONS.....	3
PART TWO - REMUNERATION & HOURS OF WORK	5
12 SALARIES.....	5
13 HOURS OF WORK	6
14 PART-TIME EMPLOYEES.....	6
PART THREE - PROVISIONS RELATING TO LEAVE	7
15 ANNUAL LEAVE.....	7
16 PUBLIC HOLIDAYS.....	7
17 LEAVE FOR ILLNESS, ACCIDENT & BEREAVEMENT	8
18 PARENTAL LEAVE.....	8
19 STUDY LEAVE	9
20 ATTENDANCE AT MEETINGS.....	9
21 LEAVE WITHOUT PAY	9
22 REIMBURSEMENT OF PROFESSIONAL EXPENSES	10
23 MISCELLANEOUS TRANSPORT PROVISIONS.....	11
24 TRAVELLING EXPENSES.....	11
25 PROTECTIVE/DAMAGED CLOTHING	11
26 JURY SERVICE.....	11
27 EMPLOYMENT OF LOCUMS.....	12
28 PATIENT LOAD AND RESPONSIBILITY	12
29 JOB DESCRIPTION	12
PART FOUR - UNION REPRESENTATION	13
30 UNION FEES.....	13
31 RIGHT OF ENTRY	13
32 STOPWORK MEETINGS.....	13
33 PAID EMPLOYEE REPRESENTATIVES EDUCATION LEAVE.....	13
PART FIVE - PROFESSIONAL MATTERS	14
34 QUALITY IMPROVEMENT ENVIRONMENT.....	14
35 PROFESSIONAL & PATIENT RESPONSIBILITY & ACCOUNTABILITY.....	14

36	PUBLIC DEBATE & DIALOGUE.....	14
PART SIX - GENERAL TERMS		15
37	CONSULTATION.....	15
38	TERMINATION OF EMPLOYMENT	15
39	RIGHTS OF PRIVATE PRACTICE AND CONFLICT OF INTEREST.....	15
40	OTHER RELEVANT LEGISLATION.....	15
PART SEVEN - SETTLEMENT OF DISPUTES AND PERSONAL GRIEVANCES.....		17
41	MEDIATION AND ADJUDICATION.....	17
42	RESOLUTION OF EMPLOYMENT RELATIONSHIP PROBLEMS.....	17

PART ONE - COVERAGE AND APPLICATION MATTERS

This Agreement applies to members of the Association who fall within the coverage clause of this Agreement.

1 UNDERLYING PRINCIPLES

1.1 General

The parties acknowledge the importance of collegiality within the workplace and will actively encourage collective negotiations and responses to workplace challenges and issues.

The parties recognise that employees are constrained by their ethical and professional obligations and public expectations not to refuse treatment to patients in need of their professional skills.

The parties acknowledge the increasingly demanding medico-legal environment in which employees are required to practise. Accordingly, the employer undertakes to do what it reasonably can to ensure the workplace is well resourced, professionally supportive and conducive to a very high standard of individual clinical practice.

1.2 Fixed Term Appointments

An employee may be engaged for a fixed-term provided there are genuine reasons based on reasonable grounds for the particular fixed-term appointment. The employer shall advise the employee of those reasons at the time of the appointment and record them in the letter of appointment or job description.

2 NATURE OF AGREEMENT

This is a collective agreement negotiated under the provisions of the Employment Relations Act 2000.

It sets out the core terms and conditions of employment for all doctors who fall within its coverage clause.

It provides the minimum terms and conditions of employment that underpin an employee's job description and any additional terms and conditions of employment that may be or have been negotiated and agreed between an employer and employees on an individual or group basis.

Any agreement between an employer and one or more employee(s) that provides for terms and conditions of employment that are as favourable or more favourable in respect of that employee or those employees is hereby deemed to be not inconsistent with this Agreement.

3 PARTIES TO THE AGREEMENT

3.1 The parties to this Agreement shall be:

- (a) The Association of Salaried Medical Specialists, referred to in this agreement as "the Association" or "the union", and
- (b) Otara Whanau Medical Centre Limited, referred to in this agreement as "the employer".

3.2 This Agreement shall be binding on the parties to it and all employees who fall within its coverage clause and who are members of the Association.

3.3 No improvement to any rate, allowance or other condition negotiated in this agreement shall be passed on to any employee who might be covered by this agreement but has elected to be outside of such coverage.

4 COVERAGE

This Agreement applies to Registered medical practitioners employed by the employer provided that coverage shall be further limited to such medical practitioners:

- whose duties include the practice of medicine, as defined from time to time by law or the Medical Council of New Zealand; and
- who are required as a condition of their employment to hold a current practising certificate.

5 ROLE OF THE ASSOCIATION

The employer acknowledges the role of the Association of Salaried Medical Specialists as the representative of employees who are covered by the agreement and who are members of the Association, for all purposes relating to the negotiation, interpretation, application and enforcement of this agreement.

6 NEW EMPLOYEES

6.1 During the term of this Agreement, an employer who offers employment to a prospective employee falling within the coverage clause of this Agreement shall, at the time of offering employment, advise that person of:

- (a) the existence of this Agreement and their right to be employed under it, subject to their joining the Association;
- (b) the existence and role of the Association in negotiating the Agreement;
- (c) how to contact the Association for advice in respect of the offer of employment.

6.2 The employer will also advise prospective employees of these matters after the agreement has expired for so long as negotiations for its replacement are continuing.

7 VARIATION

7.1 The parties accept that there may be provisions within this Agreement and that circumstances may arise during its term that warrant the negotiation of a variation to the agreement prior to its expiry date.

7.2 Any variation to this agreement is subject to the Union's and Employer's ratification processes.

7.3 Any subsequent variation will not take effect until it is recorded in writing and signed by all parties.

8 MUTUAL OBLIGATIONS

8.1 The parties acknowledge that an essential feature of any employment relationship is that it be based on mutual trust and confidence and fair dealing between the parties.

8.2 The parties undertake to behave towards one another in a manner that will maintain and strengthen such trust and confidence and fair dealing.

- 8.3 In particular the employer undertakes to be a good employer and will provide the resources and support reasonably necessary to enable the employees to discharge their obligations under this Agreement.

For their part, the employees covered by this Agreement undertake to apply themselves diligently and conscientiously to the discharge of those obligations.

9 APPOINTMENT OF MEDICAL PRACTITIONERS

- 9.1 A representative of the employer, a representative of the medical practitioners, and the practice manager, shall appoint medical practitioners.

A copy of these terms and conditions, and a copy of the salary scale relevant to each job classification, shall be enclosed with each letter of appointment, which must specify the initial salary.

10 TERM

- 10.1 Unless otherwise specified elsewhere in this agreement, the agreement shall come into effect on 1 February 2018 and shall expire on 31 January 2019.

- 10.2 Unless otherwise agreed, the parties undertake to begin negotiations for a replacement agreement not later than one month before the expiry date of this agreement.

- 10.3 It is agreed that the parties will continue negotiations to replace this agreement in good faith until both parties agree that negotiations have either concluded or formally 'broken down'.

11 DEFINITIONS

In this Agreement:

- 11.1 "General Practitioner" means any medical practitioner who has been registered by the Medical Council of New Zealand under the Health Practitioners Competence Assurance Act.
- 11.2 "General Practitioner with a vocational scope of practice" means any medical practitioner who is registered by the Medical Council of New Zealand with a vocational scope of practice in general practice under the Health Practitioners Competence Assurance Act.
- 11.3 "Fellowship" means a fellowship of the Royal New Zealand College of General Practitioners which entitles a doctor to use the letters FRNZCGP.
- 11.4 "Full-time employee" means any employee who is employed under this Agreement for forty (40) hours or more on average each week.
- 11.5 "Ordinary Hourly Rate" means the hourly rate derived by dividing the employee's nominal annual base salary rate by 2080.
- 11.6 "Part-time employee" means any employee who is employed under this Agreement for less than forty (40) hours on average each week.
- 11.7 "Full Pay" means the employees usual gross fortnightly earnings (based on their agreed job size and current remuneration schedule).

- 11.8 "Redundancy" means a situation where an employee's employment is terminated or changed, whether by an increase or decrease in hours, a change from full-time to part-time or from part-time to full-time and the termination or change is attributable to the operational requirements of the employer.
- 11.9 "Service" means service with the employer.

PART TWO - REMUNERATION & HOURS OF WORK

12 SALARIES

12.1 Medical Practitioners shall be paid according to the attached salary scale.

Step	
5	127,678
4	123,350
3	118,606
2	113,924
1	110,282

12.2 Fellowship Scale

Step	
5	167,000
4	153,979
3	145,656
2	134,212
1	130,570

12.3 The initial placement of a medical practitioner on the appropriate scale shall be the responsibility of the appointments committee, taking into account relevant qualifications and experience, providing that no employee shall commence on Step 5 of the scale.

After the completion of six (6) months service the employee shall move to the next step of the appropriate scale, and there after annually until the top has been reached. Progression through the scale is based on satisfactory performance, however unless documented evidence of unsatisfactory performance can be produced, progression will be automatic.

12.4 The gross weekly wages are calculated as 1/52 of the annual wage laid down in sub clause 5 of this agreement. Where there is any deviation from the regular amount being paid, employees shall be supplied in writing with details of the manner in which their payments have been calculated.

12.5 Salaries shall be paid by direct credit to a bank account on receipt of the appropriate written authority from an employee. In the event of a direct credit not being able to be actioned, the amount of salary due to the employee shall be paid direct to the employee by cheque.

12.6 In the case of overpayment recovery procedures, attention is drawn to the Wages Protection Act 1983. The provisions of this Act, or any amendment or Act passed in substitution for this Act, shall apply. Employees covered by this agreement who have achieved a fellowship will be paid on the scale set out in (b) above and will progress as set out in 12.2 above.

12.7 Superannuation (see also Schedule)

- (a) At commencement of employment all permanent employees shall be invited to join the IRIS GMK KiwiSaver Scheme.
- (b) The employer will meet current statutory obligations by contributing 3% of the employee's gross earnings for employees who are KiwiSaver contributors.
- (c) The employer will meet its statutory obligations for fixed term employees whose employment exceeds 28 days.

13 HOURS OF WORK

13.1 The ordinary hours observed by medical practitioners engaged by the company shall not exceed 8 hours daily, to be worked between the hours of 8.30 am - 6.00 pm daily, Monday - Friday inclusive.

13.2 The ordinary hours shall be worked as follows:

- (a) Patient contact - 35 hours per week.
- (b) Administration (to be carried out on the premises) - 4 hours per week.
- (c) Staff meeting - 1 hour per week.

13.3 Consultation time per patient shall be 15 minutes, provided that the practitioner may employ some flexibility on occasions when the practitioner deems it necessary, provided that as a rule the 15-minute consultation time is adhered to.

13.4 Actual working hours (starting/finishing times each day) shall be agreed between the practice manager and the medical practitioner taking into account the requirements of the centre.

14 PART-TIME EMPLOYEES

Part-time employees shall be paid on a pro rata basis.

PART THREE - PROVISIONS RELATING TO LEAVE

15 ANNUAL LEAVE

15.1 The company shall give all employees covered by this agreement 30 working days' leave.

15.2 Annual holidays shall be taken in accordance with the Holidays Act 2003, however with the approval of the practice manager employees may anticipate up to half of their annual leave entitlement for the next year.

Unless in exceptional circumstances, leave accumulated must not exceed two years' entitlement, and then prior approval must be sought from the practice manager who will consider requests after discussion with the employee concerned.

15.3 There will be no payment in lieu of annual leave unless an employee has annual leave due but untaken at date of resignation.

15.4 Employees intending to take annual leave are required to discuss the intended leave with any other employees who may be affected by the leave and the practice manager, to ensure that the needs of the centre continue to be met. Applications for leave are to be approved by the practice manager, and all staff shall obtain the appropriate approval at least ten (10) working days before taking any period of leave. Exceptions to this rule may be made with the consent of the practice manager on each occasion.

15.5 A record of annual leave taken by each staff member shall be maintained by the employer and be available for examination by the staff member concerned.

16 PUBLIC HOLIDAYS

The following shall be observed as holidays

- New Year's Day
- The day after New Years' Day
- Waitangi Day
- Good Friday
- Easter Monday
- ANZAC Day
- Sovereign's Birthday
- Labour Day
- Christmas Day
- Boxing Day
- Provincial Anniversary Day.

16.1 In the event of a holiday, other than Waitangi Day or ANZAC Day, falling on a Saturday or Sunday, such holiday shall be observed on the following Monday.

16.2 Where any days specified in sub clause 16.1 fall during an employee's annual holidays they shall not be deducted from the employee's annual leave entitlement.

16.3 Any employee required to work on a public holiday will be granted an equivalent holiday as set out in the Holidays Act 2003.

17 LEAVE FOR ILLNESS, ACCIDENT & BEREAVEMENT

17.1 An employee may take sick leave if:

- The employee is sick or injured; or
- The employee's spouse is sick or injured; or
- A person who depends on the employee for care is sick or injured.

17.2 An employee is entitled to 10 days sick leave for each 12-month period of employment.

17.3 Sick leave that has not been taken may be carried over to any subsequent 12-month period of employment to a total of 20 days.

17.4 Where the absence on account of illness or accident exceeds five working days the employer may require the employee to produce a medical certificate for verification. The employer shall have the right to require the employee to undergo an independent medical assessment paid for by the employer.

17.5 The employer shall approve bereavement leave on pay for a period of up to five days when an employee suffers a bereavement of someone with whom they have had a close association.

17.6 This provision includes any statutory entitlement to paid special leave for similar purposes.

18 PARENTAL LEAVE

18.1 General Entitlement

- (a) Employees are entitled to up to twelve months' parental leave without pay for births and adoptions in accordance with the Parental Leave and Employment Protection Act 1987.
- (b) Parental leave of up to six months is to be granted to employees with less than one year's service at the time of commencing leave.
- (c) Employees intending to take parental leave are required to give not less than three months' notice in writing and the application is to be accompanied by a certificate signed by a registered medical practitioner certifying the expected date of delivery.

The provision is waived in the case of adoption or circumstances outside the control of the employee.

- (d) Employees are required to give at least one month's notice of return to work.
- (e) The maximum period of parental leave may be taken by either the employee exclusively or may be shared by the employee and their partner either concurrently or consecutively. This applies whether or not one or both partners are employed by the employer.
- (f) An employee returning from parental leave may request the employer to vary the proportion of full-time employment from that which applied before the leave was taken. The granting of such a request shall be at the discretion of the employer.

19 STUDY LEAVE

- 19.1 Medical practitioners shall be entitled to seven (7) days study leave per year to attend seminars, conferences or journal clubs relevant to their employment as a practitioner to ensure professional competence is maintained.
- 19.2 Study leave shall be applied for at least seven working days in advance and approved by the practice manager. Other practitioners employed by the company and the practice manager will be consulted before the application is submitted. A record of study leave taken must be kept.
- 19.3 Study leave shall be taken at a time mutually convenient to the practitioner and the company and may be taken on evenings or at weekends.
- 19.4 Full-time employees shall be reimbursed for actual and reasonable expenses of up to \$3000 per year (GST exclusive). This will be paid on a pro rata for part-time employees, except that part-time employees whose only income from medical practice is derived from their employment with the employer shall be entitled to full reimbursement, up to a maximum of \$3000 per year.
- 19.5 The seven days study leave may be accumulated for a maximum of two years entitlement.
- 19.6 Study leave under sub clause 19.1 will be paid at ordinary time. Part-time employees will have the leave paid on a pro rata basis.

20 ATTENDANCE AT MEETINGS

Employers shall grant leave with pay to employees attending formal meetings of registration boards or statutory authorities, including the Medical Council of New Zealand, or any meeting she/he is required to attend by the employer. Reasonable notice is to be given to the practice manager in order that cover can be arranged.

21 LEAVE WITHOUT PAY

- 21.1 Leave without pay may be approved by the practice manager at their sole discretion, after taking into account the considerations listed in clause 21.2 below.
- 21.2 Leave without pay may be approved subject to the following considerations:
- the reason for the application;
 - convenience to the centre,
 - staff member's length of service,
 - the training period required in the job;
 - whether a temporary replacement is practicable due to the key position occupied by the staff member;
 - consideration will be given for reasons of child care.
- 21.3 Applications for leave without pay must be made in writing to the practice manager at least two months before leave is required. This condition may be waived at the discretion of the practice manager in the case of an emergency or unforeseen circumstances.

- 21.4 The practice administrator/manager shall acknowledge the application in writing, advise the applicant of their decision and, in the case of approval, set out the relevant conditions applying.
- 21.5 In approving an application for leave without pay, the company undertakes to keep the position held by the staff member open for the extent of the leave approved.
- 21.6 A staff member returning from leave without pay is entitled to resume work in the same position or in a similar position as occupied at the time of commencing leave without pay.
- A similar position means:
- at the equivalent salary and grading;
 - in the same location, and
 - involving responsibilities broadly comparable to those carried out in the previous position.
- 21.7 Any annual leave due is to be taken before a staff member commences leave without pay exceeding one month.
- 21.8 Where a staff member's annual increment falls during absence on leave without pay, it will be maintained where leave does not exceed 12 months.
- 21.9 Any staff member absent on leave without pay who wishes to terminate his /her employment must advise the company in writing two months prior to the agreed date of re-commencement of employment.
- 21.10 Any staff member who is granted leave without pay and who, on expiry of that leave, has not returned to work, is deemed to be absent without leave. If the unauthorised absence continues for more than five (5) working days without notification to the company, the staff member shall be deemed to have terminated service without notice.
- 21.11 Annual leave and sick leave does not accrue for the period of the leave without pay if it exceeds one month.
- 21.12 All periods of leave without pay are to be recorded on the staff member's leave record.

22 REIMBURSEMENT OF PROFESSIONAL EXPENSES

- 22.1 Employees who incur the following expenses in the course of their employment shall have the full cost reimbursed.
- 22.2 Annual Practising Certificate Fee, including disciplinary levies.
- 22.3 The levy for the medical misadventure fund as required under the Injury Prevention Rehabilitation and Compensation Act 2001, or any legislation amending or in substitution for this Act.
- 22.4 Medical Protection Society fee.
- 22.5 Royal New Zealand College of General Practitioners fees.

- 22.6 The reimbursement of the above expenses shall be annualised and in the event of an employee resigning, or his/her employment being terminated for any reason other than redundancy before completion of the year to which the reimbursement relates, then where payment has been made in advance, any owed amount shall be reimbursed to the company.
- 22.7 Unless another arrangement is agreed with the practice manager, the repayment is to be deducted from the employee's final salary payment.
- 22.8 These reimbursements will be made in full to part-time employees for whom employment with the employer is their sole medical employment.

23 MISCELLANEOUS TRANSPORT PROVISIONS

- 23.1 Employees shall be reimbursed the actual and reasonable costs incurred in travelling to and from work when called back to work outside their normal hours of duty.
- 23.2 Where employees are authorised by the employer to use their own cars for the purposes of work, the employer shall pay a motor vehicle allowance at a rate and subject to conditions approved by the employer.

24 TRAVELLING EXPENSES

- 24.1 A staff member shall be entitled to a refund of actual and reasonable expenses incurred in the course of carrying out approved work-related duties. 'Reasonable' is defined as exercising due economy.
- 24.2 GST receipts are required to substantiate all claims.
- 24.3 Travel and accommodation arrangements associated with work-related duties are to be made in consultation with the practice manager where possible, to ensure maximum cost effectiveness for the company is achieved.

25 PROTECTIVE/DAMAGED CLOTHING

- 25.1 Where the nature of the duties required of a staff member is likely to result in damaged or soiled clothing, the company shall supply protective clothing on request, which can be used when a staff member is engaged in such duties. The company shall be responsible for cleaning and renewing same as reasonably required.
- 25.2 The employer shall reimburse the costs of replacing, repairing and/or cleaning clothing if proven damage has occurred as a consequence of undertaking their duties and responsibilities, to a maximum of \$250 for any single claim.

26 JURY SERVICE

- 26.1 An employee called on for jury service shall be given leave, without loss of pay, and the employee is to pay juror's fees to the company but may retain the expenses. Provided that where the service is performed on a weekend or during a part-time employee's off duty hours, the employee shall retain the fees.



26.2 These points should be noted:

- Employees are required to report for work at their normal starting time each day of jury service, unless expressly directed otherwise by the Court.
- Where employees are excused from jury service during normal working hours, they are to return immediately to duty and to continue to work until again required for jury service.
- In no circumstances, however, must any action be taken which will prevent an employee from attending at the Court at the time specified.

27 EMPLOYMENT OF LOCUMS

27.1 After assessment of service needs and consultation with clinical staff, the practice manager will decide whether locum cover is necessary.

27.2 A locum will normally be required for absences spanning more than five consecutive days or the absence of more than one medical practitioner.

27.3 The company is primarily responsible for provision of a suitable locum, and all costs will be met by the company.

28 PATIENT LOAD AND RESPONSIBILITY

28.1 The practitioner shall have autonomy for medical decisions relating to her/his patients, Practitioners shall have due regard for the on-going financial viability of the centre.

28.2 Patient load will follow in principle conditions set out in Clause 13 of this agreement.

29 JOB DESCRIPTION

At commencement of employment all employees shall be provided with a specific job description setting out the responsibilities and main duties consistent with the position, including hours of work. The job description should be reviewed regularly (at least annually) to ensure it continues to fairly reflect the responsibilities and duties being carried out.

PART FOUR - UNION REPRESENTATION

30 UNION FEES

- 30.1 On the written authorisation of the employee, the employer shall deduct the union fee fortnightly (or at other authorised intervals) from the employee's remuneration. The employer shall forward these deductions to the union not less frequently than quarterly.

31 RIGHT OF ENTRY

With the employer's consent, (which shall not be unreasonably withheld) the Association's authorised representatives may enter the employer's property at all reasonable times to meet union members and prospective union members to discuss the negotiation, re-negotiation, application and enforcement of this Agreement. In exercising this right, the Association's representatives shall not interfere unreasonably with the employer's business.

32 STOPWORK MEETINGS

- 32.1 The employer shall allow Association members to attend at least two union meetings, each of up to two hours' duration, on full pay in each calendar year.
- 32.2 The Association shall give the employer at least 14 days' notice of the date and time of a union meeting.
- 32.3 The Association shall make such arrangements with the employer as may be reasonable to ensure the employer's essential activities are maintained during the union meeting.
- 32.4 Normal duties shall resume as soon as practicable after the meeting, but the employer shall not be obliged to pay any Association member for more than two hours in respect of any meeting.
- 32.5 Only Association members who actually attend a union meeting shall be entitled to pay in respect of that meeting and the employer may require the Association to supply a list of members who attended and advice of the time the meeting finished.

33 PAID EMPLOYEE REPRESENTATIVES EDUCATION LEAVE

- 33.1 The employer shall provide paid employee representatives education leave calculated on the basis of three days for the first eight Association members (full-time equivalent) employed by the employer and one day for every eight Association members (full-time equivalent) thereafter employed by the employer.
- 33.2 This leave is for education programmes approved by the Association. The Association shall advise the employer, with not less than three weeks' notice, of the names of the employees who will be exercising this entitlement. This provision of this clause shall be inclusive of Part 7 of the Employment Relations Act 2000.

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PART FIVE - PROFESSIONAL MATTERS

34 QUALITY IMPROVEMENT ENVIRONMENT

34.1 In recognition of the on-going need to improve the quality of clinical services, the employer is committed to providing a quality improvement environment which supports openness, honesty and the freedom to identify and admit mistakes or errors of judgment. It is recognised that there is a difference between errors that may be defined as normal variations in performance and those errors resulting from negligence. Within this context there is no place for a punitive reaction to errors that are not the result of negligence.

The employer and employees are committed to fostering this environment, and to this end will work together to implement quality improvement initiatives including credentialing.

34.2 Credentialing processes and implementation are matters to be agreed between the employer and affected employees. Credentialing will also consider the resources required for a particular service.

35 PROFESSIONAL & PATIENT RESPONSIBILITY & ACCOUNTABILITY

The parties recognise:

- (a) the personal responsibility of employees to their patients and the employee's role as a patient advocate;
- (b) that employees are responsible and accountable to the statutory authorities such as the Medical Council, established under the Health Practitioners Competence Assurance Act 2003, as applicable, including their relevant policy statements and guidelines; and
- (c) that employees are responsible and accountable to the ethical codes and standards of relevant colleges and professional associations.

36 PUBLIC DEBATE & DIALOGUE

36.1 In recognition of the rights and interests of the public in the health service, the employer respects and recognises the right of its employees to comment publicly and engage in public debate on matters relevant to their professional expertise and experience.

36.2 In exercising this provision employees shall, prior to entering into such public debate and dialogue, where this is relevant to the employer, have advised and/or discussed the issues to be raised with the employer.

PART SIX - GENERAL TERMS

37 CONSULTATION

37.1 The parties to this Agreement acknowledge that change in the provision of patient care services may be required to ensure the efficient and effective delivery of these services. Furthermore, the parties recognise that they have a mutual interest in ensuring that patient care services are provided efficiently and effectively and that each has a contribution to make in this regard. The involvement of employees will contribute to:

- (a) improved decision-making;
- (b) greater co-operation between employees and the employer; and
- (c) a more harmonious, effective, efficient, safe and productive workplace.

Accordingly, the parties commit themselves to a process of regular consultation with one another and affected employees on all matters of mutual concern and interest.

38 TERMINATION OF EMPLOYMENT

Employees shall be given three months' notice of termination of employment and shall give three months' notice of resignation or retirement. This period of notice may be reduced or extended by agreement between the employer and employee. The employer may summarily terminate the employee's employment for serious misconduct.

39 RIGHTS OF PRIVATE PRACTICE AND CONFLICT OF INTEREST

- 39.1 The employer recognises the right of employees to engage in private practice but not in such a way that would give rise to a conflict of interest.
- 39.2 Employees exercising this right shall not knowingly allow it to adversely affect the performance of their contractual obligations with the employer. On request the employee shall advise the employer of either their intention to commence private practice or that they are undertaking private practice work.
- 39.3 Before the employee does anything that might compete against the material interests of the employer, e.g. compete against the employer for contestable funding, the employee shall consult with the employer in an effort to avoid a conflict and reach agreement on the matter.
- 39.4 The parties accept that in the absence of their reaching an agreement in respect of any possible conflict of interest, legal remedies are available to them, including the option of termination of employment.

40 OTHER RELEVANT LEGISLATION

The provisions of the following Acts, or any amendments of Acts passed in substitution for these Acts, shall apply:

- Injury Prevention, Rehabilitation and Compensation Act 2001
- New Zealand Public Health and Disability Act 2000
- Health and Safety at Work Act 2015
- Health Reforms (Transitional Provisions) Act 1993
- Holidays Act 2003

- Health and Disability Services (Safety) Act 2001
- Human Rights Act 1993
- Income Tax Act 2007
- Health Practitioners Competence Assurance Act 2003
- New Zealand Bill of Rights Act 1990
- Official Information Act 1982
- Privacy Act 1993
- Smoke free Environments Act 1990
- Wages Protection Act 1983.



PART SEVEN - SETTLEMENT OF DISPUTES AND PERSONAL GRIEVANCES

41 MEDIATION AND ADJUDICATION

- 41.1 The parties are committed to negotiated outcomes. If a negotiated settlement for a claim for a collective agreement has not been arrived at, the parties agree that either party may refer disputed matters to the Mediation Services for mediation and that the parties agree to participate in the mediation process in a genuine attempt to reach a settlement.
- 41.2 If a dispute still remains which cannot be resolved by either negotiation or mediation, before considering strike or lock-out action, as applicable, the parties will meet to consider a possible adjudication process to resolve outstanding issues.

42 RESOLUTION OF EMPLOYMENT RELATIONSHIP PROBLEMS

This clause sets out how employment relationship problems are to be resolved.

42.1 Definitions

(a) An "employment relationship problem" includes:

- a personal grievance
- a dispute
- any other problem relating to or arising out of the employment relationship but does not include any problem with the determination of new terms and conditions of employment.

(b) A "personal grievance" means a claim that an employee:

- has been unjustifiably dismissed; or
- has had their employment, or their conditions of employment, affected to their disadvantage by some unjustifiable action by the employer; or
- has been discriminated against; or
- has been sexually harassed in their employment; or
- has been racially harassed in their employment; or
- has been subjected to duress in relation to membership or non-membership of a union.
- That the employee's employer has, in relation to the employee –

- (i) engaged in adverse conduct for a prohibited health and safety reason; or
- (ii) contravened section 92 of the Health and Safety at Work Act 2015 (which prohibits coercion or inducement)

(c) A "dispute" is a disagreement over the interpretation, application or operation of an employment agreement.

42.2 Notice Period

If an employee wishes to raise a personal grievance they must raise the grievance with their employer within 90 days of the date of the action alleged to amount to a personal grievance occurring or coming to the notice of the employee whichever is the later.

42.3 Raising Employment Relationship Problems

- (a) Any employment relationship problem should in the first instance be raised by the employer with the employee or the employee with the employer as soon as possible.
- (b) The employee and/or the employer are entitled to seek advice and assistance from their chosen representative in raising and/or discussing the problem.
- (c) If the employee wishes to raise the employment relationship problem with the employer in writing or the matter is not resolved when the employee raises the problem with the employer, the employee should submit to the employer written notice of the personal grievance, dispute or problem, covering the following points:
 - details of their grievance, dispute or problem; and
 - why he/she feels aggrieved;
 - what solution he/she seeks to resolve the grievance, dispute or problem.
- (d) The employee and the employer shall meet to discuss and attempt in good faith to resolve the employment relationship problem.

42.4 Mediation

- (a) Where the employment relationship problem is not resolved by the parties in discussions, the employer or the employee may, without undue delay, seek the assistance of the mediation service division of the Ministry of Business, Innovation and Employment.
- (b) Both parties must co-operate in good faith with the mediation service in a further effort to resolve the problem.
- (c) The employee and employer acknowledge that the service provided by the mediation service is confidential and, if it does not resolve the problem, is without prejudice to the parties' positions.
- (d) Any settlement of the problem agreed to by the parties and signed by the mediator will be final and binding.

42.5 Employment Relations Authority

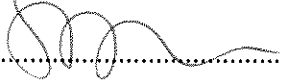
If the problem is not resolved by mediation, either party may refer the problem to the Employment Relations Authority for investigation and determination.

42.6 Employment Court

If either party is dissatisfied with the determination of the Employment Relations Authority it may appeal the Employment Relations Authority's determination to the Employment Court.

Dated this 19 day of February 2018

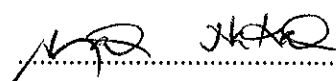
Authorised Representative of
The UNION PARTY


.....

Sarah Dalton
Industrial Officer

For the
ASSOCIATION OF SALARIED MEDICAL SPECIALISTS

Authorised Representative of
The Employer


.....

Marion Hakaraia
Chief Executive

For and on behalf of
OTARA HAUORA WHANAU LIMITED