

Claim 9 – Reasonable Notice of Roster (Junior Medical Practitioners)

(provided to Government 23 July)

NB. The intention of the following is to suggest a potential DHHS 'Directive' from its Director of Human Resources to all hospital administration & unit management. It includes feedback loops to demonstrate appropriate hospital actions to comply.

(The following assumes reference to AMA claim 9. (refer last page Attachment p.5) & AMA sub clause 13.9 replacement (as provided 16 June).

1. CONTEXT

- 1.1** The **Roster Posting** sub clause 13.9 of the *Salaried Medical Practitioners Industrial Agreement [200X]* creates a binding legally obligation to provide all DITs with at least four (4) weeks written notice of their work pattern.

The sub clause states (in part) (refer Attachment for full clause):

A roster of at least four (4) weeks duration must be posted in an accessible location at least four (4) weeks prior to it coming into operation.

- 1.2** DHHS confirms that Doctors-in-Training (DITs) have raised legitimate concerns that current hospital administrative practice does not comply with Roster Posting obligations.
- 1.3** DHHS confirms that given the mandatory nature of the roster posting obligation there can be no valid reason for denying a DIT their entitlement. There is both a legal and moral obligation to ensure management practice meets its obligations. Failure to comply has the following consequences:

Hospital liability for late posting penalty payments; AND

DHHS exposure to industrial disputation and/or industrial relation commission proceedings; AND

DHHS having inappropriate influence over DITs outside of the employment relationship because a lack of roster notice prohibits a DIT from planning their study, personal and family commitments.

- 1.4** There may be circumstances where aspects of DIT roster requests or DIT conduct may make 100 percent compliance apparently problematic. This Directive highlights and resolves these aspects.

2. IMPLEMENTATION

- 2.1** This Directive comes into effect *[date to be discussed]*

- 2.2** Where # is notated in this Directive, hospitals are required to provide DHHS with information to demonstrate compliance with this Directive as follows:

- DIT roster consultation policies [date when provided to DHHS - for discussion]
- DIT Initiated Roster Swap Policy [date when provided to DHHS - for discussion]
- number of occasions and number of DITs paid late posting penalty reported to DHHS and published for DIT review bi annually [dates when provided to DHHS/DITs - for discussion]
- number of occasions late changes occurred and reasons for the late changes reported to DHHS and published for DIT review bi annually [dates when provided to DHHS/DITs - for discussion]
- The hospital system to identify, consult then grant leave to DIT cohorts with special leave requirements (refer 4.3A below) [date when provided to DHHS - for discussion]
- Report to DHHS each instance of Item 4.3 B. C. or D. having been activated (refer below) within three (3) days of an occurrence.

3. MODEL ROSTER MANAGEMENT

Interpretive Notes:

“Preliminary roster” (Step A.) means: a roster framework likely identical to the contemporary operative roster. The roster framework must also:

- list all DITs who will perform the rotation to which the roster relates (the “relevant DITs”);
- insert each relevant DIT into their future roster line; and
- show all relevant DITs’ granted annual, conference and/or study leave.

“Late change” circumstances (between Steps B & C) include (not exclusive but an indicative list): late DIT leave request (re: course, conference or annual leave) unanticipated resignation, weekend off requests, planned reliever requests conference leave. #

3.1 DHHS defines and directs best practice compliance roster management here.

Hospitals are required to develop then implement DIT roster consultation policies to assist compliance with this Agreement #.

Rosters Management must be consistent with the Steps A – D as follows:

- A. Preliminary roster made available for consultation and posted 13 weeks prior or in the first week of the preceding rotation (whichever the greater period).
- B. Draft confirmed roster (posted 8 weeks prior with possibility of late changes).
- C. Confirmed roster – identical to draft roster (posted at least 4 weeks prior).
- D. No roster changes after 4 weeks prior (except as described at 4.3 below).

3.2 To make a late change the Hospital must be able to provide evidence to DHHS and affected DITs of the late change circumstance as defined above#.

- 3.3** If a late change is intended to occur between Steps B. & C., the Hospital must initiate its consultation policy with affected DITs and make genuine attempt to accommodate their requests prior to implementing the late change.
- 3.4** In genuine circumstances rosters can be posted without the actual placement of a reliever. In this case, the roster will show 'TBA'.
- 3.5** Relievers may also be "TBA" and may not be fully advised of their roster until within 4 weeks. Relievers in this situation will usually be placed into standard rosters that do not require evening or weekend shifts or OnCall obligations.

4. ADMINSTRATIVE PROCESS

- 4.1** To maintain best practice roster management (as defined at 3. above) it may be difficult to 'tailor' or 'individualised' rosters arrangements to meet special needs.
- 4.2** Where 'pro forma' style rosters are notified, DITs will be assisted to manage their self initiated roster swaps to accommodate their special needs. Where the special needs of individual DITs are incompatible with operational requirements, the Hospital may direct resolution consistent with its DIT Initiated Roster Swap Policy #

An indicative 'swap' policy for single day shift swaps would include:

- Hospital must be informed ideally 1 week prior to the proposed change and no later than 24 hours prior and agree to the change.
- DIT required to ensure appropriate experienced level for swap
- DIT not eligible for higher duties when swap self initiated
- Swap must not cause DIT to perform work in breach of the AMA Safe Hours Code (i.e. 'high risk' rating)
- Swap must not interfere with DITs rostered Call back obligations

An indicative 'swap' policy for consecutive days swaps would include:

- all of the above but Unit Head approval may also be required.

- 4.3** In defined circumstances under the *Salaried Medical Practitioners Industrial Agreement [200X]* or defined circumstances that may have been unintentionally or indirectly caused by the actions of a DIT, it may appear impossible for a hospital to comply with sub clause 13.9.

The defined circumstances are #:

- A. an emergency or disaster situation or where agreement is reached to not provide the required notice (under sub clause 13(d)).
- B. DIT notifies withdrawal from granted leave that had already been accommodated in posted roster and where there are down stream implications for reliever rostering (refer Note below).

Note:

To minimise the potential for activation of 4.3B and as soon as practicable after the start of the contract year, the hospital must identify and consult with the specific cohorts of DITs that are known to have special leave requirements (eg. Senior Registrars) then aim to grant all of their leave in advance #

- C. Substantial medium / long term unanticipated workforce shortage due to reliever unavailability, illness or accident that requires reorganisation of health service clinical operations.
- D. Where Safe Hours obligations under the AMA Safe Hours Code of Conduct are anticipated, or found, to be breached (i.e. no DIT can work a 'high risk' work pattern). Breaches may arise due to multiple DIT initiated roster swaps or unanticipated cover requirements.

(PTO for full AMA Tasmania claim clause)

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(Provided to Government 16/7)**

(Delete current *2006 Industrial Agreement* sub clause 13.9 and replace as follows)

DHHS and hospitals acknowledge that where a practitioner is rostered outside the spread of hours on weekdays or on weekends, it is mandatory that the practitioner receive four weeks notice of their roster as follows:

A roster of at least four weeks duration must be posted in an accessible location at least four weeks prior to it coming into operation.

A breach of the mandatory notice obligation incurs the following penalty payable to the practitioner:

200% of the practitioner's ordinary hourly rate for each hour worked without the mandatory notice.

Where a breach has occurred, the DHHS or Hospital must, in writing and within one week of the breach, explain to affected practitioner/s the reason for the breach and the steps that will be taken to avoid any further breach.

Rosters must show the days and times the practitioner is required to work and may include hours additional to the practitioner /s ordinary hours of work.

Once posted, roster changes must be agreed between the Head of Agency and the majority of practitioner/s affected.

Nothing in this clause affects rights of the practitioner to lodge a dispute for breach of the mandatory posting obligation under the Grievance and Dispute Resolution Procedure.