



## Final Year Medical Students Program: Know Your Rights

### ***Occupational Health & Safety (OH&S)***

Unlike nurses and other healthcare workers, doctors don't tend to put much thought into OH&S.

AMA Victoria is attempting to address this issue and is encouraging doctors employed in Health Services to use the OH&S framework to raise concerns.

Most think of OH&S risks as things like tripping hazards or protruding wires, but these risks also cover issues such as workplace stress, overwork/understaffing, and occupational risks related to COVID-19 such as inadequate PPE or lack of fit-testing.

As a newly employed doctor in training, you should take note of OH&S considerations from day one. Each ward has a Health & Safety Representative (HSR), and collectively these HSRs form a hospital-wide committee. Your HSR should be where you first raise any OH&S risks that you see.

Beyond contacting your HSR, it's important to understand how to escalate OH&S issues if they have not been appropriately resolved. Here, you should use the RiskMan system.

Under the legislation, if a RiskMan report is made, hospital management must write a report and show what they have done to mitigate the risk; it is a very powerful tool. As a consequence, it should not be used frivolously and other avenues to address the issue should be explored first. To be safe, you should contact AMA Victoria before lodging a RiskMan report.

### ***Rates of pay***

From mid-January to the renegotiation of the Enterprise Bargaining Agreement (EA), your annual salary will be \$78 925, or \$39.94 / hour (which is perhaps the more relevant figure because of additional payments such as overtime). You're also entitled to additional allowances, such as for continuing medical education, meals, location, travel and uniform. The details of these are in the EA.

In terms of claiming an allowance, all, apart from the uniform allowance, should be paid automatically. Regarding the uniform allowance, you should ask your hospital on your first day of employment where to obtain your uniform. If a uniform is not supplied (or if your Department Head says you shouldn't be wearing a uniform), you're entitled to the allowance. If the allowance is not paid, approach medical workforce. If that is unsuccessful, approach AMA Victoria. Note, however, if you decline to wear the supplied uniform, you are not entitled to the allowance.

There are 4 penalty payments that you are entitled to- Saturday/Sunday, shift, night duties, and overtime. You can't claim multiple penalty payments simultaneously; you're entitled to whatever payment is the highest.

You are also entitled to on call payments, of which there are 2 types- general and standby. General on call is when you're standing by ready to take a call from the hospital regarding patients (and here you may or may not be required to come in to the hospital). Standby on call is if somebody call in sick. Here, you are required to hold yourself available at the start of the shift.

Typically, the on call period is 16 hours long.

Regarding working hours, you are contracted to work 38 hours / week, but this can be averaged out over a 4-week period (and you cannot be paid less than 38 hours / week). Most hospitals average out over a fortnight as this aligns with the pay period.

You are entitled to 3.5 days off / fortnight, and 2 days off in a row (which may not be a weekend).

The maximum number of hours you can work in a day is 16 (notwithstanding that WorkSafe holds that more than 10 hours is excessive). AMA Victoria will be looking to reduce the maximum figure in the next EA.

The minimum shift length for an intern is 4 hours. (There is no minimum shift for Registrars)

You must have a 10-hour break between shifts. if you are required to work additional hours at the conclusion of your rostered shift, you should not come and start your next shift until you have had a 10-hour break. You will still be paid from the time when you were meant to commence your next shift.

Moreover, you are required to have a 48-hour break between coming off nightshift and starting your next shift.

With job sharing arrangements, different Health Services will have different policies, but there should not be an issue with organising working hours between the job-sharing participants.

### ***Entitlements (breaks, leave and public holidays)***

You are entitled to 5 weeks annual leave, which should be take at a time convenient you both you and your employer. If you have an even scheduled for next year, you should flag this with the hospital and schedule leave as soon as possible. If you approach the hospital for leave and they do not respond, you should give them a timeline to get back to you and state that silence is affirmation of your leave plans. In scheduling leave you should, however, note the requirements of you core rotations. If any leave is unused at the end of your contact, this is either paid out or, if you so choose and are staying within the same health service, carried over.

For every 6 hours work, you are entitled to a 30-minute paid break.

As you are shift workers, you are paid for every public holiday.

You are entitled to 28 days of personal leave per year. This includes sick and carers leave. At the end of each contract, you should receive a Certificate of Service which carries your personal leave

through to your next employer. If you do not receive this certificate (which should be issued automatically), request it from your departing Health Service.

### ***Discrimination and bullying***

Bullying is defined as repeated and unreasonable behaviour that creates a health and safety risk. Bullying is an OH&S issue, and each hospital has its own process to resolve bullying issues.

There is a distinction between bullying and reasonable performance management (e.g. being told what you're doing wrong). Bullying must be repeated and unreasonable. The distinction between bullying and reasonable performance management can, however, be a grey area.

Discrimination is unlawful and is covered by legislation. It is unlawful to discriminate on a variety of grounds including age, race, disability and sexual orientation.

The most common source of discrimination in the health sector, which is inherent in the system, is on the basis of pregnancy and family responsibilities.

In recent years, much has been done within hospitals and colleges to reduce both discrimination and bullying, and there has been a significant improvement.

### ***Questions***

*Is Long Service Leave recognised interstate?*

In Victoria, if you move interstate and work in a public hospital and then return, the time working interstate will be recognised. Similarly, if you're required to live interstate as part of training, this will also be recognised (and this includes work in private hospitals).

Note that every other state apart from NSW operates in the same way, with the result that any service in Victoria will not be recognised in NSW.

*How should I go about claiming overtime?*

When you commence work at your hospital, you should immediately find out what the Health Service's policy/process is for claiming un-rostered/unscheduled overtime. As long as you follow this policy/process, and get it signed off by the appropriate person, there is no reason why you should have your overtime declined.

You shouldn't listen to the registrar or consultant if they tell you that overtime isn't typically claimed. If you work overtime, you should be paid accordingly.

You do, however, always need a reason for working overtime (e.g. doing discharge summaries or treating a patient). To be paid overtime, you need to be doing work that couldn't be done in working hours, doesn't cover additional training you choose to do or staying back and observing a senior colleague work.

You should always keep a track of your hours through a work diary. Even if you don't claim overtime, it's a good idea to document how many hours you're working for your own wellbeing.

*What are your obligations when on call (e.g. can I go to the pub?) and what is the rate of pay?*

You have to hold yourself available to go to work. So, you can go to the pub (as long as it's within reasonable distance of the hospital/within normal travel time), but not consume alcohol. For general on call, \$64.70 a shift for an intern. For standby on call, \$37.90. AMA Victoria knows this is grossly unfair and will be looking to revise both in the next EA- and we will need your membership and support in doing so.

*Am I entitled to have the Health Service pay for my working with children/police background checks?*

If it's specified as a requirement of the job you applied for, no. If it's not specified, the hospital should pay for it.

*If I come into work early to compare notes with colleagues, should I claim overtime?*

This is a tricky issue. If you believe it's a requirement to be at work early to prepare and if it's 30 minutes early, you are entitled to be paid and should make a claim. If, however, it's 10/15 minutes early, as a professional, perhaps you should let that slide.