



VMO DETERMINATIONS IN PUBLIC HOSPITALS: THE CASE FOR REFORM

AMA (NSW) is preparing for arbitration to update and modernise the NSW Public Hospital Visiting Medical Officer Determinations.

The last time the VMO Determinations were the subject of a substantive review was 2007, and the last time a work value case was run for Visiting Medical Officers was the early 1990s. Recent NSW Government Wages Policy has restricted the ability of AMA (NSW) and unions to seek reform of the industrial instruments that apply in the NSW Public Hospital System.

What is AMA (NSW) role in the NSW Industrial Relations system for Visiting Medical Officers?

AMA (NSW) is the registered industrial body for Visiting Medical Officers (VMOs) in NSW under the Industrial Relations Act 1996 (NSW). Under the Health Services Act, AMA (NSW) has the right to seek the appointment of an arbitrator to determine the terms and conditions (including remuneration) for VMOs. ASMOF is the registered industrial body for employed doctors in the NSW Public Hospital System under the Industrial Relations Act 1996.

What has AMA (NSW) been doing to prepare for arbitration?

Prior to the COVID-19 pandemic, AMA (NSW) had commenced a review of VMO arrangements, and in particular the work being done from outside the Hospital for which VMOs are not paid.

The former NSW Government's Wages Policy, in place from 2011

until the change of Government in 2023, capped remuneration increases but perhaps more importantly, placed significant restrictions on the capacity for industrial organisations to seek changes in terms and conditions.

Sessional VMOs (who are remunerated at an hourly rate) received increases in most years under the Wages Policy. Fee-for-Service (FFS) VMOs who are remunerated by reference to services provided and remunerated based on the CMBS, did not receive the same increases.

Because of the then Federal Government's Medicare rebate freeze, AMA (NSW) and the Ministry reached agreement for increases for FFS VMOs over 5 years. Under the agreement, VMOs were entitled to indexation of 2.5% each year for five years, provided the Medicare Item Numbers claimed were not changed because of the Medicare Review. As such, for VMOs whose item numbers were not changed by the Medicare review are now paid a base remuneration rate of 113.1408% of the CMBS. For those item numbers that were changed, they do not receive the benefit of the indexation and are paid a base rate of 100% of the CMBS.

The FFS agreement expired on 30 June 2022. AMA (NSW) and the Ministry engaged in discussions regarding changes to the FFS Determination, including that all VMO's paid by reference to the current CMBS (as indexed from time

to time) (desired by the Ministry) and other changes to the Determination. Ultimately, agreement could not be reached, with the Ministry advising that Treasury would not provide funding for many of the changes sought by AMA (NSW).

In 2023 AMA (NSW) accepted a remuneration increase for Sessional VMOs that meant arbitration proceedings could not be pursued for Sessional VMOs until July 2024. In the interests of efficiency (both time and cost) a decision was made to seek arbitration for both Sessional and Fee-for-Service VMOs at the same time.

In 2024 AMA (NSW) has been meeting with VMOs at Medical Staff Council meetings, and meetings specifically focused on reform of the Determinations, to discuss the changes AMA (NSW) has identified and to hear their views on what needs to change.

Shortly, we will be surveying VMOs and the results will form part of the evidence in support of the case for change.

What changes will AMA (NSW) be seeking?

AMA (NSW) seeks to secure changes to the Determinations so that they better reflect modern working practices and form part of a suite of modern industrial instruments that offer consultants genuine choice on how they are engaged to provide

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services in the NSW public hospital system.

The arbitration will also review current rates of remuneration and whether they reflect the current value of the work performed by VMOs working in the public hospital system.

AMA (NSW) strategy to pursue arbitration is informed by the feedback provided by Visiting Medical Officers. While remuneration is relevant, the issues that they would like to see addressed include:

- VMOs are not paid for services provided from locations other than the hospital,
- Recognition that increasingly non-emergency work is undertaken after 6pm and on weekends yet there is no recognition of the value but also inconvenience of same to VMOs doing that work, and need for remuneration arrangements to change;
- The lack of an on-call allowance for Fee-for-Service VMOs;
- A lack of flexibility in terms of remuneration for services provided when on-call (in particular, should FFS VMOs have the option to remunerated at sessional rates);
- Payment for cancelled cases as opposed to lists in defined circumstances;
- The failure to index the Professional Support Payment for regional VMOs and the need to reconsider the qualifying criteria for access to the payment;
- Private patients in public hospitals and the challenges associated with a lack of communication by hospitals to VMOs regarding patient classification.

When will arbitration commence?

AMA (NSW) has asked the NSW government to change the legislation regarding who can be appointed as arbitrator.

AMA (NSW) is pressing for these changes to be made as soon as possible and will then file its application.

AMA (NSW) wants the legislation changed to provide that a judge of the Industrial Court may be appointed as arbitrator. Due to the previous government's wages policy there are very few people in New South Wales who have the necessary knowledge and experience in the application of relevant industrial principles. Two of the most experienced industrial practitioners were appointed to the Industrial Court earlier this year.

In 2016, the then NSW Industrial Court was abolished by the then State Government. Until this time, the Health Services Act provided for an arbitrator to be appointed from the NSW Industrial Court. Following the abolition of the Court, the legislation was amended to provide the arbitrator would be a former Judge of the NSW Supreme Court or a legal practitioner of at least 7 years experience.

The Industrial Court has been re-established and while questions

of interpretation regarding the Determinations have been returned to the Industrial Court, the provisions regarding the qualifications of the arbitrator have not changed.

Will the case for VMOs benefit the system?

AMA (NSW) anticipates that the case it runs will benefit the NSW Public Hospital System. Modernising industrial instruments will assist NSW to retain its existing workforce and attract additional workforce.

The matters for which we seek change are not unique to VMOs, and if we are successful, we anticipate it will strengthen the case for the modernisation of other industrial instruments in the NSW Public Hospital System. **dr.**

Dominique Egan.

Contact the AMA (NSW) Workplace Relations team if you have any further questions about these changes. You can contact our team on (02) 9439 8822 or via workplace@amansw.com.au



FROM HANDWRITTEN TO HIGH-TECH: WHAT YOU NEED TO KNOW ABOUT AI IN MEDICAL NOTE-TAKING

The integration of Artificial Intelligence (AI) into note-taking processes in medical practices is rapidly gaining momentum. AI note-taking programs are emerging as powerful tools for medical practitioners, offering enhanced efficiency, accuracy, and overall quality of medical documentation. This article explores AI in medical note-taking, how these tools work and factors you need to consider before implementing such tools in your practice.

AI in medical note-taking

Many medical practitioners are often overwhelmed with administrative pressures including creating comprehensive and precise clinical notes. Traditional methods of medical note-taking involve manual data entry and the transcription of patient interactions, which can be time-consuming.

AI note-taking tools offer assistance for medical practitioners balancing the demands of a busy practice. They seek to streamline documentation processes and allow medical practitioners to focus more on the provision of patient care. This shift could improve both efficiency and the overall quality of medical documentation.

How AI note-taking tools work

AI note-taking tools operate by recording the dialogue between the medical practitioner and the patient during a consultation. Using advanced technologies, these tools extract relevant information and generate coherent clinical notes. Over time, AI systems learn to mirror the user's tone and style, ensuring that the AI-generated notes resemble those created manually by the medical practitioner. Medical practitioners can review and amend AI-generated notes

before finalising them. This allows for the inclusion of personal observations, additional notes, and test results, ensuring the notes are accurate and complete.

Key considerations

While AI note-taking tools offer promising benefits, practices and medical practitioners that wish to utilise AI note-taking tools need to consider several important factors:

Privacy and security

Practices should review procedures for managing potential breaches of patient privacy and data security to ensure they cover and address the use of AI in the Practice.

Given the sensitivity of medical information, stringent data protection measures are essential. When selecting an AI note-taking program, practices should review the following:

- **Data Encryption and Storage:** Understand how patient data is encrypted, stored and destroyed.
- **Data Processing Location:** Determine whether data is processed or stored in Australia or overseas.
- **Secondary Use of Data:** Clarify if the data will be used for secondary purposes by the AI provider or third parties.

- **Compliance:** Ensure the AI provider adheres to the Australian Privacy Principles and the Privacy Act 1988 (Cth).

Consent

Patient consent is essential when using an AI note-taking program during consultations. Some patients may not be comfortable with AI, so it is essential to obtain consent each time an AI note-taking program is used. This consent should be documented in the patient's medical record. Relying solely on a reference to the use of the AI note-taking program in the Practice Privacy Policy is insufficient and practices should establish a clear process for seeking and recording patient consent on each occasion AI is used.

Accuracy of notes

Medical practitioners must review AI-generated notes to ensure they accurately reflect what was said and observed during the consultation and correct any errors before entering them into the patient's medical record.

Although AI is advancing, inaccuracies can occur in AI-generated notes due to factors such as accents, use of slang, or failure to filter irrelevant information.



AI note-taking tools will also not capture non-verbal cues and medical practitioners will need to ensure these are incorporated into the AI-generated notes.

Transfer of records

AI-generated notes may not always include essential patient identifiers, leading to potential issues during the transfer of records to the practice's systems. To mitigate the risk of data loss or incorrect storage, practices should implement robust processes and provide training to staff involved in handling AI-generated documentation.

AHPRA guidance for practitioners

The Australian Health Practitioner Regulation Agency has released guidance for practitioners which explains how existing responsibilities in National Boards' codes of conduct apply when practitioners use AI in their practice. You can read the guidance on the [AHPRA website](#).

There is no obligation to use AI in medical note-taking. However, Practices and medical practitioners who using AI for note-taking or are thinking of purchasing and implementing an AI note-taking tool in their practice should ensure the selected tool:

- meets clinical needs,
- enhances the delivery of quality patient care; and
- complies with legal and professional obligations.

It is recommended that Practices and medical practitioners consult with an IT expert, their cybersecurity provider and their Medical Defence Organisation when implementing an AI note-taking tool in their Practice.

Careful attention to patient consent, data privacy, and the accuracy of records is essential.

It is recommended that practices and medical practitioners consult with an IT expert, their cybersecurity provider and their Medical Defence Organisation when implementing an AI note-taking tool in their Practice.



As AI technology continues to evolve, it holds the potential to further transform medical documentation, making the integration of these tools a promising step towards more efficient and patient-centred healthcare. **dr.**

**Anastasia Livanova and
Dominique Egan.**

Contact the AMA (NSW) Workplace Relations team for specific advice relating to your practice. You can contact our team on (02) 9439 8822 or via workplace@amansw.com.au

PAYROLL TAX EXEMPTION FOR GENERAL PRACTICE

AMA (NSW) long running advocacy campaign for an exemption for general practice for potential past payroll tax liabilities for general practitioner contracts was successful, resulting in an exemption for general practices in relation to unpaid payroll tax that may have been payable. The exemption is for unpaid liabilities prior to 4 September 2024.

HWL Ebsworth provide the following update on the exemption for general practice and the bulk-billing rebate upon which some general practices may wish to rely. It is important to remember that the bulk-billing rebate is an additional measure, and that only general practices who meet the relevant threshold are required to register with Revenue NSW.

Relevant Contracts and Exemptions

If a general practice has general practitioners providing services to patients at the general practice, the first matter to be answered is whether the contract is a Relevant Contract for the purposes of the Act, and if so, are there any exemptions which may apply. While there are several exemptions under the Act, those most relevant to general practices are the 90 Day Exemption and the Public Service Exemption.

Under the Act a contract will not be considered a Relevant Contract for the purposes of payroll tax if the contracted doctor conducts their business at the medical centre for less than 90 days in a financial year. [1] For the purpose of calculating the number of days the contracted doctor works at the medical centre, part of a day will count as a full day. [2] In order to satisfy the 90 Day Exemption, a medical centre would need to demonstrate that the contracted doctor has consulted with patients for less than 90 days at the medical centre in a financial year.

Background

On 18 June 2024, when delivering the 2024-2025 State Budget, the NSW State Government announced a series of legislative amendments to the Payroll Tax Act 2007 (NSW) (Act) which were aimed at providing relief from payroll tax for medical centres engaging General Practitioners (GPs) as independent contractors.

The Commissioner of State Revenue later released a Practice Note explaining the amendments which were introduced under the Revenue Legislation Amendment Act 2024 No 83 (NSW). These included:

- An exemption for any unpaid payroll tax that was payable on 'wages' paid or payable to GP contractors under a relevant contract prior to 4 September 2024 (Unpaid PRT Liabilities Exemption). [1]
- A rebate for payroll tax on wages paid or payable to GP contractors on or after 4 September 2024 when certain conditions are met (Bulk Billing Rebate) [1]; and
- The additional relief supplements the existing exemptions under the Act, including the 90 Day Exemption and the Public Service Exemption. [1]

Unpaid PRT Liabilities Exemption

Any unpaid payroll tax that was payable on wages paid or payable to GP contractors under a Relevant Contract prior to 4 September 2024 are now exempt from payroll tax liabilities. This means that where payroll tax may have been payable in relation to payments made to GPs under a relevant contract, the medical centre is not required to declare those past payments prior to 4 September 2024 as wages for the purposes of payroll tax.

A refund is not available for a medical centre which has paid payroll tax in relation to payments made to a GP under a relevant contract prior to 4 September 2024.





The Public Service Exemption states that a contract will not be considered a 'relevant contract' for payroll tax if the contracted doctor also provides 'services to the public generally'.^[1] To qualify for this exemption, the contracted doctor must provide services of the same kind to patients of another business, possibly by visiting the local Hospital or consulting patients at other practices.

Bulk Billing Rebate

From 4 September 2024, medical centres meeting prescribed bulk billing thresholds may be entitled to claim a rebate on wages paid or payable to GP contractors under a

relevant contract. In order to claim the Bulk Billing Rebate, medical centres located in metropolitan Sydney must bulk bill at least 80% of their GP services. Whereas for medical centres located in other areas, only 70% of their GP services must be bulk billed to attract the Bulk Billing Rebate.

For the purposes of the Bulk Billing Rebate, Revenue NSW has determined which suburbs are deemed to be part of Metropolitan Sydney and a list can be found on their [website](#). Any suburb which is not included in the list is outside of Metropolitan Sydney and attract the lesser threshold.

The Bulk Billing Rebate is only available for medical centres which engage GPs and have registered for

payroll tax. Once a medical centre has paid payroll tax in relation to the payments made to GPs under the relevant contract, they will then receive a rebate if the prescribed bulk billing threshold is met. **dr.**

Scott Chapman, Partner;
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References:

- [1] Payroll Tax Act 2007 (NSW) sch 2 cl 10D
- [2] Payroll Tax Act 2007 (NSW) sch 2 cl 10C
- [3] Payroll Tax Act 2007 (NSW), ss 32(2)(b)(iii), (iv)
- [4] Payroll Tax Act 2007 (NSW), ss 32(2)(b)(iii)
- [5] Revenue NSW, What Constitutes a day's work, PTA014, 13 September 2007
- [6] Payroll Tax Act 2007 (NSW), ss 32(2)(b)(iv)

AMA (NSW) EXPERT WORKPLACE RELATIONS TEAM can come to you.

If you would like the AMA (NSW) Workplace Relations team to hold training sessions at your practice, reach out to events@amansw.com.au to express your interest.



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