

COVID-19 ROSTER AGREEMENT

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF NOVA SCOTIA, as represented by the Minister of Health and Wellness (the “Minister”)
OF THE FIRST PART

- and –

DOCTORS NOVA SCOTIA, a body corporate continued by the *Doctors Nova Scotia Act*, SNS 1995-96, c 12 (“DNS”)
OF THE SECOND PART

WITNESSETH THAT:

WHEREAS:

- A. The COVID-19 pandemic has resulted in the declaration of a state of emergency under the Nova Scotia *Emergency Management Act*, and an Order of the Chief Medical Officer of Health under the Nova Scotia *Health Protection Act*, to help contain the risk to public health resulting from COVID-19;
- B. The protection of public health in the circumstances of the COVID-19 pandemic may require physicians to be available to provide services beyond their regular practice as required by a health authority or the Minister;
- C. Public health measures necessitated by COVID-19 have disrupted some physicians’ regular income;
- D. The Minister wishes to offer a funding package to certain eligible physicians, on terms and conditions set out herein, in return for which each participating physician will maintain to the extent possible the physician’s regular practice, and provide additional services that may be required by a health authority or the Minister;
- E. The terms of this Agreement have been agreed upon by the Minister and Doctors Nova Scotia, as sole bargaining agent for the Physician;

NOW THEREFORE in consideration of the mutual covenants made herein, the Parties agree as follows:

1. INTERPRETATION

1.1. In this Agreement:

- 1.1.1. “2019 fee-for-service billings” means fee-for-service billings paid to a Physician during the calendar year 1 January 2019 to 31 December 2019;
- 1.1.2. “base income” means the amounts to be paid by the Minister to a Physician pursuant to article 4.1;
- 1.1.3. “Declaration” means a document in the form of Schedule “A” attached hereto, completed and signed by the Physician and delivered to the Minister as required hereunder;
- 1.1.4. “deployment” means a Physician’s engagement pursuant to article 3;
- 1.1.5. “effective date” means 13 March 2020;
- 1.1.6. “fee-for-service billings” means a Physician’s billings to the Nova Scotia Medical Services Insurance (MSI) program on a fee-for-service basis for codes in the MSI tariff of fees for insured medical services, excluding billings in respect of the unattached patient bonus;
- 1.1.7. “health authority” means the Nova Scotia Health Authority, or the IWK Health Centre;
- 1.1.8. “insured services” means an insured medical service or procedure that is identified for payment by a specific service code in the MSI Schedule of Benefits;
- 1.1.9. “Master Agreement” means the Physician Services Master Agreement between the Minister and Doctors Nova Scotia dated 9 December 2019;
- 1.1.10. “participate” means to be bound by and subject to this Agreement, and “participation” has a corresponding meaning;
- 1.1.11. “Physician” means a physician who is eligible to participate in this Agreement pursuant to article 8.1, and who has agreed to be bound by and subject to this Agreement by signing and delivering to the Minister a completed Declaration pursuant to article 8.2.

2. REGULAR PRACTICE

- 2.1. Subject to article 3, the Physician shall continue to provide services consistent with the Physician’s regular practice prior to the effective date, taking advantage of all reasonably available opportunities to provide services on a non-face-to-face basis or otherwise, including without limitation by telephone and virtual care, to the extent that such services can be provided in accordance with public health and emergency orders of relevant authorities.
- 2.2. Except as expressly provided herein, the Physician shall not take any vacation, leave or other absence from practice, and shall remain in the province of Nova Scotia, except as approved in writing in advance by the Minister.

2.3. The Physician shall record and report to MSI, in form and content satisfactory to the Minister in the Minister's sole discretion, all insured services provided by the Physician pursuant to article 3.1, in accordance with the fee codes, preamble and billing rules as outlined in the MSI Physician's Manual and any other MSI billing documents as applicable.

3. DEPLOYMENT

3.1. Subject to article 3.6, the Physician agrees to provide such services as may be required by a health authority or the Minister, or any of them.

3.2. No request for the Physician's services shall be considered a deployment hereunder unless:

3.2.1. the Physician is on a list maintained by a health authority of physicians available for redeployment;

3.2.2. the deployment is in a setting of care identified by a health authority as a setting of care for deployment; and,

3.2.3. the request is made in writing by:

3.2.3.1. in the case of the Nova Scotia Health Authority, a health authority zone department head;

3.2.3.2. in the case of the IWK Health Centre, a department chief; or,

3.2.3.3. the Minister.

3.3. Without restricting the generality of article 3.1, the Physician acknowledges and accepts that in the circumstances of the COVID-19 pandemic the services required of the Physician by a health authority or the Minister may be irregular, including without limitation beyond regular business hours, beyond the Physician's regular scope of practice, requiring full days or parts of days, travel within the province, and non-consecutive periods of deployment.

3.4. When deploying the Physician pursuant to article 3.1, the health authority or Minister shall make reasonable efforts to accommodate limitations on the Physician's availability for deployment, including those arising from the physician's regular hours of work prior to the effective date, extraordinary personal commitments, or extraordinary vulnerability to COVID-19 disease.

3.5. During a deployment the Physician may claim travel expenses as permitted by and in accordance with the Locum Incentive program guidelines.

3.6. Where required as part of the regular responsibilities of a function to which the Physician is deployed pursuant to article 3.1, the Physician shall record and report to MSI, in form and content satisfactory to the Minister in the Minister's sole discretion, all insured services provided by the Physician pursuant to article 3.1, in accordance with the fee codes, preamble

and billing rules as outlined in the MSI Physician's Manual and any other MSI billing documents as applicable.

3.7. The Physician may refuse a deployment pursuant to article 3.1 only:

3.7.1. to the extent that:

3.7.1.1. undertaking the deployment would result in a breach of the *Medical Act* or the Physician's professional obligations;

3.7.1.2. undertaking the deployment would result in a breach by the Physician of public health or emergency management legislation, including any order given by a competent authority thereunder; or,

3.7.1.3. undertaking the deployment would require the Physician to travel greater than 120 kilometers one-way from the Physician's primary location of practice, and such travel would result in undue hardship to the Physician, as determined by the Minister in the Minister's sole discretion; or

3.7.2. in accordance with the *Occupational Health and Safety Act*, SNS 1996, c 7.

3.8. If the Physician refuses the request made pursuant to article 3.6, the Physician shall:

3.8.1. give notice in writing of the refusal to the NSHA or IWK or both, as the case may be, and the Minister;

3.8.2. continue to be bound by the Physician's obligations hereunder; and,

3.8.3. remain available to respond to any further deployment.

3.9. The Physician's notice pursuant to article 3.8.1 must set out the grounds for the refusal, with available supporting information to explain the nature of the issue, and the Physician shall provide any further information requested by the Minister, NSHA or IWK concerning the refusal.

4. PAYMENT

4.1. Subject to the terms and conditions of this Agreement, DHW shall pay to the Physician every two weeks, pro-rated by day for the actual term of the Physician's participation in this Agreement, a base income calculated as follows:

4.1.1. The amount of the Physician's 2019 fee-for-service billings, multiplied by $\frac{14}{365}$, provided that no bi-weekly payment shall exceed \$9,973; or,

4.1.2. 80% of the amount of the Physician's 2019 fee-for-service billings, multiplied by $\frac{14}{365}$, provided that no bi-weekly payment shall exceed \$23,014.

- 4.2. If the Physician's 2019 fee-for-service billings were affected by any period of absence from work greater than six consecutive weeks, the Physician's 2019 fee-for-service billings for purposes of article 4.1 shall be calculated using the average billings during the period in 2019 unaffected by the absence.
- 4.3. The Physician's 2019 fee-for-service billings for purposes of article 4.1 shall be adjusted to reflect increases to fee-for-service billings as agreed between the Minister and Doctors Nova Scotia in the Master Agreement.
- 4.4. For purposes of article 4.1, the Physician's 2019 fee-for-service billings shall be adjusted to reflect the results of any audit of the Physician's 2019 fee-for-service billings. The Physician acknowledges and agrees that as a result of such adjustment, the Physician may be required to repay amounts paid to the Physician pursuant to article 4.1, and any such amount to be repaid shall be a debt due and owing to the Minister.
- 4.5. If the Physician is part of a physician group which joins the Community Hospital In-Patient Model, pursuant to the Memorandum of Agreement between the Minister, DNS and the Nova Scotia Health Authority attached as Schedule "G" to the Master Agreement (the "Community Hospital In-Patient MOA") or the Primary Care Maternity Program pursuant to the Primary Care Maternity Program Overview for Regional Hospitals as agreed between the Minister and DNS on 30 November 2019 (the "PMC Overview") then for purposes of article 4.1 the Physician's 2019 fee-for-service billings shall be reduced by an amount equivalent to the fee-for-service billings received by the Physician in 2019 for services intended to be compensated by the Community Hospital In-Patient MOA or the PMC Overview as applicable.
- 4.6. For purposes of article 4.1, the Physician's 2019 fee-for-service billings shall be adjusted to reflect any significant transition in the Physician's regular practice, such as from full-time to part-time or vice versa, during the period of time from 1 January 2019 to the effective date. The Physician acknowledges and agrees that as a result of such adjustment, the Physician may be required to repay amounts paid to the Physician pursuant to article 4.1, and any such amount to be repaid shall be a debt due and owing to the Minister.
- 4.7. The Physician shall elect between the payments provided by articles 4.1.1 and 4.1.2, by marking the Physician's choice in the Declaration delivered to the Minister.
- 4.8. After delivering the signed and completed Declaration to the Minister pursuant to article 8.2 the Physician may not change the Physician's election.
- 4.9. Notwithstanding article 4.7, if the Physician has commenced medical practice in Nova Scotia on or after 1 January 2020, and the Physician did not have fee-for-service billings in 2019, the Physician shall be deemed to have elected to be paid a base income pursuant to article 4.1.1., as adjusted for the Physician's expected regular hours of work.
- 4.10. If the Physician reports to MSI pursuant to article 2.3 total billings greater than the total base income paid to the Physician pursuant to article 4.1 during the term hereof, the Minister

shall pay to the Physician the difference between the total amount paid pursuant to article 4.1 during the term hereof and the total amount reported to MSI pursuant to article 2.3.

4.11. Payments to the Physician pursuant to article 4.1 shall continue notwithstanding any leave or absence approved by the Minister pursuant to article 2.2, except that there shall be no payment for any period of isolation or quarantine required as a result of such approved leave or absence, or for any extended period of leave as determined by the Minister in the Minister's sole discretion.

4.12. Subject to article 4.13, in addition to the payments provided by article 4.1 the Physician shall be compensated for services performed during any deployment as follows:

4.12.1. Where a medical service to which the Physician is deployed has an established rate of compensation, the Physician shall be paid that rate of compensation; or,

4.12.2. Where a medical service to which the Physician is deployed does not have an established rate of compensation, the Physician shall be paid \$180.64 per hour.

4.13. Notwithstanding any provision of this Agreement, the Physician shall not receive, pursuant to articles 4.1 and 4.12 combined, an amount greater than \$600,000 per year, prorated for the term of the Physician's participation in this Agreement. The Physician acknowledges and agrees that as a result of this article 4.13, the Physician may be required to repay amounts paid to the Physician pursuant to article 4.1, and any such amount to be repaid shall be a debt due and owing to the Minister.

4.14. The Physician accepts the amounts provided for by articles 4.1 and 4.12 as full compensation for any and all services provided by the Physician as required hereunder that would normally be remunerated on a fee for service basis, except as expressly provided herein, and the Physician shall not bill for or make any claim for compensation for any services provided hereunder on a fee-for-service basis to the MSI program. Any amount so billed or claimed and received by the Physician shall be repaid to the Minister, and the repayment of such amount shall be a debt due and owing to the Minister.

4.15. Amounts to be paid to the Physician:

4.15.1. as base income for the period between the effective date and the pay period covered by the first regular bi-weekly payment of base income to be paid to the Physician pursuant to article 4.1;

4.15.2. as a result of adjustments to fee-for-service billings pursuant to articles 4.2 and 4.3; and,

4.10.3. pursuant to article 4.10;

shall be paid to the Physician following the termination of this Agreement pursuant to article 6.

- 4.16. The Physician shall be entitled to receive any daily on-call stipend to which the physician is entitled either as part of his/her regular practice or as part of a deployment, in addition to the amount provided by article 4.1.
- 4.17. Notwithstanding article 4.14, if the Physician is part of a physician group which joins the Community Hospital In-Patient Model, pursuant to the Community Hospital In-Patient MOA, or the Primary Care Maternity Program pursuant to the PMC Overview, the Physician may bill fee-for-service as permitted pursuant to those programs.

5. TERM

- 5.1. This Agreement shall be effective as of the effective date, and shall continue until it is terminated as provided herein.

6. TERMINATION

- 6.1. The Minister may terminate this Agreement immediately upon written notice to DNS.
- 6.2. The Minister may terminate any Physician's participation in this Agreement immediately upon written notice to the Physician.
- 6.3. The Physician may terminate the Physician's participation in this Agreement by giving at least two weeks prior written notice to the Minister, provided that the Physician shall not be entitled to give such notice until after 1 July 2020.
- 6.4. The Physician's participation in this Agreement shall terminate immediately upon:
- 6.4.1. any breach of this Agreement by the Physician, or a default of any of the Physician's obligations hereunder; or,
 - 6.4.2. termination of a Physician's deployment by a health authority or the Minister, or any of them, for just cause.
- 6.5. Notwithstanding any other provision of this Agreement, upon any breach of the Physician's obligations pursuant to article 2.1 or article 3.1, the Physician shall repay to the Minister any amount paid pursuant to article 4.1, and the amount to be repaid shall be a debt due and owing by the Physician to the Minister.
- 6.6. Upon any termination of this Agreement the Minister shall pay to the Physician any amount owing to the Physician pursuant to article 4.12 for the period up to the effective date of termination.
- 6.7. All obligations which by their nature should survive the termination of this Agreement, including but not limited to articles 2.3, 3.6, 4.4, 4.6, 4.13, 4.14, 4.15, 6.5, 7, and 9 shall survive any termination of this Agreement, and for greater certainty shall continue to be binding on any Physician who has participated in this Agreement.

7. DISCLOSURE

- 7.1. The Physician consents to the disclosure of information about the Physician and the Physician's practice, including but not limited to experience, training, and qualifications, by the Minister, a health authority, and the College of Physicians and Surgeons, to the Minister and the health authorities or any of them.
- 7.2. Upon request by the Minister in writing, the Physician shall report to the Minister, in form and content satisfactory to the Minister in the Minister's sole discretion, all sources and amounts of financial support, assistance, insurance or indemnity of any kind received by the Physician from the Government of Canada, the Government of Nova Scotia, the government of any other Canadian province, and any of their Ministers, Departments or related corporations or entities, and any other person or entity in connection with the COVID-19 pandemic, and shall provide any further information regarding such support, assistance, insurance or indemnity reasonably required by the Minister.
- 7.3. The Physician consents to the disclosure to the Minister by the Government of Canada, the Government of Nova Scotia, the government of any other Canadian province, and any of their Ministers, Departments or related corporations or entities, and any other person or entity, of any information concerning financial assistance, support, insurance or indemnity of any kind received by the Physician in connection with the COVID-19 pandemic.

8. PHYSICIAN'S PARTICIPATION

- 8.1. A physician is eligible to participate in this Agreement if:
 - 8.1.1. the physician's 2019 fee-for-service billings constituted greater than 20% of the physician's compensation for the provision of insured medical services during 2019, and the physician's income from fee-for-service billings continued to be greater than 20% of the physician's compensation for provision of insured medical services to the effective date; or
 - 8.1.2. the physician commenced medical practice in Nova Scotia on or after 1 January 2020, and did not have fee-for-service billings in 2019, and the physician's fee-for-service billings are expected to constitute greater than 20% of the physician's compensation for the provision of insured medical services.
- 8.2. An eligible physician may participate in this Agreement by delivering a signed and completed Declaration to the Minister.
- 8.3. In order to participate in this Agreement, an eligible physician must deliver the signed and completed Declaration to the Minister pursuant to article 8.2 within ten days from the date of the Minister's execution of this Agreement, except that:

8.3.1. the Minister may, in the Minister's sole discretion, permit an eligible physician to participate in this Agreement notwithstanding that the physician delivers a signed and completed Declaration after the deadline as provided in article 8.3; and,

8.3.2. an eligible physician who is permitted to participate in this Agreement pursuant to article 8.3.1 shall receive a base income commencing as of the date when the Physician delivers a signed and completed Declaration to the Minister, rather than the effective date.

9. GENERAL

9.1. The Physician represents and warrants to the Minister that the Physician is, and will continue to be, a legally qualified medical practitioner listed and licensed as such by the College of Physicians and Surgeons of Nova Scotia and that the Physician is and will continue to be in good standing pursuant to any provisions of the *Medical Act*.

9.2. The Physician shall maintain CMPA or equivalent malpractice coverage at the Physician's own cost.

9.3. It is understood and agreed that this Agreement is for the performance of services and that the Physician is engaged as an independent contractor and is not, nor shall be deemed to be an employee, servant or agent of a health authority or the Minister.

9.4. The Minister's entire liability hereunder shall be for the payment of amounts as required hereunder, and for greater certainty the Minister shall not be liable for any injury or damage (including death) to any person or for the loss or damage to property of any person in any manner, based upon, occasioned by or in any way attributable to this Agreement unless such injury, loss, or damage is caused solely and directly by the negligence of an officer or servant of the Minister while acting within the scope of her employment.

9.5. The Physician shall indemnify and save harmless the Minister and each health authority from and against all claims, demands, actions, suits or other proceedings by whomsoever made, sustained, brought or prosecuted, in any manner based upon, occasioned by, arising out of or attributable in any way to the performance of this Agreement by the Physician.

9.6. The Physician shall participate in this agreement for and on behalf of the Physician, and any professional corporation through or under which the Physician has or will deliver medical services, and the obligations of the Physician hereunder are undertaken jointly and severally with any professional corporation through or under which the Physician has or will deliver medical services.

9.7. The Minister may offset any amount owing by the Physician to the Minister hereunder against any amount which is owed or may come to be owed to the Physician, including without limitation payments hereunder or MSI billings.

9.8. The Physician's reporting of insured services pursuant to articles 2.3 and 3.6 are subject to audit and recovery pursuant to the Master Agreement, including without limitation Schedule "E" thereof.

9.9. Notice may be given hereunder:

9.9.1. To the Minister at:

Executive Director, Physician Services [vimy.glass@novascotia.ca]

9.9.2. To DNS at:

Director, Physician Compensation and Practice Support
[alana.patterson@doctorsns.com]

9.9.3. To the Physician at the email address provided in the Physician's Declaration;

9.9.4. To the Nova Scotia Health Authority at:

Director of Physician Recruitment [Katrina.Philopoulos@nshealth.ca]

9.9.5. To the IWK Health Centre at:

Vice President of Medicine, Quality & Safety [Douglas.Sinclair@iwk.nshealth.ca]

9.10. This Agreement constitutes the entire Agreement between the parties concerning the subject matter hereof, and there is no representation, warranty, covenant or other obligation binding on either party in connection with the subject matter hereof except as expressly provided herein. No amendment to this Agreement shall be valid unless agreed in writing by the Minister and DNS.

9.11. This Agreement shall be construed and interpreted in accordance with the laws of the Province of Nova Scotia. The parties hereby attorn to the exclusive jurisdiction of the courts of Nova Scotia with regard to any dispute hereunder which the parties are unable to resolve themselves.

9.12. This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and assignees.

9.13. If any term or provision of this Agreement shall be found to be illegal or unenforceable, it will be deemed to be severed from this Agreement and the remaining provisions will nevertheless continue to be in full force and effect.

9.14. By its agreement hereto, as sole bargaining agent for participating physicians DNS binds its members who participate in this Agreement as provided herein.

9.15. This Agreement may be executed in two or more counterparts each of which shall be deemed an original and all of which taken together shall constitute one and the same agreement.

9.16. The counterparts of this Agreement may be executed and delivered by electronic means by either party and the receiving party may rely upon the document so executed and delivered electronically.

IN WITNESS WHEREOF this Agreement has been executed by the parties hereto by their duly authorized officers, as follows:

<hr/> <p style="text-align: center;"><i>(signature of witness)</i></p> <hr/> <p style="text-align: center;"><i>(print name)</i></p>		<p>HER MAJESTY THE QUEEN IN THE RIGHT OF THE PROVINCE OF NOVA SCOTIA</p> <hr/> <p style="text-align: center;"><i>(signature)</i></p> Name: _____ Title: _____ Date: _____
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<hr/> <p style="text-align: center;"><i>(signature of witness)</i></p> <hr/> <p style="text-align: center;"><i>(print name)</i></p>		<p>DOCTORS NOVA SCOTIA</p> <hr/> <p style="text-align: center;"><i>(signature)</i></p> Name: _____ Title: _____ Date: _____
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SCHEDULE "A"
FORM OF DECLARATION

