CANBERRA
Doctor

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VMOs, Hospital Doctors Prepare to Bargain

While bargaining for a new hospital doctors' enterprise agreement is about to commence, the bargaining for the next Visiting Medical Officers' contract is set to kick off in early September. Both negotiations will be a key focus for AMA ACT in the second half of 2022.

While the hospital doctors' negotiations will pick up where they left off at the end of last year, when an 'Interim Agreement' was put in place, the VMOs will be commencing the triennial process that starts with a three-month negotiation followed by an arbitration of the remaining issues not settled in the negotiations. In this round, the arbitration is scheduled for March 2023.

Hospital Doctors Claims

In the lead up to last year's bargaining a full set of claims was developed in consultation with AMA ACT members. Our claims focus on inserting new, legally enforceable conditions that aim to:

- make payslips clearer, make rosters reflect work contribution and pay for it, reduce the workplace encroachment into study/personal/family time and allow planning with greater certainty.
- ensure rostered and paid time free from clinical work for on-site training, paid exam and conference preparation and attendance, and increases in quantum of Training Allowances.
- reducing burn out by establishing guarantees for the taking of annual leave, introduction of fatigue management systems, introducing workforce triggers and consultation on the familiar, seasonal demands that occur particularly towards the end of the year and reducing unpaid overtime.

These claims, that weren't settled in the Interim Agreement, have been re-agitated with Canberra Health, the ACT Health Directorate and Calvary Public Hospital Bruce.

Negotiating meetings have been scheduled on a fortnightly basis through July.

VMO Contract Negotiations

The ACT, along with NSW, are the only two jurisdictions that use an arbitration process to determine contract arrangements for VMOs. Locally, we have a special piece of legislation that that sets up a three-stage process – AMA ACT and the ACT Visiting Medical Officers Association qualifying to become bargaining agents, a three month period of negotiations and arbitration of any issues not settled during the negotiations. From start to finish the process takes between 6 and 12 months.

Dave Peffer, Canberra Health Services CEO

The timetable for this round sees the negotiating period commencing in early September and concluding in early December, subject to Ministerial approval. If arbitration is required, it will proceed in March 2023.

The process kicks off with both AMA ACT and the ACT VMOA seeking written authorisations from 50 VMOs to be a bargaining agent and qualified to represent VMOs in the negotiations. In the past, the negotiating power of VMOs has been maximised by the AMA ACT and the VMOA working together and hence why it's important that both AMA ACT and the VMOA each get their 50 nominations.

AMA Claims

While maintaining the value of VMO payments in real terms is a key claim, other major claims include three-year contracts and fixed workload provisions. Further detailed claims will be published closer to the commencement of negotiations

Once again, the AMA and the VMOA will be supporting each other's claims and will be working closely together as the negotiations progress.

President's **Notes**

WITH PRESIDENT, PROFESSOR WALTER ABHAYARATNA

Lessons to be learnt

Firstly, I wanted to pass on my condolences, on behalf of the Board and members of AMA ACT, to the family, friends and colleagues of Dr Peter Scott. Pete will be greatly missed by our Canberra community.

AGM and Elections

The recent AMA ACT AGM saw a good turnout of members attend our new offices at 39 Brisbane Avenue Barton, co-located with the Federal AMA.

The evening was highlighted by an address given by Ms Jane Halton, former head of the Commonwealth Department of Health and current co-chair of the COVAX initiative and Chair of the Coalition for Epidemic Preparedness Innovations. Jane gave the meeting a run down on the events dealing with the response to COVID and the development of various vaccines; a truly astonishing story.

The AGM also saw the outcome of the Board elections announced and the new Board take office. While I remain President for the next two years, the newly elected AMA ACT office bearers are Dr Kerrie Aust, President-Elect, Prof Steve Robson, Secretary and A/Prof Andrew Miller, Treasurer, while the ordinary Board members are Dr Antonio Di Dio, A/Prof Jeff Looi, Dr Betty Ge, Dr Miriam Russo and Dr Igor Policinski.

Congratulations to the newly elected Board.

What Lies Ahead

In this year's President's report, I outlined some of the challenges we face as an organisation but also the opportunities that lie ahead. There is no doubt that we are living through challenging times, where organisations such as AMA ACT can make a meaningful impact.

One of our challenges is that only 10-15% of our graduating ANU medical school students choose general practice as their specialty. Given that general practice is the cornerstone of a successful primary health care, we need more like 40-50% of our graduates to make the choice.

Another challenge is that, according to the AMA Hospital Health Check Survey, 33% of interns and 70% of residents and registrars at Canberra Hospital report high levels of burnout, using the Quality of Life Scale.

This year's AMA Public Hospital Report Card again showed ACT public hospitals lagging all other Australian jurisdictions in regard to emergency department access times and elective surgery wait times. This challenge has persisted for years and shows little sign of changing.

Finally, Medicare is in urgent need of reform to ensure that it is fit-for-purpose in a world in which management of patients with complex and chronic diseases requires integrated models of care funded by new models of payment to ensure that the health and wellbeing of our population is efficiently maximised.

While these are our local, external challenges, we also face significant internal challenges. Despite being the most influential membership organisation representing doctors in Australia, the AMA currently only has around one-quarter of medical practitioners as members.

My view is, if we can take up the external challenges then we can progress on building membership. To do this, I want to propose five initiatives for AMA ACT to act on:

Ms Jane Halton and AMA ACT President, Prof Walter Abhayaratna.

1. Building stronger relations with Capital Health Network and the RACGP to ensure that the ACT is a pilot site for new models of healthcare financing and payment in primary care so that our primary care workforce is strengthened to the extent that truly integrated care can be provided to our patients.
2. Deepening and strengthening our relations with ASMOF ACT and the ACT VMOA. In my view we need a strong and united medical voice that can advocate effectively to improve the working conditions of our doctors working in the public health system.

Continued page 12..

VALE

The President, Professor Walter Abhayaratna, Board members and staff of AMA (ACT) extend their sincere condolences to the family, friends and colleagues of
Dr Selwyn Trenerry

VALE

The President, Professor Walter Abhayaratna, Board members and staff of AMA (ACT) extend their sincere condolences to the family, friends and colleagues of
Dr James DíRozario

Doctors for Doctors ACT – here for you

Earlier this year, a new Drs4Drs ACT was launched. Drs4Drs ACT is a new standalone and free service for all registered medical practitioners and medical students in the ACT.

Funded through the Medical Board of Australia and the Australian Medical Association, Drs4Drs ACT provides confidential services for all doctors and medical students who have concerns about their health and wellbeing such as stress, mental health problems, substance use issues, or any other health issue.

Sensitive to the needs of doctors and medical students, Drs4Drs ACT is a non-judgmental service dedicated to improving the health and wellbeing of those within the profession.

Deep Experience

While the standalone Drs4Drs ACT service might be new, the local doctors staffing the service have all had a long-standing interest in issues affecting their medical colleagues.

Yarralumla GP, Dr Antonio Di Dio, is one of the doctors who's stepped up to be part of Drs4Drs ACT, bringing with him more than 20 years involvement in similar roles, "Drs4Drs ACT is a service for all of Canberra's doctors and medical students. It doesn't matter whether it's a major problem you're struggling with, or you've simply got a need to talk about an issue in your life, we're here to help." Dr Di Dio said

"The way I think about the service is – it's like a colleague at the end of the phone – we understand what you're going through." Dr Di Dio added.

24/7 help line 1300 374 377

Drs4Drs ACT offers a telephone call-back help line, providing independent and confidential advice to medical practitioners and medical students. Advice is also provided to anyone who is concerned about a doctor or medical student. This includes family, friends, colleagues, university staff and clinical staff.

Dr Antonio Di Dio: we're here to help.

Drs4Drs ACT is here to help you find the support you need – whether it be referrals to specialist practitioners, online resources, or other services. Drs4Drs ACT handle calls relating to stress and mental illness, drug and alcohol problems and relationship and other personal issues. No problem is too trivial or too serious.

Dr Antonio Di Dio summed it up by saying, "I'm very pleased to be part of the new Drs4Drs ACT because we've got a great opportunity to build on the work that's already been done and make it even better."

Drs4Drs

In addition, the Medical Board of Australia has partnered with the Australian Medical Association to establish an independent national program called Drs4Drs. Drs4Drs promotes the health and wellbeing of doctors and medical students across Australia and can be accessed at www.Drs4Drs.com.au

Medical practitioners and students can access a range of services through www.Drs4Drs.com.au including a mental health support line for crisis and non-urgent mental health support.

Drs4Drs ACT acknowledges the support of the Medical Board of Australia.

Drs4Drs ACT is supported by the Australian Medical Association ACT.

Enhanced Recovery After Surgery at Canberra Hospital

Written by Dr Andrew Deacon (FANZCA), Staff Specialist Anaesthetist, Canberra Hospital, Dr Ram Ganesalingam, (FRACS), Staff Specialist Colorectal Surgeon, Canberra Hospital, and Dr Peter Scott (FRANZCOG), Staff Specialist Obstetrician, Canberra Hospital*

I was relaxing at a barbeque with friends a few years ago when I was asked about a recent news article reporting that Canberra was the most expensive place in Australia to undergo elective surgery. Yep – it was true, and not something that I enjoyed talking about. We had a problem, but we also knew how to fix it. The answer was simple – we needed to improve service efficiency.

In the early 2000's a group of European colorectal surgeons collaborated on an evidence based, multidisciplinary guideline to improve the care of patients which they termed "Enhanced Recovery After Surgery" or ERAS.

The philosophy was one of an aggressive pursuit of normal physiology throughout the perioperative period with measures including: avoidance of prolonged fasting pre-operatively, minimally invasive surgical approaches where possible, intravenous fluids to maintain euvolaemia only, opioid sparing analgesia, avoidance and / or early removal of tubes, lines and drains, early mobilisation, and early return of a normal diet.

After developing the guideline, the group returned to their hospitals and developed local protocols. The multidisciplinary protocols brought all staff involved in patient care together, from ward nurses, to allied health, anaesthetists, and surgeons. This collaboration allowed for a shared mental model of the goals of care – particularly early feeding and early mobilisation and minimised the impact of unintended consequences of one speciality's decision on the patient's recovery.

Although the emphasis was on improving the quality of recovery rather than focusing on length of stay, they found that patients recovered and were ready for discharge far earlier than historical approaches to perioperative care and did so with fewer complications. It was a win for the health system, and a win for the patient.

ERAS Aims and Goals

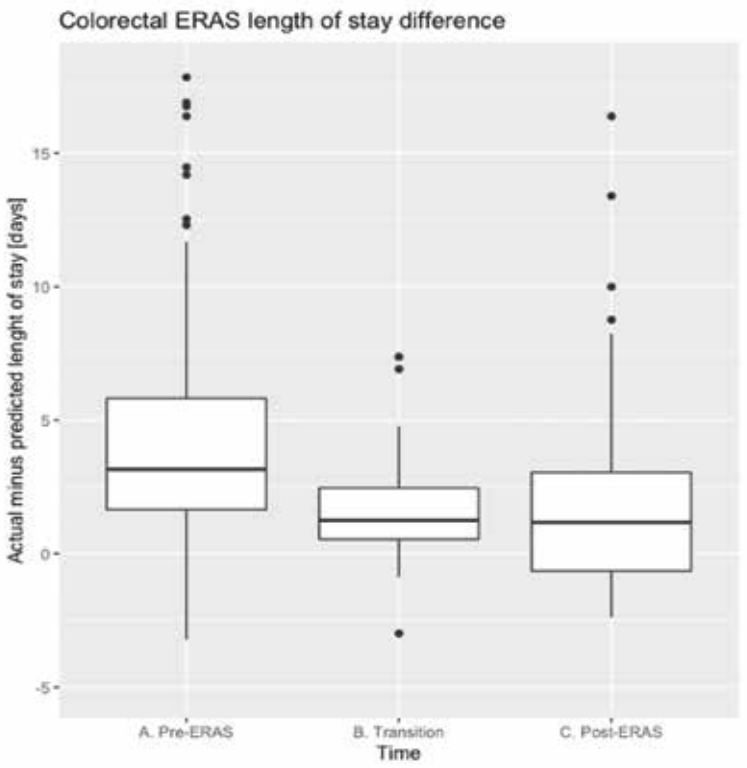
ERAS addresses a fundamental challenge in the care of a surgical patient by unifying the goals of the surgical multi-disciplinary team. The journey of a surgical patient is complex and courses through various parts of the hospital including surgical clinics, preoperative assessment clinics, theatres, the postoperative care unit, and the ward. Without ERAS, the treatment decisions made by each unit are made in isolation and often unintentionally impact the treatment decisions made by another unit involved in the same patient's care.

For example, a surgeon prescribes mechanical bowel preparation for a patient before surgery to decrease the volume of the bowel and facilitate surgical access. The anaesthetist however, may find the patient hypovolaemic and catabolic at the start of the operation. Or the anaesthetist may rely primarily on opiate analgesia postoperatively, meaning the patient is more likely to be nauseated, sedated and constipated.

These are not the ideal conditions for the patient to resume a normal diet, participate in physiotherapy, spontaneously mobilise, and take an active role in their recovery after their operation.

The philosophy of ERAS is to unify treatment decision making amongst all units managing the patient to achieve common goals. Most of the solutions to problems delaying recovery are evident when the perioperative care pathway is seen in total, and each unit can adjust their current practice to try and achieve these goals.

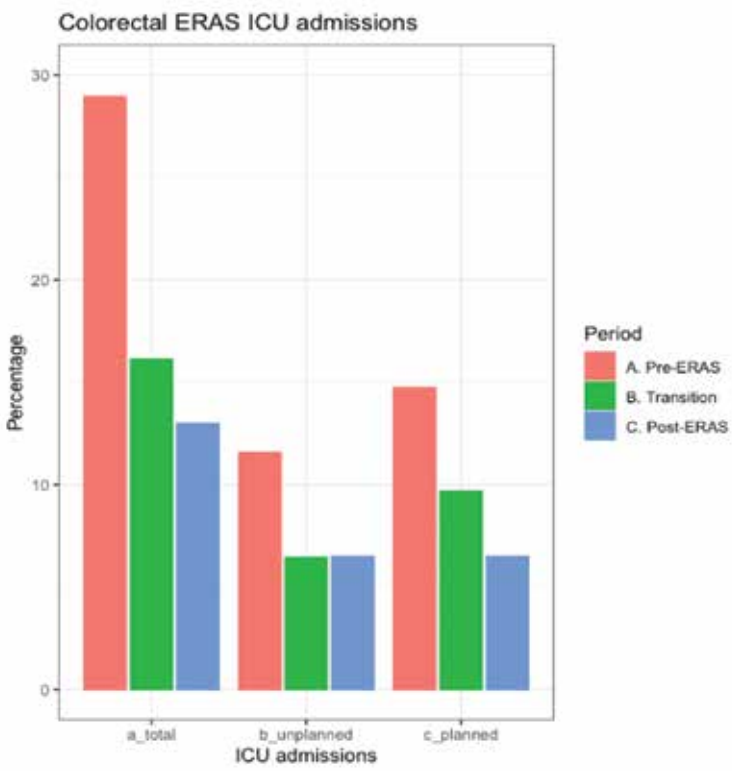
For example, the surgical dogma of delayed feeding after abdominal surgery has been challenged, with

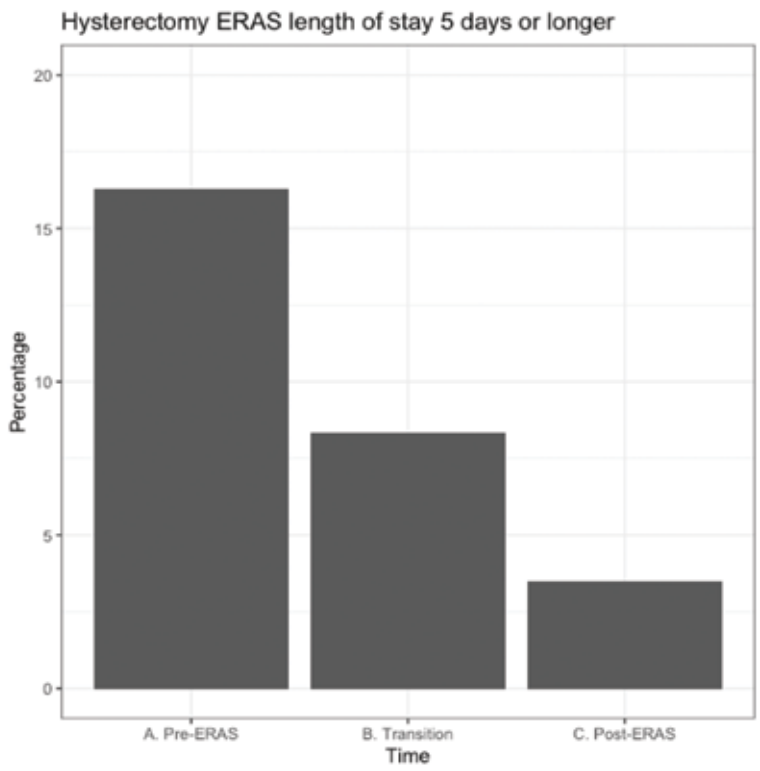


early feeding speeding recovery and not increasing complications. Anaesthetists are encouraged to use neuraxial (spinal or epidural) and multimodal non-opiate analgesia to increase the likelihood of a patient ready to eat, drink and mobilise soon after their surgery.

ERAS at TCH

In February 2021 we began managing patients undergoing elective colorectal surgery, hysterectomy and elective caesarean birth at Canberra Hospital within a multidisciplinary ERAS program. We aligned patient care with procedure-specific evidence-based multidisciplinary local protocols, employed an ERAS nursing coordinator, developed comprehensive procedure-specific patient information booklets, employed a physiotherapist for preoperative pulmonary function education, and developed tools to improve protocol compliance such as partially pre-filled drug charts and electronic medication management order sets.





We also wrote a REDCap database to collect information on all ERAS patients to assess length of stay, protocol compliance and patient outcomes, and seek patient feedback on their stay post-discharge. Later that year the ERAS program also received permanent funding to ensure its sustainability.

In the 12 months that followed;

- 77 patients underwent elective major colorectal surgery under ERAS, and the mean difference between actual and predicted length of stay decreased by 4.0 days (median decrease of 1.9), translating to 308 bed days saved. There was a decrease in admission length of 14 days or longer from 20% to 6%. Prolonged admissions are typically due to complications and require significant extra resources. The decrease in length of stay occurred without a significant change in readmission rates (11% pre vs 13% post). The ICU admission rate fell from 29% to 12%, including unplanned admissions falling from 15% to 6%, resulting in 13 fewer ICU admissions and 33 ICU bed days saved. Medical complications also fell from 31% to 22%, meaning 7 fewer patients developed a medical complication. This includes a decrease from 5% to 0% of patients developing postoperative pneumonia.
- 86 patients underwent elective hysterectomy under ERAS, and the mean difference between actual and predicted length of stay decreased by 0.9 days (median decrease of 0.4 days). This translates to 77 bed days saved. Admissions of 5 days or longer decreased from 16% to 3%.
- 370 women underwent an elective caesarean birth. Our pre-ERAS Health Round Table data showed we were already one of the best performing Hospitals in Australia for this procedure, and hence are not specifically collecting data.

The early success of the ERAS program at Canberra Hospital has generated interest from other surgical disciplines. We are currently developing ERAS protocols for patients undergoing elective major head and neck surgery and patients undergoing lung resection which launch launched later this year.

Team Effort

The implementation of ERAS at Canberra Hospital has involved a lot of work by many staff from each unit of the multi-disciplinary team each group that has contact with the patient through their surgical journey. Without the support of these staff, we would not have been able to introduce the ERAS protocols, nor have had such success.

ERAS is a great example of the impressive improvements in patient care that follow after departmental silos are lowered and multidisciplinary communication is improved. It also demonstrates that current "system" problems can be identified and addressed to improve efficiency and patient outcomes. Local data on how our system was functioning was vital in allowing us to identify and address issues once the ERAS program started to maintain high protocol compliance by highlighting areas that needed further resources or staff education.

Healthcare is becoming increasingly complex and expensive with financial pressure surrounding public healthcare expenditure. ERAS pathways are a proven strategy to achieve the seemingly impossible – simultaneously improve patient outcomes and lower health expenditure.

**Since this article was submitted, Dr Peter Scott has sadly passed away and we send our condolences to his family, friends and colleagues. In addition, we wish to recognize the crucial role Dr Scott played in the development and implementation of the ERAS Programme at the Canberra Hospital.*

Medical Students in action: Native Box Gum Restoration and Environmental Health

BY CHARLOTTE CHEN ANUMSS, GHS CODE GREEN OFFICER

Health should always be holistic

Earlier this year, a group of ANU Medical School student volunteers joined community volunteers from ACT Urban Woodland Rescue at St Mark's Grassland for native landscape flora restoration. This eco-excursion was a student-led initiative by the ANU Global Health Society (GHS) for advocating environmental health.

At the opening, Dr Kerrie Aust set the ground of the event with a powerful and inspiring speech, sharing her journey in environmental health and describing her passion for Climate Change action. The students were then divided into groups working at four planting sites, digging, planting, watering, and mulching. With assistance from community volunteers, the students managed to plant over 200 seedlings, successfully achieving our goal.

After the lunch break, we were joined by Dr Peter Tait, Prof Philip Gibbons and Alice Hathorn, experts and pioneers in ecology and environmental health. Their presentations covered the health impacts of the environment, the challenges in environmental health, and the importance of native landscape restoration to biodiversity. Hearing first hand about environmental health issues, and engaging with the presenters was a great opportunity for the medical students to understand the role they can play.

Before finishing for the day, Alice, the convenor from ACT Urban

Woodland Rescue, took the students on a short inspection of the native temperate grassland. While the grassland is culturally significant to the Ngunnawal people, it was disappointing to have heard that that more than 70% has been lost.

Working Together

The multifaceted nature of health, in its biological, social, and environmental aspects, requires us to develop a holistic approach as we look to address our future healthcare.

Although all three aspects were included, they are addressed unequally, with more focus on the biological aspects, in the medical education curriculum. This excursion allows the students to not only gain a better understanding of environmental health through talking to our guest speakers but also put into practice and make a physical change.

Restoring native flora is essential to preserve local biodiversity, and a biodiverse ecosystem is the key to clean air, water and soil and home to native species. We hope our work would successfully transform into community health benefits. Besides, as the ANU medical school cohort is largely made-up of interstate students, this excursion provides a perfect opportunity for the students to explore the Canberra community. The engagement with the community will be a valuable experience to add to our medical journey.

Running this event for the first time, we were surprised and touched by the support received from the community within and outside of the university. Doctors and medical students need to realise how powerful their voices can impact the local community and policymakers. Developing environmental-friendly and sustainable healthcare can never be done by individual effort. Health practitioners and medical students need to join forces together for advocacy and put the practice in real life.

ACT Must Lift its Game: 2021 MBA Medical Training Survey

Earlier this year, the results of the Medical Board of Australia's 2021 Medical Training Survey (MTS) were released and again showed the ACT rating below the national average in terms of workplace culture and environment.

Each year the Medical Board of Australia conducts a national survey of junior doctors aimed at gauging their experience in areas such as workload, training, educational opportunities and overall satisfaction. With the MTS being confidential, more than 17,700 junior doctors nationally completed the survey including 449 in the ACT.

Junior doctors consistently rated the ACT lower on every measure of workplace environment and culture than the national average. The most significant disparity was that only 66% of respondents agreed with the statement 'my workplace supports staff wellbeing' compared to a national average of 81% of respondents.

The top three issues junior doctors reported as adversely affecting their wellbeing were unpaid overtime, the amount of work they were expected to do, and lack of appreciation.

Unpaid Overtime

While unpaid overtime has decreased since 2020 it remains a significant issue. 53% of ACT respondents reported they were paid for unrostered overtime, which is on par with 55% nationally. This has improved from 43% of ACT respondents in 2020.

Workload

While workload was the number one issue in the 2020 MTS, the current results have seen it drop a place. Despite this, it's still an issue that the AMA hears about on a regular basis.

In 2021, 38% of ACT junior doctors rated their workload as heavy while 13% rated it as very heavy. Nationally, only 9% of junior doctors rated their workload as very heavy.

By comparison, in 2020, 42% of ACT junior doctors rated their workload as heavy and 9% as very heavy.

Working Hours

The number of working hours remains the same with 76% of doctors in training in the ACT worked more than 40 hours a week, compared to 67% of respondents on a national basis.

In 2021 doctors in training in the ACT worked an average 48.5 hours per week while the national average was 45.5 hours per week.

In 2020, ACT doctors in training worked 48.1 hours per week, little changed from an average of 48.8 hours per week in 2019. The national average was 45.6 hours per week in 2020.

Consequently, only 53% of ACT's junior doctors felt they had a good work/life balance compared to 67% of junior doctors nationally. While neither of these figures are encouraging, they have improved from 45% in 2019. These low rates are perhaps because junior doctors feel that a good work/life balance is not part of the culture.

22% of respondents from ACT felt their workplace did not support them to achieve a good work/life balance compared to 14% of respondents nationally.

Bullying and harassment

This year's MTS reveals that there has been no change in the proportion of JMOs witnessing or experiencing bullying and harassment. Just on one-third of JMOs experienced bullying and harassment while 40% witnessed it. The ACT is again above the national rates of 22%, experiencing and 33%, witnessing.

Senior medical staff was the most common perpetrators, equating to about half of the incidents.

Of particular concern, however, is that only 35% of respondents reported being bullied, harassed or discriminated. This is despite, 66% of respondents indicating they know how to raise concerns about bullying and harassment in the workplace.

Finally...

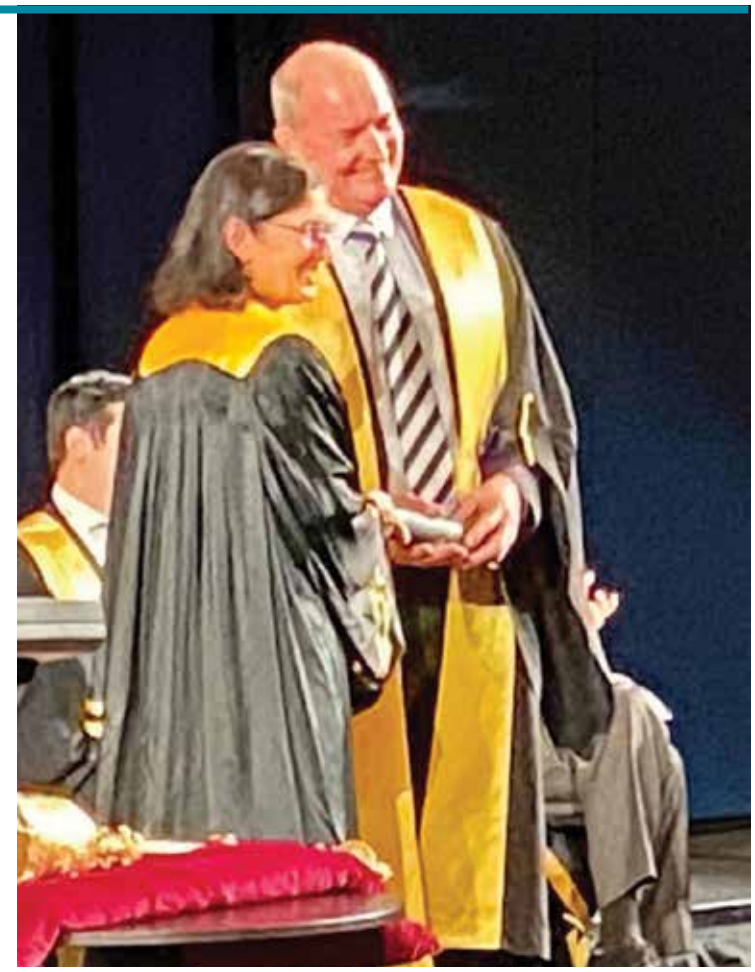
Only 61% of doctors in training would recommend the ACT as a place to train, this decreased from 66% in 2020.

The overall result of these findings was that almost 40% of doctors in training would not actively recommend the ACT as a place to train. As the ACT continues to rate poorly on workplace culture compared to the national average, it indicates there is still much work to be done to improve the environment for junior doctors.

Professor Paul Smith: Excellence in Surgery

The recent Annual Scientific Congress of the Royal Australasian College of Surgeons has seen ACT Orthopaedic Surgeon and researcher, Professor Paul Smith, recognised for excellence in surgery across Australia and New Zealand. The 'Excellence in Surgery' Award is made annually and may be for clinical performance, research, or education.

Prof Paul Smith (photo courtesy of Canberra Times).



While Prof Smith's clinical work has focussed on adult knee, hip joint, and complex pelvic reconstructive surgery, he has also undertaken key roles in education, supervision, advocacy, and clinical representation.

However, his main passion is in the field of research.

After training in Australia and overseas, Paul Smith returned to Canberra in 1998 and soon after took a leading role in setting up the Trauma and Orthopaedic Research Unit, establishing laboratories at the Canberra Hospital and the John Curtin School of Medical Research.

Professor Smith was instrumental in setting up the Canberra Orthopaedic Research and Education Foundation (CORE), a not-for-profit charity with its aims at supporting "world-leading and future focussed care of patients with orthopaedic conditions in the ACT region." CORE has grown into one of the most successful research units at the ANU Medical School and has produced an enormous volume of academic publications.

Professor Paul Smith has become a leader in his field of research and education and continues to work in his private practice and in public hospitals, concerned with ongoing education of medical students and orthopaedic trainees.

Prof Smith was appointed Associate Professor at the Australian National University in 2004 and was promoted to full professor in 2012. He has been Clinical Director of the ACT Orthopaedic Department for the last 13 years, leading the Department and managing various public health crises.

Paul Smith has been Chair of the John James Foundation for the last 10 years, managing the charitable foundation and its various works that have included the building of a community autism centre, the new ACT Cancer Council office in Deakin and a cancer respite accommodation facility.

By any standards, Professor Paul Smith is a worthy recipient of the Award for Excellence in Surgery.

Doctors' health resources

Are you looking for a GP?

If you're a junior doctor or medical student and looking for a GP please contact AMA (ACT) and we will assist you to find a local GP.

Doctors' Health Resources online

AMA's Doctor Portal:

https://www.doctorportal.com.au/doctorshealth/resources/

JMO Health:

http://www.jmohealth.org.au/

Partly funded by DHAS and a range of other organisations.

Doctors Health Advisory Service

http://dhas.org.au/resources/resources-for-junior-medical-officers.html

On the DHAS website itself.

AMSA students and young doctors:

http://mentalhealth.amsa.org.au/about-the-campaign/

http://mentalhealth.amsa.org.au/keeping-your-grass-greener/

Annual Leave is More Important Than Ever

Access to Annual Leave for Doctors-in-Training (DiTs) has become increasingly scarce in a healthcare system under pressure. Our members are reporting ever increasing untaken leave accruals together with accrued-days-off (ADOs) and limited ability to take leave due to high demand and staff shortages.

This situation is not limited to the ACT, with other Australian jurisdictions continuing to suffer recruitment shortfalls caused by increased demand, a shortage of overseas doctors and a spate of resignations. Over the past two years medical workforce units have also had to deal with medical staff sustaining high levels of quarantine and unexpected sick leave for viral upper respiratory tracts symptoms or fever.

Public hospitals have been stretched and management often unwilling to grant annual leave or professional development leave applications due to existing and unprecedented staff shortages. Inevitably, this had led to burgeoning leave liabilities across the ACT public sector.

Entitlement

DiTs are entitled to four weeks of annual leave and 2-3 weeks of professional development leave a year. While access to annual leave has always been an issue, the increased demand for services and consequent adverse impact on DITs, has made the situation even worse.

AMA ACT is aware of doctors having to arrange multiple shift swaps to get a single day off to attend pre-booked courses or to access adequate preparation time for an exam, or to take a short rest break with family or loved ones. DiTs are having to beg and barter for access to accrued leave entitlements, with many considering resignation, or departing from their training contracts early to allow sufficient time for a break and to move to the next role.

While there's no getting away from the fact that these are extraordinary times, access to leave is fundamental to protect both the welfare of individuals and the sustainability of the public health care system.

On behalf of its members AMA ACT will continue to work with public hospital authorities to address both access to leave and accrued leave liabilities for 2022 and beyond. We will continue to advocate on behalf of our DiTs to access adequate leave and to minimise attrition in an already overworked workforce.

Enterprise Agreement Claims

Better access to leave is a key aspect of our enterprise agreement claim as is access to ADOs or the ability to cash out accrued ADOs. We have made a claim that identified a maximum time period of four weeks for leave applications to be approved. In addition, our claim proposes that prior service at either the University of Canberra Public Hospital or Calvary Public Hospital Bruce will be recognised for the purposes of all forms of leave, including annual leave.

AMA ACT members who are experiencing difficulties with leave entitlements are encouraged to contact our team at: industrial@ama-act.com.au

Medical Practices, Payroll Tax and Contracting

Earlier this year, the AMA hosted a webinar on Payroll Tax and Medical Practices facilitated by the AMA President, Dr Omar Khorshid. The webinar also included the NSW Commissioner of State Revenue, Mr Cullen Smyth, and discussed the impact of changes to Payroll tax arrangements in NSW.

Payroll tax legislations in the ACT is similar in its provisions to NSW (and to other states and the Northern Territory) and hence why this is a relevant issue for medical practices in the ACT.

What is Payroll Tax?

Under the provisions of the Payroll Tax Act 2007 (NSW) payments made under relevant contracts may be considered wages for the purposes of payroll tax.

Medical practices typically operate a 'service entity' model whereby the practice collects consultation income on behalf of doctors and then distributes it to individual doctors after deducting a service fee.

The broader application of payroll tax laws would see the distribution of these fees being considered to be payments for the performance of work by the individual doctor on behalf of the medical practice rather than individual doctors providing services directly to patients, being paid by the patient and acquiring services (including the collection of fees) to run their medical practice from the service entity.

While the focus is currently on NSW, the webinar left few in doubt that most State revenue bodies across the country were seriously examining a retrospective assessment of medical practices for up to 5 years of payroll taxes.

AMA members were warned to take Commissioner Smyth's advice very seriously.

While the changes look certain to have an immediate effect in NSW, it is likely that many other states and Territories will begin treating medical professionals under a service agreement as employees for payroll tax purposes.

NSW Situation

In the financial year 2021-22 Revenue NSW reported that it had doubled its tax audits, revealing a 75% liability strike rate on all health-related audits conducted, including allied health. Webinar panellists agreed that "most practices" would be affected. It was certain that medical practices would have to pass on the increases especially how much they charged independent contractors to meet the new application of payroll tax to health-related businesses.

The NSW Commissioner made it clear that there are no 'quick fixes' and practices would need more than new contracting or banking arrangements to get practices 'off the hook'. He also made it clear that anti-avoidance provisions will apply.

The information we have received indicates that audits have been focusing on team care arrangements between GPs, Specialists, and allied health professionals. Webinar panellists all agreed that the new payroll tax rules could potentially affect workflows and established work practices. The NSW Commissioner also warned AMA members not to seek a private ruling, better to seek appropriate advice from accountants and Lawyers who are familiar with the profession. AMA members are strongly advised to seek expert advice especially considering the new ATO income splitting rules passed in December 2021.

Our AMA National President Dr Omar Khorshid told the Webinar, that he had discussed the matter directly with the then Federal Minister for Health Greg Hunt and was told that it was a State matter. We are advised that the States have shown little appetite to address the issue to date.

Legal Precedents

The likely changes to payroll tax arrangements have cast two recent and major test cases into relief.

The 2021 decision in the case of Thomas and Naaz Pty Limited v Chief Commissioner of State Revenue relates directly to medical practices with the arrangements used by Thomas and Naaz similar to many medical practice arrangements. The decision that a payroll tax liability existed for the practice entity was based on two key issues:

- The agreements with the various doctors were "relevant contracts" under s. 32 of the *Payroll Tax Act 2007* (NSW) and;
- The payments to doctors by the practice entity were "for or in relation to the performance of work relating to" the agreement.

The agreements with the various doctors were considered a 'relevant contract' between the medical centre and the doctors mainly because of the contract terms included in their service agreements and the actual conduct of the doctors. It was determined that the terms of the written agreements included some terms typical of an employer/employee relationship including:

- Promotional work undertaken by the doctors
- Rostering commitments, where doctors were physically present during rostered sessions
- A minimum rate per hour in the first three months, a leave policy requiring up to four weeks per 12-month period and a restraint provision preventing the doctor setting up in competition for a two-year period.
- The medical centre retained ownership of the patient records
- The doctors would abide by the protocols of the practice and complete all necessary documentation.

What does this mean?

Put simply, payments from a healthcare practice to their contracted practitioners may trigger payroll tax obligations with re-

spect to those payments. The risk that those payments are subject to payroll tax will be determined by the nature of the contracting arrangements, as well as what happens on a day-to-day basis in the clinic.

We have advised our members that those previous arrangements which hitherto were considered low risk, are now likely to carry a far higher risk of challenge due to the recent NSW cases.

Contractor or Employee?

Two recent High Court cases, decided in February of this year, are legal milestones in proposing a new test in determining employment status.

The Court has considered the true nature of an arrangement to perform work. The 'takeouts' are:

'Labels' are not determinative

Simply labelling an individual contractor a 'contractor' will not be determinative of the relationship. The whole of the contract must be considered.

Reliance on contract's terms

Where an arrangement is properly documented, courts are now required to have primary regard to the written terms of the contract and the rights and duties arising under those terms, with limited exceptions.

Examination at the time of contracting

Events and circumstances surrounding the contract which are known to the parties at the time of contracting may be examined in seeking to identify the purpose or the object of the contract. However, subsequent conduct will not generally be relevant to the task characterising the relationship between the parties.

Sub-contracting labour-hire providers

The Personal Contracting decision demonstrates that labour hire providers can be determined to be employers, despite purporting to engage workers as independent contractors. Such providers should seek legal advice about current circumstances.

Contracting with artnerships

The High Court decisions may suggest an increased appetite by the courts to find workers operating through partnerships who structure their tax arrangements consistent with their claimed status as contractors, are even less likely to be considered employees.

President's **Notes...*continued***

...from page 2

3. In partnership with the Federal AMA and the other States and Territory AMAs, adapt and change the way in which AMA ACT meets the diverse needs of medical practitioners so that we offer services that members value highly
4. Through both the national and ACT Doctors Health Services, led by Antonio DiDio, Iain Dunlop, Marjorie Cross and Rajesh Iyer, ensure we have a system that cares for our medical colleagues during particularly challenging times, and educates our medical workforce about early recognition and management of burnout
5. Through our Climate Change and Health Special Interest Group, led by Steve Robson, Miriam Russo, and Kerrie Aust, increase awareness of the impacts of Climate Change on the Health of our population, and to advocate for policy changes to mitigate this risk.

It now lies with the newly elected Board, to pick up the mantle and build on the work of its predecessors to take these initiatives forward. With a mix of experience, diversity and balance, I'm confident that the members of AMA ACT can look to the future with confidence.

I'm excited at the prospect of what we can achieve together in support of our medical workforce in caring for patients in the ACT and the surrounding region.

President's Award

Following the announcement at the AGM, I had great pleasure in presenting Dr Denise Kraus with the AMA ACT President's Award. Denise is a shining example of all that is good in our profession with the award recognising her dedication to medical services in the community as a general practitioner and HIV physician.

Denise has shown exemplary care for her patients and support for her medical colleagues over decades, notably with humility and a quiet and unassuming manner.

Dr Denise Kraus.

Wellbeing Seminar

Please join us on 25 June for an important doctors' health event in the ACT. We are staging *'A Safe Space: Doctors for Doctors' Wellbeing'* a day of discussion, lectures and a safe space to share, learn and reflect on your experience as a doctor or medical student.

The event is being run in-person and online and is open to ALL medical practitioners and students in the ACT. More information and bookings can be found by entering tinyurl.com/mruh65z9 into your browser or calling AMA ACT on 6270 5410.

Please come along and also feel free to send this information to your colleagues.

L to R, AMA ACT Board Member, Dr Igor Policinski, Dr Florian Wertenauer and AMA ACT CEO, Peter Somerville.

LEFT, Dr Iain Dunlop with Dr Doug Randell.

Dr Suzanne Davey, Dr Aiden Brumby and Dr Florian Wertenauer.

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AMA Student Prize for Leadership

Each year, AMA ACT sponsors a prize for student leadership at the ANU Medical School. The prize aims to remind students of the central role doctors can play in health leadership and is awarded to a final year student who, in the opinion of his/her peers, senior Faculty staff and the President of the AMA ACT has shown outstanding leadership. This year's winner was Sam Gerami.

Sam, who came to Australia from Iran in 2012, at age sixteen, finished high school and then undertook his undergraduate degree in Newcastle, before arriving at the ANU.

Coming from this background, Sam says he was aware from the very start of the privileged opportunity he had been afforded and the need to use that opportunity to help build a better system for those who follow him.

He believes that leadership involves making change, "Whether to improve access and equity for our future medical students and doctors, or for our patients who need timely and accessible healthcare."

"Putting ourselves forward as leaders is at times intimidating, plays with our most deep- seated insecurities, and challenges us in ways we could not have imagined previously." he added.

Sam reflected on the past two years and the effect of COVID saying, "Trying to be calm and collected at a time of upheaval, remaining present for all the different decisions that the student body had to be involved in, staying representative and consultative and yet agile; to feel the (often self-imposed) weight of each decision, and worrying about whether you have done your peers and people who have trusted you justice."

Yet he has also drawn much from those two years, saying "At no other time did I grow more as a person, learn more from my colleagues, or feel more amazed by the community around me. And I was equally humbled and amazed at how our community continues to grow and to produce better leaders."

As Sam's career develops, he hopes to take on other leadership roles. At the present time he is working at Gosford Hospital.

Dr Kerrie Aust presents Sam Gerami with his prize.

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Editorial:
Peter Somerville
Ph 6270 5410 Fax 6273 0455
execofficer@ama-act.com.au

Typesetting:
Design Graphix
Ph 0410 080 619

Editorial Committee:
Peter Somerville – Production Mngr
Dr Ray Cook
Dr John Donovan
A/Prof Jeffrey Looi

Advertising:
Ph 6270 5410,
Fax 6273 0455
reception@ama-act.com.au

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Dr. Rangaswamy believes in a whole person's approach to pain management. She works with a multidisciplinary team to get the best outcome for her patients. Her area of interest includes Back pain, Neuropathic pain, CRPS, Pelvic pain, Paediatric and Adolescent pain management. She also offers evidence based interventional pain management to her patients where appropriate.

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