

**MEMORANDUM OF AGREEMENT
FOR PROVISION OF MEDICAL SERVICES**

THIS MEMORANDUM OF AGREEMENT, in duplicate, entered into the 24th day of September, 2018.

BETWEEN:

**THE WORKPLACE HEALTH, SAFETY AND
COMPENSATION COMMISSION OF
NEWFOUNDLAND**

(hereinafter referred to as "WorkplaceNL")

AND:

**THE NEWFOUNDLAND AND LABRADOR MEDICAL
ASSOCIATION**

(hereinafter referred to as "the Medical Association")

WHEREAS WorkplaceNL and the Medical Association wish to continue with a collaborative partnership for the mutual benefit of injured workers, employers and physicians of Newfoundland and Labrador;

AND WHEREAS the collaboration was initiated by an agreement between WorkplaceNL and the Medical Association reflected in an Agreement dated March 8, 2002 ("the First Agreement") and subsequent Agreements were entered into between WorkplaceNL and the Medical Association on October 12, 2004 ("the Second Agreement"), December 15, 2008 ("the third Agreement") and, October 1, 2012 ("the fourth Agreement");

AND WHEREAS WorkplaceNL and the Medical Association have reached further agreement regarding the provision of medical services to injured workers, reporting to WorkplaceNL, the remuneration of physicians for clinical services and reporting and various other matters relating to the ongoing relationship;

NOW THEREFORE WITNESSETH THAT in consideration of the mutual covenants, promises and agreements contained herein, the parties agree as follows:

DEFINITIONS

“Effective date”: shall be October 1, 2017;

“Employer”: means an employer to whom the *Workplace Health, Safety and Compensation Act* RSNL 1990 c. W-11, as amended (*the WHSCA*) applies and who is engaged in, about or in connection with an industry in the province;

“Injured Worker”: A Worker who is approved by WorkplaceNL to have services paid by WorkplaceNL;

“Legible and complete”: “Legible” means that the report can be read in its entirety and without undue difficulty. “Complete” means that all sections of the report are answered.

“MCP”: means Medical Care Plan, and refers to the provincial medical care insurance plan established under the *Medical Care and Hospital Insurance Act*.

“MCP Payment Schedule”: means the schedule of fees payable, and the rules and conditions for payment of insured services provided by licensed physicians to beneficiaries under the *Medical Care and Hospital Insurance Act* and the *Regulations* made thereunder.

“Overpayment”: means an amount owed to WorkplaceNL by a physician arising from double or multiple payment(s) for a service or from an incorrect application of the MCP Payment Schedule.

“Physician”: a medical practitioner who is a member in good standing with the Newfoundland and Labrador College of Physicians and Surgeons,

“Worker”: an individual as defined in the *Workplace Health, Safety and Compensation Act* who is not excluded by regulation.

1.0 TERM

1.1 The term of this Agreement shall commence on the Effective Date and terminate on September 30, 2022.

1.2 This Agreement may be renewed or amended by mutual agreement in writing.

2.0 STATEMENT OF GENERAL PRINCIPLES

2.1 The Medical Association shall take all reasonable steps to ensure the support of this Agreement by its members, including promoting and communicating to its members the General Principles set out in Article 2.2 herein and the Best Practices and Legislative Requirements set out in Schedule "A" to this Agreement.

2.2. Both parties recognize and agree upon the following General Principles:

- (a) the importance of quality medical services to injured workers;
- (b) the importance of timely, legible and complete reporting in the management of injured workers' claims;
- (c) the principle of early and safe return to work for injured workers during their recovery;
- (d) the role and responsibility of WorkplaceNL in adhering to the requirements and principles of the *WHSCA* as well as the obligation of WorkplaceNL to provide medical aid that it determines is necessary as set out in the *WHSCA*.
- (e) the role and responsibility of physicians as health care providers to adhere to the requirements and principles of the *WHSCA*;
- (f) the principles of patient confidentiality set out in the *Canadian Medical Association Code of Ethics* and the *Principles for the Protection of Patients' Personal Health Information* and all related guidelines and policies.

3.0 REPORTING AND FEES

3.1 Physicians shall submit reports to WorkplaceNL in accordance with Schedule "B" to this Agreement.

- 3.2 Physicians shall invoice WorkplaceNL for reports and medical services provided to injured workers in accordance with Schedule "C" to this Agreement.
- 3.3 Physicians shall comply with the MCP Medical Payment Schedule in invoicing WorkplaceNL for medical services provided to injured workers.
- 3.4 Both parties will work cooperatively to facilitate an effective means of transferring information and reports electronically.

4.0 PAYMENT FOR SERVICES

- 4.1 WorkplaceNL will pay for reports and medical services provided to injured workers in accordance with Schedule "C" to this agreement.
- 4.2 WorkplaceNL shall follow the MCP Medical Payment Schedule in paying physicians under this Agreement.
- 4.3 Notwithstanding Clauses 4.1 and 4.2 WorkplaceNL shall not pay for reports when:
 - (a) the report or resubmitted report does not meet the requirements of Schedule "B";
 - (b) the physician has been notified in writing that the claim is denied;
 - (c) the report or resubmitted report is received by WorkplaceNL later than 10 business days from the date of the visit, or
 - (d) the fee code used on the Form 92 is not in accordance with the MCP Payment Schedule.
- 4.4 When WorkplaceNL advises a physician that a report does not meet the reporting requirements as set out in Schedule "B", the physician shall resubmit a

report which meets the requirements of Schedule "B" within 10 business days from the date of the visit.

- 4.5 When WorkplaceNL determines that a physician has been overpaid, WorkplaceNL may recover the overpayment from a subsequent transaction, or through a repayment schedule, as agreed to by the physician.

PRIVACY AND CONFIDENTIALITY

- 5.1 Physicians shall comply with the *Personal Health Information Act*, SNL 2008 c. P-7.01 (*PHIA*) and regulations, as amended and all applicable policies and procedures in relation to confidentiality, conflict of interest, and collection storage, transfer, copying, modification, use and disposition of personal health information. Physicians shall complete training relating to the *PHIA* and regulations and shall ensure that all their employees sign an oath of confidentiality as required by the *PHIA*.
- 5.2 To assist and further ensure compliance with this Article, Physicians shall have in place and follow the appropriate systems, processes, protocols and policies to maintain the physical and electronic security of all personal health information, including but not restricted to the following:
- (a) at a minimum, using the same level of physical and electronic security as the Physician employs to avoid disclosure or dissemination of the Physician's own confidential information, to prevent the unauthorized disclosure of any personal health information to a third party;
 - (b) establish and maintain security policies, standards and safeguards to prevent unauthorized access, collection, use, disclosure or disposal of personal health information; and,
 - (c) ensure compliance with all policies, standards and safeguards established under this Article.

5.3 Physicians shall:

- (a) notify WorkplaceNL promptly of any unauthorized possession, use or knowledge, or attempt thereof, of personal health information of an Injured Worker in the possession of the Physician, including but not limited to data processing files, transmission messages which may become known to the Physician;
- (b) promptly furnish to WorkplaceNL full details of the unauthorized possession, use or knowledge, or attempt thereof, and assist WorkplaceNL in investigating or preventing the recurrence of any unauthorized possession, use or knowledge, or attempt thereof, of personal health information of Injured Workers;
- (c) use reasonable efforts to provide, upon request, relevant information to WorkplaceNL in regard to any litigation and investigation against third parties deemed necessary by WorkplaceNL;
- (d) promptly use all reasonable efforts to mitigate the damages related to the unauthorized use, possession, or knowledge and to prevent a recurrence of any such unauthorized possession, use or knowledge of personal health information of Injured Workers; and
- (e) refer to and follow the privacy breach protocol of the Government of Newfoundland and Labrador as it exists at the time of the breach and located on the Department of Justice website at:
<http://www.justice.gov.nl.ca/just/info/privacybreach.html>.

6.0 JOINT COMMUNICATIONS

- 6.1 WorkplaceNL and the Medical Association shall use the communication vehicles (including electronic and written) of the other for the purpose of promoting the General Principles and Best Practices and Legislative Requirements which are more specifically defined in Article 2.0 and Schedule "A" herein.

- 6.2 The Parties shall provide all materials intended for use pursuant to Article 6.1 to the other Party for review prior to distribution. The other Party has the right to suggest revisions which will be made by mutual agreement.
- 6.3 Joint communication efforts may include, but are not limited to:
- (a) publishing a joint newsletter;
 - (b) communicating to Medical Association members the ongoing joint initiatives of the Medical Association and WorkplaceNL;
 - (c) encouraging Medical Association members to attend WorkplaceNL - sponsored Continuing Medical Education events;
 - (d) communicating to Medical Association members issues relating to this Agreement;
 - (e) utilizing the Medical Association web site and WorkplaceNL's web site to communicate changes in WorkplaceNL's policies and procedures relating to return-to-work and other physician issues;
 - (f) using other Medical Association and WorkplaceNL communication vehicles as appropriate; and
 - (g) providing an annual opportunity for WorkplaceNL to present to the Medical Association membership on a topic of WorkplaceNL's choice in consultation with the Medical Association.

7.0 MEDICAL LIAISON COMMITTEE AND SUBCOMMITTEES

- 7.1 WorkplaceNL and the Medical Association shall participate in a WorkplaceNL/Medical Association Liaison Committee (hereinafter referred to as the "Medical Liaison Committee") to address areas of mutual interest or concern including, but not limited to:
- (a) the physician's involvement in Early and Safe Return to Work;
 - (b) ensuring physician and WorkplaceNL issues are addressed appropriately and in a timely manner;

- (c) physician education;
- (d) the coordination of health services between physicians and WorkplaceNL;
- (e) consultation and input into WorkplaceNL's policies relevant to clinical practice; and,
- (f) consultation and input regarding forms development and reporting requirements.

- 7.2 The membership of the Medical Liaison Committee shall consist of three (3) members representing WorkplaceNL and three (3) members representing the Medical Association and others, as required, by mutual consent.
- 7.3 The Medical Liaison Committee will meet when necessary, as decided by mutual consent.
- 7.4 The Medical Liaison Committee may establish other subcommittees as needed, which shall meet on an *ad hoc* basis to address issues and concerns relating to this Agreement or its contents as they arise.
- 7.5 Both WorkplaceNL and the Medical Association shall participate in the Medical Liaison Committee in a spirit of cooperation and good faith in a continuing attempt to foster a cooperative working environment and appropriate channels of communication so as to optimize the services to injured workers and employers under the workers' compensation system.
- 7.6 WorkplaceNL agrees to inform and consult with the Medical Association before implementing changes in its processes which will materially affect the working relationship between WorkplaceNL and the Medical Association or its members. In the event the Medical Association disagrees with any such change implemented by WorkplaceNL, the Medical Association will have the right to proceed under Clause 9.00 "Dispute Resolution Mechanism" of this Agreement.

8.0 MONITORING

8.1 WorkplaceNL may monitor overall compliance and individual physician compliance for:

- (a) quality of reporting;
- (b) frequency of visits;
- (c) billings;
- (d) adherence to MCP Preamble and billing rules;
- (e) prescribing patterns; and,
- (f) any other matter within WorkplaceNL's statutory authority.

8.2 Except in a case of serious professional misconduct, WorkplaceNL will make every effort to resolve any problem of which it becomes aware through the Resolution Process described in Schedule "D".

8.3 WorkplaceNL may send information to each physician outlining his or her visits and related costs for the year as compared to the average for all physicians as well as other statistical indicators.

9.0 DISPUTE RESOLUTION MECHANISM

9.1 Any dispute regarding the application, interpretation or alleged breach of this Agreement by either Party will be referred in the first instance to the Medical Liaison Committee, if appropriate. At the request of either party, any such dispute may be addressed instead in the first instance in accordance with Clause 9.2.

9.2 If the dispute cannot be resolved at the Medical Liaison Committee or upon request of either party, the issue will be referred to the Chief Executive Officer of WorkplaceNL and the Executive Director of the Medical Association for resolution.

10.0 RESOLUTION FOR PHYSICIAN ISSUES

- 10.1 Where an individual physician has an issue or concern with WorkplaceNL, including but not limited to issues with individual claims, WorkplaceNL staff, WorkplaceNL processes, the issue shall be addressed in a timely manner by either WorkplaceNL's Director of Health Care Services or the Director of Short Term Claims or the Director of Entitlement and Extended Services, either of whom may delegate the issue or concern to appropriate WorkplaceNL staff. If the issue is not resolved at this level, the physician may refer the matter to the Medical Liaison Committee.
- 10.2 If the dispute cannot be resolved at the Medical Liaison Committee, the issue will be referred to the Chief Executive Officer of WorkplaceNL and the Executive Director of the Medical Association for resolution.

11.0 RESOLUTION FOR WORKPLACENL ISSUES

- 11.1 Where WorkplaceNL has an issue or concern with an individual physician under this Agreement, this shall be addressed through the Resolution Process described in Schedule "D". The process described in Schedule "D" shall not be used in the event that WorkplaceNL has concerns about serious professional misconduct of a physician (see clause 11.2).
- 11.2 In the event that WorkplaceNL has an issue or concern regarding the serious professional misconduct of a physician, WorkplaceNL will file a formal complaint with the College of Physicians and Surgeons of Newfoundland and Labrador. If a worker reports a matter of serious professional misconduct to WorkplaceNL, WorkplaceNL shall provide that worker with information respecting filing a complaint with the College of Physicians and Surgeons of Newfoundland and Labrador.

12.0 RENEWAL

- 12.1 The terms of this Agreement may be modified by the mutual agreement of the Medical Association and WorkplaceNL. Any such amendment, modification or supplement must be in writing and signed by the parties.
- 12.2 The parties will meet six (6) months prior to the expiration of this Agreement to begin discussions in relation to a new, renewed or amended Agreement.
- 12.3 If the parties have not concluded a new, renewed or amended Agreement by the expiration of this Agreement, this Agreement will continue in effect after the expiration date until it is replaced by a new, renewed or amended Agreement.

13.0 GENERAL

- 13.1 This Agreement shall be governed by and construed in accordance with the laws of the Province of Newfoundland and Labrador.
- 13.2 Nothing in this Agreement shall be construed as limiting WorkplaceNL's authority to enforce the provisions of the *WHSCA*.
- 13.3 The paragraph headings shall not be considered in interpreting the text of this Agreement.
- 13.4 If any provision of this Agreement is for any reason invalid, that provision shall be considered separate and severable from this Agreement and the other provisions of this Agreement shall remain in force and continue to be binding upon the parties as though the invalid provision had never been included in this Agreement.

- 13.5 All schedules attached hereto form part of this Agreement.
- 13.6 The parties acknowledge that there are no representations, warranties, agreements or conditions, express or implied, collateral to or otherwise forming part of or in any way affecting or relating to this Agreement except as specifically set forth or referred to in this Agreement and that this Agreement constitutes the entire Agreement between the parties and supersedes all prior Agreements, undertakings, negotiations and discussions.
- 13.7 Time shall be of the essence.
- 13.8 Any waiver of, or consent to depart from the requirements of any provision of this Agreement shall be effective only if it is in writing and signed by the party giving it, and only in the specific instance and for the specific purpose for which it had been given. Failure on the part of any party to exercise, and/or delay in exercising, any right under any Agreement shall not operate as a waiver of such right. No single or partial exercise of any such right shall preclude any other or further exercise of such right or the exercise of any other right.
- 13.9 Any notice required to be given hereunder shall be deemed to have been properly given if delivered personally or sent by pre-paid registered mail as follows:

to WorkplaceNL:

Director, Health Care Services
WorkplaceNL
146-148 Forest Road
P.O. Box 9000
St. John's, NL A1A 3B8

Fax: (709) 778-1514
Tel: (709) 778-1108

Attention: Dr. Carrie Comerford

to the Newfoundland and Labrador Medical Association:

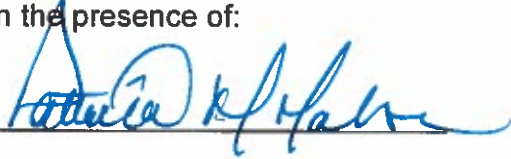
Executive Director
Newfoundland and Labrador Medical Association
164 McDonald Drive
St. John's, NL A1A 4B3

Fax: (709) 726-7525
Tel: (709) 726-7424

and if sent by registered mail, shall be deemed to have been received on the 4th business day of uninterrupted postal service following the date of mailing. Either party may change its address for notice at any time by giving notice to the other party pursuant to the provisions of this Agreement.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed on the day and year first above written.

SIGNED, SEALED, AND DELIVERED
by the Workplace Health, Safety
and Compensation Commission
in the presence of:



**WORKPLACE HEALTH, SAFETY
AND COMPENSATION COMMISSION**





Date of Signature

SIGNED, SEALED, AND DELIVERED
by the Newfoundland and Labrador
Medical Association
in the presence of:



**NEWFOUNDLAND AND LABRADOR
MEDICAL ASSOCIATION**




Date of Signature

Schedule "A"

BEST PRACTICES AND LEGISLATIVE REQUIREMENTS

The Medical Association shall, through effective means of communication agreed upon by the Liaison Committee, promote physicians' awareness of:

(a) Physician's Role in the Early & Safe Return to Work

- i. Consistent with the Canadian Medical Association (CMA) Policy, **The Treating Physician's Role in Helping Patients Return to Work After an Illness or Injury (Update 2013)** the Medical Association shall promote among physicians the evidenced based principle that an injured worker's early and safe return to work, or a modified version of their work, offers the most effective route to recovery from many injuries, in particular soft tissue injuries. This communication will include the requirement on the part of physicians to inform injured workers of the necessity and value of incorporating timely and safe return to work into their treatment plan.
- ii. Recognizing that **section 89.1 of the *Workplace Health, Safety & Compensation Act*** places a re-employment obligation on many employers to re-employ workers following a work injury and that the re-employment obligation expires within two years post injury, the Medical Association agrees that maintaining an injured worker's attachment to the workplace as soon as safely possible following the injury is essential to ensuring that injured workers are given every opportunity to avail of the re-employment protection that the *Act* affords them. In this regard the Medical Association shall work with WorkplaceNL to educate physicians on the employer's re-employment obligation and the importance of early & safe return to work as the most effective means of ensuring that injured workers are given the best opportunity to become re-employed at their workplace within the legislated re-employment obligation period.

(b) Physician Form MD Responsibilities

- i. the statutory obligation to report to WorkplaceNL when a physician has seen an injured worker;
- ii. the requirement to provide the employer's copy of the Form MD to the injured worker at the time of the visit;
- iii. the requirement to provide complete reports;

- iv. the requirement to provide accurate reports;
- v. the requirement to provide legible reports;
- vi. the requirement to provide timely reports;
- vii. the requirement that while follow-up examination visits shall be conducted by the attending physician as medically necessary, subsequent Form MD reporting fees shall be paid by WorkplaceNL only where there has been a change in the injured worker's condition; and
- viii. the requirement that where a worker's condition has medically plateaued, WorkplaceNL does not require reports for the purpose of managing a claim more frequently than every 3 months where there has been no change in the worker's condition unless the physician demonstrates that a visit is medically necessary. Form MD reports submitted every 3 months for the purpose of managing a claim will be paid.

(c) Physician's responsibility to communicate

- i. Recognizing that the treatment approach to injury management and return to work is often interdisciplinary in nature, the Medical Association shall, through effective means of communication agreed upon by the Medical Liaison Committee, promote among physicians the importance of communication and cooperation with physicians and other health care providers involved in the management of work injuries.
- ii. Recognizing WorkplaceNL's legislated mandate to administer the *Workplace Health, Safety and Compensation Act*, the Medical Association will communicate to physicians as a group the requirement to communicate effectively with WorkplaceNL staff, both through established reporting mechanisms and telephone consultation, to facilitate the exchange of information which is directed at achieving early and safe return to work and providing necessary benefits to injured workers.
- iii. To assist WorkplaceNL with its ongoing efforts to maintain and develop ongoing communication and effective working relationships with physicians, the Medical Association agrees to partner with WorkplaceNL in promoting WorkplaceNL in-service sessions for physicians, including specialists, who see injured workers.

(d) WorkplaceNL's responsibility to monitor the provision of health care

- i. Recognizing that WorkplaceNL reserves the right, under the *Workplace Health, Safety and Compensation Act (Section 85(1))* to monitor the provision of health care provided to injured workers, the Medical Association will support WorkplaceNL's right to monitor the prescribing patterns of physicians, and take the appropriate action on an individual basis, where the prescribing pattern is considered to be outside of accepted standard medical practice, and where this prescribing pattern cannot be reasonably explained by the prescribing physician based on the circumstances of the case.

Schedule "B"

REPORTING

B.01 The Physician shall use the appropriate reporting format as required by WorkplaceNL.

FORM MD

B.02 The Physician shall complete a Form MD when:

- (a) *New injuries* - the Worker presents with an injury, illness or disease which the Worker reports or the Physician believes is work-related;
- (b) *Recurrence* - the Worker presents with an injury, illness or disease which the Worker reports or the Physician believes is a recurrence of work-related injury, illness or disease;
- (c) *Progress reporting* – (i) the Worker presents with a significant change in condition (ii) there is a change in the recommended treatment for the Worker (iii) there is a change in the Worker's return to work status; or
- (d) Not more frequently than once every 3 months where the Worker has plateaued and the Physician continues to manage the Worker

B.03 The Physician shall provide the "Worker's Copy" and the "Employer's Copy" of the Form MD to the Worker at the time of the visit.

FORM 92

B.04 The Physician shall complete a Physician Form 92 for invoicing when:

- (a) the Physician is a specialist; or,
- (b) the Physician is a general practitioner invoicing for fee codes 51000 and higher.

B.05 Fee codes must be invoiced in accordance with the rules and conditions of the MCP Medical Payment Schedule.

B.06 WorkplaceNL will make payments in accordance with the rules and conditions of the MCP Medical Payment Schedule.

QUALITY OF REPORTING

B.07 The physician shall submit reports which are legible and complete.

FREQUENCY OF REPORTING

- B.08** The physician shall conduct follow-up examination visits only as medically necessary and shall submit reports related to those visits in accordance with clause B.02(c).

- B.09** When an injured worker has medically plateaued and is in receipt of extended earnings loss or other long term benefits, the Physician will conduct follow-up examination visits no more frequently than every three months, unless medically necessary).

**Schedule "C"
Fees**

Service	Year 1 (Oct.1, 2017)	Year 2 (Oct.1, 2018)	Year 3 (Oct.1, 2019)	Year 4 (Oct.1, 2020)	Year 5 (Oct.1, 2021)
Fees for Medical Services (MCP rate + premium)	MCP + 20%	MCP + 20%	MCP + 20%	MCP + 20%	MCP + 20%
*MD Reports – Paper	Received within: • 0-3 business days: \$37.50 • 4-7 business days: \$18.00 • 7-10 business days: \$10.00	Received within: • 0-3 business days: \$38.00 • 4-7 business days: \$18.00 • 7-10 business days: \$10.00	Received within: • 0-3 business days: \$38.50 • 4-7 business days: \$18.00 • 7-10 business days: \$10.00	Received within: • 0-3 business days: \$39.00 • 4-7 business days: \$18.00 • 7-10 business days: \$10.00	Received within: • 0-3 business days: \$40.00 • 4-7 business days: \$18.00 • 7-10 business days: \$10.00
*MD Reports through Connect	-	Received within: 0-3 business days \$43.00	Received within: 0-3 business days \$43.50	Received within: 0-3 business days \$44.00	Received within: 0-3 business days \$45.00
Reports Requested - Narrative	\$155.00	\$159.00	\$161.50	\$164.00	\$169.00
Reports Requested Comprehensive	\$182.00/page	\$184.00/page	\$186.50/page	\$189.00/page	\$194.00/page
Report with Medico legal Opinion	\$185.00/page	\$189.00/page	\$191.50/page	\$194.00/page	\$199.00/page
Phone Consultation	\$39.00/10 min	\$40.00/10 min	\$40.50/10 min	\$41.00/10 min	\$42.00/10 min
Photocopy Patient Record	First 5 pages \$25.50 plus \$1.50/page for any pages ≥ 6	First 5 pages \$25.50 plus \$1.50/page for any pages ≥ 6	First 5 pages \$26.00 plus \$1.50/page for any pages ≥ 6	First 5 pages \$26.00 plus \$1.50/page for any pages ≥ 6	First 5 pages \$26.00 plus \$1.50/page for any pages ≥ 6
**Requested Review and Submission of File Information	-	\$40.00/10 min	\$40.50/10 min	\$41.00/10 min	\$42.00/10 min

*Incomplete or inaccurate forms received by WorkplaceNL will be returned. Payment will be contingent upon complete and accurate forms received within the time frames indicated.

**Applies when specific information is requested that requires extensive file review to obtain.

Schedule "D" Resolution Process for Individual Physician Issues

