

COST SHARING AGREEMENT — SAMPLE

AN AGREEMENT made the day of 20

BETWEEN The General Medical Practitioners (herein called 'the Practitioners') named in section 1 of the Schedule to this agreement (herein called 'the Schedule').

WHEREAS:

- A. The Practitioners have agreed to share common staff, premises, furniture, equipment and expenses.
- B. The Practitioners are to carry on their own independent practices as medical practitioners on the premises referred to in section 2 of the Schedule ('the premises').

IT IS AGREED AS FOLLOWS:

1. *Lease of premises*

Each Practitioner shall execute a lease to be entered into with the owner of the premises and such lease shall contain the rights and obligations of each Practitioner in his or her capacity as lessee of part of the premises.

2. *Each party to contribute to specified expenses*

- (1) The Practitioners shall meet as soon as practicable after execution of this agreement, and thereafter at or about the beginning of each calendar year while this agreement remains in force (or at such other times as they may from time to time decide) to determine a budget for the items of expenditure listed in section 3 of the Schedule for the calendar year.
- (2) All costs, whether recurring or exceptional, of any of the kinds listed in section 3 of the Schedule which are hereafter payable in respect of the practices of the Practitioners shall so long as this agreement is in force be paid by them in the respective monthly shares proportionate to the annual budget and determined according to the cost share formula in section 4 of the Schedule as reviewed from time to time pursuant to 2(3) ("the cost share formula").
- (3) At or about the beginning of each period specified under item 5 of the Schedule "a cost share period") the Practitioners shall meet to agree upon the cost share formula to apply during that period.

3. *No obligation to contribute to certain expenses*

Each Practitioner shall be individually responsible for satisfying the expenses attributable to the carrying on of his or her practice as a medical practitioner (being expenses other than those which are to be shared in accordance with the provisions of this agreement) and without

prejudice to the generality of the foregoing shall be responsible for discharging the expenses set out in section 6 of the Schedule.

4. *Bank account for payment of expenses*

- (1) The Practitioners will open a bank account to be known as the Joint Management Bank Account ("the Account") in the names of the Practitioners.
- (2) On or before the 1st day of every calendar month each Practitioner shall pay into the Account the sum determined pursuant to the cost share formula, such sum to be in or towards satisfaction of the liability for the expenses referred to in section 3 of the Schedule. In addition thereto, each Practitioner shall pay his or her proportionate share of such further amounts as may be necessary to make good all sums expended in excess of the amount for the time being standing to the credit of the Account in respect of such expenses. Any such further amount shall be paid into the Account not later than the end of the calendar month in which the excess sums have been expended.
- (3) Any balance standing to the credit of the Account at the termination for whatever reason of this agreement shall be divided among the Practitioners pro rata according to each Practitioner's liability to meet contributions under this agreement except that any Practitioner who is in default of contributions as at the date of such termination may be required by the other Practitioner(s) to make good such default before being entitled to receive any distribution under this provision.

5. *Obligation to practice responsibly*

Each Practitioner shall:

- (1) carry on practice as a doctor at the premises in a responsible manner;
- (2) comply with all contractual obligations which are jointly entered into by the practitioners in pursuance of this agreement including (but not limited to) all employer's duties under any contract of employment of shared staff, all lessee obligations under any equipment lease or similar agreement, and all obligations of the insured under any insurance policy;
- (3) indemnify the other Practitioner(s) against any claim, damages, costs or expenses suffered or incurred by any other Practitioner(s) in respect of any default under or breach of any terms of any such agreement, lease or insurance policy;
- (4) keep and maintain a proper and accurate record of all matters which the Practitioners may from time to time decide need to be recorded in pursuance of the terms of this agreement.

6. *Decision-making power*

- (1) Where in the management of the premises, or of shared staff (including any decision to engage or dismiss a shared employee), or any other matter which is the subject of this agreement any question arises which impinges upon the Practitioners such question shall be considered in consultation by the Practitioners.
- (2) In the event of any failure to agree then the question shall be decided by the majority of votes of those present and voting or represented by proxy at a meeting duly called. Such decision shall be binding on all Practitioners whether present at the meeting or not.
- (3) Notwithstanding the foregoing provisions of this clause no decision to review the cost share formula shall be effective unless it is the unanimous decision of all the Practitioners.
- (4) Except in urgent situations notice of the meeting shall be given in time to provide each Practitioner who is for the time being in New Zealand with at least forty-eight (48) hours notice.
- (5) Each Practitioner shall for the time being have one (1) vote for every complete sum of \$100 which that Practitioner is liable to contribute under the cost share formula over the cost share period in which the vote is taken.

7. *Day to day administration of agreement and keeping of income and expenditure account*

- (1) The primary responsibility for the day to day administration of this agreement and the implementation of decisions reached under 6(1) and (2) shall, unless otherwise agreed among the Practitioners or for other good reason, rotate each calendar year among them provided that the Practitioner who for the time being has such responsibility ("the Administration Practitioner") may at any time be replaced if the Practitioners consider that such action is desirable in the best interests of the practices.
- (2) The Administration Practitioner shall:
 - (a) Ensure that notice of any meeting called under 6(4) is given to each Practitioner;
 - (b) arrange for minutes of any meeting held under 6(2) to be kept;
 - (c) arrange within the limits of his or her authority for equipment, medicines and other stock to be ordered in timely fashion;
 - (d) arrange for all surgery equipment to be maintained in good and efficient working order;
 - (e) have cheque signing authority (together with such other Practitioner or Practitioners that the Practitioners may appoint in that regard) for purchases made within the limits of his, her or their authority under this agreement;
 - (f) maintain a diary recording details of all decisions taken by the Administration Practitioner in the day to day administration of this agreement;

- (g) not employ or dismiss any shared employee of the Practitioners other than in pursuance of a decision of the Practitioners under 6(1) or (2).
- (3) An income and expenditure account shall be taken to 31st December in each year or such other date as the Practitioners may unanimously agree.
- (4) All Practitioners shall at any reasonable time have full access to the minutes, diary, accounts, contract documentation and any other records made or documents entered into in pursuance of this contract.

8. *Relationship not that of partners*

Nothing in this agreement shall create or constitute, or be deemed to create or constitute, a partnership between the Practitioners.

9. *Limits on authority to act as agent*

- (1) The Administration Practitioner and any other Practitioner who is with the authority of the Practitioners for the time being carrying out his or her functions, shall have authority to commit the Practitioners to obligations in pursuance of this agreement within the limitations, if any, on his or her authority which are set out in section 7 of the Schedule. Any commitment which would, if entered into, be outside those limitations shall require the approval of the Practitioners under 6(1) or (2).
- (2) Except as provided in 9(1), no Practitioner shall have any authority or power to bind or commit, or represent or hold that Practitioner out as having authority to act as an agent of, or in any other way to bind or commit, any other Practitioner to any obligation.

10. *Confidentiality*

Each Practitioner undertakes:

- (1) To respect and to safeguard the confidentiality of confidential information about the affairs or patients of each other Practitioner which is received in pursuance, or as a consequence, of this agreement;
- (2) to comply with such procedures as the Practitioners may agree to set in place in order to meet the requirements of the Health Information Privacy Code 1994.

11. *Obligation to keep premises and equipment secure*

Each Practitioner undertakes to use his or her best efforts to ensure that at all times the premises and the equipment and stock therein, are kept secure.

12. *Responsibility for shared employees*

- (1) Except as provided in 12(2), the Practitioners shall for all purposes be the joint employers of any shared employee in the course of carrying out duties for them or any of them.
- (2) For the purposes of any statutory provision or rule of the common law which imposes vicarious liability on an employer for the acts or omissions of the staff of that employer, the Practitioners acknowledge and agree that each shared employee shall be deemed to be the employee of an individual Practitioner herein ("the individual Practitioner") in respect of any act done or omitted while carrying out duties for the individual Practitioner.
- (3) The individual Practitioner agrees to indemnify, and save harmless, each other Practitioner in respect of any liability incurred by that other Practitioner in respect of any such act or omission of such employee.

13. *Rights conferred by this agreement*

- (1) Each Practitioner shall have full and equal use of the surgery and its equipment and stock for the purpose of carrying on his or her practice.
- (2) All assets and stock of the practices which are purchased in pursuance of this agreement shall be owned jointly by the Practitioners.
- (3) In the event of the sale of any such asset or item of stock each Practitioner shall be entitled to receive from the net proceeds of sale (after deducting any costs incidental to the sale) a sum proportionate to his or her liability to contribute under the cost share formula as at the date the asset or item was purchased.

14. *Variation*

No alteration, deletion or addition to this agreement shall be binding unless it is in writing and signed or acknowledged by each Practitioner.

15. *Termination*

- (1) This agreement shall be determined in any of the following situations:
 - (a) By any Practitioner on giving to the other(s) not less than two (2) complete calendar months notice in writing;
 - (b) in the event that any Practitioner acts in serious or repeated breach of this agreement, or commits any act of bankruptcy, or has his or her registration as a medical practitioner cancelled or suspended, or engages in any act or behaviour which results or may reasonably result in the Practitioner or the other Practitioner(s) suffering damage to reputation or standing, then in any such case

the other Practitioner or Practitioners may within one (1) month after becoming aware of such act or thing by notice in writing terminate this agreement with effect as at the end of the calendar month in which notice is given;

- (c) at the end of any cost share period, in the event that the Practitioners shall have failed to reach agreement under 2(3) on the cost share formula to apply for the next ensuing cost share period;
 - (d) immediately, on the death of any Practitioner.
- (2) The termination of this agreement shall not relieve any Practitioner or (as the case may be) his or her representative from:
- (a) Liability for payment of his/her monthly contributions under the cost share formula up to and including the end of the calendar month in which the termination is to take effect or (as the case may be) the end of the cost share period referred to in 15(1)(c); or
 - (b) the obligation to comply with the terms of any contract ("third party contract") which shall have been entered into by or on behalf of the Practitioners with any third party in furtherance of the objects of this agreement for so long as that Practitioner remains a party to such contract.
- (3) Where any monies are or remain payable under a third party contract after the termination of this agreement the Practitioners shall, as between themselves, be liable to meet such payments in the same proportions as their respective liabilities to contribute under the cost share formula which applied as at the date of termination.

16. *Assignment of interest in this agreement*

- (1) Subject to 16(2) any Practitioner may assign his or her interest in this agreement to a person who shall be a registered medical practitioner but subject to the approval (not to be unreasonably withheld) of the other Practitioner(s).
- (2) In the event of assignment the Practitioner intending to make the assignment shall procure that the intended assignee (if not already a party hereto) undertakes to be bound by the terms of this agreement, together with the terms of any other agreement which has been entered into by the parties in furtherance of this agreement, from the date of the assignment.

17. *No right to mortgage interest etc.*

No Practitioner shall without the consent of all of the other Practitioners:

- (1) Mortgage or charge his or her interest in any asset; or
- (2) lend any of the moneys, or lend or sell any other asset, owned jointly with the other Practitioners.

18. *Arbitration*

All disputes and differences between the parties concerning the interpretation, or operation, or otherwise touching upon, this agreement, which are not able to be resolved by mediation, shall be submitted to the arbitration of a single arbitrator nominated by the Chairperson of the New Zealand Medical Association, and such arbitration shall be carried out in accordance with the provisions of the Arbitration Act 1996 and its amendments.

19. *Special conditions*

- (1) In the event of conflict between any of the special conditions hereunder and any of the foregoing clauses of this contract, the special condition shall prevail.
- (2) *(Here list any special conditions)*

SCHEDULE

Section 1 (Names of practitioner parties)

Name of Practitioner:

Signature:

- 1.
- 2.
- 3.
- 4.
- 5.

Section 2 (See 1) Location of premises:

Section 3 (See 2(2)) Items of expenditure subject to cost share agreement

- (a) Purchases of drugs and surgery sundries
- (b) Salaries and other staff expenses of shared assistants and employees
- (c) Fees paid to other persons associated with the entire practice, such as shared locums
- (d) Expenses directly related to the premises other than rental and outgoings payable by the Practitioners individually under the leases referred to in 1
- (e) Cleaning and laundry services connected with the carrying on of the practices
- (f) Stationery, printing, postage, couriers, and advertising costs
- (g) Rental of telephone and facsimile of the surgery
- (h) Rental and maintenance charges on computer equipment
- (i) Insurance of the surgery premises
- (j) Lighting and heating of the surgery premises
- (k) Costs of repairs and maintenance of the surgery premises
- (l) Depreciation of the furniture and equipment
- (m) Replacements of and additions to the furniture and equipment
- (n) Subscriptions to professional periodicals

- (o) Subscriptions to reception area magazines
- (p) Accounting and legal expenses relating to the joint administration of this agreement
- (q) Petty cash expenses of the practices
- (r) Bank charges and interest on the Joint Management Bank Account
- (s) [Reserved]

Section 4 (See 2(2)) Cost share formula

The formula for determining the respective monthly charges for each Practitioner during the initial cost share period under this contract is as follows:

.....

.....

.....

.....

.....

.....

Section 5 (See 2(3)) Cost share periods

Cost share periods at which Practitioners are to review formula:
(e.g. annual, six monthly, quarterly)

Section 6 (See 3) Items of expenditure to be met individually

- (a) Rental and other outgoings on the lease individually entered into under 1
- (b) Travelling and motor car expenses
- (c) The salary of any locum or employee working exclusively for an individual Practitioner
- (d) Toll calls incurred by an individual Practitioner
- (e) Reaccreditation and training courses and conferences
- (f) Subscriptions to defence organisations and professional bodies
- (g) Personal legal and accounting fees, including the fees incurred in preparing tax returns for the practice of an individual Practitioner
- (h) Income protection insurance premiums
- (i) Expenses in respect of an individual Practitioner's household

(j) [Reserved]

Section 7 (See 7(2)(c) and (e) and 9(1)) Limitations on Administration Practitioners authority