

RETURN OF SERVICE CONTRACT

BETWEEN:

Her Majesty the Queen in right of the
Province of British Columbia as represented
by the Minister of Health

(the "Province")

AND:

s.22

(the "Participant")

(the "Parties")

WHEREAS: The Province wishes to ensure there are a sufficient number and the right mix of physicians now and in the future for a sustainable, affordable, publicly-funded health system;

And whereas the Province agrees to fund the Participant's Postgraduate Medical Education in exchange for the Participant providing medical services for a specified time and in a community where needed;

And whereas the Participant has been accepted into an International Medical Graduate-stream Postgraduate Medical Education residency position in the area of **Internal Medicine** at the University of British Columbia;

And whereas upon completion of the Postgraduate Medical Education and upon acquiring a Certificate of Registration from the College of Physicians and Surgeons of British Columbia the Participant is prepared to provide **Internal Medicine** services to a Health Authority-identified practice vacancy in a community of need, for the period of time and on the basis set out herein.

THEREFORE:

In consideration of the mutual covenants and agreements contained in this Contract and for other good and valuable consideration, the receipt of which is expressly acknowledged, the Parties agree as follows:

Article 1 Interpretation

1.1 Definitions in this Contract:

"Addendum" or "Return of Service Addendum" means the Addendum to this Contract which contains terms and conditions of the Return of Service between the Participant and the Health Authority;

"Certificate of Registration" means registration with the CPSBC that allows the Participant to practise medicine in British Columbia, other than the certificate of registration which allowed the Participant to enrol in Postgraduate Medical Education;

"CPSBC" means the College of Physicians and Surgeons of British Columbia;

"Distributed Site" means the residency site located outside of Vancouver, associated with the UBC Family Medicine Residency Program; the Participant's Return of Service is linked to the Health Authority in which their Distributed Site is located. Participants training at the Prince George site must fulfil their Return of Service in Northern Health Authority; Participants training at the Victoria or Strathcona sites must fulfil their Return of Service in Vancouver Island Health Authority; Participants training at the Vancouver Fraser or Surrey-South Fraser sites must fulfil their Return of Service in Fraser Health Authority; Participants training at the Kelowna, Kamloops, or Kootenay Boundary/Trail sites must fulfil their Return of Service in Interior Health Authority; and Participants training at the Coastal site must fulfil their Return of Service in Vancouver Coastal Health Authority.

"Full Time Basis" means what the Participant and the Health Authority determine it means and describe in the Addendum;

"Health Authority" means a Health Authority so named and created under the *Health Authority Act* RSBC 1996, c.180, and includes the Provincial Health Services Authority established under the *Society Act*, RSBC 1996, c.433, and any of its branch societies;

"Medical Practice" includes but is not limited to areas of medicine in which the Participant practises, the facility in which the Participant practises

medicine, the community in which the Participant practises medicine, and the amount of time during which the Participant practises medicine each week;

"Notice" means any notice or other communication required to be given under this Contract;

"PAR-BC Agreement" means the agreement between the Professional Association of Residents of British Columbia and the Health Employers Association of British Columbia as it exists and as it is amended from time to time;

"Postgraduate Medical Education" means the residency position that is funded under this Contract;

"Repayment Amount" means Repayment Amount defined in Article 4.1;

"Return of Service" means the Return of Service described in Article 5;

"St. Paul's Hospital Site" means the UBC Family Medicine Residency Program's main International Medical Graduate (IMG)-Site located at St. Paul's Hospital in downtown Vancouver and is not a Distributed Site. IMG Participants at this site fulfil their Return of Service throughout British Columbia based on the distribution quota further described in Schedule 1.

- 1.2. References to provisions in this Contract are to provisions in the main body of the Contract, unless otherwise specified.

Article 2 Participation

- 2.1. The Participant shall participate in the Return of Service Program, and will complete the Return of Service, subject to the terms of this Contract.
- 2.2 The Participant's training in Family Medicine means meeting the competencies required for certification by the College of Family Physicians of Canada which can include basic competence in emergency medicine as required by rural return of service communities.

Article 3 Program Costs

- 3.1 The Province will pay the Faculty of Medicine of the University of British Columbia for the costs of the Participant's Postgraduate Medical Education, including the Participant's salary and benefits at the rate, and covered by the terms, specified in the Professional Association of Residents of BC Collective Agreement, as that rate and those terms apply during the term of the Participant's Postgraduate Medical Education.

Article 4 Repayment on Termination

4.1 In the event that this Contract is terminated for any reason before the Participant has completed the Postgraduate Medical Education Program and the Return of Service in full, the Participant will pay to the Province the amount set out below that corresponds to the Participant's area of practice, plus any interest incurred on that amount from the date the Participant first signed this Contract (the "Repayment Amount"):

- Family Medicine \$480,375
- Internal Medicine: \$835,085
- Paediatrics: \$796,085
- Psychiatry: \$897,581

s.22

Initial here

4.2 The interest referred to in Article 4.1 will be at the Prime rate as it is announced from time to time by the Canadian Imperial Bank of Commerce on Canadian dollar commercial loans.

4.3 The Parties agree that the Repayment Amount is a reasonable pre-estimation of the damages that the Province will suffer in the event that the Contract is terminated before the Participant has completed the Return of Service in full, recognizing that:

- (a) It will cost the Province at least \$239,375 to fund the Participant's postgraduate medical education;
- (b) It will cost the Province approximately \$8,000 to administer the Participant's placement in the community;
- (c) A replacement participant will be required for the Return of Service community and the Province will have to pay the amounts referred to in (a) and (b) above to educate and to administer the placement of the replacement Participant;
- (d) It takes approximately one year to fill a vacancy in an average community of need in British Columbia, and can take much longer in some communities. There will be added costs for the Province to ensure that comparable services are provided in the Return of Service community during this time period, and such costs can be difficult to identify;
- (e) By completing the residency program, the Participant will become eligible to practice medicine in British Columbia, and to bill the Medical Services Plan (MSP) for the provision of health services. If the

Participant does not complete the Return of Service in full in the identified Return of Service community, the Participant will be in breach of this Agreement. Any health services that the Participant provides elsewhere in British Columbia in breach of this Agreement, including any MSP billings in relation to those health services, will give rise to further damages, costs, and expenses to the government, flowing from the Participant's breach of this Agreement. The Province has calculated that, in the 2015-16 fiscal year the average annual income per full time equivalent (FTE) for family physicians/ general practitioners, internists, paediatricians and psychiatrists with a return of services are as follows:

COSTS ASSOCIATED WITH BREACH OF CONTRACT				
	Family Medicine	Internal Medicine	Paediatrics	Psychiatry
Postgraduate medical education plus interest	\$239,375	\$493,085	\$493,085	\$625,581
Cost to administer placement in ROS community	\$8,000	\$8,000	\$8,000	\$8,000
Average annual income per FTE	\$233,000	\$334,000	\$295,000	\$264,000

- 4.4 As of the date of first signing this Contract, the Participant warrants and represents to the Province, and acknowledges and confirms that the Province is relying upon such warranties and representations in entering into the Contract, that:
- (a) The Participant has every intention to complete the Return of Service in full and has no knowledge of any material fact or matter not disclosed to the Province that might prevent the Participant from completing the Return of Service in full as contemplated by this Contract; and
 - (b) The Participant accepts and acknowledges that the Province will suffer losses if the Participant does not complete the Return of Service in full.
- 4.5 Within 30 days following the Contract termination referred to in Article 4.1, the Participant shall pay to the Province the Repayment Amount in full. If the Participant fails to pay the full amount owing by this date, the Province may refer the matter to any other person or entity, for the purpose of collection.
- 4.6 The Province may forgive some or all of the Repayment Amount, if the Participant becomes gravely ill and is unable to complete the contractual obligations or dies before completing their obligations under this Contract.

Article 5 Return of Service

- 5.1 Upon successful completion of the Postgraduate Medical Education, the Participant shall practise medicine on a Full-Time Basis in the clinical discipline for which the Participant has been trained and licenced in their Postgraduate Medical Education, according to the terms of the Return of Service Addendum.
- 5.2 The length of the Participant's Return of Service shall be calculated as one year of service on a Full-Time Basis returned for every year of Postgraduate Medical Education received, up to a maximum of three years. In the event that the Participant becomes unable to practise medicine on a Full-Time Basis during the Return of Service term for any reason, the running of the Return of Service term will be postponed until such time as the Participant resumes the practice of medicine on a Full-Time Basis.
- 5.3 The process by which the Participant is assigned to a Health Authority and community where he/she will provide Return of Service is described at Schedule 1. The Participant acknowledges that Schedule 1 forms part of this Contract, and that the Participant is bound by the requirements in it.
- 5.4 The Participant must arrange a Return of Service placement with designated Health Authority recruiters during the final year of Postgraduate Medical Education.
- 5.5 The Participant will complete the Return of Service Addendum in consultation and with the agreement of the Health Authority.
- 5.6 The term of the Participant's Return of Service shall commence at a time agreed to by the Participant and the Health Authority, but in any event the term shall commence no later than three (3) months from the date on which the CPSBC issues to the Participant a certificate of registration as described at Article 7.1
- 5.7 The Participant will execute the Return of Service Addendum and deliver it to the designated Health Authority recruiter within 14 days of accepting a position with a medical practice offering the Return of Service opportunity.
- 5.8 The Participant will provide the Province with the executed Return of Service Addendum at least 30 days prior to completing Postgraduate Medical Education.

Article 6 Change in Practice

- 6.1 The Participant shall not change his or her Medical Practice during the term of the Return of Service from that specified in subparagraph 5.1 and

in the Return of Service Addendum, except in accordance with subparagraph 6.2.

- 6.2 Nothing in subparagraph 6.1 prevents the Health Authority, with the approval of the Province, from approving changes to the Participant's Medical Practice or to revise the Addendum.

Article 7 Licenses and Qualifications

- 7.1 No later than one month after successfully completing the Postgraduate Medical Education, the Participant shall apply to the CPSBC for a Certificate of Registration and for any other documents necessary to practise medicine in British Columbia.
- 7.2 Nothing in this Contract, including the Addendum, shall in any way obligate the Health Authority to grant or renew the appointment of the Participant to its medical staff or the privileges of the Participant at a facility within the Health Authority.

Article 8 Breaches

- 8.1 In addition to any other provision in this Contract, and for greater certainty, the Participant shall be in breach of this Contract if the Participant:
- (a) Does not begin the Postgraduate Medical Education, in which case the Province may terminate the Contract on the day after the day that Participant was to have begun the Postgraduate Medical Education.
 - (b) Begins but does not complete the Postgraduate Medical Education, in which case the Province may terminate the Contract on the day after the day that the Participant last participated in the Postgraduate Medical Education.
 - (c) Has not applied for the necessary documents as required under subparagraph 7.1.
 - (d) Has not submitted to the Province an Addendum signed with the Health Authority in accordance with subparagraph 5.8, unless no Health Authority agrees to sign the Addendum.
 - (e) Does not begin to provide the Return of Service in accordance with the Addendum in which case the Province may terminate the Contract on the day after the day that the Participant was to have begun the Return of Service.

- (f) Does not complete the Return of Service, in which case the Province may terminate the Contract on the day after the day that the Participant last returned service.
 - (g) Is no longer legally entitled to practise medicine in British Columbia, in which case the Province may terminate the Contract on the day after the day that the Participant is no longer legally entitled to practise medicine in British Columbia.
 - (h) Changes his or her Medical Practice, except in accordance with subparagraph 6.2.
 - (i) Fails to comply with any requirement in Schedule 1.
 - (j) Fails to comply with the requirements contained in the Return of Service Addendum.
- 8.2 The Province may terminate this Contract by giving Notice in writing to the Participant if one or more of the following has occurred:
- (a) A breach of any term described in subparagraph 8.1
 - (b) Any other circumstance arises which in the opinion of the Province; acting reasonably, prevents the Participant from fulfilling his or her Return of Service obligations appropriately.
 - (c) The Participant has breached any other term of this Contract.
- 8.3 For the purposes of subparagraph 8.2 other circumstances may include, but are not limited to, revocation or restriction of the Participant's hospital privileges consistent with the applicable hospital by-laws respecting non-renewal for discipline, competency or wilful disobedience on the part of the Participant, where applicable, but not because of Health Authority need; criminal conviction of the Participant; or any suspension, revocation, or imposition of terms, conditions or limitations on the Participant's Certificate of Registration issued by the CPSBC which is not covered by subparagraph 8.1(g).
- 8.4 For the purposes of subparagraph 8.2, the Contract terminates on the date set out in the Notice, or the date that the Notice is deemed to have been received under Article 16, whichever is later.

Article 9 Dispute Resolution

- 9.1 A dispute between the Participant and either or both of Health Authority and the Province regarding the interpretation, application or operation of

either or both of the Contract or the Addendum, will be resolved through the dispute resolution process set out in this section.

- 9.2 Either the Participant or the Province or the Health Authority may initiate the dispute resolution process in respect of a dispute arising out of the Contract.
- 9.3 Either the Participant or the Health Authority may initiate the dispute resolution process in respect of a dispute arising out of the Addendum.
- 9.4 Where the matter arises out of the Contract, the dispute resolution procedure is:
 - (a) Step one - an informal discussion occurs between the Participant and the Health Authority or between the Participant and the designated representative of the Province for administration of IMG Contracts to attempt to resolve the matter.
 - (b) Step two:
 - (i) if the matter is initiated between the Participant and the Health Authority and is not resolved through the informal discussion, either of the Participant or the Health Authority puts the complaint in writing with full particulars to the Province, or
 - (ii) Where the dispute is directly between the Participant and the Province, the party raising the dispute puts the complaint in writing with full particulars to the other party;
 - (c) Step three - the Province responds within 14 calendar days of receiving the complaint from the Participant or the Health Authority with its proposal for resolution of the issue; where the complaint is alleged by the Province against the Participant, the Participant must respond in writing within 14 days from receipt of the complaint;
 - (d) Step four - if the Province's answer is unacceptable to the Participant or the Participant's answer is unacceptable to the Province the Province and the Participant will agree on a mediator within 14 calendar days.
- 9.5 Where the matter arises out of the Addendum, the dispute resolution procedure is:
 - (a) Step one - informal discussion occurs between the Participant and the Health Authority;
 - (b) Step two:

- (i) if the Participant raises the issue and the dispute is not resolved at Step 1, the Participant submits the complaint in writing with full particulars to the Health Authority;
 - (ii) if the Health Authority raises the issue and the dispute is not resolved at Step 1, the Health Authority submits the complaint in writing with full particulars to the Participant;
 - (c) Step three- within 14 calendar days, the Health Authority responds in writing to the Participant or the Participant responds in writing to the Health Authority;
 - (d) Step four:
 - (i) where the dispute is raised by the Participant and the Participant does not accept the response from the Health Authority, the Participant has 14 calendar days to advise the Health Authority of an intention to proceed to mediation;
 - (ii) where the dispute is raised by the Health Authority and the Health Authority does not accept the response from the Participant, the Health Authority has 14 calendar days to advise the Participant of its intention to proceed to mediation;
 - (e) Step five - within 14 calendar days from when Health Authority receives notice of an intention to proceed to mediation, the parties will name a mediator.
- 9.6. If the parties are unable to resolve a dispute arising out of either the Contract or the Addendum through mediation or are unable to agree on a mediator, the dispute will be referred to an arbitrator as per the *Arbitration Act*.
- 9.7 Each party will pay 50% of the cost of the mediation process and/or the dispute resolution panel process;
- 9.8 The dispute resolution process established under 9.6 is an arbitration agreement for the purpose of the *Arbitration Act*.
- 9.9 The decision of the arbitrator is final and conclusive and no party to the contract will challenge the decision in court or otherwise, except as permitted under the *Arbitration Act*.

Article 10 Reporting

- 10.1 If the Province asks for information relating to this Contract, including but not limited to a report or documentation concerning the performance of the Participant's obligations, or a report or documentation concerning any other matter under or relating to this Contract, the Participant will provide this information as soon as practicable.

Article 11 Amendments

- 11.1 This Contract shall not be amended except by prior written agreement between the Province and the Participant.

Article 12 Relationship of the Parties

- 12.1 The Participant's relationship with the Province shall, during the term of this Contract, be that of an independent contractor. Nothing in this Contract shall be construed to constitute the Participant as a partner, joint venture, employee or agent of the Province for any purpose.

Article 13 Enforceability and Severability

- 13.1 If a court or other lawful authority of competent jurisdiction declares any provision of this Contract invalid, illegal or unenforceable, this Contract shall continue in full force and effect with respect to all other provisions. All rights and remedies under such other provisions shall survive any such declaration.

Article 14 No Waiver Unless in Writing

- 14.1 No waiver of any breach of this Contract shall operate as a waiver of any similar subsequent breach or of the breach of any other provision of this Contract. No provision of this Contract shall be deemed to be waived and no breach excused unless such waiver or consent excusing the breach is in writing and signed by the party that is purporting to have given such waiver or consent. No delay or omission on the part of any party to this Contract shall operate as a waiver of any such right. No waiver or failure to enforce any provision of the Contract shall in any way affect the validity of the Contract or any part of it.

Article 15 Assignment or Transfer

- 15.1 Neither this Contract, nor any of the rights or obligations of the parties arising under this Contract, shall be transferable or assignable by any party to any third party without the prior written consent of the other party.

Article 16 Notice

- 16.1 A Notice given or required to be given under this Contract will be in writing and will be delivered personally or by courier, or sent by postage prepaid mail or by facsimile addressed to the other party at the address set out below or at such other address as either party later designates to the other party in writing. Notice by mail need not be by certified or registered mail.

To the Province:

c/o BC Ministry of Health
Attention: Beverly MacLean-Alley
Clinical Integration, Regulation and Education Division
P.O. Box 9650
Stn. Prov. Gov't
Victoria BC V8W 9P4

To the Participant:

s.22

- 16.2 Where Notice is delivered to the recipient's address set out in Article 16.1: (a) by hand, it will be deemed to be received on the date of its delivery; (b) by prepaid post, it will be deemed to be received on the fifth business day following its mailing; or (c) by facsimile, it will be deemed to be received on the date of transmission if transmitted during the recipient's normal business hours, or on the following business day if transmitted outside of the recipient's normal business hours.

Article 17: Miscellaneous

- 17.1 This Contract shall be governed by and construed in accordance with the laws of British Columbia.
- 17.2 Except to the extent otherwise expressly stated in this Contract, the rights and remedies of the parties are cumulative and are in addition to, and not in substitution for, any rights and remedies provided by law or in equity.
- 17.3 This Contract shall operate to the benefit of and be binding upon the parties to the Contract and their respective successors.
- 17.4 Each party shall promptly do, execute, deliver or cause to be done, executed and delivered all further acts, documents and things in connection with this Contract that the other parties may reasonably require for the purposes of giving effect to this Contract.
- 17.5 Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders.
- 17.6 Any reference in this Contract to any statute is a reference to that statute as amended, restated or re-enacted from time to time.

- 17.7 For greater certainty, Articles 4, 8, 9, 10 as well as any subparagraph, which by its nature or context is intended to survive the termination of this Contract, shall survive the termination of this Contract.
- 17.8 Neither party shall be liable for damages caused by delay or failure to perform its obligations under the Contract where such delay or failure is caused by an event beyond its reasonable control. The Parties agree that an event shall not be considered beyond one's reasonable control if a reasonable person applying due diligence in the same or similar circumstances under the same or similar obligations as those contained in the Contract would have put in place contingency plans to either materially mitigate or negate the effects of such event. Without limiting the generality of the foregoing, the Parties agree that force majeure events shall include natural disasters and acts of war, insurrection and terrorism, and lawful act by a public authority but shall not include the insufficiency of funds or failure to make any payment required hereunder. If a party seeks to excuse itself from its obligations under this Contract due to a force majeure event, that party shall immediately notify the other party of the delay or non-performance, the reason for such delay or non-performance and the anticipated period of delay or non-performance. If the anticipated or actual delay or non-performance exceeds fifteen (15) business days, the other party may immediately terminate the Contract by giving notice of termination and such termination shall be in addition to the other rights and remedies of the terminating party under the Contract, at law or in equity.
- 17.9 Time is of the essence of this Contract.

Article 18 Entire Agreement

- 18.1 This Contract and all documents contemplated by or delivered under or in connection with this Contract, constitute the entire agreement between the Parties with respect to the subject matter of this Contract and supersede all prior agreements, negotiations, discussions, undertakings, representations, warranties and understandings, whether written or oral, express or implied, statutory or otherwise.

SIGNED AND DELIVERED by or on
behalf of the Participant

s.22

(Participant)

s.22

(Please Print Name)

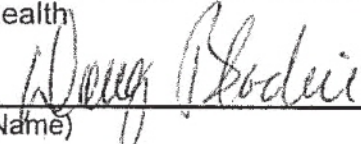
Address:

s.22

s.22

Date:

SIGNED AND DELIVERED by
the Province by an authorized
representative of the Minister of
Health



(Name)

DOUG BLACKIE

(Please Print Name)

Address:

BC Ministry of Health
Health Sector Workforce Division
Attention: Bev MacLean-Alley
P.O. Box 9650 Stn Prov Govt
Victoria BC V8W 9P4

Date: 10 May 2018

s.22