



# NATIONAL UNION OF HEALTHCARE WORKERS

1250 45<sup>th</sup> Street, Suite 200  
Emeryville, CA 94608

510-834-2009 \* 866-968-6849  
[www.nuhw.org](http://www.nuhw.org)

## **Collective Bargaining Agreement with**

### **Kindred Hospital San Francisco Bay Area**

Registered Nurses

**April 1, 2021 – March 31, 2023**

Clinical Laboratory Scientists, X-ray Technologists,  
Respiratory Care Practitioners, Respiratory Therapists,  
Operating Room Technicians, Phlebotomists,  
Material Management Clerks

**April 1, 2021 – March 31, 2023**

## **WEINGARTEN RIGHTS/STATEMENT**

### **Additional Representation Rights:**

The following holding of the U.S. Supreme Court in NLRB v. Weingarten, Inc., shall apply to investigatory interviews conducted by the employer that an employee, upon his/her request, is entitled to have a Union representative present during an investigatory interview in which the employee is required to participate where the employee reasonably believes that such investigation will result in disciplinary action. The right to the presence of a Union representative (Union Organizer or Union Steward) is conditioned upon a requirement that the Union representative be available for participation in such investigatory interview within twenty-four hours, excluding Saturday, Sunday, and Holidays, of the employee's request for his or her presence.

### **Weingarten Rules/Statement:**

“I request to have a Union representative present on my behalf during the meeting because I believe it may lead to disciplinary action being taken against me. If I am denied my right to have a Union representative present, I will refuse to answer accusatory questions and any I believe may lead to discipline.”

**Rule 1:** The employee must make a clear request for Union representation before or during the interview. The employee cannot be punished for making this request.

**Rule 2:** After the employee makes the request, the employer must choose from among three options:

1. Grant the request and delay questioning until Union representation arrives and has a chance to consult privately with the employee;
2. Deny the request and end the interview immediately;
3. Give the employee a choice of having the interview without representation or ending the interview.

**Rule 3:** If the employer denies the request for Union representation and continues to ask questions, the employer commits an unfair labor practice and the employee has the right to refuse to answer. The employer may not discipline the employee for such refusal.

*This page is for informational purposes only and is not part of the collective bargaining agreement.*

## TABLE OF CONTENTS

PREAMBLE .....	1
SECTION 1 – RECOGNITION .....	1
SECTION 2 – HIRING AND PROBATIONARY PERIOD .....	2
SECTION 3 – UNION MEMBERSHIP .....	2
SECTION 4 – VOLUNTARY WRITTEN ASSIGNMENT OF WAGES .....	3
SECTION 5 – WAGES .....	4
SECTION 6 – HOURS OF WORK .....	5
SECTION 7 – EMPLOYMENT & INCOME SECURITY .....	8
SECTION 8 – SENIORITY .....	10
SECTION 9 – ADDITIONAL WORK .....	12
SECTION 10 – WORK DISTRIBUTION .....	13
SECTION 11 – ELIGIBILITY OF BENEFITS .....	13
SECTION 12 – BEREAVEMENT LEAVE .....	13
SECTION 13 – JURY DUTY .....	13
SECTION 14 – PAID TIME OFF (P.T.O.) .....	14
SECTION 15 – LABOR MANAGEMENT COMMUNICATIONS COMMITTEE .....	16
SECTION 16 – HOLIDAYS .....	17
SECTION 17 – HEALTH PROGRAM .....	17
SECTION 18 – GROUP LIFE INSURANCE .....	18
SECTION 19 – SHORT AND LONG TERM DISABILITY INSURANCE .....	18
SECTION 20 – RETIREMENT PLAN .....	18
SECTION 21 – LEAVES OF ABSENCE .....	18
SECTION 22 – DISCRIMINATION .....	19
SECTION 23 – UNIFORMS .....	19
SECTION 24 – MOONLIGHTING .....	19
SECTION 25 – BULLETIN BOARD .....	19
SECTION 26 – CONSCIENTIOUS OBJECTION .....	20
SECTION 27 – UNION REPRESENTATIVES' VISITATIONS .....	20
SECTION 28 – SHOP STEWARDS .....	21
SECTION 29 – COMPLAINTS .....	22

SECTION 30 – DISCHARGE FOR CAUSE.....	22
SECTION 31 – GRIEVANCE AND ARBITRATION PROCEDURE.....	23
SECTION 32 – SAFETY.....	25
SECTION 33 – SAVINGS CLAUSE.....	25
SECTION 34 – MANAGEMENT RIGHTS .....	25
SECTION 35 – NO STRIKE-NO LOCKOUT.....	26
SECTION 36 – PATIENT CARE .....	26
SECTION 37 – RESPIRATORY STAFFING .....	27
SECTION 38 – COMPLIANCE WITH LAW .....	28
SECTION 39 – MANDATORY VACCINATIONS.....	28
SECTION 40 – TERM OF AGREEMENT.....	29
APPENDIX A – WAGES.....	31
APPENDIX B – DIFFERENTIALS.....	33
MEMORANDUM OF UNDERSTANDING – REGARDING DIFFERENTIALS AND PAY PRACTICES .....	34
SIDE LETTER RE SICK PAY: .....	35
SIDE LETTER RE MARKET ADJUSTMENTS: .....	36

## **PREAMBLE**

**THIS AGREEMENT** is made and entered into by and between **KINDRED HOSPITAL-SAN FRANCISCO BAY AREA** 2800 Benedict Drive, San Leandro, California, hereinafter called the "**Employer**", the "**Facility**" or the "**Hospital**" and the **NATIONAL UNION OF HEALTHCARE WORKERS**, hereinafter called the "**Union**" or the "**NUHW.**"

## **SECTION 1 – RECOGNITION**

### **1.1 COVERED EMPLOYEES**

The Employer recognizes the Union as the exclusive bargaining agent for employees covered by this Agreement. This Agreement covers employees of the Employer who work at Kindred Hospital San Francisco Bay Area located at 2800 Benedict Drive, San Leandro, California 94577 (the "Facility") in two separate bargaining units and in one of the following job classifications: (1) All Regular Full time and Regular Part time RNs (also including Wound Care RNs) and (2) All Regular Full time and Regular Part time Clinical Laboratory Scientists, Radiologic Technologists, Respiratory Care Practitioners, Respiratory Therapists, Operating Room Technicians, Phlebotomists, Material Management Clerks.

This Agreement does not apply to stationary engineers, confidential and managerial employees, guards, supervisors, professional employees, other than those set forth above, nor to any other employees who are not specifically covered by this Agreement.

### **1.2 EFFICIENT OPERATIONS AND CONSTRUCTIVE RELATIONSHIP**

Both parties recognize that the efficient and uninterrupted operation of the Facility is to their mutual advantage and in the interest of the Facility's patients. The purpose of this Agreement is to establish and maintain a harmonious and constructive relationship between the parties in order to achieve those results. The Employer and the Union agree that all Kindred employees, physicians and managers will treat each other, regardless of position, with dignity, respect, courtesy and trust. The forgoing principles shall also apply in providing service to patients and visitors.

### **1.3**

#### **a. Subcontracting**

If the Employer intends to subcontract any work involving the tasks presently performed by employees covered by this Agreement, it shall give ninety (90) days prior written notification to the Union. This obligation does not apply to the use of registries. The Employer and the Union will meet after notice is provided in an attempt to reach mutual agreement on issues concerning such contracting. If the parties are unable to reach agreement by the end of the one hundred twenty (120) day period, the No Strike, No Lockout provision of this Agreement will be suspended and the Union may serve ten (10) days written notice of its intent to strike.

b. Notice of Sale or Lease

In the event this Facility is sold, assigned, leased, or transferred, the Hospital will notify the Union, in writing or via electronic mail, at least sixty (60) calendar days prior to such action. Such notice shall include the name and address of the prospective new owners, assignee, lessee, or transferee. The Hospital will meet with representatives of the Union to bargain over the effects of the transaction on bargaining unit employees and such bargaining shall begin no later than forty-five (45) days prior to the completion of any transaction.

## **SECTION 2 – HIRING AND PROBATIONARY PERIOD**

2.1 HIRING EMPLOYEES

Kindred may hire employees from any source and shall be the sole judge of the fitness of any applicant for the job.

2.2 PROBATIONARY PERIOD

A probationary period of ninety (90) days from the date of first hiring shall be established for newly hired full-time and part-time employees. For per diem employees the probationary period shall be six (6) months or five hundred twenty (520) hours of work, whichever is later. During the probationary period the employee may be discharged for any reason, which in the opinion of Kindred is just and sufficient, and there shall be no recourse to Section 31, Grievance and Arbitration Procedure.

2.3 NEW MEMBER ORIENTATION

The Union shall be given thirty (30) minutes to provide a new member orientation during the Employer's normal orientation program for new hires in the bargaining unit.

## **SECTION 3 – UNION MEMBERSHIP**

3.1 BECOMING A MEMBER OR PAYING A FEE

Not later than the thirty-first (31st) day following the beginning of employment, or the effective date of this Agreement, or the execution of this Agreement, whichever is later, every employee subject to the terms of this Agreement shall, as a condition of employment, become and remain a member of the Union paying the periodic dues and initiation fees uniformly required, or, in the alternative, shall, as a condition of employment, pay a fee in the amount equal to the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership, or, if the employee objects to the payment of that agency fee, such employee shall as a condition of employment pay that portion of the agency fee that is related to the Union's representation costs. The Union shall comply with its legal obligation under *Communications Workers v. Beck* to inform every new employee in writing that he or she has the right to be a nonmember, subject only to the duty to pay initiation fees and dues,

and that nonmembers have the right to be given sufficient information to enable the employee to intelligently decide whether to object and to be apprised of any internal Union procedures for filing objections.

### 3.2 LISTS OF EMPLOYEES

No later than the tenth (10<sup>th</sup>) day of the month, the Employer will provide to the Union in electronic form a list of new hires, terminations and transfers into or out of the bargaining unit. The list will include the employee's full name, date of hire, current hire date (seniority date), employee ID number, home address, telephone number, department, job title, wage rate (including any wage rate changes for transfers), status (e.g., regular full-time, regular part-time, per diem or temporary), and date of hire, termination (including reason for termination such as resignation, retirement, discharge, layoff) or transfer, as applicable.

Hard copies of the above data will be provided only upon separate request, no more than twice a calendar year.

### 3.3 AN EMPLOYEE'S FAILURE TO COMPLY WITH THIS SECTION

Employees who are required herein, to maintain membership or make payments described in Section 3.1 above, and fail to do so and employees who are required herein to join the Union and fail to do so shall, upon written notice to the Facility and upon examination of documentary proof that an employee failed to comply with 3.1 as above described, be terminated, unless the Facility has reasonable grounds for believing that the employee was denied the ability to comply with 3.1 or terminated for reasons other than failure to comply with 3.1 as defined above.

### 3.4 NOTICE TO EMPLOYEE

At the time of employment, a new employee who will be subject to this Agreement shall be informed of the Agreement and shall read or have paraphrased the provisions of this Section 3 and Section 4 following.

## **SECTION 4 – VOLUNTARY WRITTEN ASSIGNMENT OF WAGES**

### 4.1 DUES AND COPE

During the term of the Agreement, the Facility will honor written assignments of wages to the Union for payment of Union initiation fee and dues, and honor written assignment of wages to the Union's Committee on Political Education (COPE) fund, provided such assignments are submitted in a form agreed to by the Facility and the Union. The Union will pay whatever startup costs are applicable for the implementation of the program.

### 4.2

The Facility will promptly remit the monies deducted pursuant to such assignments with a written statement of the names of the employees for whom deductions were made. Such data will be provided in the form of the bank or service organization's computer run of deductions.

#### 4.3 DUES DEDUCTIONS

Normally, the deduction of such assigned wages will be made on the first (1<sup>st</sup>) pay period of each month for the then current Union membership fees. However, the Union and the Facility may make other arrangements by mutual consent.

#### 4.4 INDEMNIFICATION

The Union will hold harmless the Facility against any claim or obligation which may be made by any person by reason of the deduction of Union membership fees, including the cost of defending against any such claim or obligation. The Union will have no monetary claim against the Facility by reason of failure to perform under this Section.

### **SECTION 5 – WAGES**

#### 5.1 SCHEDULE OF WAGES

The minimum straight-time hourly rates of pay shall be shown in APPENDIX A – WAGES attached hereto and made a part hereof.

#### 5.2 PAYDAY

If the Facility's payday is on a Friday, the Facility will make reasonable efforts to pay employees working after 6:00 p.m. by the conclusion of their last shift which begins on Thursday. If the Facility's payday falls on an employee's day off, the Facility will make reasonable efforts to have the employee's paycheck available by the end of the shift on the previous work day. If the Facility uses symbols on payroll checks, such symbols shall be explained to an employee on request. In addition, the Facility will make reasonable efforts to issue paychecks no later than 3:30 p.m. on a payday. An employee shall be notified of a change in his or her regular rate of pay.

#### 5.3 MEALS

All employees must clock in and out for meal periods.

#### 5.4 SHIFT DIFFERENTIAL

A shift differential shall be granted to all qualified employees working the night shifts. See APPENDIX B – Differentials for rates.

#### 5.5 SHIFT DIFFERENTIAL ELIGIBILITY

To qualify for shift differential the employee must work a minimum of four (4) hours during the shift differential period. Hours worked before or after the shift differential period will be paid at the employee's straight-time rate.

The shift differential will be included in the calculation of the overtime rate for hours worked that are subject to payment of shift differential. However, this shift differential shall not be included in the rate of pay for paid time off.

## **SECTION 6 – HOURS OF WORK**

### **6.1 EMPLOYEE CATEGORIES**

#### **a. Full-Time**

A full-time employee is one who is regularly scheduled to work thirty (30) or more hours per week.

#### **b. Part-Time**

A part-time employee is one who is regularly scheduled to work twenty-four (24) or more hours per week.

#### **c. Per Diem**

A per diem employee is an employee who works a variable number of hours or shifts as required by the Employer's work needs and the employee's availability and is employed through an in-house pool or in-house registry. To maintain their status, per diem employees must be available to work one (1) shift per week and one (1) major holiday per year (Thanksgiving, Christmas Eve, Christmas Day, and New Year's Eve). Per diem employees who work two (2) or more shifts (each shift being a minimum of eight hours) in a pay period shall receive a differential for all hours worked during that pay period. Per Diem employees who work fewer than two (2) shifts (each shift being a minimum of eight hours) during a pay period will not receive a differential for that pay period. See **APPENDIX B – Differentials** for rates.

#### **d. Temporary Employee**

Temporary employees are those employees who are hired for a specific period of time or on an "on call" basis.

#### **e. Categories of Employees Employed**

The Facility shall be the sole judge of which categories of employee should be hired and how many employees in each category should be hired.

### **6.2 CHANGE OF CATEGORY**

Part-time or per diem employees who for a period in excess of nine (9) consecutive pay periods, work thirty (30) or more hours per week, will, upon the request of the employee, be reclassified as a regular full-time employee.

### 6.3 HOURS OF WORK

#### a. Work Week

The workweek is defined as the seven (7) day period commencing at 6:00a.m. on Sunday and ending at 5:59a.m. on the following Sunday. Hours worked during a workweek are calculated in accordance with this definition.

#### b. Forty (40) Hours/Five (5) Days a Week or Thirty-Six (36) Hours/Three (3) Days a Week

The workweek for full time employees shall be either:

- i. forty (40) hours, five (5) days per week; or
- ii. thirty-six (36) hours, three (3) days per week.

The Hospital retains the right to determine all staffing levels and all staffing assignments, both for specific individuals and for groups of employees. The regular work for most full-time employees shall be eight (8) hours, or twelve (12) hour shifts. The Hospital may implement new schedules for job position(s), job classifications, shifts or otherwise or scheduling procedures with thirty (30) days' notice to the Union. The Hospital shall promptly negotiate the effect(s) of such changes with the Union, upon request, but such effects bargaining shall not delay the implementation of the new schedules or scheduling procedures beyond **forty-five (45) days of the Hospital's notice.**

### 6.4 OVERTIME

#### a. Overtime for Employees Scheduled to Work Eight (8) Hour Shifts

- i. When an employee is required to work in excess of eight (8) hours in any one (1) work day, the employee shall be paid overtime at the rate of time and one-half (1 1/2) the regular rate of pay for the hours worked over eight (8).
- ii. When an employee is required to work in excess of forty (40) hours in workweek, the employee shall be paid over- time at the rate of time and one-half (1 1/2) the regular rate of pay for the hours worked over forty (40).
- iii. When an employee is required to work in excess of twelve (12) hours in any one (1) workday, the employee shall be paid double (2x) times the regular rate of pay for the hours worked over twelve (12).

#### b. Overtime for Employees Scheduled to Work Twelve (12) Hour Shifts

- i. When an employee is required to work in excess of twelve (12) hours in any one (1) workday, the employee shall be paid overtime at the rate of double (2x) times the regular rate of pay for the hours worked over twelve (12).

- ii. An employee who works in excess of forty (40) hours in a workweek shall be compensated at one and one-half (1 1/2) times the employee's regular rate of pay for all hours worked over forty (40) hours in the workweek.
- iii. Extra Shift on Scheduled Day Off. The Employer will provide bargaining unit employees working twelve (12) hour shifts and working an extra shift on a day off, time and one-half (1-1/2) for the first eight (8) hours and double time (2x) for all remaining hours.
- iv. Overtime Computation. Except for rest periods, only hours actually worked shall be considered hours worked for the purpose of computing overtime.

## 6.5 SCHEDULING

- a. Wherever practical and possible in the light of the Employer's requirements, the Facility will endeavor to schedule two (2) consecutive days off per week. No employee shall be required to work two (2) full shifts within a period of twenty-four (24) hours; provided, however, that if in an emergency the Employer cannot secure the consent of sufficient employees to work as is necessary within a unit or department, the Facility may require such work by assignment in the inverse order of seniority.

- b. Posting of Schedule

The Facility will post work schedules at least two (2) weeks in advance and notify promptly an employee whose posted work schedule is to be changed.

- c. Weekend Rotation

The Employer will exercise its best efforts to retain current scheduling practices. The parties agree that changing schedules and shifts may be necessary to provide patient care and the Hospital retains the right, if patient care needs so require, to make schedule adjustments as required.

## 6.6 REPORTING PAY

An employee required by the Employer to report to work, and who does report, will be utilized and paid for half (1/2) the usual or scheduled day's work, but in no event fewer than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay. Any payment for work not performed shall not be treated as hours worked for any purpose. If the employee is offered work and elects to go home, then the employee shall not receive any reporting pay.

## 6.7 REST PERIODS

Each employee shall be granted a rest period of fifteen (15) minutes during each half (1/2) shift without deduction in pay.

6.8 FLOATING

The Employer will discuss floating at the Union's request if bargaining unit employees are asked to float from one unit to another more than twice every six (6) months. The issue of floating (including but not limited to any decision to float employees) will not be subject to the grievance and arbitration process.

6.9 TEMPORARY WORK ASSIGNMENT OUTSIDE OF UNIT

A unit employee may be temporarily assigned to work in a classification not covered by this Agreement provided that the employee voluntarily agrees in writing to the assignment. While so employed, the unit employee will not be subject to the terms and conditions of this Agreement. Absent the Union's written consent, any such temporary assignment shall not exceed sixty (60) days. When the temporary assignment ends, the unit employee shall return to his or her former classification and position without any loss of seniority.

6.10 ASSIGNMENT OF NIGHT SHIFT UNIT SECRETARIES

The Employer may, in its sole discretion, place a registered nurse in the position of unit secretary during the night shift. Any such placement by the Employer shall not be subject to the grievance and arbitration process.

## **SECTION 7 – EMPLOYMENT & INCOME SECURITY**

- 7.1 The Hospital will continue to make every effort to avoid displacing employees (e.g., reduction in force, reduction in hours, daily cancellations, job elimination on a temporary, indefinite or permanent basis, etc.) and in so far as it is able, it will provide employment and income security to bargaining unit employees.

7.2 CANCELLATION/FLEXING

a. Every Effort to Avoid Cancellations/Flexing

Prior to making hours reductions on a daily or hourly basis, the Hospital shall make efforts to avoid daily cancellations/flexing. After making such efforts, the Hospital may make hours reductions on a daily or hourly basis for operational reasons (for example, a reduction in census or acuity), subject to any applicable terms in this Agreement. Such reductions can be made even after the schedule has been posted or during a shift. Cancellation/flexing must be approved by a supervisor, department manager or designee. Eligible employees who are cancelled/flexed may take the day off without pay or use PTO (where applicable), at the employee's discretion.

b. Order of Cancellation/Flexing

Subject to patient care staffing needs, including adequate qualifications of employees, when it is necessary and unavoidable to cancel or flex an employee, the Hospital shall cancel/flex employees in the following order:

- i. The Hospital agrees to first seek volunteers, for all of the following categories before imposing mandatory cancellation/flexing. Volunteers may be accepted at any point in the process. Where the number of volunteers exceeds the number of employees to be cancelled/flexed, the Employer shall select volunteers, by seniority by shift, job position, and unit, in the following order:

- (1) full-time employees;
- (2) part-time employees;
- (3) per diem employees;
- (4) temporary employees, agency or registry workers.

- ii. Prior to canceling full-time and part-time employees on their regular schedule for low census, the Hospital will first cancel:

- (1) agency or registry workers;
- (2) temporary employees;
- (3) part-time then full-time employees working overtime or on extra shifts; and
- (4) per diem employees.

- iii. The Hospital will then cancel:

- (1) part-time employees; and
- (2) full-time employees, based on rotating seniority by shift, job position, and unit, if appropriate.

Within two (2) weeks of any request by the Union, the Hospital will provide the Union with a complete and accurate information regarding cancellations in any unit or department and a current seniority list for any unit or department.

An employee with more than twenty (20) years of seniority shall not be cancelled, unless she/he is the least senior employee available.

An employee with more than ten (10) but less than twenty (20) years of seniority shall not be cancelled more than one (1) time per six-month period (January through June and July through December), unless she/he is the least senior employee available.

- c. Once cancelled/flexed, an employee is considered off the schedule for that shift (or portion thereof), and shall not be required to maintain contact with the Hospital or be

available to work, unless the employee has agreed to accept and be compensated for On-Call status, consistent with this Agreement, for the shift or portion thereof.

d. Cancellation/Flexing Notice.

The Hospital shall notify affected employees as soon as the need for cancellation/flexing is known to the Hospital. The Hospital shall call-off/flex employees at least two (2) hours prior to the commencement of their scheduled shift, if known. If the employee is not notified two (2) hours before the shift, the Employer shall pay Reporting Pay when the employee reports to work. Reporting Pay provisions of this Agreement shall apply.

- e. The parties understand that executing the mandates of this Article can be difficult at times in a healthcare setting. Accordingly, the parties agree that, generally, the remedy for violations of the rotation for cancellations by rotating seniority shall be that the employee who is incorrectly cancelled shall have her/his next turn in the rotation skipped. However, one exception is when an employee is incorrectly cancelled and should therefore have her/his next turn skipped but is instead cancelled on this next turn, in which case the Union may seek an economic remedy. In determining an economic remedy for violations of contractual provisions regarding cancellations/flexing, the arbitrator may consider mitigating circumstances.

## **SECTION 8 – SENIORITY**

### **8.1 DEFINITION**

Unless otherwise specified, seniority shall commence on the most recent date of hire into the bargaining unit by the Employer as a regular full-time employee and shall mean total service with the Facility thereafter, subject to termination of seniority under Section 8.5. Seniority shall have no application during the first ninety (90) days of continuous employment. Part-time and Per diem employees shall have seniority among themselves.

### **8.2 DISPLACEMENT AND RECALL**

- a. Seniority shall be by department and shall apply in cases of displacement or re-call, except in cases where specialized work or skill or trained personnel is required.
- b. The Facility will make reasonable efforts to inform employees of displacements as soon as practical prior to the displacement.
- c. In the event of a permanent displacement (layoff) affecting at one time, ten (10) or more employees, the Employer agrees to bargain with the Union over the amount, if any, of severance pay to be paid to the displaced employees. The Union must request bargaining in writing within ten (10) days of notification that a permanent displacement will occur or within ten (10) days after the permanent displacement occurs.

### 8.3 PERMANENT VACANCIES

#### a. Posting of Vacancies

All permanent vacancies in regular full-time and part-time classifications covered by this Agreement shall be posted on the Company's website for seven (7) days before they are filled. Current employees who wish to be considered for such vacancies shall submit a written request to the Employer's on-site Human Resources Coordinator (or any other individual designated in the posted notice).

#### b. Filling a Vacancy

If no qualified employee submits a written request by 4 p.m. of the seventh (7th) day of the posting, the Employer shall be free to fill the vacancy from any source. The Employer shall select the qualified employee with the greatest seniority (giving preference first, regardless of seniority, to full-time employees within the department, then part-time employees within the department, then per diem employees within the department and then to any non-departmental employee with the greatest seniority). However, the Employer is not required to select any employee, regardless of his or her seniority and regardless of the number of applicants for the vacancy, if within the year prior to the employee's request the employee received a written warning or a disciplinary suspension and/or if the employee did not receive an overall rating of "satisfactory" or better on the employee's most recent evaluation form.

#### c. Thirty-Day Trial Period

Any employee who is selected to fill a vacancy by this procedure shall be given a thirty (30) day trial period. In the event, the Employer deems that the employee has not performed in a satisfactory manner, the Employer shall return the employee to his or her former position, without any break in department or bargaining unit seniority, and re-post the vacancy.

#### d. Determination When a Vacancy Exists

The Facility, in its sole discretion, shall determine when there is a permanent vacancy.

### 8.4 NO BUMPING

It is understood that in none of the foregoing instances does this Agreement contemplate a bumping procedure.

### 8.5 LOSS OF SENIORITY

Seniority shall be terminated by:

- a. Discharge;
- b. Resignation;

- c. Absence in excess of twelve (12) consecutive months by reason of industrial injury for employees with fewer than five (5) years of service, or absence in excess of twenty-four (24) consecutive months by reason of industrial injury for employees with five (5) or more years of service, unless extended by mutual consent;
- d. Absence in excess of six (6) consecutive months by reason of illness or non-industrial injury, unless extended by mutual consent;
- e. Failure to return from a leave of absence in accordance with the terms of the leave;
- f. Displacement of twelve (12) months or more;
- g. Failure to report to work for three (3) consecutively scheduled shifts (no call/no show) where the absence has not been excused by the Employer.

## **SECTION 9 – ADDITIONAL WORK**

- 9.1 The Employer shall attempt to replace a scheduled employee who is absent for any reason (e.g., vacation, call off due to illness, etc.) by offering work in the following manner and order, provided such employee has made him/herself available through procedures established by the Employer.
  - a. Calling part-time employees by seniority until they have worked forty (40) hours in a week;
  - b. Calling per diem employees on an equitable basis;
  - c. Calling full-time employees by seniority.

The parties agree that this process shall be administered in such a manner as to minimize the expense of overtime and the Hospital shall retain the right to provide available work to an employee that will not incur overtime.

- 9.2 The Employer may first offer additional work to employees who were called off, provided such work is offered within the same pay period that the employees were called off.
- 9.3 A part-time or full-time employee who chooses not to be called for additional work will advise the Employer in writing and it is agreed that the Employer will not make such calls.
- 9.4 Overtime will also be offered by seniority on a rotating basis.

## **SECTION 10 – WORK DISTRIBUTION**

The Employer will exercise its best efforts to distribute the workload equitably among employees; however, this Section shall not be subject to the grievance and arbitration procedure in this Agreement.

## **SECTION 11 – ELIGIBILITY OF BENEFITS**

Only full-time and part time employees, who have successfully completed their probationary period, are entitled to benefits in accordance with the provisions of the Employer's Employee Handbook. Employees working fewer than twenty-four (24) hours per week, per diem, and temporary employees are not eligible to receive benefits other than those required by law. In the event that the Employer ceases, for whatever reason, to use twelve (12) hour work shifts in this Facility, then only full-time employees and those part time employees working a minimum of thirty (30) hours per week shall be entitled to benefits in accordance with the provisions of the Employer's Employee Handbook.

## **SECTION 12 – BEREAVEMENT LEAVE**

Bereavement leaves up to three (3) days with pay shall be granted to eligible employees in cases of a death in the employee's immediate family which shall be defined to include spouse, mother, father, daughter, son, sister, brother, grandparents and parents-in-law. An additional two (2) days with pay shall be allowed for the employee to attend a funeral out of state of California as long as the employee provides documentation of an out-of-state funeral. Pay for bereavement leave shall be at the same base rate and for the same number of hours the employee would have received had the normal schedule been worked, up to a maximum of eight (8) hours per day.

## **SECTION 13 – JURY DUTY**

Eligible employees who are required to serve on a jury shall be paid the difference between jury duty pay and their regular pay. Payment shall be at the same base rate and for the same number of hours the employee would have received had the normal schedule been worked, up to a maximum of eight (8) hours per day and forty (40) hours per work week. Paid jury duty shall be capped at fifteen (15) days in any twelve (12) month period. As a condition to receiving jury duty pay, the employee must notify the Employer as soon as practicable after receiving the summons for jury duty and must provide the Employer with documentation of his/her jury duty pay.

## SECTION 14 – PAID TIME OFF (P.T.O.)

14.1 Except as noted below, eligible full-time employees shall be entitled to accrue, vest, utilize and cash out PTO to the same extent as hourly non-bargaining unit employees in this Facility.

14.2 PTO 36 Hour Schedule accrual rates are as follows:

<b>Years of Service</b>	<b>PTO Accrual Rate per Hour Paid</b>	<b>Calendar Year Maximum (Annual Available PTO if 1872 Paid Hours per Year)</b>	<b>Combined Maximum Balance (Accrued/ Available PTO Hours)</b>
Up to 5th Year Anniversary	.06414	15 Days/120 Hours	160 Hours
From 5th Year Anniversary to 10th Year Anniversary	.07694	18 Days/144 Hours	160 Hours
10th Year Anniversary and thereafter	.09832	23 Days/184 Hours	160 Hours

PTO 40 Hour Schedule accrual rates are as follows:

<b>Years of Service</b>	<b>PTO Accrual Rate per Hour Paid</b>	<b>Calendar Year Maximum (Annual Available PTO if 1872 Paid Hours per Year)</b>	<b>Combined Maximum Balance (Accrued/ Available PTO Hours)</b>
Up to 5 <sup>th</sup> Year Anniversary	.05770	15 Days/120 Hours	160 Hours
From 5 <sup>th</sup> Year Anniversary to 10 <sup>th</sup> Year Anniversary	.06920	18 Days/144 Hours	160 Hours
10 <sup>th</sup> Year Anniversary and thereafter	.08844	23 Days/184 Hours	160 Hours

Years of service will be determined as of an employee's most recent date of hire at the Facility.

### 14.3 PTO CALCULATION

The amount of PTO is calculated by multiplying the PTO Accrual Rate Per Hour Paid by all hours paid (including holiday, PTO, jury duty, bereavement leave and overtime hours) each biweekly pay period (up to the stated maximum per calendar year).

- a. The maximum number of hours that vests each pay period can be calculated by dividing the employee's maximum accrual by twenty-six (26). The employee vests in accrued PTO based on a maximum of seventy-two (72) hours per biweekly pay period (for employees working fewer than twelve (12) hour shifts the maximum is eighty (80) hours per bi-weekly pay period). Any PTO accruals that exceed the biweekly limit will be carried over to vest in a following pay period in which the employee has fewer paid hours than the biweekly limit.
- b. PTO will not accrue during unpaid time or when an employee is on an authorized leave of absence unless otherwise required by law.
- c. The maximum amount of banked PTO an employee may have on the books at any given time will be one hundred-sixty (160) hours.

PTO will stop accruing when the employee's PTO balance reaches the combined maximum balance or the calendar year maximum accrual, whichever occurs first. PTO will resume accruing when the employee begins to use PTO and reduces the combined balance below the allowed maximums, so long as the calendar year maximum accrual has not been met. During any period that an employee's PTO account balance and/or annual accrual have reached allowed maximums, PTO does not accrue and any forfeited hours are not added retroactively to the employee's PTO account.

- 14.4 Accrued PTO hours shall accrue and become vested on a biweekly basis. PTO can only be used if vested; employees may not borrow against non-vested PTO. Eligible employees accrue PTO from date of hire but accrued PTO is not vested and available for the use of a new employee until the beginning of the first full pay period following the employee's first thirty (30) days of employment.
- 14.5 PTO may accrue from year to year; or in the alternative, an employee may elect to cash out all or part of PTO accrued each year at one hundred percent (100%) of the employees' then hourly rate; provided that the employee provides the Employer with written notice of the amount of PTO to be cashed out.
- 14.6 PTO is to be used for illness or other personal reasons, including vacation. An employee who leaves work early due to an illness or emergency may use PTO for the time remaining on his or her shift, but PTO may not be used to compensate employees who are late for work. PTO may only be used to substitute for hours that the employee is regularly scheduled but does not work. Except for the cash out provision of Section 14.5, PTO may not be used to supplement pay for time away from work.
- 14.7 PTO must be used in a minimum of two (2) hour increments.
- 14.8 The Employer may require a physician's statement for employees who are absent three (3) or more consecutive days of work because of illness or injury.

- 14.9 Except for absences due to illness or emergencies, PTO must be scheduled in advance. PTO shall be granted on a first come, first served basis, except under the following circumstance:

Employees who elect to use PTO for vacation of one (1) week or more must request it in writing by February 1 of each year each year. Such vacation will be taken through February 1 of the following year. The Employer will respond to all requests made before February 1, by March 1. Based on the Employer's scheduling needs and staffing requirements, the Employer shall attempt, but is not required, to grant the employee's requested vacation.

Any requests for two (2) weeks or more of PTO made after February 1 may be denied based on late submission alone. Requests for two (2) weeks or more of PTO for vacation made within sixty (60) days of the first (1st) day of vacation may be denied due to late submission alone.

For all vacation requests, where two (2) or more employees in the same job classification, on a timely basis, make the same or overlapping requests and the Employer is unable to accommodate all of the requests, it shall use seniority in determining which request, if any, to grant. Once a request is granted, it shall not be changed absent the mutual consent of the Employer and the employee.

- 14.10 An employee who changes his or her status such that he or she is no longer eligible to accrue PTO (i.e., from full time to per diem) shall be paid his or her accrued PTO, whether or not vested, at the employee's hourly rate in effect immediately prior to the employee's status change.
- 14.11 Upon termination, all accrued PTO, whether or not vested, shall be payable to the employee except that an employee terminated within his or her probationary period shall not be entitled to be paid for any accrued PTO, whether or not vested.
- 14.12 In the event that the Employer changes its PTO Plan with respect to non-represented employees working in the Facility, before implementing any such changes with respect to the employees covered by this Agreement, it shall notify the Union and engage in good faith bargaining.

## **SECTION 15 – LABOR MANAGEMENT COMMUNICATIONS COMMITTEE**

The Employer and the Union agree to establish a Labor Management Communications Committee. The Committee will be composed of not less than two (2) nor more than five (5) employees and at least one (1) Employer representative. It will meet at least once every three (3) months, or more frequently as mutually agreed, to discuss and attempt to resolve any job-related issues, including those related to job security, workload, assignments, patient care, safety, infectious disease control and any other work-related issues. The parties agree that such meetings

shall generally be limited to two (2) hours at a time, unless the parties agree otherwise. Committee member employees who attend the committee meetings will be paid for their time spent in the committee meeting at the straight-time hourly rate, not to exceed two (2) hours of pay, but such time shall not be considered for purposes of the payment of overtime.

## **SECTION 16 – HOLIDAYS**

16.1 The Employer recognizes the following holidays:

New Year's Day	Thanksgiving Day
Memorial Day	Christmas Day
Independence Day	Labor Day

16.2 Observance of the holiday will be on the first, second, and third shifts that begin on the actual holiday.

16.3

- a. An eligible employee who works an eight (8) hour shift will receive holiday pay up to a maximum of eight (8) hours for a holiday recognized by the Employer. If the eligible employee works fewer than forty (40) hours per week, his/her pay will be pro-rated.
- b. An eligible employee who works a twelve (12) hour shift will receive holiday pay up to a maximum of twelve (12) hours for a holiday recognized by the Employer. If the eligible employee works fewer than thirty-six (36) hours per week, his/her pay will be pro-rated.
- c. Full-time employees who work on a holiday shall receive time and one-half (1-1/2) for all hours worked in addition to the holiday pay set forth in Subsections (a) and (b) above. Part-time and on call employees shall continue to receive time and one-half for all hours worked on the designated holidays.

## **SECTION 17 – HEALTH PROGRAM**

The Hospital will extend to eligible bargaining unit member employees the opportunity to participate in the same health and dental insurance plan(s) as it offers from time to time to its non-exempt, non-bargaining unit employees. Eligible employees who participate in the health insurance or dental plans shall pay the same premiums as non-exempt, non-bargaining unit employees. The Hospital reserves the right to change, alter, amend or eliminate benefits and health and dental insurance plan(s) and cost thereof provided any such action is consistent with the changes made to non-exempt, non-bargaining unit employees in the Hospital.

## **SECTION 18 – GROUP LIFE INSURANCE**

Employees covered by this Agreement shall be entitled to the life insurance and death and dismemberment insurance program offered by the Employer.

## **SECTION 19 – SHORT AND LONG TERM DISABILITY INSURANCE**

Employees covered by this Agreement shall be entitled to the Short Term and Long-Term Disability Insurance Plans offered by the Employer.

## **SECTION 20 – RETIREMENT PLAN**

Employees covered by this Agreement shall be entitled to the Kindred 401(k) Retirement Savings Plan offered by the Employer.

## **SECTION 21 – LEAVES OF ABSENCE**

### **21.1 PERSONAL LEAVES**

Personal leaves shall be granted at the discretion of the Employer.

### **21.2 PERSONAL MEDICAL LEAVES**

The Employer will grant an employee a leave of absence for a medical condition verified by a physician in conformance with state, federal and local laws. The maximum leave shall be one year.

### **21.3 WORK RELATED MEDICAL LEAVES**

The Employer will abide by state, federal and local law regarding the granting of work-related medical leaves to employees. The maximum leave shall be one year. Employees on a work-related medical leave shall receive up to twelve (12) weeks health insurance continuation.

### **21.4 EXTENSIONS**

Extensions of any leave beyond the period required by law or Facility policies are at the discretion of the Employer.

### **21.5 RETURN FROM LEAVE**

Upon return from a leave of absence, an employee will be returned to his/her former position or an equivalent position.

21.6 EMPLOYEE HANDBOOK GOVERNS

The leave of absence policies in the Employer's Employee Handbook shall govern employee leaves of absences to the extent not specifically addressed herein.

21.7 UNION LEAVES

The Employer will grant one employee at any given time a leave up to one (1) year for the purpose of working for the NUHW. With four (4) weeks' notice, an employee may return to duty at any time during or at the end of the one (1) year period.

## **SECTION 22 – DISCRIMINATION**

The Employer and the Union agree that neither the Union nor the Employer shall discriminate in respect to employment and continuing employment, by reason of Union activity, political affiliation, race, color, creed, national origin, disability, veteran status, sex, age, sexual orientation or gender identity.

## **SECTION 23 – UNIFORMS**

When employees are required to wear uniforms or special type work clothes while in the employ of the Facility, the cost of laundering and furnishing same shall be borne by the Facility, provided that the Facility shall not be required to furnish or launder apparel traditionally worn by such employees in hospitals generally. The term "uniform" includes wearing apparel and accessories of distinctive design or color.

Employees may take one clean uniform home so as to avoid the need to change clothes at the Facility.

Employees shall exercise reasonable care in maintaining their uniforms in good condition, given normal wear and tear, and shall return their uniforms to the Facility upon termination and prior to receiving their final paycheck. Employees shall be notified to these requirements upon receipt of a uniform.

## **SECTION 24 – MOONLIGHTING**

The Union will use its best efforts to cooperate with the Facility to prevent moonlighting that interferes with the employee's efficient performance of his/her duties with the Facility.

## **SECTION 25 – BULLETIN BOARD**

25.1 The Facility will provide a bulletin board directly next to the main cafeteria entrance for posting notices provided by the Union. This bulletin board shall be designated as a NUHW board and shall be equipped with a protective covering.

- 25.2 Upon submission by the Union to a designated representative of the Facility of a Union notice officially approved by the Union containing no editorial comment, the Facility will promptly post such notice on the bulletin board. Such notice will remain posted for a reasonable time commensurate with its purpose.

## **SECTION 26 – CONSCIENTIOUS OBJECTION**

The Hospital will continue the current practice of attempting to accommodate sincere moral or religious objections that may require an employee in good conscience to refuse direct participation in cases of withdrawal of life support systems. The Parties recognize, however, that patient care needs may require the Hospital to refuse such accommodations if reasonable alternatives are not available for the care of the patient.

## **SECTION 27 – UNION REPRESENTATIVES' VISITATIONS**

- 27.1 The Field Representative or qualified representative of the Union shall be allowed to visit the Facility for the purpose of ascertaining whether or not this Agreement is being observed or to observe job conditions under which employees are employed. This privilege shall be exercised reasonably and shall be related to the representative's responsibility for seeing that the Facility is in compliance with the Agreement.
- 27.2 The Field Representative or qualified representative of the Union shall report to a designated management official when entering the Facility and such representative shall not interfere with the normal conduct of work in the Facility. The Union representative may confer with employees, including Shop Stewards, only upon their own free time and in public areas within the Facility such as cafeterias or coffee shops or in designated non-work areas.
- 27.3 In the case of a tour to observe conditions, the Field Representative or qualified representative shall notify the designated management official where he/she intends to go within the permitted areas of the Facility. The Field Representative shall not engage in discussion or distribution of material in work areas.
- 27.4 In the case of a grievance investigation, the Field Representative shall make an appointment in advance with the designated representative of management. Prompt and reasonable arrangements will be made so that a joint investigation of the grievance can be made.
- 27.5 The Field Representative assigned to the Facility may request a job description or job descriptions of bargaining unit positions if such descriptions exist. Such description or descriptions shall be given to the Field Representative in all cases where they are available or, if in the process of revision, as soon as the revised description or descriptions become available.

- 27.6 Employees appointed or elected to the Union Negotiating Committee shall receive full credit towards accrual of seniority and benefits, including any payment thereof, for all time missed from their regular work schedules due to negotiations.
- 27.7 The Facility and the Union shall reasonably apply the provisions of this Section.

## **SECTION 28 – SHOP STEWARDS**

- 28.1 The Union may select a reasonable number of Shop Stewards for the Facility. The Union shall provide written notification to the Facility Administrator or her/his designee of the names of Shop Stewards as they are appointed and as their appointment ends.
- 28.2 It is preferred that the Shop Stewards shall be regular full-time or part-time employees with at least twelve (12) months of employment at the Facility.
- 28.3 The Shop Steward shall only deal with the representatives of the Facility designated to handle grievances.
- 28.4 The function of the Shop Steward shall be to assist employees in settling problems arising in connection with the application or interpretation of the provisions of this Agreement directly with the Facility Administrator or such other person as the Facility may designate and to participate, at the option of the employee, in the Grievance Conference described in Section 31, Grievance and Arbitration Procedure.
- 28.5 The Shop Steward shall perform his/her functions outside of his/her working hours on his/her own time; provided, however, that if grievance meetings are scheduled during working hours, participating stewards shall not suffer any loss in pay.
- 28.6 The Shop Steward shall not direct any employee how to perform or not perform his/her work, shall not countermand the order of any supervisor, and shall not interfere with the normal operations of the Facility or any other employee. His/her activities as a Shop Steward shall in no way interfere with his/her assigned duties as an employee.
- 28.7 The Facility's designated representative is only required to meet with one (1) Shop Steward on any grievance.
- 28.8 In connection with investigatory interviews required by the Facility in which an employee reasonably believes that such investigation will result in disciplinary action, an employee upon his or her request shall be entitled to have a Union representative, Field Representative, and/or Shop Steward present, provided that such disciplinary interviews are not delayed by the inability to have both Union representatives present. It is understood that the role of the Union representative be strictly in accord with NLRB v. WEINGARTEN. In those cases where there are two (2) Union representatives present, there shall be only one (1) spokesperson, and the other representative shall serve only as observer.

## **SECTION 29 – COMPLAINTS**

- 29.1 It is hoped that most questions arising under this Agreement can be settled short of following the formal Grievance Procedure. The Facility recommends that an employee who has a claim or complaint discuss the matter with his/her supervisor. If the employee prefers, however, the employee may first consult with a Union official. There will be no retaliation against any employee for presenting a claim or complaint or for consulting a Union official in the first instance.
- 29.2 If an employee has any complaints, which the employee believes have not been properly considered by the supervisor, the employee may confer with the Administrator or his/her designated representative. At this conference, the employee may be accompanied by a Union official. The employee shall be entitled to an answer within a reasonable length of time.
- 29.3 Included among the subjects upon which conferences may be requested are problems relating to verbal warnings, workloads, and adequate staffing. It is agreed that such cases or subjects are not subject to the Grievance Procedure except as otherwise specifically provided in this Agreement. However, conferences may be requested in cases of disciplinary layoff or discharge, and such cases shall be subject to the Grievance Procedure, including arbitration, as provided below.
- 29.4 An employee who receives a written warning or counseling memorandum shall be given a copy of the warning and shall sign a receipt which indicates the employee acknowledges having received the document. Acknowledging receipt of such document shall not constitute an admission of the employee's agreement with the substance of the warning. An employee may grieve a written warning or counseling memorandum provided the grievance is presented in writing within ten (10) working days upon receipt of the warning or memorandum. Letters of warning and counseling memoranda shall be given consideration based upon the seriousness of the incident and the length of time since the occurrence of the incident.
- 29.5 Periodic performance evaluation reports are intra-Facility records and are not subject to the provisions of this Section or the Grievance Procedure. Upon request, an employee may have a copy of his or her performance evaluation.

## **SECTION 30 – DISCHARGE FOR CAUSE**

- 30.1 The Facility shall have the right to discharge or suspend any employee for just cause.
- 30.2 The Facility may draft such reasonable policies as may be deemed necessary for governing the conduct of employees. Where such rules are not included in the Employer's Employee Handbook at the time the parties enter into this Agreement, the Employer must send a copy of any such changes to the Union at least thirty (30) days in advance of the effective date of intended implementation.

### 30.3 USE OF DISCIPLINARY DOCUMENTS

No disciplinary documentation shall be utilized for progressive discipline beyond twelve (12) months of its issuance, provided no further occurrence of the same nature has taken place within that time, in which case the twelve (12) month period will start over as of that time. In the case of a disciplinary action for patient care issues, disciplinary documentation shall not be utilized for progressive discipline beyond twenty-four (24) months of its issuance, provided no further occurrence of the same nature has taken place within that time frame, in which case the twenty-four (24) month period will start over as of that time.

## **SECTION 31 – GRIEVANCE AND ARBITRATION PROCEDURE**

- 31.1 Any problem arising in connection with the application or interpretation of the provisions of this Agreement, including the problems of discipline and discharge, which cannot be amicably adjusted between an employee of the Facility and the Department Head, or such other person as the Facility Administrator may designate, shall be reduced to writing, signed by the employee or Union representative, whichever is appropriate, and submitted to a Facility representative designated by the Facility. No grievance shall be considered unless it has been first presented in writing within fifteen (15) calendar days of the alleged incident(s) giving rise to the grievance. All incidents leading to disciplinary action must be presented to the employee within thirty (30) calendar days of the incident(s). Failure to do this will make the disciplinary action untimely. The only exception shall be in a case of patient abuse, substantiated by State authorities, where the disciplinary time limits may be extended.

The Union has the right to grieve the changes to the Employer's Employee Handbook, regarding rules, regulations and employment policies as to their being reasonable when they are applied.

### 31.2 GRIEVANCE CONFERENCE

#### a. Step 1

Within seven (7) days of receipt of the written grievance by the Facility, the Union, the employee, and the Department Manager or Chief Clinical Officer or his or her designee shall meet and attempt to resolve the matter informally. Additional meetings may be scheduled by agreement. Within ten (10) calendar days after the meeting, the Manager or her/his designee shall respond to any grievance in writing regarding the Employer's decision. Such response shall be to the Union.

#### b. Step 2

Within seven (7) days of receipt of the written answer by the Facility, the Union may appeal the determination to Step 2. Within fourteen (14) days after the appeal to Step 2 the Union, affected employee(s) and the CEO or his or her designee shall meet and attempt to resolve the matter. Additional meetings may be scheduled by mutual agreement. Within ten (10) calendar days after the last meeting, the Labor Relations

Counsel or her/his designee shall respond to any grievance in writing regarding the Employer's decision. Such response shall be to the Union.

### 31.3 ARBITRATION REQUEST

Following management's response on the grievance as referenced above, any party wishing to pursue the grievance will have no more than thirty (30) days from date of management's response, in Step 2 above, provide the other party written notice of the intent to move the matter to arbitration. Failure to meet this deadline will result in the automatic denial and dismissal of the grievance.

### 31.4 ARBITRATION

- a. Upon receipt of a timely, written request for arbitration, the Union and the Facility shall within thirty (30) days select an impartial third party to be the Arbitrator to hear and determine the issues. The decision of the Arbitrator shall be final and binding on all parties, subject to the limitations of jurisdiction and authority contained in Section 31.7 of this Article, below. In the event the parties cannot agree on the selection of an impartial third party, within thirty (30) days the moving party shall request a list of seven (7) Labor Arbitrators from the Federal Mediation and Conciliation Service. The parties shall, within five (5) days of the receipt of the list, alternately strike names from such list until one name remains, which person shall be the Arbitrator.
- b. The fee of the Arbitrator, as well as other expenses connected with the formal hearing, shall be borne equally by both parties.
- c. Unless both parties agree in writing to waive the use of a Court Reporter, a Court Reporter will be used for every arbitration hearing and the parties will share equally the cost of the original and two (2) copies of the transcript, as well as the per diem fee of the Court Reporter.

31.5 A Field Representative or qualified representative of the Union may, as relates to a particular grievance or investigation concerning the interpretation or application of this Agreement, inspect relevant material in such employee's personnel file upon which the Facility is or will be relying.

31.6 The time limits provided for herein may be waived only by the mutual written agreement of the Facility and the Union.

### 31.7 POWERS OF THE ARBITRATOR

- a. The arbitrator shall have no power to add or subtract or modify any of the terms of this Agreement. In the event the arbitrator finds a breach of the Agreement, he/she must specifically state the provision violated and the evidentiary grounds supporting his/her decision. Jurisdiction shall extend solely to claims of violation of specific written provisions of the Agreement and involve only the interpretation and application of such Agreement.

- b. All claims for back wages may be limited to the amount the employee otherwise would have earned, less any employment and unemployment benefit compensation the employee received. The award may consider other legal doctrines, as argued by the parties, such as mitigation of damages.

## **SECTION 32 – SAFETY**

The Facility will comply with applicable Federal and California laws and regulations pertaining to occupational safety and health. Likewise, it is the duty of each employee to comply with all health and safety regulations of the Employer. In the event any safety or health hazard is detected, it shall be promptly reported to the Employer. The Employer shall then have a reasonable period of time to remedy the situation. If, in the judgment of the employee or the Union, the Employer shall thereafter fail to completely remedy the situation, the employee or the Union shall be free to contact the Industrial Safety Commission of the State of California for appropriate action. Disputes concerning conditions of health and safety within the Facility shall not be subject to the complaints and the grievance and arbitration procedure of this Agreement, but shall be subject to the applicable administrative procedures established by Federal and California laws.

## **SECTION 33 – SAVINGS CLAUSE**

If any provision of this Agreement or the application of such provisions to any persons or circumstances be ruled contrary to applicable law, the remainder of this Agreement or the application of such provision to other persons or circumstances shall not be affected thereby.

## **SECTION 34 – MANAGEMENT RIGHTS**

- 34.1 It is mutually agreed that it is the duty and right of the Administration to manage the Facility and direct the workforce.
- 34.2 The Employer retains the right to hire, direct and schedule the workforce; to plan, direct, and to control operations; to discontinue or reorganize any or all departments or operations; to transfer, to promote, layoff, and discharge employees for just cause; to implement reasonable rules, regulations and employment policies; to introduce new or improved methods of facilities and in all respects to carry out the ordinary and customary functions of Management. All other rights of the Employer are also expressly retained even though not particularly enumerated above. The foregoing provisions shall be subject to the terms and conditions of this Agreement. The terms and conditions set forth in the Employer's Employee Handbook shall govern the employment of employees covered by this Agreement to the extent that the Employee Handbook is not inconsistent with this Agreement.

## SECTION 35 – NO STRIKE-NO LOCKOUT

There shall be no strike, slowdown, walkout, shutdown, or other stoppage of work by the Union or Union employees and no lockout by the Employer during the life of this Agreement.

The observance of a picket line at covered Employer which is established by a labor organization presently recognized by the Employer for purposes of collective bargaining, and which picket line is authorized by the Central Labor Council shall not be a violation of this Agreement; provided, however, that if the Union supports another Union's picket line during the term of this agreement, the Union recognizes its obligation to maintain essential services.

## SECTION 36 – PATIENT CARE

The Facility, its employees and the Union understand and agree that it should be the objective of all parties to provide high quality healthcare. The Facility and employees must be committed to serving the Hospital's patients by delivering the highest quality care possible. The parties agree and understand that high quality patient care can help be achieved if management and employees discuss and address patient care issues together.

### 36.1 PURPOSE

The Union and Hospital agree that quality patient care and an appropriate working environment require adequate staffing and that staffing levels within all departments vary with census, acuity, shift, specialization, changes in the specialization of units, structural changes in delivery of patient services and qualitative changes in average acuity. The purpose of the Patient Care Committee (PCC) is to improve Patient Care and working conditions (for example, staffing, patient services delivery or work design). The Facility shall not require an employee to perform a work assignment outside the lawful scope of his/her/their license, however the situation must be brought to the attention of management prior to refusing any assignment for a determination as to whether the assignment is properly within the scope of license.

### 36.2 COMPOSITION

The PCC shall consist of four (4) bargaining unit employees, chosen by the Union. The Union Representative(s) may attend and participate in any meeting of the PCC; however, they shall not be considered a member of the committee. The Union shall designate the members of the PCC in writing. All participation by bargaining unit employees on the PCC or on the Joint Practice Committee (described below) shall be on a strictly voluntary basis. The Hospital may designate up to an equal number of PCC attendees as the number designated by the Union. At a minimum, the Hospital's CEO, Chief Clinical Officer and/or Director of Quality Management shall make best efforts to attend at least one (1) hour of a PCC meeting each month.

### 36.3 MEETINGS

The Hospital will grant up to two (2) hours of paid release time per month for each of the designated PCC members to attend PCC meetings and/or Joint Practice Committee meetings. PCC release time shall be paid at the employee's base rate of pay and shall not be considered hours worked for any purpose. The Union shall provide at least seven (7) calendar days' written notice to the Hospital of scheduled PCC meetings. A written agenda shall be prepared and submitted by the Union to Management at this time and if no agenda is provided the meeting shall not be scheduled. Site visits by regulatory agencies or unforeseen staffing needs (to maintain compliance with applicable state law and regulations) may require the rescheduling of PCC meetings. The PCC shall maintain an attendance roster and a record of who attends each PCC meeting, and shall provide such record to the Hospital after each PCC meeting.

### 36.4 JOINT PRACTICE COMMITTEE

If the PCC wishes to bring an issue before the Joint Practice Committee, the PCC shall first make a written recommendation to the CEO of the Hospital, or her/his/their designee. The Hospital recognizes the important role of the PCC and will duly consider the PCC's recommendations. If the Hospital and the PCC cannot resolve the issue informally, the PCC may refer the issue to the Joint Practice Committee. A meeting of the Joint Practice Committee shall be convened within fifteen (15) days of the referral by the PCC, but not more frequently than once per month. The Joint Practice Committee shall be composed of:

- a. two (2) members designated by the Union (including at least one bargaining unit employee); and
- b. two (2) members designated by the Hospital (management/non-unit employee).

The recommendation of the Joint Practice Committee shall be reached within thirty (30) days of the committee's last meeting regarding the issue. In carrying out their work, the Committee shall take into account area standards regarding staffing, state and federal laws, physician recommendations regarding quality-of-care business needs and any other relevant information.

## **SECTION 37 – RESPIRATORY STAFFING**

### 37.1 PURPOSE

Safe respiratory care is largely dependent on staffing adequate numbers of competent respiratory therapists (RTs). Understaffing puts at risk the welfare and safety of patients and does not allow care consistent with national guidelines and community practice. The parties agree to meet to discuss RT staffing on a regular basis. RT staffing issues should be included on the PCC Agenda for discussion to address concerns.

### 37.2 ADEQUATE STAFFING

If the Respiratory Department is short staffed (because of call outs or high acuity, for example), management will make every effort to call in coverage.

## **SECTION 38 – COMPLIANCE WITH LAW**

The Employer shall comply with any and all applicable local, state and federal laws and regulations, current or enacted during the term of this Agreement.

## **SECTION 39 – MANDATORY VACCINATIONS**

The Hospital is permitted to mandate vaccinations including, but not limited to flu and COVID vaccines, subject to pregnancy, disability, or other medical exceptions and religious objections. A failure to mandate the flu vaccine for one or more flu seasons shall not waive this right in future years. Should an employee decline vaccination(s) for valid religious or medical reasons, they must comply with all then current approved procedures for approval of the declination and follow all procedures for use of PPE and protection of patients and other staff from exposure.

## SECTION 40 – TERM OF AGREEMENT

This Agreement shall be effective:


1. For RNs:

April 1, 2021 and shall remain in full force and effect without change, addition, or amendment through March 31, 2023, and shall be renewed from year to year thereafter subject to reopening by either party upon ninety (90) days' written notice to the other party prior to March 31, 2023 or any March 31 anniversary date thereafter.

2. For Clinical Laboratory Scientists, Radiologic Technologists, Respiratory Care Practitioners, Respiratory Therapists, Operating Room Technicians, Phlebotomists, Material Management Clerks:


April 1, 2021 and shall remain in full force and effect without change, addition, or amendment through March 31, 2023 or any March 31 anniversary date thereafter.

KINDRED HOSPITAL-  
SAN FRANCISCO BAY AREA


  
\_\_\_\_\_  
Edward Goddard  
Vice President of Labor Relations  
Kindred

Date: 11-1-2022

NATIONAL UNION OF  
HEALTH CARE WORKERS

  
\_\_\_\_\_  
Sal Rosselli  
President  
NUHW

Date: 1/17/23

  
\_\_\_\_\_  
Abid Yahya  
Director, NUHW

## NUHW BARGAINING COMMITTEE MEMBERS

Lana Lopez  
Registered Nurse

Adrienne Green  
Operating Room Technician

Celeste Heinrich  
Laboratory Technician

Rica Joson  
Registered Nurse

Michael Klak  
Respiratory Therapist

Steve Prasad  
Radiology Technologist

Paul Rai  
Radiology Technologist

Terry Riley  
Respiratory Therapist

Pam Rose  
Radiology Technologist

Rohit Sharma  
Radiology Technologist

Nancy Reis  
Registered Nurse

Luciano Virgilio  
Registered Nurse

Irina Wojciechowski  
Phlebotomist

## APPENDIX A – WAGES

### 1. **Wage Increases for all employees**

Effective the first full pay period following:

- a. May 1, 2021, the Employer will provide a 2% wage increase to all full-time and part-time employees with six (6) months or more of employment.
- b. December 1, 2021, the Employer will provide a 1.5% wage increase to all full-time and part-time employees with six (6) months or more of employment.
- c. December 1, 2021, the Employer will provide a 1.5% wage increase to all Per Diem employees with six (6) months or more of employment.
- d. May 1, 2022, the Employer will provide a 1.5% wage increase to all full-time and part-time employees with six (6) months or more of employment.
- e. December 1, 2022, the Employer will provide a 1.5% wage increase to all full-time and part-time employees with six (6) months or more of employment.
- f. December 1, 2022, the Employer will provide a 1.5% wage increase to all Per Diem employees with six (6) months or more of employment.
- g. Each of the above increases will be for those employees with six (6) months or more of service as of the effective date of the increase.
- h. Each of the above across the board increases will be effective the first full pay period following the date above.

2. The following is minimum Hiring Scales to establish the starting wage rates of employees hired into a bargaining unit position. Placement of new unit employees into the scale will be based on years of prior experience as determined at Kindred's sole discretion. The scale will not be used for any purpose other than to establish minimum rates upon hire into the unit. Once hired into the unit, new employees will be eligible for the annual increases, as described above, but not any further scale increases. The scale will not be adjusted upward by the annual increases, above.

- a. Employees at or above the maximum rates on the hiring grid: These employees shall receive wage increases as per the above. Effective January 1, 2023, these employees shall receive bonuses in lieu of subsequent across the board wage increases equal to the amount of the across the board increase for all hours worked since the last across the board increase.

YEARS OF EXPERIENCE											
Classification	0 Minimum	1	2	3	4	5	6	7	8	9	10 Maximum
Registered Nurse	\$44.50	\$45.15	\$47.41	\$49.78	\$52.27	\$54.88	\$57.62	\$58.78	\$59.95	\$61.15	\$62.37
RN Advance Skills	\$47.00	\$49.06	\$51.51	\$54.09	\$56.79	\$59.63	\$60.83	\$62.04	\$63.28	\$64.55	\$64.55
Respiratory Therapists (RT)	\$35.69	\$36.38	\$38.20	\$40.11	\$42.12	\$42.96	\$43.82	\$44.70	\$45.59	\$46.50	\$47.43
Lab Tech (CLS)	\$37.50	\$39.38	\$40.16	\$40.97	\$41.79	\$42.62	\$43.47	\$44.34	\$45.23	\$46.13	\$47.06
Phlebotomist	\$19.50	\$20.48	\$20.88	\$21.30	\$21.73	\$22.16	\$22.61	\$23.06	\$23.52	\$23.99	\$24.47
Radiology Tech	\$29.00	\$30.45	\$31.36	\$32.30	\$33.27	\$34.27	\$35.30	\$36.36	\$37.45	\$38.57	\$39.73
Materials Clerk	\$16.00	\$16.80	\$17.30	\$17.82	\$18.36	\$18.91	\$19.66	\$20.45	\$21.27	\$22.12	\$23.01
OR Tech	\$27.00	\$28.35	\$29.20	\$30.08	\$30.98	\$31.91	\$32.87	\$33.85	\$34.87	\$35.91	\$36.99

## APPENDIX B – DIFFERENTIALS

	Per Diem Differential	Shift Differential	Weekend 1 Differential	Weekend 2 Differential
Rad Tech	10%	1.50	N/A	1.50
RT/RCP	10%	2.50	N/A	8.50
RN	10%	3.80	N/A	3.80
Lab Tech	10%	1.50	N/A	1.50
Phlebotomist	10%	1.50	N/A	1.50
O.R. Tech	10%	1.50	N/A	1.50
Materials Clerk	10%	N/A	N/A	N/A

	On Call/Hr.	Call-In 2hrs. Minimum	Preceptor	Extra Shift Premium
Rad Tech	5.00	At time and one half	2.00	N/A
RT/RCP	N/A	N/A	2.00	6.25
RN	N/A	N/A	2.00	12.50
Lab Tech	5.00	At time and one half	N/A	N/A
Phlebotomist	N/A	N/A	N/A	N/A
O.R. Tech	N/A	N/A	N/A	N/A
Materials Clerk	N/A	N/A	N/A	N/A

## **MEMORANDUM OF UNDERSTANDING – REGARDING DIFFERENTIALS AND PAY PRACTICES**

During bargaining for this initial contract discussion was conducted regarding maintaining existing differentials for bargaining unit staff with the one (1) exception of adding Respiratory Therapists to those eligible for the Preceptor differential (at the same rates as RNs and Rad Techs). It was the intent of the parties to continue certain existing pay practices without change and to administer them in the same manner as before the existence of this Agreement, i.e., per diem differential.

Specifically, the Hospital will continue to apply certain differentials (such as the Extra Shift Differential and the New Hire Bonus) when it is necessary to incent staff to work extra shifts or encourage new hires to accept open positions. The Employer has discretion to discontinue said differentials when such incentives are no longer necessary. However, when a bonus will be put in place (e.g., an extended extra shift or a “New Hire” or “Refer a Friend” bonus) the Hospital will notify the Union of such a bonus as soon as possible prior to implementation and will provide the Union with ten (10) days’ notice of its intent to terminate such bonus.

With regard to per diem differentials paid to employees who are hired in that status or to employees who reduce their status from benefited to per diem, the parties agree that only employees with three (3) or more years of experience in their classification, regardless of Employer, will be eligible for the per diem differential. However, the parties agree that the Hospital will not change the pay rates of any employees who become per diem or become benefited and who were hired prior to the May 22, 2017, ratification of this Agreement. In addition, when an employee is hired per diem, he/she shall be informed in writing what his/her base rate is and if he/she is receiving or not receiving a per diem differential.

The parties agree that this MOU is an enforceable contract with valid mutual consideration.

## **SIDE LETTER RE SICK PAY:**

Applicable to all benefitted (meaning, entitled to PTO under the applicable collective bargaining agreement) NUHW represented employees at Kindred Hospital-San Francisco Bay Area in the RNs and Tech Units (“Covered Employees”).

By and through their undersigned representatives, the parties hereby agree to the following, effective January 1, 2023 (“Effective Date”).

(1) Covered Employees shall continue to receive and be able to use paid time off (“PTO”) for sick leave and other purposes, under the terms of the applicable collective bargaining agreements.

(2) All Covered Employees will continue to be able to use PTO for any reason permitted by the Healthy Workplaces, Healthy Families Act of 2014, Labor Code Section 245, et seq., in addition to any reason consistent with the language and/or past practice under each CBA.

(3) Effective January 1, 2023, Covered Employees will no longer receive additional paid sick leave benefits, separate and apart from the CBA, under the Kindred Healthcare Employee Handbook, California Supplement (rev. December 2018) (“Handbook Supplement”). Extra-contractual paid sick leave accrued prior to the Effective Date will remain available for use by the Covered Employee, consistent with the Handbook Supplement.

(4) The Hospital agrees to a **1% (one percent)** increase to base wages effective on the first full pay period following January 1, 2023 for agreement to acknowledge termination of the additional paid sick leave benefit program as outlined above. Lump Sum Bonus caps do not apply to these increases.

(5) Non-benefitted employees represented by NUHW are eligible for paid sick leave benefits as required by California law as long as they meet eligibility requirements.

## **SIDE LETTER RE MARKET ADJUSTMENTS:**

First full pay period following February 1, 2022: 1.5% (one- and one-half percent) wage increase for all full-time and part-time RNs and RTs.

First full pay period following February 1, 2022: 1% (one percent) wage increase for all full-time and part-time employees who are not RNs or RTs.

First full pay period following February 1, 2023: 1% (one percent) wage increase for full-time and part-time RNs and RTs.

RNs above includes RNs, Dialysis RNs, and Advanced Skills RNs. RTs above includes RTs and RCPs.

The above wage increases specifically apply even to those employees who are at or above the maximum rates on the hiring scales at the time of the wage increases.

The above wage increases apply only to those who are employed at the time of ratification of this agreement.

## **THE SEVEN POINTS OF JUST CAUSE FOR DISCIPLINE**

If the answer to these seven questions is **YES**, Management has a just cause for discipline:

1. **Fair Notice** – Did Management make the worker aware of the rule or policy which they are being accused of violating?
2. **Prior Enforcement** – Has Management recently enforced the rule or policy or penalized other workers for violating the same rule or policy?
3. **Due Process** – Did Management conduct an interview or hearing before issuing the discipline, take action promptly and list charges precisely?
4. **Substantial Proof** – Was Management's decision to accord discipline based on credible and substantial evidence?
5. **Equal Treatment** – Is the punishment Management is proposing consistent with the punishment other workers received for the same or substantially similar offense?
6. **Progressive Discipline** – During the disciplinary process, did Management issue at least one level of discipline that allowed the employee an opportunity to improve?
7. **Mitigating and Extenuating Circumstances** – Was the discipline proportional to the gravity of the offense, taking into account any mitigating, extenuating or aggravating circumstances?

*This page is for informational purposes only and is not part of the collective bargaining agreement.*