

**COLLECTIVE BARGAINING AGREEMENT**

**FOR**

**KENMORE MERCY HOSPITAL**

**AND**

**COMMUNICATIONS WORKERS OF AMERICA, AFL-CIO**

**LOCAL 1133**



**February 1, 2009 – January 31, 2013**

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**Article 1  
Agreement**

This Agreement made and entered into this 1<sup>st</sup> day of February, 2009 by and between Kenmore Mercy Hospital, hereinafter referred to as the “Employer/Hospital” and the Communications Workers of America, AFL-CIO, hereinafter referred to as the “Union”.

**Article 2  
Responsible Union Employer Relationship**

Section 1. The Employer/Hospital is charged with the public trust of rendering uninterrupted attention and care to the patients of Kenmore Mercy Hospital. The parties agree to promote and improve the mutual interests of patient care as well as of employees and to set forth herein the Agreement of the parties covering rates of pay, hours of work and conditions of employment.

Section 2. The Employer/Hospital and the Union recognize that it is in the best interests of both parties, the employees and the public that all dealings between them continue to be characterized by mutual responsibility and respect. To insure that this relationship continues and improves, the Employer/Hospital and the Union and their respective representatives at all levels will apply the terms of this contract fairly in accord with its intent and meaning and consistent with the Union’s status as the exclusive bargaining representative of all employees covered by this contract. Each party shall bring to the attention of all employees in the units covered by this contract, including new hires, their purpose to conduct themselves in a spirit of responsibility and respect and of the measures they have agreed upon to insure adherence to this purpose.

**Article 3  
Recognition**

Section 1. The Employer/Hospital hereby recognizes the Union as the exclusive bargaining representative for the purpose of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment for all employees in the

collective bargaining unit certified by the National Labor Relations Board in case No. 3-RC-9876.

**Included:** All full-time and regular part-time registered nurses employed by the Employer/Hospital at its Elmwood Avenue, Kenmore; Riverside/Blackrock Family Care, Buffalo; Ken-Ton Family Care and Tonawanda facilities.

**Excluded:** All nurse practitioners, other professional employees, office clerical employees, technical employees, service and maintenance employees, guards and per diems as defined in the Act.

Section 2. The Employer/Hospital shall provide the Union on a monthly basis a list of all newly hired employees and additions to the bargaining unit, a list of terminations and deletions from the bargaining unit, a list of name and address changes and an alphabetical bargaining unit list with social security numbers.

#### **Article 4 Non-Discrimination**

Neither the Employer/Hospital nor the Union shall discriminate against any employee, in any matter relating to wages and conditions of employment, because of race, color, creed, religion, national origin, sex, age, marital status, veteran status, citizenship, disability status, sexual preference, or activity or lack of activity on behalf of the Union in accordance with applicable State and Federal laws.

#### **Article 5 Union Membership**

Section 1. Each employee who is a member of the Union on the execution date of this Agreement shall remain a member thereof as a condition of his/her continued employment. Each employee hired on or after the date of this Agreement may elect to join the Union not later than the thirty-first (31<sup>st</sup>) consecutive day following his/her date of hire. If the employee elects to join the Union, he/she shall remain a member thereof as condition of his/her continued employment. Any member of the Union may act on his/her membership on the anniversary date of this Agreement or within thirty (30) days thereafter.

Section 2. An employee hired after the date of this Agreement not wishing to join the Union shall be required to pay to the Union an agency fee equal to the amount of Union dues as a condition of his/her continued employment. An employee of the Employer/Hospital prior to the signing of this Agreement, may elect not to join the Union and shall be required to pay an agency fee as a condition of employment.

#### **Article 6 Dues Deduction**

Section 1. The Employer/Hospital agrees to make deductions of proportionate amounts of Union membership dues or agency fees, hereinafter referenced to as “dues or fees”, each payroll period and initiation fees from the pay of an employee, upon receipt of a dues or fees deduction authorization card, signed by such employee, and to pay over to the Union the amounts thus deducted no later than ten (10) days after the end of the preceding month during which deductions were made. Dues or fees deductions will begin as soon as possible after receipt of the signed authorization card in accordance with the Employer’s/Hospital’s normal payroll procedures. The request for dues or fees deduction may be revoked by the employee at any time upon their written request to the Employer/Hospital.

Section 2. The Employer/Hospital agrees to make payroll deductions of Union dues and one (1) initiation fee or agency fees when authorized to do so by the employee on the appropriate form in an amount certified to the Employer/Hospital by the Secretary-Treasurer of the Union and to pay over to the Secretary-Treasurer of the Union any amounts so deducted. Changes in the amount of the initiation fee, dues and agency fees will be certified to the Employer/Hospital thirty (30) calendar days prior to the effective date of the change.

Section 3. The Employer/Hospital agrees to furnish the Union the following information about each employee covered by this Agreement on a monthly basis and on a computer report or in some other manner agreeable to both Employer/Hospital and Union: Social Security number, payroll/employee number, name, sex, category of employee, Union Local number, authorized dues or fees deduction, department code, title code, hourly rate, seniority date, residence address (including zip code), birth date, amount of dues deducted, amount of initiation fees deducted by the Employer/Hospital in a prior month. The following information will also be provided: employer name, mailing address, contact person and telephone number, dues month and year and dues deduction frequency, bi-weekly.

The information listed above will be taken from Employer/Hospital records and will be sent to the Union with the dues and fees collected no later than ten (10) days after the end of the preceding month during which deductions were made.

Section 4. The Employer/Hospital assumes no responsibility either to the employee or to the Union for any failure to make or for any errors made in making such deductions, but will correct any errors made in making such deductions in the payroll period following notice of such errors. The Union further agrees to hold the Employer/Hospital harmless for any and all claims arising out of claims under this Article.

## **Article 7 COPE Deductions**

Section 1. The Employer/Hospital agrees that, upon receipt of an individual written request in a form approved by the Employer/Hospital and signed by an employee covered by this Agreement, the Employer/Hospital will deduct twenty-six (26) times per year from such employee’s wages the amount indicated by the employee on the COPE deduction form, and forward the full amount thus deducted to the appropriate union’s committee on political education. The request may be revoked by the employee at any time upon their written

request to the Employer/Hospital, and such request should be directed to the appropriate Employer/ Hospital representative.

Section 2. The Employer/Hospital assumes no responsibility either to the employee or to the Union for any failure to make or for any errors made in making such deductions, but will correct any errors made in making such deductions in the payroll period following notice of such errors. The Union further agrees to hold the Employer/Hospital harmless for any and all claims arising out of claims under this Article.

## **Article 8 Union Representation**

Section 1. The Union may select from employees in the bargaining unit union stewards for the purpose of handling grievances or for any other legitimate union business. Union officers, executive board members and chief stewards shall be considered to be stewards for the Union.

Section 2. The Union shall furnish the Employer/Hospital with a list of designated union stewards inclusive of name, work area and shift on an annual basis. The Union will then give written notice to the Employer/Hospital of any change in stewards as they occur.

Section 3. Stewards shall restrict their activities to the handling of grievances and other legitimate Union business. In this connection, stewards shall be provided a reasonable amount of time excused with pay that will be reflected on the employee's time card. The following represents examples for which Union business will be paid by the Employer/Hospital:

- a.) time spent in meetings agreed upon between the Union and the Employer/Hospital;
- b.) time spent in processing grievances;
- c.) time spent in grievance meetings or arbitration hearings where the steward's presence is required by the Union;
- d.) time spent in representing employees at corrective action investigations and/or meetings.

If the Employer and the Union mutually agree to schedule a grievance or investigatory meeting prior to the beginning of a shift or after the completion of a shift, the steward/employee will be paid for all time spent in such meeting.

Section 4. The union stewards shall obtain the approval of their supervisors where appropriate before attending to grievance matters or other legitimate Union business. Such approval shall not be reasonably withheld.

Section 5. Local union officers and the executive board members shall be granted unpaid time as outlined below to perform the duties of their offices without loss of category of employment or benefits:

- a.) union officers up to **six (6)** days per pay period; and
- b.) executive board members, up to **five (5) days per board member, per pay period** non-cumulative.

The local union shall provide notice of such time off prior to the posting of the schedule for the date(s) requested. Should notice not be provided prior to the posting of the schedule it will be the responsibility of the Union to obtain a replacement for the individual. The replacement may not result in an overtime situation unless approval is obtained from the appropriate manager.

If a union officer or executive board member, employed by Kenmore Mercy Hospital, spends time in the representation of members of the bargaining unit as outlined in Section 3. a) through d) above, the union officer or executive board member shall be provided paid time, excused from work, for that purpose. It is agreed and understood by the parties that the paid time referred to in this section shall not exceed 7.5 hours/week.

Section 6. All employees who are excused from work with or without pay will maintain their status (category of employment) and will not lose any benefits including those provided for under the retirement plan.

The Union will provide the Employer/Hospital with a copy of the employee's W-2 earnings from the Union. If the W-2 earnings from the Union are equal to or greater than the total of the employee's excused hours multiplied by the employee hourly rate then the total of the excused hours times the hourly rate will be used, combined with W-2 earnings from Kenmore Mercy Hospital, to get total earnings for pension accrual.

Section 7. The Employer/Hospital may create vacant regular positions for the hours scheduled off for the executive board member. The Union shall provide the Employer/Hospital at least thirty (30) calendar days notice of such return.

Section 8. Employees who are elected or appointed to a bargaining committee, for the purpose of negotiating a successor to this Agreement, will be excused from work for contract negotiations and union bargaining caucus.

Section 9. Employees who are re-elected or appointed to positions within or on behalf of the Union shall be granted a total of ninety (90) unpaid days under the same conditions as outlined in Section 5. above.

Section 10. The Employer/Hospital will provide union representatives twenty (20) minutes of time to meet with new employees covered by this Agreement during the initial week of employment at a time and location to be determined by the Employer/Hospital.

**Article 9**  
**Access to Hospital-Union Representatives**

Section 1. Accredited Union officers and representatives not employed by the Employer/Hospital, who must visit the Employer/Hospital to discharge the Union's duties as the employees' collective bargaining representative, may do so at reasonable times by advance notice to the Vice-President of Human Resources or his designee, so long as said officers or representatives do not interfere with the work of the employees in patient care areas and the orderly operation of the Employer/Hospital.

Section 2. The Union will furnish the Employer/Hospital with a list of accredited officers and representatives as changes occur.

**Article 10**  
**Grievance Procedure**

Section 1. A grievance, under this Agreement, shall be defined as a claim of an employee, the Union or the Employer/Hospital covered by this Agreement, which involves the interpretation of, administration of, or compliance with the specific provision of this Agreement.

Section 2. In the event of any grievance the aggrieved employee may, at the employee's option first discuss the grievance informally with the employee's immediate supervisor. If the grievance is not resolved informally or if the employee elects not to discuss the grievance informally, such grievance shall be presented in writing to the Employer/Hospital as provided below:

- Step 1. a.) The grievance shall be reduced to writing on forms provided by the Union, signed by the employee and/or Union representative and presented to the appropriate supervisor. The written grievance shall include the name and position of the grievant, the date, the basis of the grievance and relief requested, and the clauses or provisions of the Agreement involved.

Such written grievance must be submitted within twenty (20) calendar days after the event or events giving rise to the grievance occurred or within twenty (20) calendar days after those events should reasonably have been known or the grievance shall be deemed waived however, if the grievance is for any claim, for which the arbitrator directs the payment of overtime, wages and fringe reimbursement to an employee, such period shall not limit the period of time for which recovery may be had.

The grievance will be taken up in a meeting within seven (7) calendar days after the grievance is filed, between the employee, the Union

representative and the immediate supervisor. A written response to the grievance shall be given to the Union representative and the Union within seven (7) calendar days after the meeting.

Step 2. If the grievance is not resolved at Step 1, the Union may submit the grievance to the appropriate Vice-President/designee within seven (7) calendar days after receipt of the Step 1 written answer. Within seven (7) calendar days from the receipt of the written grievance, the appropriate

Vice-President/designee shall meet at a mutually agreeable time and place with the Union representative(s), to a maximum of two (2), in an attempt to resolve the grievance. The grievant may be present at the Union's option. A second management representative may be present at the Employer/Hospital's option. The Vice-President/designee shall respond in writing to the Union representative and the Union within seven (7) calendar days after the Step 2 meeting.

Step 3. If no mutually satisfactory conclusion is reached at the end of Step 2, the grievance may be appealed to the Human Resources **Director or designee** within ten (10) calendar days of receipt by the Union of the Step 2 answer. A meeting at a mutually agreeable time and place shall be held within seven (7) calendar days with Union representatives, the Vice-President for the department/clinical area and the Human Resources **Director or designee**. The Employer/Hospital shall render a written answer to the Union within seven (7) calendar days of the Step 3 grievance.

Step 4. If the grievance is not resolved at Step 3, either party to this Agreement desiring to move the grievance to arbitration, must give notice of intention to arbitrate to the other party (Human Resources **Director or designee** or CWA representative) within forty-five (45) calendar days of receipt of the Step 3 written answer or the grievance shall be considered to be discontinued.

Section 3. **The party desiring arbitration shall send a letter to the Federal Mediation and Conciliation Service and shall:**

- a.) request arbitration identifying the grievance and including whatever forms are required by the mediation service; and
- b.) request the mediation service to send to each party a list of seven (7) names of arbitrators.

Section 4. A representative of each party shall alternately strike a name until one name is left. The determination of who strikes first may be made by a coin toss with the loser making

the first strike. The remaining name shall be the arbitrator for that grievance. Either party may reject the first panel of arbitrators and request one additional panel.

Section 5. The arbitrator shall render his/her decision in writing to the Employer/Hospital and the Union, which decision shall be binding upon both parties and employees covered by this Agreement. The arbitrator shall render a decision within thirty (30) calendar days following the close of the arbitration proceeding unless otherwise authorized by mutual agreement of the Employer/Hospital and the Union. Authorization to extend time limits on the arbitrator's decision shall not be unreasonably withheld by either party.

Section 6. The arbitrator shall have no authority to add to, to alter, amend or change in any way the terms and conditions of this Agreement and shall confine his/her decision to a determination of the facts and interpretation of, administration of, and compliance with the provisions of this Agreement. The arbitrator shall have the authority to modify corrective action, inclusive of an award to reinstate a discharged employee, with some or all of the time the employee had been terminated being considered as a suspension.

Section 7. Any time limit imposed on the handling of grievance shall commence on the date of receipt.

Section 8. The cost and expense of the arbitrator and the arbitration hearing room shall be shared equally by the incurring parties. All other expenses shall be borne by the party incurring them, and neither party shall be responsible for the costs of the other.

Section 9. It is the intent of the Employer/Hospital and the Union that grievances be resolved at the lowest possible Step and be processed as rapidly as possible. The number of days indicated at each Step of the procedure should be considered as maximum and every effort should be made to expedite the process. However, when mutually agreed in writing, the time limits may be extended at any Step.

Section 10. A grievance involving discharge or improper layoff must be initiated in writing and submitted directly at Step 3 within five (5) calendar days of written notice to the Union of the occurrence. Failure to initiate and submit such grievance in accordance with this provision shall be deemed a waiver of the grievance.

Section 11. Any grievance not answered within the specified time periods may be appealed to the next Step of the grievance procedure immediately. Grievances may be entertained at any Step by the mutual consent of the parties in writing.

Section 12. Not more than a single grievance arising under this Agreement may be arbitrated in a single proceeding before an arbitrator except by mutual agreement in writing signed by the Employer/Hospital and the Union.

Section 13. The decision of the arbitrator may or may not include "make whole" decisions with respect to lost wages, benefits and other terms of employment. If an arbitrator shall award back wages covering the period of an employee's separation from the

Employer/Hospital's payroll, the amount as awarded shall be less any unemployment compensation received.

In addition, the arbitrator shall have the authority to determine what if any other interim earnings or other deduction(s) should be appropriately deducted from such back pay awarded.

Section 14. Grievances filed on behalf of two (2) or more employees may be filed in writing by the Union at Step 2 of the grievance procedure, provided the grievance is filed within twenty (20) calendar days after those events should reasonably have been known or the grievance shall be deemed waived. The grievance must include at least one (1) signature of an affected employee.

## **Article 11 Corrective Action**

Section 1. The purpose of this system of progressive corrective action is to assist employees to correct inappropriate behavior or work performance. It is meant to aid in the development of good work performance, rather than **to be** a solely punitive system to treat unsatisfactory behavior and work performance.

Section 2. A plan of correction, directed solely at work improvement will not be considered as discipline. A plan of correction, whether directed at work improvement or changes in behavior shall not be included in the personnel file.

Section 3. No employee shall be discharged or issued corrective action without just cause. Copies of all notices of discharge and warnings shall be furnished to the involved employee and the Union.

Section 4. At any meeting between an employee and a representative of the Employer/Hospital, which is investigatory in nature, or where discipline is to be administered, the employee is entitled to and shall be offered a union representative.

Section 5. Any dispute involving the administration of discipline may be processed in accordance with the grievance and arbitration procedure set forth herein.

Section 6. The Employer/Hospital has established a system of progressive corrective action measures which include:

- a.) verbal warning;
- b.) written warning;
- c.) final written warning;
- d.) discharge.

Section 7. It is understood that any of the above steps in progressive corrective action should be reviewed and may be repeated rather than progressing to the next step depending on

the seriousness of the offense and time lapse between offenses. In cases of serious misconduct the step may be accelerated in proportion to the seriousness of the offense.

Section 8. The documentation of current corrective action measures shall remain in the employee's personnel file for a period of six (6) months for verbal warnings, twelve (12) months for written warnings and eighteen (18) months for final written warnings after which time such documents shall be removed.

Section 9. If no infraction or disciplinary problem of the same or similar nature occurs within six (6) months for verbal warnings, twelve (12) months for written warnings or eighteen (18) months for final written warning from the last imposition of corrective action, further corrective action measures for such infractions shall commence at the beginning of the corrective action process subject to Section 6. above.

Section 10. In cases where serious misconduct is alleged and an investigation is warranted, the employee will be placed on a fully paid administrative leave until the Employer/Hospital's investigation has been completed. **If as a result of the investigation, the Employer alleges that serious misconduct has occurred, the Employer will have the option to impose a one (1) day suspension without pay as an alternative to termination.**

Section 11. In January of each year, the files of employees will be reviewed and outdated corrective action material shall be removed and destroyed. If the outdated corrective action being removed from the personnel file is pertinent to an ongoing investigation related to professional misconduct, the material will not be destroyed. That material will be maintained as part of the Employer/Hospital record on the professional misconduct.

## **Article 12 Personnel File**

Section 1. All non-probationary employees have the right, upon written request on a form provided by the Employer/Hospital to the Human Resources designee, to inspect and receive copies of documentation from their personnel files. The Employer/Hospital shall provide an employee copies of up to ten (10) pages of documents from their personnel file, but any balance over ten (10) pages shall be at the employee's expense.

Section 2. All documents placed in the employee's file shall be initialed and dated by the employee at the time of examination. Initialing does not constitute agreement with the contents of any document. The employee shall have the right to respond in writing to any document in the file within ten (10) days of leaving of the documents. Such response shall become part of the employee's personnel file.

Section 3. Requests for examinations of personnel files shall be reasonable as to frequency.

Section 4. Employee files are the property of the Employer/Hospital.

## **Article 13 Probationary Period**

Section 1. All employees shall be probationary for a period of ninety (90) calendar days following their date of hire inclusive of the orientation period. Periods of leaves of absences shall not be counted as days toward the completion of the probationary period.

Section 2. During this probationary period, the Employer/Hospital may discipline or discharge a probationary employee without recourse to this Agreement.

Section 3. The probationary period may be extended by thirty (30) calendar days, at the Employer/Hospital's option, by giving notice of extension in writing to the employee seven (7) days prior to the expiration of the ninety (90) day probationary period. A copy of such notice shall be furnished to the Union.

Section 4. After successful completion of the probationary period employees shall have their seniority computed from their last date of hire.

Section 5. All employees that are rehired within six (6) months shall not be subject to probation provided they have previously completed the probationary period.

Section 6. All graduate nurses, as well as employees who transfer into a graduate nurse position, must pass the New York State Department of Health Professional Licensing Exam within six (6) months of the date of hire/transfer.

## **Article 14 Categories of Employees**

Section 1. A regular full-time employee is defined as one who is regularly scheduled to work:

- a.) thirty-seven and one-half (37½) hours in work week for employees working eight (8) hour shifts;
- b.) thirty-seven and one-half (37½) hours in a work week for employees working ten (10) hour shifts;
- c.) thirty-four and one-half (34½) hours in a work week for employees working twelve (12) hour shifts;
- d.) thirty-seven and one-half (37½) hours in a work week for employees working thirteen (13) hour shifts.

Section 2. A regular part-time employee is defined as one who is regularly scheduled to work less than thirty-seven and one-half (37½) hours but fifteen (15) or more hours in a work week as follows:

- a.) PT.4 – fifteen (15) hours in a work week;
- b.) PT.6 – twenty-two and one-half (22½) hours in a work week;
- c.) PT.8 – thirty (30) hours in a work week; or
- d.) PT.5 – thirty-seven and one-half (37½) hours in a pay period.

Section 3. A temporary employee is defined as one who is hired for a specific job of limited duration in accordance with the provisions of Article 15, Temporary Employees.

Section 4. A per diem employee is defined as one designated as such who works on an as needed basis, and is not regularly scheduled. Per diem employees shall not have seniority, shall not be entitled to fringe benefits, and shall not be considered bargaining unit employees. Per diem hours shall not exceed **three percent (3%)** of the bargaining unit hours worked.

Section 5. A weekend employee is defined as one who is hired to work and is regularly scheduled to work two (2) shifts (Friday/Saturday or Saturday/Sunday) between the hours of Friday **7:00 p.m.** and Monday 7:00 a.m. Weekend employees will be required to work the same shift duration as the unit/department to which they are assigned.

### **Article 15 Temporary Employees**

Section 1. A temporary employee is an employee designated as such, hired for a specific job of limited duration not exceeding six (6) months. This period may be extended for up to another six (6) months by mutual agreement of the Employer/Hospital and the Union.

Section 2. Temporary employees will not be utilized to do bargaining unit work which can be performed by available qualified laid off employees.

Section 3. If a temporary employee is selected to fill a regular position, the date of hire and probation period will begin on the date he or she begins work in the regular position.

Section 4. If the Employer/Hospital desires to permanently fill a position that has been filled by a temporary employee, the position shall be filled through the normal process as outlined in Article 49, Filling of Vacant Positions.

### **Article 16 Weekend Employees**

Section 1. Employees hired to work in this capacity shall be paid in accordance with Article 22, Salaries **Section 9**.

Section 2. Weekend employees that work during the week will be compensated in accordance with the wage schedule contained in Article 22, Salaries, **Section 1.**

Section 3. Employees in this category of employment are eligible for shift differential in accordance with Article 25, Shift Differential and Article 22, Salaries.

Section 4. An employee hired to work in this capacity shall be eligible for legally required benefits.

Section 5. Employees hired to work in this capacity shall be required to work every weekend. Employees in this category of employment shall be scheduled a maximum of ten (10) shifts off per calendar year without pay **except as outlined in Section 7 below.** In the event a weekend employee experiences a loss addressed in Article 33, Bereavement Leave, he/she shall be approved for up to a maximum of an additional two (2) shifts off without pay according to the conditions set forth in that Article. Time off requests will be approved as follows:

- a.) Requests for weekends off must be submitted to the manager as per Article 18, Section 7, Hours of Work.
- b.) An employee's manager must approve requests for weekend days off.
- c.) No more than two (2) weekend shifts may be scheduled off per year, during the week prior to the week in which a holiday (as defined under Article 28, PTO) occurs. Weekend employees may take two (2) weekend days off in the period between June 1 and September 15. If no other employee has requested and has been approved for the time, the weekend employee may request the additional time off in the above referenced time frames.
- d.) When there are requests from more than one (1) employee for the same time off, the procedure in Article 18, Section 7, Hours of Work shall apply.

Section 6. Weekend employees will be required to attend mandatory in-service programs in accordance with Employer/Hospital policies and shall be paid for such time.

Section 7. Employees in this category of employment may volunteer to work additional shifts after employees have had their schedules determined, and as outlined in Article 18, Hours of Work. **If an employee in this category works an extra shift(s) during a work week (Monday-Friday or Sunday-Thursday), he/she shall accrue PTO for those shifts up to maximum two (2) full shifts per year. PTO accrual rates are outlined in Article 28, Section 3.**

Section 8. Weekend employees will accrue seniority as per Article 47, Seniority.

Section 9. Employees in this category of employment will be required to work holidays that fall on a weekend and will be compensated for all hours worked on the holiday as defined in Article 28, Section 16, Paid Time Off.

Section 10. If a regular full-time or regular part-time employee transfers into a weekend position, the employee's unused PTO will be paid within four (4) weeks from the date of transfer.

Section 11. Regular employees that transfer into a weekend position will have all accrued unused long term sick time frozen in their Extended Sick Bank (ESB) for the duration of their time as a weekend employee. If a weekend employee transfers into a regular full-time or regular part-time position his/her ESB will be available for use as per Article 29, Extended Sick Leave.

Section 12. If a weekend employee is subject to layoff he/she will be entitled to pursue a position in the bargaining unit in the weekend employee category of employment and in the sequence outlined in Article 53, Layoff and Recall. If the weekend employee category of employment is eliminated or if the least senior weekend employee is subject to layoff, the weekend employee shall be entitled to pursue a position in the bargaining unit in the regular part-time category of employment.

Section 13. Employees in this category of employment will be floated, as per Article 20, Floating and will be assigned low census days as per Article 21, Low Census.

Section 14. All of the provisions of this Agreement shall apply unless otherwise specified in this Article.

## **Article 17 Job Description**

Section 1. There shall be a written job description covering each position in the bargaining unit which shall contain: a description of duties, requirements for the job, entry level qualifications and responsibilities. The job description shall be reviewed with an employee during the orientation period and shall be provided to employees upon request.

Section 2. If the Employer/Hospital is considering a change(s) in an existing job description within the bargaining unit, the Employer/Hospital will provide the change(s) to the Union in writing thirty (30) days prior to the proposed implementation of the change(s) for the purpose of giving the Union an opportunity to discuss the change(s).

## **Article 18 Hours of Work**

Section 1. The work week for all employees covered by this Agreement will begin on Sunday morning at 12:01 a.m. after Saturday midnight, and ends the following Saturday at midnight.

Section 2. The regular work shifts shall be:

a.) The regular work shifts for employees working twelve (12) hour shifts, including the thirty (30) minute unpaid meal period will be:

- (1) Day Shift: Majority of hours worked between 6:30 a.m. to 7:00 p.m.;
- (2) Evening Shift: Majority of hours worked between 11:00 a.m. to 11:00 p.m.; and
- (3) Night Shift: Majority of hours worked between 6:30 p.m. to 7:00 a.m.

b.) The regular work shifts for employees working ten (10) hour shifts, including the thirty (30) minute unpaid meal period will be:

- (1) Day Shift: Majority of hours worked between 7:00 a.m. to 5:00 p.m.;
- (2) Evening Shift: Majority of hours worked between 1:00 p.m. to 11:00 p.m.; and
- (3) Night Shift: Majority of hours worked between 10:00 p.m. to 8:00 a.m.

c.) The regular work shifts for employees working eight (8) hour shifts, including the thirty (30) minute unpaid meal period shall be:

- (1) Day Shift: Majority of hours worked between 7:00 a.m. to 3:00 p.m.;
- (2) Evening Shift: Majority of hours worked between 3:00 p.m. to 11:00 p.m.; and
- (3) Night Shift: Majority of hours worked between 11:00 p.m. to 7:00 a.m.

The Employer/Hospital reserves the right to determine the hours of work for any vacant position.

Section 3. Due to the nature of the work performed by the Employer/Hospital as an institution which provides around the clock care of patients, all work schedules will be established in the best interest of meeting patient care needs. It is understood that as department needs change, the work schedule may also change.

Section 4. Should it be necessary to make a change in the work hours of an occupied position(s), including the establishment of varying starting and ending times, the Employer/Hospital will provide at least thirty (30) calendar days notice to the affected employee(s) and to the Union prior to the implementation date. The Employer/Hospital will request volunteers from within the job classification and department/Clinical unit affected. If there are insufficient volunteers, the position(s) occupied by the least senior employee shall be designated for the change.

Section 5. Should it be necessary to make a change in the hours of operation in any clinical unit or department, the Employer/Hospital will produce a suggested change in writing at least thirty (30) calendar days prior to its proposed implementation and give the Union an opportunity to write and present a proposal within seven (7) calendar days for discussion regarding the change prior to the date of implementation.

Section 6. One (1) week before the final schedule is to take effect, the Employer/Hospital will provide at least a four (4) week advance work schedule, which encompasses the next calendar month. The posted schedule may not be changed without the written approvals of the responsible nurse manager or his/her designee and the affected employee.

Section 7. In preparation for the next work schedule, the Employer/Hospital recognizes that there may be occasions when employees would want to be off. In such situations, employees shall submit requests as follows:

- a.) request shall be in writing by the fifth (5<sup>th</sup>) day of the preceding month. The pre-schedule will be posted with a needs list of extra shifts available, one (1) week prior to the posting of the final schedule. The final schedule will continue to be posted one (1) week prior to the start of that schedule.
- b.) each request shall be limited one (1) day;
- c.) in cases where requests exceed approvals available, approval shall be granted in the following order:
  - 1.) paid time off days in increments of one (1) week or more and approved three (3) months in advance;
  - 2.) request for single PTO days; and
  - 3.) requests not to be scheduled for a given day.

In the event of multiple requests under 2.) and 3.) above, seniority will be the determining factor.

Section 8. Any employee desiring to schedule a day off during the period of the posted schedule must find a qualified employee replacement. Such request may be for a full or partial shift, must be in writing, and shall be approved by the appropriate nurse manager or his/her designee, and may not result in overtime.

Section 9. Flexible work plans involving one or more individuals in a specific clinical unit/department may be adopted or discontinued by the Employer/Hospital. The Employer/Hospital shall provide the Union with forty-five (45) calendar days notice of such adoption or discontinuance.

Section 10. The Employer/Hospital will schedule no more than twenty-six (26) weekend shifts (Saturday/Sunday) per calendar year for full-time and part-time employees.

Section 11. If an employee is absent, on a scheduled weekend of work, he/she will be required to make up the missed weekend duty according to the staffing needs of the unit or department unless:

- a.) the employee is on bereavement leave and the missed weekend duty occurs during such leave;
- b.) the employee is on disability or workers' compensation in excess of seven (7) consecutive days;
- c.) the employee is not needed according to the staffing requirements of the unit within the next schedule following the missed weekend; and
- d.) the employee is hired for a specific weekend requirement or has requested and is regularly scheduled to work weekends.

Section 12. **All employees working seven and one-half (7.5) hour shifts shall normally be scheduled sixteen (16) hours between scheduled shifts, unless the employee agrees to be scheduled otherwise.** Any employee who has agreed to work an additional consecutive shift may request her/his next scheduled shift off if such shift begins less than ten (10) hours from completion of the additional consecutive shift. Such request may not be unreasonably denied.

Section 13. Meal and rest period will be scheduled as follows:

- a.) employees working at least five (5) or more consecutive hours in a normal work day shall be entitled to a fifteen (15) minute rest period;
- b.) employees working at least six (6) or more consecutive hours in a normal work day shall be entitled to a thirty (30) minute unpaid meal period;
- c.) employees working at least eight (8) or more consecutive hours in a normal work day shall be entitled to a thirty (30) minute unpaid meal period and one fifteen (15) minute rest period;
- d.) employees working a twelve (12) or thirteen (13) hour shift in a normal work day, shall be entitled to one thirty (30) minute unpaid meal period and two fifteen (15) minute rest period.

Special assignments of meal periods and rest periods shall be made by the assigned charge RN. The Employer/Hospital shall provide for relief from work duties during scheduled meal and rest periods. Should an employee be required, by virtue of workload, to work through a normal meal period, the meal period shall be treated as time worked.

Section 14. Employees shall record their time worked on an automated system designated by the Employer/Hospital. Employees shall be paid for all time worked.

Section 15. It is agreed that extra available shifts will be distributed to qualified employees in the following way:

- a.) A needs list with all extra shifts will be included with the posting of the schedule and will remain posted for seven (7) days, Friday to Friday for all full-time, part-time and weekend nurses.
- b.) Extra available shifts will be distributed to qualified employees in the following way:
  - 1.) All extended shift employees who wish and are entitled will be given four (4) extra hours **per week** to compensate for the decrease in hours according to Article 57, Extended Shifts, Section A.
  - 2.) All part-time and full-time employees for who the extra hours will not amount to overtime shall be considered next based on seniority.
  - 3.) All weekend employees for whom the extra hours will not amount to overtime.
  - 4.) All full-time, part-time and weekend employees based on seniority.
  - 5.) Float pool RN's will sign up for extra shifts on the units which they are qualified to work.
  - 6.) **Per Diem Employees**

**Per Diem employees will not be scheduled to work on either the advance work schedule or the final work schedule until the process outlined for scheduling bargaining unit employees has been completed including the process outlined in this Section 15. above.**

### **Article 19 Shift Rotation**

Section 1. Shifts shall be rotated on the same basis as in the past. In scheduling the evening shift:

- a.) those nurses who are exclusively scheduled to work evenings shall be scheduled first, then Day/Evening (D/E) nurses who prefer to work evenings shall be scheduled next;
- b.) the remaining evening shift assignments shall be scheduled on a rotating basis and shall be evenly distributed among those nurses who are scheduled to work primarily the day shift, (that is, no such nurse shall be scheduled for two [2] evening shifts until all such nurses have been scheduled for one [1]);

- c.) where additional evening shifts are required, the least senior employee on the unit will be scheduled for such evening shifts for that particular schedule, consistent with the above;
- d.) employees who have twenty-five (25) or more years of seniority, shall not rotate to the evening or night shifts unless he/she specifically requests to do so.

## **Article 20 Floating**

Section 1. It is understood that if floating is required it will be done as follows:

- a.) a list of regular employees assigned to a unit, with less than thirty (30) years of seniority shall be developed in inverse seniority;
- b.) agency RNs will always float first;
- c.) per diem RNs will float next;
- d.) any float RN currently working on the unit shall be floated next;
- e.) the least senior employee will then float, with subsequent floating being assigned until all employees with less than thirty (30) years of seniority in that job classification have been floated;
- f.) when all RNs have floated as described in (e.) above then the RN who has not floated most recently will float;
- g.) if an employee volunteers to float, that date shall be credited to the employee.

Section 2. Newly hired employees shall not be required to float until they have completed their probationary period **and/or orientation period.**

**Section 3. Registered Nurse members of the bargaining unit, excluding the float nurses will not be required to float more than once in an eight (8) hour shift unless the RN agrees or under an emergent situation. Nurses will not float on a Holiday to cover staff shortages on the schedule but may be floated to cover unplanned absences, including those caused by worker's compensation, disability or FMLA.**

Section 4. The reassigned RN must practice within the scope of his/her competencies. It is understood that an employee will not be given the sole accountability for a patients/assignments if floated to a unit outside the area of his/her documented competencies.

Section 5. The reassigned RN will be given a brief orientation by the charge RN to the physical layout, routine of the unit, and the method of documentation. The charge RN will ensure the assignment given to the float is consistent with his/her competencies.

**Section 6.** The Employer/Hospital will solicit volunteers from the bargaining unit to have a **two (2)** shift orientation to the ER bay with a preceptor. During this time, the orientee will complete a float orientation checklist provided by the Nurse Manager of the ER **as well as comprehensive MedHost orientation.** A list of these employees will be given to the managers and supervisors and will be updated every six (6) months.

**Section 7.** It is understood that if floating to the Emergency Room is required, it will be done as follows:

- a.) part-time ER RNs who are not scheduled to work when a float to the ER is required shall be called first;
- b.) overtime hours shall be offered in descending seniority to ER RNs;
- c.) the availability RN's who have completed the **two (2)** day ER orientation as described in Section 5. above will be assessed to float to the ER;
- d.) volunteers will be solicited from available bargaining unit RNs.

If the procedure outlined in a.) through e.) above does not provide for an RN to cover the ER, an available RN from within the bargaining unit may be floated. It is understood, however, that such RNs will be task assigned to the ER Bay only, and shall not be required to practice outside of the scope of their competencies.

**Section 8.** In the event the emergency department has patients experiencing significant delays in awaiting bed assignments, the supervisor/manager will make every effort to improve the RN compliment by following the procedure in Section 6. above.

## **Article 21 Low Census**

**Section 1.** It if becomes necessary to reduce the number of employees in a particular department or unit, the reduction will be completed using the Low Census procedure as follows:

- a.) Where low census reductions are needed, employees will first be assigned to float to available assignments. The exceptions to this float rule shall be OR, and GI units. In these units, employees will be offered the opportunity to use low census hours, before they are asked to float.
- b.) Where low census reductions are needed on a shift to shift basis, voluntary low census hours or shift will be granted, if possible, following the guidelines under equitable rotation below.

- c.) As assessed on a daily basis, employees in a specific department or unit will be required to take mandatory low census hours or shift on an equitable rotation. Equitable rotation shall be as follows:
- 1.) Volunteers will be solicited in descending seniority by calls to their homes, on a rotational basis.
  - 2.) The first person contacted who volunteers shall be given the low census hours or shift.
  - 3.) If there are sufficient volunteers, those returning the call and volunteering shall be selected on a first-come basis to the extent needed.
  - 4.) If there are insufficient volunteers, then, on a rotating basis, the least senior employee on the unit shall be required to take mandatory low census hours or shift. In that event, the Nurse Manager shall not perform duties that would not ordinarily be done by him/her, if the registered nurse were not on mandatory low census hours or shifts.
  - 5.) The scheduled charge employee shall not have the option of volunteering or being rotated, unless a suitable replacement is available.

Section 2. An employee taking a low census hours or shift will be given credit toward benefits (accrual of paid time off, extended sick day accrual, health insurance and pension). The maximum number of mandatory low census hours will not exceed the number of hours equal to one (1) regularly scheduled shift per pay period, up to and including **six (6)** shifts per year for any employee.

**Section 3. Low Census of less than one (1) hour will not be counted in the tracking of time for equitable rotation. Low census paid time off and low census without paid time off only apply to instances of one (1) hour or more. An employee leaving less than one (1) hour prior to the end of their scheduled shift will still be required to obtain prior manager approval.**

Section 4. Per diem nor temporary employees will not be assigned to work on units for which an employee who is on mandatory low census status is qualified.

Section 5. Employees will be notified a minimum of two (2) hours but not more than eight (8) hours in advance of each shift for which a mandatory low census hours or shift is assigned. In the event such notice is not given, the affected employee receives two (2) hours pay at regular rate. Should the Employer/Hospital make a bona fide attempt to notify the employee of a cancellation of shift but be unsuccessful in doing so, this pay provision will not apply. It will be the responsibility of the employee to maintain a current telephone number listed with the Nursing Office. Failure to do so excuses the Employer/Hospital from the notification requirement.



	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9
RN	29.62	30.59	31.59	32.71	33.90	34.70	35.62	36.48	37.32

Section 2. Progression through the steps of the salary scale shall be automatic and shall become effective on the first day of the next payroll period following the achievement of the time requirement.

Section 3. For the purpose of determining a hire rate for new employees, the Employer/Hospital shall credit employees with prior service as a registered nurse at this or another acute care or sub-acute care institution with verifiable registered nurse experience up to Step 6. Employees shall not be credited with prior years of service for any other purpose under this Agreement such as layoffs, vacations or job bidding.

Section 4. The Employer/Hospital recognizes the clinical expertise of its professional RN staff and will provide additional compensation in recognition of professional certifications from the American Nurse Credentialing Center (ANCC) in accordance with the following;

- a.) the RN must be employed as a full-time, regular part-time or weekend employee with Kenmore Mercy Hospital for a period of not less than one (1) year;
- b.) the RN must be employed in a position that is directly related to the certification received and the certification must not be required by Federal law or New York State law in order to perform their current job;
- c.) full-time and regular part-time employees will receive a lump sum payment of five hundred dollars (\$500.00) within thirty (30) days following the submission of documentation that the certification has been successfully achieved or renewed with a maximum payment of five hundred (\$500.00) per calendar year;
- d.) weekend employees will receive a lump sum payment of three hundred dollars (\$300.00) within thirty (30) days following the submission of documentation that the certification has been successfully achieved or renewed with a maximum payment of three hundred dollars (\$300.00) per calendar year;
- e.) upon successful completion of the professional certification requirement, the Professional Certification Achievement Award Application must be completed and submitted along with a copy of the certification achievement or renewal to the appropriate nurse manager for review and endorsement and submission to the Vice-President Patient Care Services for approval.

Section 5. All employees shall progress through the steps of the salary scale according to the following time requirements as noted below:

- Step 1 .....Hire Rate;
- Step 2 .....One (1) year;
- Step 3 .....Two (2) years;
- Step 4 .....Three (3) years;
- Step 5 .....Four (4) years;
- Step 6 .....Five (5) years;
- Step 7 .....Eight (8) years;
- Step 8 .....Twelve (12) years;
- Step 9 .....Sixteen (16) years.

Section 6. Employees assigned to charge duties shall be paid an additional **one dollar and twenty-five cents (\$1.25)** per hour for all hours worked in that assignment.

Section 7. Employees assigned to preceptor responsibilities, shall be paid an additional **one dollar and twenty-five cents (\$1.25)** per hour for all hours worked as a preceptor.

Section 8. Shift differential shall be:

- a.) the first full pay period **following ratification of the contract, one dollar and seventy-five cents (\$1.75)** per hour for the evening shift;
- b.) the first full pay period **following ratification of the contract, two dollars and fifty cents (\$2.50)** per hour for the night shift.

Section 9. For all hours worked on the weekend, weekend employees shall be paid the weekend rate of:

- a.) **\$44.76** per hour effective the last full pay period of January, **2009**;
- b.) **\$46.55** per hour effective the last full pay period of January, **2010**;
- c.) **\$48.41** per hour effective the last full pay period of January, **2011**;
- d.) **\$50.35** per hour effective the last full pay period of January, 2012.

### **Article 23 Overtime**

Section 1. Overtime shall be paid to all employees covered by this Agreement.

Section 2. Overtime shall be paid at one and one-half (1½) times an employee's basic hourly rate, including shift differential, for all hours worked in excess of an employee's regularly scheduled shift and/or in excess of **thirty seven and one-half (37.5) hours per week. Notwithstanding the preceding sentence, the employee shall not be paid the overtime rate for the first thirty (3) minutes beyond the end of an employee's regularly**

**scheduled shift to complete work in progress that has been authorized by the employee's supervisor. An employee will be entitled to overtime pay for all hours worked in excess of the employee's regularly scheduled shift where the employee's supervisor has asked the employee to work an additional shift of portion of an additional shift.** No employee shall be paid twice for the same overtime worked.

Section 3. The Employer/Hospital and the Union agree that overtime shall be assigned on a voluntary basis in descending seniority order. As a prerequisite to prevent an unusual event or crisis in the coverage of health services, the following steps should be undertaken by the Employer/Hospital:

- a.) appropriate staffing complements shall be established and maintained;
- b.) schedules are posted complete and in accordance with appropriate staffing complements;
- c.) appropriate float pools, voluntary overtime lists, call-in lists, per-diem lists, etc., are established and utilized.

Section 4. All scheduled paid time off, inclusive of PTO, bereavement leave, union representative time shall be considered as time worked for the purpose of computing overtime pay.

Section 5. No employee shall be required to work overtime, but may volunteer to do so. The nurse manager/supervisor shall notify the department once the need for the volunteer is recognized. The exception will occur when there is a work in the OR, PACU, GI Lab or Interventional Radiology. Work in progress is defined for the purposes of this Article as an employee being engaged in a procedure or the recovery of a post-surgical patient at the scheduled end of the employee's shift. **The time frame for work in progress will not exceed thirty (30) minutes.** The following process will be followed to staff at the end of the employee's work shift.

- a.) Every effort will be made to solicit volunteers from the available staff at work, to stay to complete the care of the patient.
- b.) If there are no volunteers, the individual on-call will be contacted and required to report to work or remain at work to perform the assignment.
- c.) The scheduled employee may be required to remain at work until the individual on-call reports to work.

## **Article 24 Supplemental Pay**

Section 1. Additional four (4), eight (8) and twelve (12) hour blocks of time, above budgeted hours will receive supplemental pay according to the following schedule:

- a.) Monday – Friday 7:00 a.m. – 3:00 p.m. (Day shift) at \$8.00 per hour.
- b.) Monday – Friday 3:00 p.m. – 7:00 a.m. (Evening and Night shifts) at \$10.00 per hour.
- c.) Friday 3:00 p.m. – Monday 7:00 a.m. at \$10.00 per hour.

Section 2. Supplemental Pay will be paid for:

- a.) supplemental hours worked that do not occur overtime for employees working less than thirty-eight (38) hours per week;
- b.) supplemental hours worked that do incur overtime for employees who work more than thirty-eight (38) hours per week;
- c.) the employee agrees to come in from home on short notice for a work assignment of any duration; or
- d.) the employee is asked to stay after his/her regular scheduled shift on short notice.

The time referred to in d.) above will be offered to the most senior employee who is working and will be rotated on an inverse seniority basis among employees volunteering for the hours, extra hours and overtime hours will be assigned as per the collective bargaining agreement.

Section 3. Shift differential will be paid in addition to the supplemental pay per Article 25, Shift Differential.

Section 4. The extra hours must be open hours after all budgeted hours have been scheduled.

Section 5. Staff on orientation will not earn supplemental pay.

Section 6. Supplemental pay does apply on designated holidays.

Section 7. Supplemental pay will not apply to weekend make up shifts.

Section 8. Supplemental pay does not apply to switches made after the schedule is posted.

Section 9. Bargaining unit employees shall be offered all extra hours of work before agency or per diem employees are scheduled.

Section 10. Unscheduled PTO will not count towards supplement pay on a weekly basis and the unscheduled PTO will count as a call-off in accordance with the attendance policy.

Section 11. Supplemental pay will be paid when employees are called into work during a scheduled consecutive week or more of PTO days that were approved three (3) months in advance.

Section 12. Scheduled PTO does not count towards supplemental but is considered as time worked for the purpose of computing overtime pay as per Article 23, Overtime.

Section 13. If a nurse fails to work the supplemental shift they sign for, calls in, does not show, it will count as a call off in accordance with the Attendance Policy.

Section 14. If the nurse is given a low census after supplemental shifts have been worked, the nurse will receive the Supplemental pay for those worked shifts.

## **Article 25 Shift Differential**

Section 1. Shift differential will be paid to all employees scheduled to work evening (3:00 p.m. to 11:00 p.m.) or night (11:00 p.m. to 7:00 a.m.) shift hours.

Section 2. Evening shift differential will be paid for all hours worked where the majority of the scheduled hours are worked after 3:00 p.m.

Section 3. Night shift differential will be paid for all hours worked where the majority of the scheduled hours are worked after 11:00 p.m.

Section 4. When an employee is scheduled for a shift that would be eligible for shift differential and leaves before the scheduled end of the shift because of low census, shift differential will be paid for all hours worked on that shift.

Section 5. **If an employee works additional hours at the end of his/her regular shift and the additional hours would make an employee eligible for shift differential as outlined in Section 2. or Section 3. above, the employee will be paid shift differential for only hours worked, that are eligible for shift differential.**

Section 6. Shift differential will be used in the computation of overtime. **Shift differential shall be applied to all scheduled paid time off.**

Section 7. There shall be no pyramiding of shift differential.

Section 8. Shift differential premiums shall be defined in Article 22, Salaries.

## **Article 26 On-Call**

Section 1. An employee will be considered “on-call” and entitled to on-call pay when the employee must carry a beeper for a specified period of time and must remain within beeper range for the purpose of being available to receive a telephone call to report to work. An on-

call employee must provide the Hospital/Employer with a backup telephone number. If an on-call employee will be accessible only by beeper, he/she will notify the nursing supervisor.

Section 2. An employee on-call will be entitled to one (1) hour of pay at the employee's base rate for every four (4) hours of call. The rate paid will be prorated for hours less than, or greater than, four (4) hours spent on-call.

Section 3. An employee shall be entitled to a minimum of three (3) hours pay or pay for time actually worked, whichever is greater, plus any on-call he/she is entitled to.

Section 4. Pay for time worked on-call shall be at the rate of time and one-half plus appropriate shift differential.

Section 5. Only hours actually worked when the on-call employee is called in will be considered for the purpose of calculating overtime.

Section 6. Employees who are scheduled on-call on the following holidays will be entitled to the on-call pay outlined in Section 2. above, plus as additional twenty-five dollars (\$25.00) for every eight (8) hours spent on-call. The rate paid will be prorated for hours less than eight (8) spend on-call: New Years Eve (3:00 p.m. - 7:00 a.m.), New Year's Day, Christmas Eve (3:00 p.m. - 7:00 a.m.), Christmas Day, Thanksgiving Day, Independence Day, Memorial Day and Labor Day, Easter Sunday.

Section 7. Any RN may switch and/or give away his/her on-call to any other RN with the approval of the nurse manager.

### **Article 26a On-Call Procedure GI Lab**

Section 1. On-call shall be evenly distributed between all qualified staff. Weekend on-call shift times are defined as 8:00 a.m. – 4:00 p.m. on Saturday, 8:00 a.m. – 4:00 p.m. on Sunday and 8:00 a.m. – 4:00 p.m. on Holidays. Weekday on-call shift hours are 4:00 p.m. – 10:00 p.m.

Section 2. The Employer/Hospital shall provide a minimum of three (3) beepers for the GI on-call nurses.

Section 3. On-call shall be equitably rotated between all RNs in the GI Lab as follows:

- a.) weekend call shall be assigned on a rotating inverse seniority basis until the complete list has been rotated through;
- b.) employees on-call for the weekend shall not be assigned on-call for the Friday evening immediately preceding their weekend call;

- c.) Friday evening call shall be assigned on a rotating basis, by inverse seniority until the complete list has been rotated through;
- d.) on-call shall not be assigned the last day worked before an employee's scheduled vacation;
- e.) an employee may voluntarily pick up extra call time in addition to their required call subject to the pre-approval of the nurse manager.

Section 4. In the event the scheduled on-call person called in ill for the day, the **Employer** shall seek volunteers to take call. If there are no volunteers, the least senior RN working that day shall be assigned on-call.

Section 5. If an additional RN is needed to assist with an on-call procedure it shall be offered on a rotating basis beginning with the most senior employee. **GI registered nurses will be paid a minimum of four (4) hours at their base hour rate plus a one hundred (\$100.00) dollar lump sum payment for each occasion they are called in when not on an on-call shift. Supplemental pay will not be applied when nurses are called in when not on-call in lieu of the one hundred (\$100.00) lump sum payment.**

Section 6. In the event that the GI Lab closes for the day and the staff is required to take low census hours, the remaining hours of the shift will be covered by the assigned on-call employee for that day.

**Article 26b**  
**On-Call Procedure Operating Room, Post Anesthesia Care Unit & Interventional Radiology**

Section 1. All RNs upon completion of probation and with the approval of their Nurse Manager are required to take on-call. On-call shall be evenly distributed between qualified staff on an assigned day basis in accordance with present practice. The call scheduled for weekdays is posted on a monthly schedule. On-call hours are defined as:

- a.) OR weekday call will be 8:00 p.m. – 7:00 a.m.;  
OR weekend call will be Sat. 7:00 a.m. – Sun. 7:00 a.m.; and  
Sun. 7:00 a.m. – Monday 7:00 a.m.
- b.) PACU weekday will be **9:00 p.m.** – 8:00 a.m.;  
PACU weekend will be Sat. 8:00 a.m. – Sun. 8:00 a.m.; and  
Sun. 8:00 a.m. – Mon. 8:00 a.m.
- c.) Radiology weekday will be **4:30 p.m.** – **7:30 a.m.**;  
Radiology weekend will be Sat. **7:30 a.m.** – Sun. **7:30 a.m.**; and  
Sun **7:30 a.m.** – Mon. **7:30 a.m.**

Section 2. Weekend on-call shall be assigned on a rotating basis and may be changed with the mutual agreement of the employee and Nurse Manager/designee. If there are no volunteers, the Nurse Manager/designee will assign on-call on a rotating inverse seniority basis until the entire list of eligible employees has been rotated through.

Section 3. Weekend on-call shall be assigned in January of each year by the Manager for the entire year. In the OR, a qualified scrub and circulator nurse will be scheduled. Call may be changed with mutual agreement of the employee and the Nurse Manager.

Section 4. Each January, all RNs shall choose which holiday they wish to be on-call. Assignment of holiday on-call shall be completed in order of seniority. If an employee wishes to volunteer he/she may do so. If there are no volunteers, the Nurse Manager may assign on-call on a rotating inverse seniority basis. No employee shall be expected or assigned to take call the same holiday two (2) years in a row. Holiday on-call is for twenty-four (24) hours.

In the event that there are no scheduled elective cases during a regular workday, the on-call weekday will revert to a twenty-four (24) hour day.

Section 5. In the event that the scheduled on-call person is unable to meet his/her obligation, the on-call person shall seek volunteers. If there are no volunteers, the Nurse Manager may assign the on-call on a rotational inverse seniority basis, using employees already working that day. No employee shall be expected to cover on-call if they are on a day off or scheduled PTO.

Section 6. RNs may trade or give away their on-call as long as they have found a qualified replacement with the approval of the Nurse Manager.

Section 7. No employee shall be expected to take on-call if they are on vacation or a regularly scheduled day off, or take call the last day worked prior to scheduled PTO.

Section 8. If a registered nurse is on New York State Disability, Workers' Compensation, bereavement leave, or leave of absence, he/she shall not be expected to make up his/her missed call.

Section 9. If an additional RN is needed to assist with an on-call procedure, the assignment will be offered beginning with the most senior employee.

Section 10. The on-call schedule shall be posted at the same time as the monthly schedule and shall not be changed without the employee and Nurse Manager's consent.

Section 11. In the OR when a long case(s) approximately four (4) hours or more in length are scheduled on Friday for Saturday, the call team will work for the long case that is scheduled. Volunteers will be solicited in descending order of seniority for a second call team for the hours on Saturday in which the first call team is doing a long case. The assigned call will be for a minimum of six (6) hours. After the case(s) is completed, the second call team will no longer be needed.

If on Friday there are insufficient volunteers for the second on-call team, the lowest senior person working on that Friday will be assigned on an equitable rotation. This will be done on an inverse seniority basis.

If a second call person is needed for PACU (based on the case), the process above will be followed.

**Section 12. When taking call, if an RN is called into work and is on the posted schedule for the next morning, the following options will be available:**

- a.) report to work at his/her scheduled time;
- b.) report for duty up to six (6) hours after he/she punches out.

**In each case, the RN must inform the Nurse Manager or Nursing Supervisor of his/her decision.**

Section 13. RN's who accept low census prior to the start of the scheduled on-call for the department would be placed on-call. On-call would start at the beginning of low census and end with the start of the scheduled on-call hours as defined in Section 1. The RN on low census may contact the regular person on-call and ask them to accept on-call early. All employs will be paid according to Article 26, On-call.

Section 14. All attempts will be made to move patients who have recovered to the appropriate patient care setting including, but not limited to, the Ambulatory Surgery Unit (ASU) or the Intensive Care Overflow Unit.

It is understood that the on-call staff is for emergency cases.

### **Article 27 Call In Pay**

Employees who are not scheduled for a shift but are called and report on duty within two (2) hours after the start of any shift receive pay at their applicable hourly rate for the full shift. If called but not required to stay the entire shift, they will be paid a minimum of four (4) hours pay at the applicable rate.

### **Article 28 Paid Time Off**

Section 1. All regular full-time employees, hired before 2/1/02, are eligible for Paid Time Off (PTO) according to the following schedule:

Length of Service	Accrual Rate	Maximum per pay	Maximum Accrual (Hours/Days)	Maximum Balance in Employees' bank (Hours/Days)
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Date of Hire to Completion of 4 <sup>th</sup> Year	0.104 X each hour paid	7.80 hours	202.5 Hours (27 Days)	255.00 Hours (34 Days)
Beginning of 5 <sup>th</sup> Year to Completion of 9 <sup>th</sup> Year	0.124 X each hour paid	9.30 hours	240 Hours (32 Days)	292.50 Hours (39 Days)
Beginning of 10 <sup>th</sup> Year to Completion of 14 <sup>th</sup> Year	0.143 X each hour paid	10.73 hours	277.5 Hours (37 Days)	330.0 Hours (44 Days)
Beginning of 15 <sup>th</sup> Year to Completion of 15 <sup>th</sup> Year	0.147 X each hour paid	11.03 hours	285 Hours (38 Days)	337.50 Hours (45 Days)
Beginning of 16 <sup>th</sup> Year to Completion of 16 <sup>th</sup> Year	0.150 X each hour paid	11.25 hours	292.5 Hours (39 Days)	345.00 Hours (46 Days)
Beginning of 17 <sup>th</sup> Year to Completion of 17 <sup>th</sup> Year	0.154 X each hour paid	11.55 hours	300 Hours (40 Days)	352.50 Hours (47 Days)
Beginning of 18 <sup>th</sup> Year to Completion of 18 <sup>th</sup> Year	0.158 X each hour paid	11.85 hours	307.5 Hours (41 Days)	360.00 Hours (48 Days)
Beginning of 19 <sup>th</sup> Year to Completion of 24 <sup>th</sup> Year	0.162 X each hour paid	12.15 hours	315 Hours (42 Days)	367.50 Hours (49 Days)
Beginning of 25 <sup>th</sup> Year and Following	0.165 X each hour paid	12.41 hours	322.5 Hours (43 Days)	375.00 Hours (50 Days)

Section 2. All regular full-time and employees hired on or after 2/1/02 are eligible for Paid Time Off (PTO) according to the following schedule:

<b>Length of Service</b>	<b>Accrual Rate</b>	<b>Maximum Accrual (Hours/Days)</b>	<b>Maximum Balance in Employee's bank (Hours/Days)</b>
Date of Hire to Completion of 2 <sup>nd</sup> Year	0.085 X each hour paid	165.0 Hours (22 Days)	217.0 Hours (29 Days)
3 <sup>rd</sup> Anniversary to Completion of 4 <sup>th</sup> Year	0.089 X each hour paid	172.5 Hours (23 Days)	225.00 Hours (30 Days)
4 <sup>th</sup> Anniversary to Completion of 9 <sup>th</sup> Year	0.108 X each hour paid	210.0 Hours (28 Days)	262.50 Hours (35 Days)
9 <sup>th</sup> Anniversary to Completion of 15 <sup>th</sup> Year	0.127 X each hour paid	247.50 Hours (33 Days)	300.00 Hours (40 Days)
15 <sup>th</sup> Anniversary to Completion of 24 <sup>th</sup> Year	0.147 X each hour paid	285.00 Hours (38 Days)	337.50 Hours (45 Days)
24 <sup>th</sup> Anniversary and the following	0.166 X each hour paid	322.50 Hours (43 Days)	375.00 Hours (50 Days)

Section 3. All regular part-time employees are eligible for Paid Time Off (PTO) according to the following schedule:

Length of Service	Accrual Rate	Maximum Accrual (Hours/Days)	Maximum Balance in employees' bank (Hours/Days)
Date of hire to Completion of 9 years	0.069 X each hour paid	135.00 Hours (18 Days)	187.50 Hours (25 Days)
9 <sup>th</sup> Anniversary to the 24 <sup>th</sup> Anniversary	0.108 X each hour paid	210.0 Hours (28 Days)	262.50 Hours (35 Days)
24 <sup>th</sup> Anniversary and following	0.154 X each hour paid	270.0 Hours (36 Days)	288.0 Hours (38.4 Days)

Section 4. Eligible employees accrue PTO from their date of hire but cannot begin using their accumulated time until completion of three (3) months of continuous service. Prior to completion of three (3) months of service an employee may take time off without pay.

Section 5. An employee changing from an ineligible to an eligible status will begin accruing PTO from the date of the change as long as they have met the service requirements mentioned in Section 3. above.

Section 6. A former employee who is rehired shall not be eligible for PTO unless he/she has met the service requirements mentioned in Section 4. above.

Section 7. If an employee changes from full-time to regular part-time status, there shall be no change in benefit date. In addition, the regular part-time employee is able to carry over up to 50% of the Paid Time Off maximum accrual allowed based on his/her part-time service category. In addition, the part-time status will have their Paid Time Off vested accrual paid out effective the following first pay period after the employee's change has taken effect.

Section 8. PTO is accrued for every hour an employee is paid, including worked hours, union representation time under Article 8 and paid benefit hours up to a maximum of seventy-five (75).

Section 9. All vested PTO is paid as a terminal benefit, provided proper notice has been given and employees have met minimum service requirements. The payment will be made on the pay date following the employee's last day of employment.

Section 10. An eligible employee may voluntarily donate a portion of their own PTO benefit to an employee who is away from work on approved leave for disability, family medical leave, or personal leave of absence for hardship reasons. The employee will be eligible to give hours from his or her own accrued balance of PTO. Donated hours shall be subtracted for donor's PTO accrual bank with no adjustment for their dollar value. Donated hours shall be paid to the benefited employee at the benefited employee's rate of pay.

Section 11. To the extent possible and consistent with Employer/Hospital needs and requirements, managers will attempt to recognize the personal preferences of employees with

respect to the length and timing of PTO. In order to maintain an equitable system of scheduling PTO, the following guidelines must be followed:

- a.) an employee's nurse manager must approve the use of all PTO;
- b.) all PTO must be requested in advance of the time needed except for instances of illness or other unforeseeable emergencies;
- c.) unscheduled tardiness of less than one (1) hour will not be paid as PTO;
- d.) when there is a conflict in PTO selection between two (2) or more employees, the employee with the highest seniority date shall be given preference;
- e.) requests for scheduling PTO vacation requests for one or more calendar weeks must be submitted in writing to the nurse manager three (3) months prior to the first day of the week in which time off is requested. Requests should indicate first and second choices. Reasonable efforts will be made to accommodate employee's vacation preferences. Each employee will be approved for a minimum of one (1) week of PTO during prime time summer (June 15-Labor Day weekend). Weekends requested in conjunction with approved vacation time shall be approved. Responses to written vacation requests shall be in writing within fourteen (14) days of the last date such requests must be filed.
- f.) The scheduling and payment of PTO shall be based on an employee's normal work schedule and normal workdays in a work week. In the event an employee requests to reduce their scheduled hours or shifts in a workweek, the employee will be required to utilize PTO for the reduction in hours.
- g.) **One (1) shift of paid time off will be designated for use in instances of compelling personal reasons and will be granted with twenty-four (24) hours notice, in the time period between January 2 and November 15 except on a holiday, before or after a holiday or before or after scheduled PTO.**

Section 12. In all cases, sufficient PTO time must be available when the approved period of time off arrives. If the employee does not have sufficient time available then he/she may be required to work all or part of a portion for their regularly scheduled hours, as needed.

Section 13. Approved vacations may not be changed when personnel transfer without the consent of the employee, e.g., in instance of layoff, unit closings or transfers because of an administrative decision, approved vacation requests will be honored. When a transfer to another department/clinical unit or change in status occurs, at the employee's request, approved vacation requests must be resubmitted. However, every attempt will be made to accommodate the employee's previously approved vacation schedule.

Section 14 If a department or work unit is closed as a result of a Employer/Hospital recognized holiday, namely New Year’s Day, Easter Sunday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day or Christmas Day, an employee must take a PTO day. If an employee is scheduled to work when his/her department or work unit is open, another PTO day can be scheduled at a more appropriate time depending on Employer/Hospital needs.

Regular part-time employees scheduled to work on any of the above recognized holidays have the option of taking PTO or time off without pay.

Section 15. Each employee shall be required to work at least one shift on two of the following paid holidays:

Independence Day	Labor Day
Memorial Day	Thanksgiving Day.

- a.) In addition, each employee working seven and one-half (7½) hour shifts, will be scheduled to work one (1) shift out of six (6) in the shaded areas and one (1) shift out of six (6) in the unshaded areas of the following chart:

December 24	7:00 a.m.-3:00 p.m.	December 31	7:00 a.m.-3:00 p.m.
December 24	3:00 p.m.-11:00 p.m.	December 31	3:00 p.m.-11:00 p.m.
December 24	11:00 p.m.-7:00 a.m.	December 31	11:00 p.m.-7:00 a.m.
December 25	7:00 a.m.-3:00 p.m.	January 1	7:00 a.m.-3:00 p.m.
December 25	3:00 p.m.-11:00 p.m.	January 1	3:00 p.m.-11:00 p.m.
December 25	11:00 p.m.-7:00 a.m.	January 1	11:00 p.m.-7:00 a.m.

- b.) No employee shall be required to work both Christmas Eve and Christmas Day in the same year unless it is requested or agreed upon. In the event that filling the schedule results in an employee being scheduled for Christmas Eve and Christmas Day, the least senior employee who has not selected a shift on Christmas Eve or Day will be scheduled on one of those days.

**No employee shall be required to work Christmas Day two (2) years in a row.**

- c.) Should there be a conflict with scheduling on the holidays, it shall be granted according to seniority.
- d.) Should there be a holiday shift that is not adequately staffed under these conditions, the least senior employee on the unit will be scheduled for an additional shift. If there is an opportunity for low census this individual will be considered first throughout the Hospital.
- e.) The holiday and/or shifts referenced below shall be paid **a holiday premium** at the rate of time and one-half (1½) the employee’s base rate for all hours worked:

- 1.) Christmas Eve from 3:00 p.m. on 12/24 through 7:00 p.m. on 12/25;
- 2.) Christmas Day from 7:00 a.m. on 12/25 through 7:00 a.m. on 12/26;
- 3.) New Year's Eve from 3:00 p.m. on 12/31 through 7:00 a.m. on 1/1;
- 4.) New Year's Day from 7:00 a.m. on 1/1 through 7:00 a.m. on 1/2;
- 5.) Easter Sunday from 11:00 p.m. on Saturday through 11:00 p.m. on Easter;
- 6.) Memorial Day from 11:00 p.m. on Sunday through 11:00 p.m. on Memorial Day;
- 7.) Independence Day from 11:00 p.m. on 7/3 through 11:00 p.m. on 7/4;
- 8.) Labor Day from 11:00 p.m. on Sunday through 11:00 p.m. on Labor Day;
- 9.) Thanksgiving Day from 11:00 p.m. on Wednesday through 11:00 p.m. on Thanksgiving Day.

Employees whose day shifts begin earlier than 7:00 a.m. will continue to receive holiday premium pay for his/her entire shift.

Employees shall share equally in the coverage of Easter Sunday on an alternating basis.

Section 16. The above requirement to work a holiday is based upon staffing needs. Should all staff not be required employees may be granted time off on a rotating basis by seniority. Holiday commitments occurring during scheduled vacations shall be met.

Section 17. In the perioperative service areas, holidays will be covered on a voluntary basis. If there are no volunteers, then holidays will be assigned on a rotating basis according to inverse seniority. If an employee already volunteered for a holiday in a calendar year, he/she would be exempt from the rotation. No employee will be expected to work Christmas, Thanksgiving, or New Year's for two (2) consecutive years, unless done on a voluntary basis.

Section 18. For the purposes of accommodating requests for vacation, only staffing requirements for bargaining unit members in a given clinical unit may be considered. Vacation schedules for other employees including management employees may not interfere with the scheduling of bargaining unit personnel. Except that those non-bargaining unit employees who are listed as exceptions in the bargaining unit work may be considered in scheduling vacations. Requests for vacation shall not be unreasonably denied.

Section 19. Should an employee desire to change an approved vacation, the employee may submit the change at least thirty (30) days prior to the first day of the month in which the vacation is requested. The employee's request shall be accommodated if possible.

Section 20. Full-time and regular part-time employees are eligible to participate in the PTO buy back program up to a maximum of seventy-five (75.0) hours as long as, the employee has the accrued time in their bank. PTO buy out requests must be submitted by the employee to the Payroll Department no later than March 1. Employees PTO payout will be made by the end of March.

Section 21. Unscheduled absences are subject to the provisions of the Kenmore Mercy Hospital attendance policy, **included in MOU#2 of this Agreement.**

Section 23. Paid Time Off (PTO) at time of termination will be processed as follows:

- a.) Employees who fail to complete the probation period, for any reason, will receive no payout of any accrued PTO at time of termination.
- b.) Employees who successfully complete the probationary period, and are terminated by the Employer/Hospital, will receive a payout for all accrued unused PTO.
- c.) PTO for employees who successfully complete the probationary period, and resign from their position will be processed as follows:
  - 1. If the employee fails to provide a minimum of two (2) weeks written notice, there will be no payout of any accrued PTO.
  - 2. If the employee provides a minimum of two (2) weeks written notice and works their normal schedule during the notice period or is away from work on approved PTO, then the employee will receive a payout of all accrued PTO at time of termination.
  - 3. If the employee provides a minimum of two (2) weeks written notice, and then takes unscheduled PTO during the notice period, the employee will not be paid for the hours away on unscheduled PTO. In addition, the hours the employee was off on unscheduled PTO will be deducted from the employee's PTO bank. Once the deduction is made, then the Employer/Hospital will pay the balance of accrued unused PTO.

**Article 29  
Extended Sick Leave**

Section 1. All full-time and regular part-time employees are eligible for extended sick leave, which will be banked in the Extended Sick Leave Bank (ESLB), according to the schedule below:

ESLB			
Category of Employment	Maximum Days Accrued Annually	Maximum Hours Accrued Annually	Accrual Rate Per Hour
Full Time	<b>9</b>	<b>67.5</b>	<b>.03466</b>
Part Time	4	30.0	.03076

Section 2. ESLB will be established for each new employee to provide income, during periods of New York State Disability or New York State Workers' Compensation, and will be

accrued as outlined in Section 1. above. ESL balances will appear on each employee's pay-check stub.

Section 3. Employees accrue ESL from their date of hire but are not eligible to use their sick leave time until they have completed their probationary period.

Section 4. Employees continue to accrue ESL for as long as the employee is being paid by the Employer/Hospital.

Section 5. An employee may use ESL for all scheduled work days during the first seven (7) calendar days of any injury or illness for which the employee qualifies for and receives New York State disability benefits. After seven (7) calendar days, payment of sick leave will be made in accordance with Section 8. below.

Section 6. An employee may use ESL for all scheduled work days, for on the job injuries covered by New York State Workers' Compensation according to the following provisions.

- a.) If the absence is due to an on the job injury, that does not exceed seven (7) calendar days, ESL will be paid for the equivalent of budgeted hours.
- b.) If absence exceeds seven (7) calendar days, but less than fifteen (15) calendar days, ESL will be paid for up to five (5) work days lost during the first seven (7) calendar days (the waiting week). The balance of the ESL payments will be made in conjunction with the Workers' compensation carrier as outlined in Section 8. below.
- c.) Absences which exceed fourteen (14) calendar days will be paid jointly by the Employer/Hospital and the workers' compensation carrier as outlined in Section 8. below.
- d.) In the event that an employee's payments from workers' compensation combined with the payment from the Employer/Hospital exceeds the employee's normal base pay, the Employer/Hospital shall request reimbursement from the New York State Workers' Compensation Board. The employee may then be entitled to have ESL hours reinstated in his/her bank in proportion to the amount of the payment from workers' compensation.

Section 7. An employee will be paid from their ESLB from his/her first day of absence when the employee does not qualify for New York State Disability or New York State Worker's Compensation payments but:

- a.) is confined as an in-patient in a hospital;
- b.) has outpatient surgery under anesthesia in a hospital surgical suite, free standing surgical center, or in a physician or dental office (excluding routine tooth extractions or dental work);

- c.) suffers an injury or illness which requires treatment by a physician with a written statement verifying the injury or illness and circumstances; or
- d.) is sent home or is banned from working as the result of an infection which verified to have been contracted at work such as pink eye, scabies, chicken pox, etc.

If an employee who is otherwise eligible is not covered by any of the proceeding conditions, sick leave will be paid at the rate of one (1) full sick day after the third day of absence through the employee's fifth day of absence, provided the disability time period is less than or equal to seven (7) calendar days.

Section 8. An employee's ESL accumulation shall be reduced as follows as a result of payment to the employee:

- a.) one (1) day (including shift differential) for each day paid for the Employer/Hospital where the illness or injury is not covered by New York State Disability Insurance or New York State Workers' Compensation due to the waiting period;
- b.) the difference between the employee's regular basic rate of pay/budgeted hours (including shift differential) and the actual amount paid to the employee under New York State Disability or New York State Workers' Compensation, up to the limit of employee's ESLB;
- c.) the difference between the employee's regular basic rate of pay and the amount paid to the employee while working in a Transitional Duty Program, whose restrictions requires that he/she work less than the normal category of employment requirements; and
- d.) one (1) day for each day paid (including shift differential) for by the Employer where the employee's entitlement to disability or compensation benefits have expired but the employee continues to be certified as disabled by his/her physician and there is still time remaining in the employee's ESLB.

Section 9. An employee may use ESL when their period of disability exceeds the statutory benefit and the following conditions are met:

- a.) the employee will continue to be classified as disabled as long as the disability continues to be certified by the employee's medical provider;
- b.) provided the terms stated in a.) in this Section 9 are met, the employee may continue to receive ESL payments equal to their budgeted hours multiplied by their regular base rate of pay (including shift differential) until they return to work or until their benefits are exhausted, whichever comes first;

- c.) while the employee continues to be paid his/her ESLB, the Employer may require the employee to submit to a medical exam, but not more frequently than once every thirty (30) calendar days.

Section 10. Employees are required to notify his/her clinical unit/department manager or designee, (Patient Care Services employees must notify the Patient Care Services Office) of their inability to report for work.

Section 11. Employees shall be permitted to use ESL in increments equal to the number of hours in the employee's regularly scheduled shift.

Section 12. An employee shall not be required to use other than his/her ESL to cover absences outlined in this article. However, employees may elect to use accumulated PTO to cover days of absence for which they have no ESL available under the same conditions noted above.

Section 13. Employees that are certified as disabled or are on workers' compensation shall accrue PTO and sick time for all benefit hours paid by the Employer/Hospital.

Section 14. Employees who retire at age fifty-five (55) or older, with twenty (20) years of credited service on or after January 1, **2011** will be:

- a.) eligible to utilize up to six (6) months (975 hours) of accrued, unused extended sick time to extend their service credits in the retirement plan.
- b.) In the case of employees that are provided retirement benefits for CWA employees under the Retirement Plan of the Catholic Health System (PRA), the six (6) month retirement benefit referred to in a.) above will be converted into Pay Credits.

### **Article 30 Leave of Absence**

Section 1. A leave of absence without pay may be granted to all employees covered by this agreement after one (1) full year of continuous employment, for the following reasons:

- a.) compelling personal reasons;
- b.) educational purposes;
- c.) per the Family Medical Leave Act; and
- d.) union business.

Employees may not take a leave of absence to work in another capacity. A leave of absence will not be denied arbitrarily.

Section 2. Applying for Leave:

- a.) an employee's application for a leave of absence must be made in writing to his/her supervisor thirty (30) calendar days in advance of the leave, except in cases of emergency;
- b.) in cases of emergency, the employee shall contact his/her manager and explain the circumstances requiring emergency leave; the leave will either be approved or not approved; the employee must complete the appropriate paperwork within seventy-two (72) hours of the time the leave is approved;
- c.) the employee's application must include the beginning and end dates of the leave, with statement of the employee's intent to return to work;
- d.) Human Resources will contact the supervisor for recommendations on the approval or disapproval for personal leave of absence only. Human Resources will review and issue final decisions in all leave applications;
- e.) the Employer/Hospital will respond in writing to applications for leave within five (5) business days. Notification in writing will be made to the employee's last known address of record. It is the employee's responsibility to maintain a current address with the Employer/Hospital;
- f.) following approval, it is the employee's responsibility to arrange for coverage of any deductions usually taken for employee benefit programs and the full premium of health insurance. Failure to arrange those deductions in advance of the leave, will be cause for the Employer/Hospital to terminate the benefits during the leave; and
- g.) employees on unpaid leave of absence will earn no paid time off (PTO) or sick time. Accrued time off will be made available to the employee on his/her return to work.

The granting of a leave of absence will protect the employee's hire date for all purposes for which a hire date is used.

Section 3. When an employee is preparing to return from a leave of absence, the following process will apply:

- a.) an employee returning from a leave of absence should contact his/her department head and Human Resources at least seven (7) calendar days prior to the expected return to work date to determine whether a suitable position is available;
- b.) the employee will obtain medical clearance from the Employee Health Service provider prior to returning to work if the leave of absence is greater than thirty (30) days. Such medical clearance shall be at no cost to the employee;

- c.) if an employee returns from a personal or educational leave of absence within sixty (60) days, from the effective date of the leave, then he/she will be returned to his/her original position;
- d.) if an employee returns from a personal or educational leave of absence after sixty (60) days, from the effective date of the leave, then he/she will be returned to a position of equal pay, category and shift, if his/her original position is not available. Every reasonable effort will be made for an employee to return to the position held when the leave began; and
- e.) if there is no such position, the employee shall then be directed to Human Resources. It is understood that once an employee is on layoff status, that employee will be entitled to all recall rights outlined in Article 53, Layoff and Recall, except employees on educational leave shall not be allowed to bump.

Section 4. Failure to return to work on the first work day following expiration of a leave of absence or an extension thereof, will be considered as a voluntary termination of employment, except in instances when the expiration date of an approved leave of absence falls within a period for which the employee is receiving New York State Disability benefits and has followed the process outlined in Article 41, Disability and Workers' Compensation, for receiving those benefits.

Section 5. A leave of absence shall not exceed six (6) months in duration. Employees may request a six (6) month extension before the end of the initial period of leave of absence. A request for a leave of absence or extension will not be unreasonably denied. Leaves of absence shall not be granted for less than seven (7) calendar days.

Section 6. Union Business:

- a.) A leave for Union business of up to twelve (12) months shall be granted upon written request from the Union. Such leaves shall be extended for additional periods of twelve (12) months without limitation upon request of the Union. Such leaves shall be limited to no more than one (1) individual at any one time. Should an employee be elected as a local union officer or executive board member, then the limit will be increased to any two (2) individuals (one being the local union officer or executive board member plus another individual) at any one time. If two (2) individuals (one being the local union officer or executive board member plus another individual) have requested a leave of absence at the same time, the Union will allow the Employer/Hospital forty-five (45) days to fill one (1) position before the start of the leave for the second individual.
- b.) The Union leaves shall be without pay, however, employees shall continue to accumulate seniority and shall continue to receive pension benefits under the same employment status as prior to the leave. Date of hire or time spent in the

job title held upon the granting of such leave plus all leave time shall determine rate of pay for determination of pension benefits and grade and step assignment at the end of such leaves. Date of hire shall be preserved for all purposes. Employees may continue to participate in all group health insurance plans at the employee's expense. The employee will accrue vesting time only for Pension purposes. There will be no Employer/Hospital dollar contribution during the Leave of Absence.

- c.) An employee who is returning from a Union leave under this section shall return to his/her previous position if the leave is for sixty (60) days or less. If the leave is for more than sixty (60) days and the employee's previous position is not vacant, such employee shall be replaced by Layoff and Recall.

Section 7. Family and Medical Leave Act (FMLA):

- a.) FMLA leave of up to twelve (12) weeks during any twelve (12) month period related to a family medical necessity, for employees covered by this Agreement, will be granted under the provisions of the Family and Medical Leave Act of 1993 and this collective bargaining agreement. Medical necessity will be defined as:
  - 1.) For a birth, or placement of a child with the employee for adoption or foster care and to care for such new child.
  - 2.) In order to provide care for a son, daughter, spouse or parent who has been diagnosed with a serious health condition.
  - 3.) For a leave for the employee's own "serious health condition", if the condition makes the employee unable to perform the daily functions of his/her position.
- b.) Leave of absence will be granted under the provisions of the Family and Medical Leave Act of 1993 under the same terms and mechanisms outlined in Sections 1. and 2. and has reached one thousand, two hundred and fifty (1,250) hours of service, inclusive of Union Representation time and/or time spent on a leave of absence for Union business during the twelve (12) months preceding, exclusive of all paid time off, (e.g., sick leave, PTO, Jury Duty, etc.) during the twelve (12) month period preceding the leave. The form to be utilized in applying for all leaves should be obtained from Human Resources.
- c.) The following definitions shall be applicable:
  - 1.) Son or daughter – a biological, adopted or foster child, stepchild, legal ward or child of a person standing in "loco parentis".

2.) Serious health condition – an illness, injury, impairment or physical or mental condition involving either:

A.) Inpatient Care involving at least an overnight stay in a hospital, hospice or residential medical care facility. FMLA leave based on this portion of the definition also extends to any period of “incapacity” (defined as inability to work due to the serious health condition or recovery from that condition), and any subsequent treatment (including examinations to determine the existence of a serious health condition), in connection with the inpatient care.

B.) Continuing treatment by a health care provider. FMLA leave based on this portion of the definition is available in any one or more of the circumstances described in (i.) – (v.) below:

i.) A period of incapacity of more than three (3) consecutive calendar days and any subsequent treatment or period of incapacity relating to the same condition that also involves:

(a.) treatment two or three times by a health care provider (or by others, under the supervision of or on orders of or referral by a health care provider); or

(b.) treatment by a health care provider on at least one occasion that results in a regimen of continuing treatment (e.g., antibiotics) or therapy requiring special equipment (e.g., oxygen) under the supervision of the health care provider.

ii.) Any period of incapacity due to pregnancy, or for prenatal care.

iii.) Any period of incapacity, or treatment for such incapacity, due to a chronic serious health condition, which is defined as one that:

(a.) requires periodic visits to a health care provider;

(b.) continues over an extended period of time; and

(c.) may cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).

- iv.) A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. (Examples include Alzheimer's, severe stroke, or the terminal stages of a disease.)
  - v.) Any period of absence to receive multiple treatments (including any period of recovery) by a health care provider (or under orders of, or on referral by, a health care provider), either for restorative surgery after an accident or injury, or for a condition that if left untreated would likely result in a period of incapacity of more than three (3) consecutive calendar days, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), and kidney disease (dialysis).
- d.) An eligible health care provider could be a doctor of medicine, an osteopathic doctor, a podiatrist, a dentist, a clinical psychologist, an optometrist, a chiropractor (for certain conditions), a nurse practitioner or nurse midwife, or certain Christian Scientist practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts.
  - e.) An employee may take intermittent leave or may work a reduced leave schedule to reduce the usual number of hours per day or work week. Prior approval, for working a reduced leave schedule is required.
  - f.) The Employer/Hospital will require medical certification of a serious health condition from the employee's physician. Failure to provide medical certification may result in denial of the leave.
  - g.) Eligibility for leave based upon the birth or adoption of a child expires at the end of the twelve (12) month period beginning on the date of birth or placement. A "rolling" twelve (12) month period measured backward from the date an employee uses any FMLA leave is used to determine the "twelve (12) month period" in which the twelve (12) weeks of leave entitlement occurs.
  - h.) In cases where the leave is foreseeable, the employee must provide the Employer/ Hospital with at least thirty (30) days advance notice of the leave. In the event FMLA leave is not foreseeable, the employee is required to provide medical certification within fifteen (15) calendar days from the initial notification to the Employer/Hospital or as soon as reasonably possible under the particular facts and circumstances. If an employee fails to provide thirty (30) calendar days notice for a foreseeable leave with no reasonable excuse for

the delay, the leave may be denied until at least thirty (30) days from the day notice is provided.

- i.) For any FMLA leave, employees may substitute any earned PTO or other accrued benefit time as part of the FMLA leave, whether the FMLA leave is consecutive or intermittent nature. Following exhaustion of accrued benefit time while on leave, it is understood the employee may request additional weeks up to a total of twelve (12).
- j.) Employer/Hospital will maintain any group health plan under the same conditions as if the employee had continued employment during the leave of absence, provided the employee is a participant of one of the plans at the start of the leave. The Employer/Hospital and the employee will continue to contribute their respective portions of the premium as if the employee were not on leave. Failure to submit payment of the employee's part in excess of thirty (30) calendar days may result in the cancellation of insurance, provided the Employer/Hospital has given written notice of the intent to cancel at least fifteen (15) calendar days in advance of the cancellation.
- k.) Any employee on a leave of absence granted under the provisions of the Family and Medical Leave Act of 1993 for a period not to exceed twelve (12) weeks will be returned to his/her job at the end of the leave.
- l.) The time period for any period of absence which can be covered by FMLA, including NYS Disability or Workers' Compensation or a personal leave shall include and run concurrent with the time period for any leave required by the Family and Medical Leave Act.
- m.) **An employee may also be permitted to take periods of unpaid leave under the January 28, 2008 FMLA Amendments (National Defense Authorization Act for FY 2008-NDAA) – Public Law 110-181 Section 585 (a) for qualifying reasons for leave to include:**
  - a.) **Up to twelve (12) weeks because of “any qualifying exigency” for a spouse, son, daughter, or parent that has been notified of impending active duty or who is on active duty, in support of an “contingency operation”; or**
  - b.) **Up to twenty-six (26) weeks in a single twelve (12) month period for those who are a spouse, son, daughter, parent, or next of kin of a covered service member who is recovering from a serious illness or injury sustained in the line of duty on active duty.**

## **Article 31 Military Leave**

Section 1. Leaves of absence shall be granted to all employees entering active duty of the Armed Forces of the United States and those who are absent for the purpose of performing training duty or emergency service in the Armed forces. Re-employment rights shall be in accordance with the requirements of the Uniformed Services Employment and Re-Employment Act of 1994, as amended from time to time, and/or regulations issued thereunder.

Section 2. Any employee who is engaged in military service, who enlists or is called to duty should submit a leave application to their manager or supervisor thirty (30) calendar days prior to the leave effective date, or as soon as notified of upcoming military service. Military orders must be provided to management to verify the need for a military leave of absence. The request must include a statement of intent to return to work. The employee will be placed on a leave of absence to cover the time away in service, provided the total leave of absence does not exceed a five (5) year period from the effective beginning date of the leave.

Section 3. Eligible service includes voluntary or involuntary service in one of the military branches of the armed forces of the United States, including:

- a.) active duty;
- b.) active duty for training;
- c.) initial active duty for training;
- d.) inactive duty for training purposes; and
- e.) full-time National Guard duty.

Branches of the military service include:

- a.) Army, Navy, Marine Corps, Air Force, Coast Guard
- b.) Reserve service in Army, Navy, Marine Corps, Air Force or Coast Guard
- c.) Army National Guard or Air National Guard
- d.) The Commissioned Corps of the Public Health Service
- e.) Any other designation issued by the President in time of national emergency or war.

Section 4. An employee ordered to annual active duty training or active duty with the National Guard or Reserve for two (2) weeks or more and who loses time from work as a result will be paid the difference between their regular basic rate of pay with the Employer/Hospital and their lower military pay for up to ten (10) work days in a calendar year. The employee on military leave will be required to submit to human resources a statement of military earnings to receive reimbursement for the differential. Reimbursement will be paid by the payroll department in the employee's regular bi-weekly pay within two (2) pay periods following submission of the military earnings statement. Absence from work for inactive duty or for examinations to determine fitness for duty will not be eligible for the military differential. An employee who elects to use paid time off during the leave will not

receive a military differential. Part-time employees will be eligible for the military differential based on their regularly scheduled bi-weekly hours.

Section 5. Regular employees entering active duty in the Armed Forces of the United States will be given the paid time off to which they are entitled under the terms of this contract. If such employees do not elect to take their paid time off before leaving, they will be paid an allowance in cash equal to and in lieu of any paid time off which is due.

Section 6. Employees who enter the service receive military health care benefits automatically, and can enroll their dependents in separate health insurance plans for dependents (**CHAMPUS**) if they are called to serve for at least thirty-one (31) days. However, they also may want to continue their health insurance coverage. Employees on military leave and their dependents can receive continuation coverage in their health insurance plan for up to eighteen (18) months under COBRA. If the employee elects to cease medical coverage, the coverage will be reinstated when the employee returns to work. However, if the employee's period of military service is thirty-one (31) days or less, the employee would be entitled to continue their medical coverage under the same cost sharing arrangements as prior to the leave. Employees should contact Human Resources to make the necessary arrangements.

Section 7. Employees returning to work from a military leave are required to be seen by the Employee Health Services provided for clearance to return to work within seventy-two (72) hours of the actual anticipated return for leaves in excess of thirty (30) calendar days.

Section 8. For computation of pension benefits for a service member returning to his/her employment after a period of military service; compensation for the period of military leave is defined as compensation computed at a rate which the employee would have been earning if the employee had not taken a leave.

## **Article 32 Jury Duty**

Section 1. All regular full-time and regular part-time employees, who have completed their probationary period and who are required to serve on jury duty shall be excused from their work schedule for a maximum of thirty (30) days served as a juror. Employees shall be paid for time spent on jury duty as follows:

- a.) in full for the first three (3) days of jury service which fall on scheduled work days;
- b.) beginning with day four (4), for the difference between their normal wages for each day of service less any fees (excluding travel and maintenance) received from the court.

Section 2. Time spent on jury duty shall be counted as time worked for the days the employee was scheduled to work, and for all other purposes. Time spent on jury duty shall not be counted as time worked in the computation of overtime.

Section 3. If employees are excused from jury service for specific days, and the employee was originally scheduled to work, they will report to work. Employees scheduled on the night shift will be excused on the night shift prior to the jury duty.

Section 4. Employees are required to provide payroll with a copy of documentation from the court indicating the date of service and amount of payment received. The amount will then be deducted from the next day.

### **Article 33 Bereavement Leave**

Section 1. All regular full-time and regular part-time employees will be excused from work with pay for up to three (3) scheduled working days within seven (7) days beginning with the date of death of the family member outlined in Section 2. below. The seven (7) day period may be extended by mutual agreement. Bereavement leave notification shall be oral, but written notification may be requested by the Employer/Hospital. If written notice is requested, a death notice will constitute such notice.

Section 2. This leave may be exercised in conjunction with the death of a spouse, child, step- parent, step-child, brother, step-brother, sister, step-sister, parent, legal guardian, grandparent, grandchild, mother-in-law, father-in-law, or life partner and person who takes the place of a parent.

Section 3. One (1) day off with pay, under the same conditions as above, will be provided in the event of a death of a brother-in-law, daughter-in-law or son-in-law. Additional time off without pay or available Paid Time Off (PTO) may be requested and shall not be unreasonably denied.

Section 4. Unless otherwise provided, paid time off under this Article will not be charged against an employee's Paid Time Off (PTO) balance.

Section 5. Payment for each day of bereavement leave under Sections 1. and 3. above will be equivalent to the regular hours that the employee was scheduled to work on the applicable days.

Section 6. Part-time and probationary employees shall be granted leave without pay upon request, in the event of a death in the family as covered in Section 1. and 3. above.

Section 7. An employee covered by this Article that is on an approved Family Medical Leave or a personal leave of absence granted to provide care for an individual, as defined by the Family Medical Leave Act, and the person for whom the leave was granted to provide care passes away, the employee will be eligible to receive bereavement leave in accordance with this Article beginning with the date of death.

Section 8. In the event a family member is not defined in Section 2. or 3. above, the Employer/Hospital and employee may mutually arrange coverage for the absence on the day of the funeral. The employee shall use available PTO. If the employee lacks available PTO, the absence may be granted without pay.

### **Article 34 Emergency Closure**

If the Employer/Hospital is forced to temporarily close or discontinue operations in a unit and/or department, for weather related or other emergency reasons, all employees shall have the option of utilizing either accrued paid time off or a low census day without pay.

### **Article 35 Health Coverage**

Section 1. The Employer/Hospital shall make available to all employees covered by this Agreement the following health coverage options:

- a.) Traditional Blue/POS 298 Plan 3;
- b.) Traditional Blue/POS 298 Plan 1.
- c.) **CHS First Choice Plan**

Any changes in the plan, including coverage, co-pays, administration, accessibility, by the Employer/ Hospital shall only be by mutual agreement.

Section 2. An employee may initially select individual or family health plan coverage within sixty (60) days of the date of employment at full cost to the employee. Changes in coverage may be made during open enrollment each year or within thirty-one (31) days of a life status change event where the change made is consistent with the event (e.g., adding a dependent as a result of getting married).

Section 3. The Employer/Hospital shall contribute ninety percent (90%) of the cost of single coverage and eighty percent (80%) of the cost of family coverage for full-time employees. The Employer/Hospital shall contribute fifty-five percent (55%) of the cost of single coverage for regular part-time employees and fifty-five percent (55%) of the cost of family coverage for regular part-time employees based on Traditional Blue/POS 298 Plan 1 (core plan). **Effective for open enrollment 2012, the Employer/Hospital shall contribute sixty-five percent (65%) of the cost of single coverage for regular part-time employees and sixty-five percent (65%) of the cost of family coverage for regular part-time employees based on Traditional Blue/POS 298 Plan 1 (core plan).** Employees electing coverage under any health coverage offered other than the core plan will be entitled to an Employer/Hospital contribution equal to the contribution they would have received if the employee was covered under the Employer/Hospital core plan.

Section 4. The Employer/Hospital subsidy toward health insurance for all employees shall commence on the first of the month following ninety (90) days of employment.

Section 5. The Employer/Hospital will offer to employees not eligible for the subsidy participation in the Employer's/Hospital's group health insurance plans with the responsibility for the full cost to the plan being the employee's, provided premium costs are remitted to the Employer/Hospital in a timely fashion.

Section 6. Employee contributions shall be made on the basis of twenty-six (26) pay periods.

Section 7. For employees who enroll in the Traditional Blue/POS 298 Plan 1, the Employer/Hospital shall deposit yearly into a Medical Flexible Spending Account the following:

- a.) \$50.00 for employee's with single coverage;
- b.) \$100.00 for employee's with family coverage.

Section 8. The Traditional Blue/POS 298 Plan 1 product includes a \$250.00 inpatient deductible. Employees and eligible family members enrolled in the Traditional Blue/POS 298 Plan 1 product, that receive services with the Catholic Health System (CHS), shall have this deductible waived. The deductible will also be waived in the case of an emergency deemed as necessary to receive immediate medical treatment at the closest facility or life-threatening situation, or a situation where the determination of where treatment is to be provided cannot be provided by the employee or eligible family member, or if the services required are not available within a CHS facility.

Section 9. Employees not eligible for Employer/Hospital contributions toward health insurance premiums will be eligible to participate in the group health plan at their own expense.

Section 10. Employees who retire from Kenmore Mercy Hospital will be eligible to participate in a retiree group health plan at their own expense, until they are eligible for medical coverage under Medicare.

### **Article 36 Prescription Coverage**

Section 1. The Employer/Hospital shall make available to all employees covered by this Agreement, who are enrolled under one of the Employer/Hospital's health coverage plans, a seven dollar (\$7.00) co-pay for prescription drugs. The Employer/Hospital has contracted with a managed pharmacy drug benefit program under the self insured health care plans currently administered by Blue Cross Blue Shield, a three (3) tier prescription benefit at \$7/\$15/\$35.

- a.) The Employer/Hospital will reimburse employees, the difference between the seven dollar (\$7.00) co-pay referred to in Section 1. above and the second or third tier co-pay when:
  - 1.) there is verification from a valid formulary or a licensed pharmacy that generic drugs are not available; or
- f.) employees have their physician document that they cannot tolerate the generic alternative or the generic alternative is ineffective and only a second or third tier drug is appropriate.

Reimbursement forms must be submitted within ninety (90) days of purchase.

Section 2. An employee will be provided prescription coverage at the same time the health plan becomes effective.

Section 3. The Employer/Hospital shall contribute to the cost of the prescription coverage the same percentages as contributed under Article 35, Health Coverage.

Section 4. The Employer/Hospital and the Union agree to form a Health Insurance Workgroup. The committee will review and discuss issues related to:

- a.) formulary;
- b.) pre-authorization;
- c.) quantity limits;
- d.) plan volume; and
- e.) the monitoring of the plan savings/cost effectiveness of the plans.

The Union will be provided an accurate financial analysis of the costs of this program.

### **Article 37 Dental Coverage**

Section 1. All employees will be eligible to participate in a voluntary dental program according to the terms and conditions offered by the Employer/Hospital. Employees are responsible for one hundred percent (100%) of the premium associated with this voluntary plan. Premiums will be deducted on the basis of twenty-six (26) pay periods based on the benefit level and the number and type of dependents for which coverage is elected.

The Employer/Hospital shall make available to all employees covered by this Agreement the following dental coverage options:

<b>Description of services</b>	<b>Enhanced Plan</b>	<b>Basic Plan</b>
Class I Preventative & Diagnostic	100%	100%
Class II Restorative/Oral Surgery**	70%	50%

<b>Subject to deductible</b>		
Class III Major Restorative** <b>Subject to deductible</b>	50%	No Coverage
Class IV Orthodontia*** Lifetime maximum <b>Subject to deductible</b>	50% \$2,000	No Coverage
<b>Annual</b> Deductibles		
Single	\$ 50	\$ 50
Family	\$100	\$100
Maximum Benefit per Calendar Year	\$2,000	\$1,000

\* PPO Allowance

\*\* After annual deductible

\*\*\* Dependent children to age 19, full-time students to age 25.

The program consists of a dental Preferred Provider Organization (PPO) in which participants will be charged less for service provided by a participating dentist in the PPO network. Employees may elect to utilize non-participating dentists in which case the employee will be liable for any balance owed the non-participating dentist. The plan will reimburse according to the contracted fee schedule for participating providers.

Section 2. A newly hired employee may initially elect dental plan coverage within thirty (30) days of the date of employment. Actual coverage will begin on the first day of the month following completion of ninety (90) calendar days of employment. Changes in coverage may be made during open enrollment each year, or within thirty (30) days of a life status change, where the change made is consistent with the event (e.g., adding a dependent as a result of getting married).

Section 3. Employees in categories other than regular full time and regular part time are eligible to participate in the voluntary dental plan provided they meet the eligibility requirements detailed in Section 2 above. Premium payments will be billed by a third party administrator, which will collect the monthly premium plus a \$2.00 per month processing fee from the employee. If premium payments are not received by the due date, coverage will be canceled effective the last day of the month in which the last premium was paid.

Section 4. In the event the Employer desires to make a change in coverage under the plan, the changes will be agreed to by mutual consent of the Employer and the Union.

### **Article 38 Hospital Discounts**

Section 1. The Employer/Hospital Discount Program will apply to all full-time employees, regular part-time employees, **weekend employees, retirees**, laid off employees, and their spouses and eligible dependents that meet the following criteria:

- a.) eligible dependents as defined above must be covered by medical insurance through the Employer/Hospital or any other sources and considered eligible participants under the employee's medical insurance plan; or
- b.) eligible dependents as defined above, not covered by medical insurance must qualify as dependents for federal income tax purposes.

Section 2. Discounts apply to employees and their eligible dependents, as defined in Section 1. above, as follows:

- a.) inpatient deductible will be one-hundred percent (100%) to a maximum of two hundred and fifty dollars (\$250.00) per occurrence;
- b.) hospital billed coverage (including outpatient procedures) will have co-payments of up to fifteen dollars (\$15.00) waived, and a fifty percent (50%) discount on the balance of the co-payment in excess of fifteen dollars (\$15.00) will be applied;
- c.) outpatient services (non-covered) will have a discount of fifty percent (50%) exclusive of Emergency Room visits; and
- d.) private room discount will be one hundred percent (100%) for employees or spouse and a fifty percent (50%) discount for dependents.

Section 3. Discounts apply to authorized services only. Discounts do not apply to charges in excess of plan limits, cosmetic surgery, orthodontia or dentures, experimental techniques, medical devices and durable medical equipment.

Section 4. The discounts referenced in this Article are applicable at any Catholic Health System (CHS) hospital and outpatient facility associated with CHS.

Section 5. Discounts and waivers will not be applied to co-payments, deductibles or other patient payment portions of a Medicare, Medicaid or any other federally funded beneficiaries.

Section 6. Federal regulations prohibit transactions that could be construed as inducing a referral, or which could result in increased cost to the government under its programs. Therefore, Hospital employees are prohibited from accepting professional fee waivers and discounts from physicians or other healthcare providers that are in excess of any waiver or discount offered to the general public.

Section 7. Discounts for inpatient deductibles and outpatient co-pays will be reimbursed for pediatric services not provided at CHS facilities. To be eligible for reimbursement, discounted pediatric services must be delivered within the eight (8) counties of Western New York. Discounts for pediatric services not provided at CHS facilities are only available to employees, their spouse and children who are covered by medical coverage through Kenmore Mercy Hospital.

Section 8. To receive the benefits outlined under this Article, eligible employees must complete the “Hospital Discount Form for Approved Unreimbursed Medical Expenses” and submit to the HR employee benefits representative.

### **Article 39 Life Insurance**

Section 1. All regular full-time and regular part-time employees, who complete their probationary period, are eligible for group term life insurance in the amount equal to one times their annual base salary rounded to the nearest one thousand dollars (\$1,000.00) at no cost to the employee.

Section 2. In addition to the term life insurance outlined in Section 1., employees shall be eligible for Accidental Death and Dismemberment Insurance in the amount equal to one times their annual base salary rounded to the nearest one thousand dollars (\$1,000.00) at no cost to the employee.

Section 3. For purposes of calculating the annual benefit amount for the benefits outlined in Section 1. and 2. above, the calculation for each eligible employee shall be based upon the employees regularly scheduled hours and wage rate as of November of the previous year. Minimum benefit amount shall be equal to ten thousand dollars (\$10,000.00).

Section 4. The Employer/Hospital will continue to offer a voluntary, optional life insurance program to employees who meet plan eligibility requirements. The premiums of such coverage shall be paid for by the employee.

Section 5. Employees who terminate their employment with the Employer/Hospital, may elect to convert their group term life insurance coverage to an individual policy as provided by the carrier, based on the terms and conditions of the policy within thirty-one (31) days of termination with the former employee being fully responsible for the associated premiums.

### **Article 40 Long Term Disability Insurance**

All full-time and regular part-time employees will be eligible to participate in the voluntary long-term disability insurance program according to the terms and conditions offered by the Employer/Hospital. The premiums of such program will be paid 100% by the employees.

### **Article 41 Disability and Workers' Compensation**

Section 1. Time off the job for absence due to an illness or injury will be granted by the Employer/Hospital upon completion of the appropriate form accompanied by documentation from the employee's personal physician which confirms that the employee's medical condition prevents his/her from performing his/her job. In situations where an employee,

because of an unexpected medical condition, is unable to complete the proper form and furnish the appropriate documentation in advance, a disability leave may be granted upon notice. Documentation from the employee's physician shall normally be provided within three (3) weeks or as soon as available.

Section 2. Time off the job for an illness or injury shall not exceed **twenty-four (24)** months. There will be no loss of seniority while an employee is on disability or workers' compensation. For the first eighteen (18) months of absence, the employee shall continue to accrue seniority. Following eighteen (18) months of absence, the employee shall not accrue seniority for the remainder of his/her absence.

Section 3. Employees on disability or workers' compensation shall continue to receive life insurance benefits at no cost to the employee. Employees shall continue to receive health insurance benefits on the same basis as prior to the leave for the remainder of the month of disability beyond the expiration of any paid leave time and for two (2) additional months. Thereafter the employee may continue to participate in group health insurance at their own expense.

Section 4. An employee returning from disability or workers' compensation shall contact Human Resources at least seven (7) calendar days prior to the expected return date. The notice period shall be reduced to notice given where an employee is released by his/her physician on short notice.

Section 5. Employees may return to work prior to the scheduled expiration date of their leave after complying with the notification requirements and upon producing medical attestation, if applicable.

Section 6. The Employer/Hospital may require an employee returning from a disability or workers' compensation to submit to a medical examination, at no expense to the employee, before returning to work. Should there be a difference of medical opinion between the employee's physician and the Employer/Hospital's physician regarding the ability of the employee to return to work, a third medical opinion shall be solicited from a physician chosen by the Employer/Hospital. The cost of the additional examination shall be borne by the Employer/Hospital.

Section 7. Employees returning from disability or workers' compensation shall be placed in a position as follows:

- a.) if an employee returns within **six (6)** months from the effective date of the leave, such employee shall be returned to the position held prior to the effective date of the leave;
- b.) if the employee returns after **six (6)** months, the employee will be returned to the position held prior to the effective date of the leave, if the position has not been posted or filled;

- c.) if the employee's position is not available, the employee shall be returned to a position of equal pay, category, and shift, if available;
- d.) layoff and recall procedures of this agreement shall be followed if a position is not available;
- e.) if an employee returns after twelve (12) months from the effective date of the leave, such employee shall be placed according to the lay off and recall provision of this Agreement, except that he/she shall not be entitled to bump.

Section 8. After the expiration of **twenty-four (24)** months provided for in Section 2. employment shall terminate in accordance with Article 47, Seniority, Section 5(h).

Section 9. Employees collecting disability or workers' compensation payments, for time lost as a result of an occupational or non-occupational injury or illness may be routinely requested to be evaluated by an Employee Health provider, but not more frequently than once every thirty (30) calendar days.

## **Article 42 Transitional Duty Program**

Section 1. A return to work program has been established and shall be available for those employees who become physically unable to perform the full scope of their current job for a specified amount of time due to an occupational or non-occupational illness or injury. It is understood, that employees shall not be put into a **transitional** duty position unless there is reasonable expectation the employee will be able to return to his/her former position without restrictions at the end of the **transitional** duty assignment.

Section 2. If an employee's attending physician and the **Associate** Health Service provider agree that the employee can be placed in a **transitional** duty assignment, the following procedure shall be applied:

- a.) Based on the medical documentation provided, the Employer/Hospital may request a return to work physical and the employee must comply.
- b.) The **Associate** Health Service provider will perform the return to work physical, the purpose of which is to determine the appropriateness for placement of the employee into **transitional** duty or full duty.
- c.) Each department, **in conjunction with Integrated Disability Management and the Human Resource Department** will evaluate and determine the work available that will be considered appropriate for **transitional** duty. An employee who is classified for **transitional** duty work will be provided such work, that is suitable to his/her physical condition, when it is available. If a **transitional** duty assignment is not available in the employee's department, an assignment within his/her bargaining unit will be provided if available. If a

**transitional** duty assignment is not available within their bargaining unit, the employee will have the option of accepting a suitable position outside of their bargaining unit, if available.

- d.) The initial assignment of **transitional** duty will be for a period not to exceed six (6) weeks and renewable for a second period not to exceed six (6) weeks, based on medical evaluation from the employee's attending physician and the **Associate** Health Service Provider.
- e.) Assignment to a **transitional** duty position will be at the employee's current rate of pay, category of employment, and in his/her former shift when available. The employee and the Employer/Hospital may mutually agree to waive the shift requirement.
- f.) It is understood that an employee's restriction may require that he/she work less hours than the normal category of employment requirements. In that instance, the category of employment requirements will be waived. If an employee works in a **transitional** duty capacity and disability payments are reduced or eliminated, the employee will be entitled to banked time from their Extended Sick **Leave** Bank (ESB) to ensure a full paycheck. If the ESB has been depleted, the employee may elect to use Paid Time Off for the remaining hours.
- g.) **The Employer/Hospital shall provide a minimum of two (2) days written notice to the employee of the requirement to return to work for those employees who have been off work from fourteen (14) to forty-nine (49) calendar days and five (5) days written notice for those employees who have been off work fifty (50) calendar days or longer. It is understood that the written notice may be personally given to the employee.**
- h.) If an employee is classified for **transitional** duty and a work assignment is made suitable to his/her physical condition, skill and qualification, that employee must report to work in that position. If the employee elects to decline a **transitional** duty position, **ESL** payments **from the employee's bank** will be discontinued
- i.) .Regardless of the work assignment all benefits and provisions of the collective bargaining agreement will apply.

**Section 3. In a situation where an employee is not off from work due to a disability but would benefit by being placed in a transitional duty position, the Employer (Associate Health Service) and the Union will confer on a case-by-case basis.**

Section 4. If there is disagreement between the employee's attending physician and the **Associate** Health Service Provider in regard to capacity to return to work, an independent medical exam may be ordered by the insurance carrier, results of which will be the determining factor for return to work.

Section 5. An employee on **transitional** duty will not be counted as staff until the employee is released to perform the essential functions of the assigned duties of that position.

**Section 6. A review of transitional duty position opportunities will become a regular agenda item at the Workload and Staffing Committee.**

### **Article 43 Retirement Plan**

Section 1. The Employer/Hospital shall provide to all eligible employees in the bargaining unit the Catholic Health System Retirement Plan as outlined below.

- a.) Employees who were employed by the Employer/Hospital prior to February 1, 2002 will accrue benefits under the Kenmore Mercy Hospital Retirement Plan option at no cost to the employee.

or

- b.) Employees who were employed by the Employer/Hospital on or after February 1, 2002 and employees who have elected this option will accrue benefits under the cash balance option at no cost to the employees.

Employees hired prior to February 1, 2002 will not be required to move out of the current Kenmore Mercy Hospital Pension Plan.

Section 2. Effective January 1, 2006 the following improvements to the Kenmore Mercy Hospital Retirement Plan in Section 1 a.) above will be implemented.

- a.) For those associates currently benefiting under the Kenmore Mercy Hospital Retirement Plan, Hours of Service requiring for a Year of Vesting and a Year of Benefit Service will be seven hundred eighty hours (780). This improvement will be granted retroactively for all years of service with the Hospital for those bargaining associates in this group who have one (1) or more hours of service on and after February 1, 2005.
- b.) Reduce the early retirement penalty to one and one-half percent (1.5%) per year between the ages of fifty-five (55) to age sixty-five (65).

Section 3. Any changes in the Kenmore Mercy Hospital Retirement Plan option shall be subject to mutual agreement between the parties.

Section 4. Recognizing that the Kenmore Mercy Hospital Pension Plan has now been determined by the IRS to be a "Church Plan", the Employer/Hospital will supply to the Union annual updates as to the financial health of the trust funds, copies of actuarial valuations as soon as they are available, and make available to the Union, contracts with any financial or

actuarial consultant to insure that the Union has no unanswered questions about the financial health of the plan.

Section 5. The Employer/Hospital shall also provide to the Union on an annual basis the financial performance of the co-mingled pension assets for all of the pension plans in the Catholic Health System.

**Article 44**  
**403 (b)**

The Employer/Hospital will make available to all employees covered by this Agreement a tax sheltered annuity/403(b) plan.

Employees may make voluntary contributions to a 403(b) plan.

**Article 45**  
**Tuition Assistance**

Section 1. Tuition assistance shall be provided to all full-time, regular part-time employees after the completion of one (1) year of employment.

Section 2. The following application process shall be followed:

- a.) obtain application form from the Human Resources Department;
- b.) complete the application, sign and date the form;
- c.) submit the application form a minimum of two (2) weeks from the commencement of the course to the Human Resources Department.

Section 3. Course must meet one of the following criteria to be eligible for reimbursement:

- a.) the course must be of mutual value to the employee and the Employer/Hospital and should reasonably be expected to enhance employee job performance;
- b.) the course will prepare the employee to qualify for advancement and opportunities within the Employer/Hospital facilities that are in line with the employee's abilities and interest and needs of the Employer/Hospital;
- c.) the course is prescribed for the attainment of a certificate or degree in an academic or business area that is compatible to the interest of the Employer/Hospital and the employee;
- d.) the institution attended must be accredited for the subject being taught by the appropriate regional or professional accrediting body;

- e.) educational programs offered through Cornell School of Industrial Relations shall be eligible for reimbursement under this program provided all the conditions have been met; and
- f.) continuing education units required to receive or maintain certifications up to a maximum of fifteen (15) units per calendar year, not to exceed the dollar limits provided in Section 4. below.

Section 4. Employees who meet the provisions outlined above will be reimbursed as outlined below.

- a.) Regular full-time employees will be reimbursed for the cost of the course up to a maximum of **one thousand, eight hundred dollars (\$1,800.00)** per calendar year or **nine hundred dollars (\$900.00)** per semester.
- b.) Regular part-time employees will be reimbursed for the cost of the course up to a maximum of **nine hundred (\$900.00)** dollars per calendar year or **four hundred and fifty dollars (\$450.00)** per semester.
- c.) The program will base reimbursement only on the cost of tuition, laboratory fees and registration. Other expenses such as books, student fees, etc. will not be included.
- d.) Employees must successfully complete the course and submit the following information within ninety (90) calendar days of course completion before receiving tuition reimbursement:
  - 1.) evidence of a passing final grade is required; and
  - 2.) a verified statement of cost from the educational institution.
- e.) An employee on the active payroll at the time a request for reimbursement is approved, who is later involuntarily terminated or placed on layoff due to a workforce reduction, will retain eligibility for reimbursement for previously approved courses.
- f.) **Upon approval, course work may be completed in the traditional method or through on-line/electronic classes.**

Section 5. If a continuing education program, training program, or recertification program is mandated by the Employer/Hospital, the Employer/Hospital shall be responsible for all costs associated with that program. It is understood that the Employer/Hospital has the right to send employees to such training programs offered by the Catholic Health System before an employee will be sent outside of the system.

Any employee attending a conference or training session paid for by the Employer shall be paid the registration fees for the conference or training session and the employee's regular rate of pay for all work hours while in attendance at such conference or training.

Section 6. Any employee who receives tuition reimbursement shall be obligated to work for the Employer at least one (1) full year after a semester for which they received reimbursement.

#### **Article 46 Bulletin Boards**

Section 1. The Employer/Hospital shall provide a glass enclosed bulletin board for the posting of official Union business in a clearly visible location near the cafeteria.

Section 2. All current bulletin boards shall remain in their current locations.

Section 3. A bulletin board in a clearly visible location shall be provided for the Union's use in each outlying facility where represented employees are assigned.

Section 4. The specific size and location of each bulletin board in Section 2 and 3 shall be subject to agreement with the Union.

Section 5. The Union will provide the Human Resources Representative with an advance copy of all official Union business postings.

Section 6. Bulletin boards shall be used for factual and non-controversial materials. The posting of material of a political nature (other than union elections) of any kind is strictly prohibited.

#### **Article 47 Seniority**

Section 1. Seniority shall mean the length of unbroken service of an employee covered by this Agreement beginning with their most recent date of hire by the Employer/Hospital in any job title whether or not it is or was in the bargaining unit.

Section 2. An employee who accepts a non-bargaining unit position and returns to the bargaining unit within one (1) year, shall accrue seniority from his/her original date of hire. An employee who accepts a non-bargaining unit position and returns to a bargaining unit position after one (1) year, shall have a seniority date determined which will be for all years of service with the Employer/Hospital outside of management positions. Effective February 1, 2005 time spend in a per diem position will not count towards seniority.

Section 3. An employee who was employed by the Employer/Hospital for an uninterrupted period of at least twelve (12) months whose employment with the Employer/Hospital terminates for reasons other than those constituting just cause and is rehired within twelve (12) months from the date of termination shall after completing twelve (12) months of service, receive their most recent date of hire, prior to the termination, adjusted by moving the employee's most recent date of hire forward for the period of separation from

employment, for the purpose of calculating compensation at the applicable step and entitlement to all other benefits in this Agreement.

Section 4. Any employee hired into the bargaining unit from within the Catholic Health System or Catholic Health East shall receive prior service credit applicable to **wage and** benefit programs from **his/her** most recent date of hire in the system. For purposes of this section service may be bridged for up to twelve (12) months.

Section 5. Seniority shall be lost and an employee shall be terminated when the employee:

- a.) resigns or quits;
- b.) is discharged for just charge;
- c.) retires with or without qualifying for benefits under a pension plan or Social Security;
- d.) fails to return to work upon expiration of a leave of absence;
- e.) engages in gainful employment while on leave of absence without approval of the Employer/Hospital unless the employee is out of the immediate area of Western New York; approval shall not be unreasonably denied;
- f.) fails to report to work as directed after being recalled as outlined in Article 53, Layoff & Recall;
- g.) is absent for two (2) consecutive scheduled work days without notifying his/her supervisor or obtaining permission for such absences, unless beyond the employee's control;
- h.) does not return from a leave of absence due to illness or injury as provided for in Article 30, Leave of Absence;
- i.) has exhausted the period of time for which they have recall rights as provided for in Article 53, Layoff and Recall.

Quarterly, the Employer/Hospital shall post and furnish to the Union a seniority list and shall correct such list from time to time as may be necessary.

Section 6. Employees are asked to give at least four (4) weeks notice of resignation, however, employees must give at least two (2) weeks notice of resignation. Resignation notices should be submitted in writing and specify the last day the employee is to be at work. This notice period may be reduced or waived at the discretion of management. An employee may not extend their employment through the utilization of benefit hours or to meet the period of notice.

Section 7. It is agreed that when two (2) or more CWA members have the same seniority date, the last four digits of the employee's social security number shall be used to determine seniority. The most senior being the employee possessing the lowest four digits in the social security number.

### **Article 48 Bargaining Unit work**

Section 1. Non-bargaining unit personnel shall not perform bargaining unit work except in the following situations:

- a.) in emergencies where undue delay would jeopardize a patient's life or in emergencies where patient care would be compromised;
- b.) to maintain minimum certification;
- c.) to cover unscheduled absences where all attempts at using bargaining unit employees have failed to fill the position including voluntary overtime and offers of extra time to full and part-time employees;
- d.) to instruct and supervise employees with specific practice problems;
- e.) to cover vacancies, which are in the process of being filled and after all attempts to use bargaining unit employees to fill the position have failed including voluntary overtime and offers of extra time to full and part-time employees.

### **Article 49 Filling of Vacant Positions**

Section 1. When a position in the bargaining unit is vacant, the position shall be posted in an agreed upon location in the main Employer/Hospital and at each location where bargaining unit employees work.

Section 2. The posting shall include the number of hours, shift, job title, department/clinical unit, and qualifications for the position and sufficient information to adequately describe the vacancy. The notice shall remain posted for a period of seven (7) calendar days. An employee, within the seven (7) day posting period, may file a written request on a form provided by the Employer/Hospital, for the job vacancy in the Human Resources department.

Section 3. During the posting period, the Employer/Hospital will determine if there are members of the bargaining unit who are on lay off and are eligible for recall to the posted position. If there are employees on lay off who are eligible for recall (e.g., to a position which is in their job title, category of employment, salary grade and shift) to the posted position, the individual(s) shall be added to the list of bidders, as though they applied for the position.

Section 4. Selection of the successful bidder shall be completed by the appropriate manager within fourteen (14) days of the close of bidding. The employee selected shall be given two (2) calendar days from the notification of his/her selection to accept the new position. Failure to respond within the time specified shall constitute a rejection of the new position. Should the selected employee be unavailable for notification, the fourteen (14) day selection period shall be extended until the second (2nd) day after such employee is available.

Section 5. The Employer/Hospital shall advise all unsuccessful candidates in writing **as to** why they did not qualify for the posted position. **The Employer will also** notify the Union of the successful bidder, **including the posting number.**

Section 6. The vacancy shall be filled from within the bargaining unit by seniority from among qualified bidders. Qualifications shall be defined as the ability to meet the minimum position requirements as defined in the applicable job description, together with a satisfactory work record including performance evaluations and **the absence of a written warning given within the last** six (6) months.

Section 7. An employee who bids on and is accepted into a critical care (ICU/CCU, ER, PACU) unit must satisfactorily complete the critical care courses within ninety (90) days of entry into the unit or as the education department schedule allows, if such courses have not been successfully completed within the previous twenty-four (24) months.

Section 8. If there are no qualified bidders, no employees eligible for recall, or no employees who accept recall for the position within the bargaining unit, the Employer/Hospital may seek qualified employees from any available source. **If after the first seven (7) days of posting the Employer has both late internal bidders and external applicants, hiring preference will be given to the most senior, qualified late internal bidder unless an offer has been extended to the outside applicant.** In the event there are no qualified external candidates, **no late internal bidders**, and the Employer/Hospital determines that the vacant position must be filled, the most senior employee from within the bargaining unit who bid on said position **and did not possess the required qualifications** shall be offered the job, including the training and/or education needed to perform the stated job requirements.

Section 9. The successful bidder shall be required to serve a trial period of sixty (60) days in the new position during which the employee is actually at work.

- a.) If at any time during the trial period the successful bidder does not meet satisfactory performance requirements, he/she will be returned to his/her original position or one of the same category and shift if such a vacancy exists. Employees displaced under this section shall be placed in a position according to Article 53, Layoff & Recall.

- b.) If the employee fails to successfully complete the training/education for the new position, the individual will be eligible to reapply for a position with the same requirements after twelve (12) months.
- c.) If a successful bidder is dissatisfied during the trial period, such employee may, within twenty-one (21) calendar days, return to his/her original position, if vacant, or shall be placed according to the layoff and recall procedure except that they shall not be allowed to bump.

Section 10. Nursing personnel may not be accepted for posted vacant positions until they are licensed.

Section 11. Probationary employees shall not be permitted to bid except for positions within their job classification and department/clinical unit, or a position that would provide for a status change. For purposes of this section, probationary employees hired from any position within the Employer/Hospital shall have their seniority determined from their most recent date of hire with the Employer/Hospital.

Section 12. A successful bidder may not be accepted into another posted vacant position for a minimum of six (6) months unless the position provides for an increase in hours or no other employee from within the bargaining unit has applied for the position.

Section 13. Any employee with seniority, who applies for and is placed in a temporary position, shall continue to accrue seniority and all benefits and shall maintain his/her category of employment. At the expiration of the temporary position, such employee shall return to his/her previous position, if vacant, or be placed in accordance with the recall procedure.

Section 14. Should an employee in a regular position be selected to fill a temporary position in his/her same department, that individuals' regular position may then be filled by the Employer/Hospital on a temporary basis from any available source. Should an employee in a regular position be selected to fill a temporary position in another department, the manager of the employee shall have the option of filling the vacated position on a temporary basis from any available source or filling the position as outlined in Sections 1.-10. above.

Section 15. The process provided below shall be utilized when temporary positions become available that are expected to last thirty (30) calendar days or more.

- a.) Postings for temporary position to be filled shall be made in designated areas near regular postings.
- b.) Postings shall be made for temporary positions of thirty (30) days or more provided the temporary position is vacant.
- c.) Positions will be posted for a minimum of three (3) calendar days.

- d.) The Employer/Hospital may select from among qualified regular employees who have expressed interest.
- e.) In order to be eligible for selection an employee must be available to begin in the position on the date needed.

## **Article 50 Contracting Out Work**

Section 1. Contracting out of work, which is normally and customarily performed by bargaining unit, shall be subject to the following:

- a.) Contracting out of work is defined as the use of another employer to perform the work as described above.
- b.) Employer/Hospital will not contract out bargaining unit work if such contracting out will cause currently and directly, layoffs from employment with Employer/ Hospital, part-timing of present employees or any reduction in regular hours of work.
- c.) Employer/Hospital will not use independent contractors and/or agency employees to permanently fill vacant positions in the bargaining unit. While such persons are in use Employer/Hospital will actively recruit to fill the position.

Section 2. In the event the Employer/Hospital decides to contract out work that is normally and customarily performed by the bargaining unit, but will not result in layoffs, part-timing, or reduction of regular hours, the Employer/Hospital will notify the Union of their intent three (3) months prior to the proposed implementation date and **provide an explanation of the proposed action, when it is proposed to take place and identification of the affected jobs/positions.**

## **Article 51 Management Rights**

Section 1. Except to the extent expressly abridged by a specific provision of this Agreement, the Employer/Hospital reserves and retains, solely and exclusively, all of its rights to manage its business in an efficient and orderly manner. These rights include, but are not limited to, the right to hire, to promote and demote, to layoff, terminate or otherwise relieve employees from duty for lack of work or other legitimate reasons. The Employer/Hospital maintains the right to maintain, change or discontinue the hours of work; to establish work schedules and assignments and to make changes therein; and to make and enforce reasonable rules and regulations.

Section 2. The Employer/Hospital maintains the right to decide the number and location of its business and service operations, the business and service operations conducted and

rendered, the method, process and means used in operating its business and service, and to control buildings, real estate, materials, parts, tools, machinery, and all equipment which may be used in the operations of its business and supplying services. The Employer/Hospital also maintains the right to determine whether, and to what extent, its business and operations will continue or be discontinued, temporarily or permanently, in whole or in part.

Section 3. It is recognized that the foregoing rights as stated within this section are not all inclusive, but indicate the types and matters or rights which are inherent to the Employer/Hospital.

## **Article 52 Health and Safety**

Section 1. The Employer/Hospital will observe all applicable health and safety laws and regulations, and will provide and maintain safe working conditions and a safe and healthful work environment.

Section 2. The Union may appoint one (1) member from among all the employees represented by the Union to the Health and Safety Committee.

Section 3. The Health and Safety Committee shall meet at least ten (10) times per year or as mutually agreed to by the members of the Committee. The Committee shall determine the nature of all projects and assignments and the amount of time and individuals to be involved with such projects and assignments.

Section 4. Union committee members shall be compensated as time worked for time spent in committee meetings, and for time spent on assignment as designed by the committee, as long as it does not incur overtime. Such committee time shall be paid as straight time.

Section 5. All employees are encouraged to identify and report unsafe conditions or potential health hazards to their immediate supervisor. If the supervisor does not respond, or is not able to address and/or correct the condition within a reasonable period of time or immediately as conditions warrant, the employee may direct this concern to the Health and Safety Committee.

Section 6. Any employee may address health and safety concerns to the Committee. The Committee shall investigate any health or safety issue brought to its attention. The Committee shall make recommendations for action by the Employer/Hospital.

Section 7. No employee shall be expected or permitted to work under conditions which will create an immediate and unduly hazardous threat to his/her safety or health.

## **Article 53 Layoff and Recall**

Section 1. In the event it becomes necessary to layoff or permanently eliminate a filled position; the Employer/Hospital will give the Union advance notice of its intention to layoff or to eliminate a filled position at least fourteen (14) days prior to layoff. The Union shall be afforded reasonable opportunity to discuss the matter including a meeting with the Vice-President for Patient Care Services.

Section 2. The Union shall receive information including the number of positions to be reduced including the department/clinical units, categories and shifts affected by the layoff and/or elimination of positions.

Section 3. Employees selected for layoff shall be given at least seven (7) calendar days notice to layoff.

Section 4. Once the department(s)/clinical unit(s), category(ies) and shift(s) are determined, all probationary and temporary employees in such title(s) and category(ies) in the department(s)/ clinical unit(s) and shift(s) affected shall be removed.

Section 5. It is understood that the placement of employees identified for layoff into vacancies under the provisions of this Article shall not constitute a violation of this Agreement.

Section 6. If, after compliance with the provisions outlined above, an employee with seniority is subject to layoff, such employee, in accordance with his/her seniority rights, shall be entitled to pursue a position in the bargaining unit in the following sequence:

Step 1. The employee subject to layoff may select any vacant position in the bargaining unit, which is in their category of employment and shift.

Step 2. If no vacancy exists, he/she will be permitted to displace any probationary employee in he/she category of employment, and shift.

Step 3. If there are not probationary employees who may be displaced, then the employee subject to layoff may bump the least senior employee in he/she category of employment, and shift.

It is understood that in all placements under layoff and recall situations:

- a.) the employee must meet the requirements of the job description;
- b.) an employee may opt to drop shift or category of employment, they may do so at any step of this procedure; and
- c.) regular part-time employees may not be placed in a regular full time position.

When the least senior employee above is bumped, they shall be placed as if they were originally subject to layoff as described above.

Section 7. The Employer/Hospital, when required by equipment installation or failure, acts of God, or other like unforeseen circumstances may reduce the workforce for a temporary period, not to exceed fourteen (14) calendar days without the application of seniority rights other than within the affected clinical unit on each shift. In such event, the following procedures shall be applicable.

- a.) Employees affected in such clinical unit shall be offered temporary transfers to vacancies in other clinical units, provided they are immediately qualified to perform the work. Bargaining unit positions filled by temporary employees shall be considered vacancies. Preference shall be on the basis of seniority.
- b.) The Employer/Hospital shall request voluntary layoffs or voluntary low-census days from within such affected clinical unit.
- c.) After three (3) calendar days notice, displaced employees shall be temporarily laid off by ascending order of seniority within the clinical unit affected. Any employee subject to such temporary layoff may take available unused paid time off benefits.

Section 8. In the event of a consolidation of units or the reduction of beds and reconfiguration of staff on a unit, the procedure for downsizing will be implemented as follows:

- a.) the positions required to accomplish the revised staffing levels will be designated;
- b.) the current staff in the department will be listed according to seniority;
- c.) starting with the most senior, each employee will be assigned to the same position, that they previously held until matching new positions are exhausted;
- d.) remaining staff, starting with the most senior may select from the remaining open positions, fill vacant positions elsewhere in the hospital or elect layoff; and
- e.) when all positions are filled the layoff procedure will be followed for the remaining unassigned staff.

Section 9. If no vacancy exists, an employee targeted for layoff may elect a layoff instead of bumping a less senior employee without jeopardizing unemployment benefits, subject to New York State regulations and where the cost of unemployment to the Employer/Hospital would not differ.

Section 10. For employees who are laid off, payment for accrued Paid Time Off leave shall be made at the pay date next following the conclusion of the last severance payment.

Section 11. Employees on layoff shall not accrue seniority.

Section 12. Employees shall be considered for recall by seniority to vacancies, for which they possess the ability to perform the job, in accordance with the above paragraph and Article 49, Filling of Vacant Positions.

Section 13. Regular full-time employees, at their option, may accept recall to a regular part-time position and remain on recall to a regular full-time position.

Section 14. Regular part-time employees who are displaced shall be eligible for recall, until such time as they have been recalled to a position equal in FTE hours to the position from which they were originally displaced.

Section 15. Employees on layoff shall be entitled to two (2) weeks of severance pay. In the event the employee is recalled to work within the two (2) week severance period, severance pay shall be reduced by hours actually worked. Employees may continue to participate in the Employer/Hospital's group life and group health insurance programs until the end of the month in which the layoff occurred and for an additional two (2) months with the employee paying only his/her share of the cost. After this point, employees may continue in the Employer/Hospital's group life and group health insurance program but at their own expense.

Section 16. Recalls from layoff will be by certified mail to the employee's last known address on file with the Employer/Hospital. It shall be the employee's responsibility to insure the Employer/Hospital has a current address. Any employee recalled must notify the Employer/Hospital of intent to return within three (3) working days after receipt of due certified notice unless prevented from doing so by verifiable illness or death in the family or current employment where notice is required, in which case the employee must report within ten (10) days of recall notice. Employees who decline recall, to a position that is equal in category of employment and shift, shall be processed as a voluntary resignation.

Section 17. Non-probationary employees who are laid off shall be subject to recall as follows:

- a.) employees having less than one (1) year of seniority, shall have recall rights for a period of twelve (12) months;
- b.) employees having one (1) or more years of seniority, shall have recall rights for a period of twenty-four (24) months.

#### **Article 54** **No Strike – No Lockout**

Section 1. The Union, its officials, affiliates and members and each employee-member, individually and collectively, agree that they will not directly or indirectly call, authorize,

sanction, or take part in any strike action (sympathy or otherwise) while this Agreement is in effect.

Section 2. The Union, its officers, agents and representatives, shall refuse to aid or assist in any way, employees participating in any of the foregoing prohibited practices, and shall, in good faith, use reasonable efforts to have such practices terminated.

Section 3. Participation in any of the activities referred to in Section 1. above may result in corrective action.

Section 4. The Employer/Hospital agrees that it shall not take action during the term of this Agreement which would constitute a lockout of employees in the unit covered by this Agreement.

### **Article 55 Successorship**

This Agreement shall be binding upon the parties hereto, their successors and assigns. In the event the Employer/Hospital facilities are sold or assigned the Employer/Hospital will give notice to the purchaser or assignee of the existence of, and operations covered by this Agreement. The Employer/Hospital agrees not to sell or assign its facilities without expressly providing in the contract of sale or assignment that the purchaser or assignee shall be bound by all of the obligations encompassed by the Collective Bargaining Agreement.

### **Article 56 Savings Clause**

Should any Article, Section, or portion thereof, of this Agreement be held unlawful and unenforceable by an administrative agency or court of competent jurisdiction, such decision shall only apply to the specific Article, Section or portion thereof directly specified in the decision.

All remaining provisions of this Agreement shall be maintained in full force and effect to the extent not invalidated by such determination.

### **Article 57 Extended Shifts**

Section 1. Extended shifts shall be defined as those shifts that are more than the regularly scheduled eight (8) hour shift, inclusive of the thirty (30) minute unpaid meal period.

Section 2. Employees working extended shifts must take all paid time off benefits in amounts equal to their regular extended shifts.

Section 3. Scheduled weekend work:

- a.) shall be divided among employees assigned to a department or unit;
- b.) every effort will be made to schedule employees for eighteen (18) weekends per calendar year;
- c.) the Employer/Hospital will schedule no more than twenty-six (26) weekends (Saturday and Sunday) off which need not be alternate weekends, per calendar year, for all employees working the full year. Those working less than a full year shall be prorated;
- d.) employees who are scheduled to work a weekend shift and fail to do so for any reason (except workers' compensation or disability) shall make up such weekends within the next consecutive schedule, if required by the Nurse Manager;
- e.) employees may work more than the above on a voluntary basis;
- f.) any employee who accepts a position on another unit must adhere to the weekend work schedule of that unit regardless of the number of previous weekends worked prior to the effective start date on the new unit.

Section 4. A manager will not schedule an employee for more than two (2) consecutive twelve (12) or thirteen (13) hour shifts unless voluntarily requested.

Section 5. Holiday Schedules:

- a.) Each employee shall be required to work at least one (1) extended shift on two (2) of the following holidays:

Independence Day	Labor Day
Memorial Day	Thanksgiving Day.

An employee may volunteer to work more than two (2) holidays.

- b.) Each nurse working twelve (12) hour shifts will be scheduled to work one (1) shift out of four (4) in the shaded areas and one (1) shift out of four (4) in the unshaded areas of the following chart:

December 24	7:00 am to 7:00 pm	December 31	7:00 am to 7:00 pm
December 24	7:00 pm to 7:00 am	December 31	7:00 pm to 7:00 am
December 25	7:00 am to 7:00 pm	January 1	7:00 am to 7:00 pm
December 25	7:00 pm to 7:00 am	January 1	7:00 pm to 7:00 am

- c.) No nurse shall be required to work both Christmas Eve and Christmas Day in the same year unless it is requested or agreed upon. In the event that filling the schedule results in a nurse being scheduled for Christmas Eve and Christmas Day, the least senior nurse who has not selected a shift on Christmas Eve or

Christmas Day will be scheduled on one (1) of those days. **Unless the employee requests, no employee shall be required to work Christmas Day two (2) years in a row.**

- d. Should there be a conflict with schedules on the holidays, it shall be granted according to seniority.
- e.) Should there be a holiday shift that is not adequately staffed under these conditions, the least senior RN on the unit will be scheduled for an additional shift.
- f.) Employees shall share equally in the coverage of Easter Sunday, on an alternating basis.
- g.) Switching of shifts or partial shifts between qualified RN's may occur after the schedule is posted with the Nurse Manager or designee's approval. Written requests must have the signature of the affected employees. The initially scheduled holiday shall be considered the holiday commitment.

Section 6. Employees occupying a position comprised of twelve (12) hour shifts exclusive of a one-half (½) hour unpaid meal period may address the reduced hours in one of the **three (3)** following ways:

- a.) the employee may request to work additional hours to compensate for the decrease in hours that result in working extended shifts. Should the employee make such a request and a need exists, as determined by Management, the employee shall be offered the extra hours in order of seniority;
- b.) the employee may choose not to be compensated for the time; **or**
- c.) **the employee may utilize available PTO up to 37.5 hours per week.**

Section 7. The appropriate shift differential will be paid according to Article 23, Shift Differential.

Section 8. An employee assigned to an extended shift shall not have his/her extended shift involuntarily modified or discontinued for the purpose of creating a non-extended shift for the duration of this Agreement.

Section 9. No employee will be involuntarily displaced from the position he/she currently holds as a result of conversion to extended shifts.

Section 10. All provisions of this Agreement shall apply unless specified in this Article.

## **Article 58 Preceptor**

Section 1. Newly hired Graduate Nurses (GNs), Registered Nurses (RNs) and RNs who transfer to a new position shall be precepted.

Section 2. **Registered nurse members of the bargaining unit may volunteer to become designated as a preceptor based on the criteria outlined in Section 9 below. RNs will not be required to precept.** Preceptors shall be assigned on a one to one ratio. During the period of precepting, the new or transferred employee shall not be counted in staffing allotment for that unit and shift and shall share the same patient assignment with the preceptor.

Section 3. GNs shall have a minimum eight (8) week period of orientation. Experienced RNs will have individualized orientation based on needs assessment.

Section 4. The period of time a nurse is assigned to a preceptor shall be determined by the needs of the individual registered nurse. The nurse manager in consultation with the preceptor, nurse educator and the registered nurse involved shall determine such needs. **During the period of time a nurse is being precepted, there will be a weekly meeting between the preceptee, the preceptor and the nurse manager or designee for the purpose of evaluating the progress of the preceptee.**

Section 5. Where possible a precepted employee shall be assigned to the same preceptor for each shift throughout his/her precepted period and shall be assigned the same work schedule as his/her preceptor. RNs orienting in the OR/Perioperative Services will be assigned preceptors based on the preceptors' competencies related to specific surgical services.

Section 6. In the event an assigned preceptor is absent, the precepted employee shall be assigned to another RN for that shift and shall share that RN's patient assignment. In the event of a low census day, only the preceptor may utilize the low census day.

Section 7. No GN shall be permitted to work without an RN present on the clinical unit at all times.

Section 8. While precepting, preceptors shall not be pre-assigned as charge nurse, unless it is part of the training program.

Section 9. Individuals will be eligible to attend preceptor training and act as a preceptor based on the following criteria:

- a.) must have met the minimum standards on the most recent performance evaluation;
- b.) Current Corrective Action reports (e.g., attendance, conduct, medication errors, etc.) will be considered for the selection and training of a preceptor;

- c.) have successfully completed all competencies and certifications as appropriate;
- d.) have a minimum of one (1) year appropriate, clinical experience;
- e.) successful completion of the Preceptor Training Program.

Section 10. Preceptors will be evaluated on an annual basis as part of their yearly Performance Evaluation. Such evaluation shall include the criteria outlined in Section 9. above, and preceptee evaluations from the previous year for continued selection as a preceptor.

Section 11. Preceptors shall receive training prior to their first assignment through the Catholic Health System educational program. If a trained preceptor is not available, volunteers will be asked to assume this role.

Section 12. Preceptor pay shall be defined in Article 22, Salaries (RN).

#### **Article 59 Agency Personnel**

Section 1. Agency personnel may be used when:

- a.) All reasonable attempts to fill the position have failed including overtime, use of per diem employees, offering extra time to full and part-time employees.
- b.) There is an open position for which the Employer/Hospital has posted a vacancy or is actively recruiting.
- c.) When there is an extended leave of absence.

Section 2. On a quarterly basis, the Employer/Hospital and the Union shall review the use of Agency personnel.

#### **Article 60 Cafeteria Discounts**

The Employer/Hospital shall provide the hospital cafeteria discount to members of this bargaining unit.

#### **Article 61 Charge Nurse**

Section 1. Each unit shall have one (1) registered nurse assigned to be in charge on each shift.

Section 2. The Employer/Hospital shall develop and maintain a charge nurse education program. The program shall include classroom and one (1) day of unit orientation.

Section 3. No employee shall be assigned charge nurse responsibilities until he/she:

- a.) has at least one (1) year of registered nurse experience;
- b.) has taken the charge nurse program inclusive of on unit orientation;
- c.) must have met the minimum required standards on the most recent performance evaluation;
- d.) must have successfully completed all competencies and certifications appropriate.

Section 4. Charge registered nurse duties will be **equitably distributed among** employees who meet the criteria in Section 3. above and who have notified their nurse manager that they want to be included in the charge nurse assignments. **There will be no nurses assigned as permanent charge nurses.**

Section 5. It is understood that RNs who currently function in a charge capacity will continue to be assigned as such, until they are able to attend the current Catholic Health System charge nurse program.

## **Article 62 Workload and Staffing Committee**

Section 1. A Workload Staffing Committee shall be formed consisting of not more than three (3) representatives from each party, **plus the Vice-President of Patient Care Services or his/her designee.** It is understood that the RN complement will consist of at least two (2) staff RNs.

Section 2. This committee shall meet every other month (more frequently if mutually agreed), and shall address issues such as, but not limited to: staffing concerns, methods of improving care, transition to extended shifts, and recruitment and retention issues for RNs.

**Section 3. The Workload and Staffing Committee will strive to improve the current nurse-to-patient ratios through:**

- a.) **analysis of current staffing templates for all inpatient clinical areas;**
- b.) **analysis of current staffing templates for all outpatient clinical areas;**
- c.) **analysis of current staffing templates for all long term/alternate level of care areas;**

- d.) **determination of the appropriate number of full-time equivalents required to cover call-ins, disabilities, workers' compensation absences and leaves of absence as well as alternate methods for covering such absences; and**
- e.) **research available patient acuity measurement tools.**

**The committee will jointly determine the nurse-to-patient ratios that will set the standard for high quality patient care in Western New York and will ensure that Kenmore Mercy Hospital becomes the "employer of choice" among nurses in Western New York. The committee so-chairs will present their recommendations on such nurse-to-patient ratios to the Senior Administrative Team for Kenmore Mercy Hospital for review and consideration.**

**Section 4. The Workload and Staffing Committee will research and evaluate ergonomic technologies designed to improve workflow and risk reduction associated with errors and injuries; including but not limited to a "minimal lift" and "no lift" work environment.**

**Section 5. The Employer is committed to providing new employees a formally structured orientation experience that supports their clinical growth and development. This will include the use of preceptors, mentors, clinical educators and nurse managers on the assigned shift of the orientees.**

**Section 6. The Employer will create an organizational culture of retention that empowers and is respectful of its nursing staff.**

**Section 7. Proposed agenda items will be submitted to the committee chairs, one for each side, in writing at least seven (7) calendar days prior to a scheduled meeting.**

**Section 8. Committee meetings shall not be utilized to take up grievances or for negotiating purposes.**

**Section 9. Union committee members shall be compensated as time worked for time spent in committee meetings, as long as it does not incur overtime.**

**Section 10. Minutes shall be published for distribution to all clinical units. Minutes shall be approved by the committee prior to distribution. The committee may make formal recommendations to Hospital Management.**

**Section 11. An employee questioning the staffing level on a specific shift on their unit, shall notify the charge RN who will contact the Nursing Supervisor on duty. The Manager/Supervisor will attempt to resolve the issue. If the issue is unresolved, the employee will indicate so on a form provided by the Union. A copy of the form will be sent to the appropriate Nurse Manager to review. The Nurse Manager will troubleshoot the issue, and the form will be forwarded to the Workload Staffing Committee for review and investigate the issue documented on the form.**

**Section 12. If over a six (6) month period a specific cost center exceeds its budgeted full-time equivalents (FTE's) and that results in hours paid over budget, the budget for the cost center will be put on the agenda of the next staffing committee meeting for review and discussion.**

### **Article 63 Nursing Practice Committee**

Section 1. The Union and the Employer/Hospital agree to a Nursing Practice Committee. The Committee shall consider all matters relative to clinical nursing practice.

Section 2. The Union shall appoint up to three (3) representatives to the Committee from different areas of clinical practice. The Employer/Hospital shall select up to three (3) representatives to the committee.

Section 3. Union committee members shall be compensated as time worked for all time spent in committee meetings, and for time spent on assignment as designated by the committee, as long as it does not incur overtime. Such committee time shall be paid as straight time.

Section 4. The Committee shall meet every other month with the responsibility for the meetings being shared by the chair, one for each side. Either party may submit agenda items for the meeting at least seven (7) calendar days prior to the scheduled meeting date.

Section 5. Minutes shall be published for distribution to all clinical units. The chair shall assign a committee person to take minutes. Minutes shall be approved by the committee prior to distribution. The Committee shall make formal recommendations for policy and procedure changes with Kenmore Mercy Hospital.

### **Article 64 Employee Assistance Program**

Section 1. An Employee Assistance Program shall be maintained.

Section 2. The parties agree to meet to discuss improvements in the program including improved services and availability.

### **Article 65 Dress Code**

The Employer/Hospital and the Union agree that the Dress code for Patient Care Services, that became effective February 1, 2002, will remain in effect for the life of this Agreement.

## **Article 66**

### **Students**

Section 1. Instructors are responsible for their students. Students shall not be left in a department/clinical unit without an instructor present unless they (the students) are only observing as clinical experience.

Section 2. Employees are responsible in their department/clinical unit when directly observing the delivery of patient care. In the event of an alteration from the standard of care, the employee shall report such to the instructor first and to the manager/supervisor second. Employees may assist students in the learning process when able, not to the detriment of their patient care responsibilities.

**Article 67**  
**Duration**

This Agreement shall be effective as of February 1, 2009 and shall remain in full force until and including January 31, 2013, and shall be automatically renewed from year to year thereafter, unless either party shall notify the other in writing on or before ninety (90) days prior to the termination date of this Agreement of its desire to terminate or modify this Agreement. In the event such notice is given, within thirty (30) days after the receipt of such notice to terminate or modify, the Employer/Hospital and the Union shall commence collective bargaining with respect to a succeeding agreement.

Executed at Kenmore, New York  
This \_\_\_\_ day of \_\_\_\_\_

For Kenmore Mercy Hospital:

For the Communications Workers of America,  
AFL-CIO:

\_\_\_\_\_  
James Millard  
President & Senior Administrator Officer

\_\_\_\_\_  
Debora M. Hayes  
CWA Staff Representative

\_\_\_\_\_  
Joseph T. Giglia II, Esq.  
Director of Legal Services  
Corporate Human Resources, CHS

\_\_\_\_\_  
Margaret Chadwick-Ledwon, RN  
President, CWA Local 1133

\_\_\_\_\_  
Pamela J. Nicastro  
Human Resources Director

\_\_\_\_\_  
Vanessa A. Quinn, RN  
Bargaining Committee Member

\_\_\_\_\_  
Cheryl Hayes, RN  
Vice President of Patient Care Services

\_\_\_\_\_  
Debora Arnet, RN  
Bargaining Committee Member

**Article # \_\_\_ Or new MOU ?  
Union Printing**

**The Employer and the Union will share equally in the cost of printing the Union Contracts.**

**Memorandum of Understanding # 2  
Attendance and Tardiness**

During the negotiations that resulted in this Collective Bargaining Agreement, the Employer agreed to the following Human Resources Policy and Procedure on Attendance and Tardiness to be utilized in monitoring attendance and punctuality.

**PURPOSE:**

To establish a uniform policy and set of procedures in order to maximize the regular attendance and punctuality of employees of Kenmore Mercy Hospital. Regular attendance and punctuality are considered essential ingredients in the continuity of Hospital operations and, ultimately, in providing the highest standards of care to our patients.

**SCOPE:**

All regular full-time, regular part-time and weekend employees.

**GENERAL STATEMENT OF POLICY:**

To ensure fair, impartial equitable and consistent treatment for all employees, an attendance and tardiness policy has been developed. The main objective of this policy is to improve overall attendance and punctuality in a constructive manner. Reducing absenteeism and tardiness will decrease unnecessary costs, increase efficiency and contribute toward higher standards of quality patient care.

**PROCEDURE:**

1. Employees are expected and required to be in regular attendance and be prepared to commence work activities at designated work locations, days and assigned hours. Employees are also expected to remain at work for the entire period excluding rest and meal periods. Late arrival, early departure and other personal absences are disruptive and should be avoided whenever possible.
2. The policy of Kenmore Mercy Hospital is to make a fair and reasonable allowance for employees' absences, recognizing that a reasonable amount of absence due to bona

vide sickness or emergency situations is often beyond the control of the employee. Conversely, our Hospital and its patients are entitled to a reasonable degree of regularity in the attention of our employees to their responsibilities.

3. Kenmore Mercy has established and/or recognizes a number of programs to provide for both regularly scheduled time off from work, and for certain other types of absences which may reasonably be expected to occur. The absences related to the programs below are not applicable under this policy, provided the absence meets the requirement for proper notification, prior approval, documentation and/or eligibility as set forth in this policy or in the applicable programs noted. These programs are:
  - a.) Scheduled Paid Time Off (PTO);
  - b.) Approved Leave of Absence pursuant to applicable hospital policy or collective bargaining agreements;
  - c.) Absences associated with workers' compensation claims;
  - d.) Excused absence with pay for bereavement, jury duty, and military service;
  - e.) Low census days/lack of work (e.g., down staffing);
  - f.) Holiday;
  - g.) Emergency conditions, as determined by the Hospital, caused by natural disasters (i.e., snowstorm, flood, etc.);
  - h.) Absences covered by the Family & Medical Leave Act;
  - i.) Absences associated with New York State (NYS) Disability;
  - j.) Employee is confined as an inpatient in a hospital;
  - k.) Outpatient surgery under anesthesia in hospital surgical suite, physician's or dentist's office; and
  - l.) Infection Control excused absence, documented by a physician (e.g., pink eye).

**Note: With respect to the exercise of disciplinary action in regard to NYS disability absences, patterns of absence, or when an employee's overall lost time is sufficient enough to present a question about the employee's continued suitability for employment, corrective action shall be taken. Corrective action shall only be taken after department managerial and supervisory personnel consult with the Director of Human Resources and respective Administrative Vice President. Departmental management shall impress upon the employee the unfair burden that is placed on the Hospital and the employees' co-workers when an employee is**

**involved in periodic extended absences and, that the failure to improve upon his/her attendance, will result in disciplinary action even if the absences are largely or entirely the result of illness or injury.**

4. In instances of tardiness, absences, failure to report to work as scheduled or where employees are found to abuse benefit time from work, Kenmore Mercy Hospital may find it necessary to attempt correction by counseling, corrective action measures or termination.
5. In the event an employee cannot report to work as scheduled, the employee must personally notify their supervisor as early as possible. Employees are expected to notify their supervisor/manager, or designee, of their inability to report to work according to the following:

Two (2) hours prior to their scheduled start time for day shift, four (4) hours for evening shift and four (4) hours for night shift. If such notice is not possible due to the scheduled opening time of the department, the employee shall notify the department as soon as the department is open. The exceptions to the above shall be the inability of the employee to make the telephone call.

6. In all cases of an employee's absence or tardiness, the employee shall provide management personnel with a truthful reason for the absence and, if applicable, the probable duration of absence. If circumstances render the absence duration speculative or unknown, the absent employee will be required to notify management personnel to report on the status of his/her absence on a daily basis.
7. Management and supervisory personnel have the ultimate responsibility for monitoring employee attendance and managing absenteeism and tardiness through appropriate action. The supervisor's attitude and actions toward absenteeism and tardiness will directly affect the attitudes of employees regarding regular and timely attendance.

Definition of Terms:

1. Absence - Failure to report to work as scheduled or to work less than one-half (.5) of the scheduled work shift.
  2. Tardiness - Failure to punch in by the start of the scheduled shift or failure to complete the assigned shift but having worked at least half (.5) the scheduled shift.
  3. **Consecutive Days of Absence – One (1) day of absence equals one (1) absence occurrence. Absence of two (2) or more consecutive scheduled work days equals two (2) absence occurrences.**
- A. **Attendance - Counseling**

1. Attendance and punctuality patterns are established early and tend to persist, therefore, orientation of new employees concerning their responsibility for regular and timely attendance is a vital obligation of each supervisor. Each employee must understand what is expected of him/her in this regard from the very first day on the job.
2. Supervisors are encouraged to promptly handle all absenteeism and tardiness problems at their earliest stages. Toward this end a counseling session must be initiated. Counseling is not part of the formal corrective action process. Counseling sessions should be informative in nature and used for the following purposes:
  - a.) to bring to the employee's attention that a potential problem exists regarding his/her attendance or punctuality record;
  - b.) to demonstrate that you take an active interest in your employee's health and well being and are willing to listen to any problems adversely affecting attendance or punctuality;
  - c.) to let the employee know what is expected of him/her in the future with respect to attendance and punctual attendance;
  - d.) to support any future corrective action, if necessary.
3. Management and supervisory personnel have discretion and latitude in deciding when a counseling session is necessary.

**B. Attendance - Formal Disciplinary Action**

When attempts at counseling have failed and repeated employee absences reach certain pre-selected points, management and supervisory personnel will take the following action.

**C. Absenteeism:**

The following progressive counseling will occur for instances of absenteeism in any rolling twelve (12) month period. At each step below the employee may be advised of the availability of EAP counseling:

- 1.) five (5) occurrences: verbal counseling;
- 2.) six (6) occurrences: verbal warning;
- 3.) seven (7) occurrences: written warning; at this point, the employee will also participate in mandatory counseling sessions outside of work hours with a Hospital Employee Assistance Program counselor; this option may be utilized once within an eighteen (18) month period;

- 4.) eight (8) occurrences: final written warning;
- 5.) nine (9) occurrences: Managerial/Human Resources Review.  
Review will include:
  - a.) attendance record for the prior calendar years;
  - b.) other outstanding corrective actions;
  - c.) overall performance;
  - d.) extenuating circumstances and ability to make accommodations for such circumstances.

Managerial/Human Resources review will recommend termination absent strong evidence of factors which would support continued employment. Should managerial administrative review result in continued employment, further incidence of absence within the next ninety (90) calendar days will result in automatic termination (with no further warning).

- 6.) An employee's use of unscheduled PTO, including the production of a doctor's note, for any absences shall not be construed to mean an employee's absence has been excused from the provisions of this policy.
- 7.) An employee in his/her probationary period shall be excluded from the progressive discipline procedure. In instances where the attendance of such an employee is unsatisfactory, appropriate action up to, and including termination, may be taken.
- 8.) An employee absent from work without notifying his/her supervisor, NO CALL/NO SHOW, and without an explanation satisfactory to the organization, will be given a final written warning with mandatory-counseling with the organization's Employee Assistance Program Coordinator. This option may be utilized once within an eighteen (18) month period.

A second incident of NO CALL/NO SHOW within a rolling twelve (12) month period will result in immediate termination.

- 9.) If an employee is absent from work without notifying his/her supervisor for two (2) consecutive scheduled work shifts without an explanation satisfactory to the organization, the employee will be considered to have voluntarily abandoned his/her job and will be automatically terminated.

#### **D. Tardiness/Leaving Work Early - Formal Disciplinary Action**

We expect and encourage our employees to be on time for work on a daily basis. The following corrective action procedures are to be implemented in situations where attempts at counseling have failed. We also realize there will be unforeseen circumstances that will

offset the timeliness of employees and these circumstances should be taken into account by department management.

As employee tardiness reaches certain preselected levels, management and supervisory personnel will take the following action:

- 1.) A counseling session may be initiated with an employee by the manager on or before tardiness reaches twelve (12) occurrences in any rolling twelve (12) month period.
- 2.) A verbal written warning will be issued when tardiness occurrences reach thirteen (13) in any rolling twelve (12) month period or less.
- 3.) After an employee receives a verbal written warning, a written warning will be issued when tardiness occurrences reach fourteen (14) in any rolling twelve (12) month period or less.
- 4.) After an employee receives a written warning, a final written warning will be issued when tardiness occurrences reach sixteen (16) in any rolling twelve (12) month period or less. At this stage, the employee will be required to attend mandatory counseling with the hospital Employee Assistance Program Coordinator.
- 5.) After an employee receives a final written warning, he/she will be placed on Administrative Leave to consider termination, when tardiness occurrences reach eighteen (18) within a rolling twelve (12) month period or less.
- 6.) Any tardiness that has been excused in advance by an employee's supervisor shall not be counted as an occurrence.

**Memorandum of Understanding # \_\_\_\_\_**  
**Job Qualifications**

Section 1. The Employer agrees that within thirty (30) days of the ratification of the collective bargaining agreement the parties will meet to discuss and resolve all issues related to job qualifications. Meetings will be scheduled biweekly.

Section 2. It is agreed that the Vice-President of Patient Care Services, an appropriate manager or supervisor and a Human Resources representative will participate in the meetings on behalf of the Employer. The Union representatives will include the Local President, the Executive Board representative for Kenmore Mercy Hospital and at least one (1) additional registered nurse.

**Memorandum of Understanding # \_\_\_\_\_  
Grievance Procedure**

The following is a memorandum of Understanding between Kenmore Mercy Hospital (“Employer” or “Kenmore Mercy Hospital”) and the Communications Workers of America, AFL-CIO (“CWA” or “Union”) as it relates to the grievance procedure in Article 10, Section 2 Steps 3 and 4 of the collective bargaining agreement. The Employer agrees that from the date of this signed agreement until December 15, 2010, the Human Resources Director will be directly involved in the meeting identified in Step 3 and the process involved in Step 4. The intent of this MOU is to expedite and create a more efficient grievance process with the use of the best resources available. The Union agrees that it will waive this requirement where due to exigent circumstances the Director is unable by best efforts to attend a meeting and a delay would hinder the time requirements set forth in the contract. This MOU will not extend, nor shorten the time requirements set forth in the collective bargaining agreement for any grievance or arbitration unless otherwise agreed upon in writing.

This MOU and its provisions will be applied prospectively from the date of the signatures below.

For Kenmore Mercy Hospital

For CWA, AFL-CIO

\_\_\_\_\_  
Pam Nicasastro  
Director Human Resources

\_\_\_\_\_  
Peggy Chadwick-Ledwon  
President, CWA 1133

Date \_\_\_\_\_

Date \_\_\_\_\_

**MEMORANDUM OF UNDERSTANDING  
Longevity Bonus**

The following is a Memorandum of Understanding between Kenmore Mercy Hospital (“Employer”) and the Communications Workers of America, AFL-CIO (“Union”). This MOU relates to a single payment of a longevity bonus in the amount of three percent (3%) calculated as follows:

For full-time nurses at step 9: hourly rate as of January 31, 2009 multiplied by 1950

For part-time nurses at step 9: hourly rate as of January 31, 2009 multiplied by 975

The following conditions will apply:

1. The nurse must have twenty (20) years bargaining unit seniority at Kenmore Mercy Hospital by December 31, 2009.
2. The nurse must have been in a full-time or part-time RN position as of January 31, 2009.
3. The nurse must be working at Kenmore Mercy Hospital at the time of the ratification of the current collective bargaining agreement.

For Kenmore Mercy Hospital

For the Communications Workers of America,  
AFL-CIO:

Pamela J. Nicastro  
Director Human Resources  
Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

David A. Palmer  
Date: \_\_\_\_/\_\_\_\_/\_\_\_\_