# AGREEMENT

**BETWEEN**

**ACADIA MONTANA**

**AND**

**MONTANA FEDERATION OF
HEALTH CARE EMPLOYEES LOCAL 5095,
MONTANA FEDERATION OF PUBLIC EMPLOYEES**

**December 21, 2018 Through December 8, 2019**

**TABLE OF CONTENTS**

**AGREEMENT**

**This Agreement entered into this 21st day of December, 2018 (Effective Date), by and between Acadia Montana (hereinafter referred to as the "Facility" or "Employer") and Montana Federation of Health Care Employees Local 5095, Montana Federation of Public Employees (hereinafter referred to collectively as the "Union" or "Federation").**

**ARTICLE I**

**RECOGNITION**

**Section 1.1. The Employer recognizes the Federation as the exclusive bargaining representative for all professional and non-professional employees employed at the Employer's Butte, Montana Facility, located at 55 Basin Creek Road, who hold those job titles identified in Appendix A and others that may from time to time be created for those professional and non-professional employees.**

**Section 1.2. Excluded from the bargaining unit are confidential employees, managerial employees, guards, and supervisors as defined in the National Labor Relations Act.**

**ARTICLE II**

**MANAGEMENT RIGHTS**

**Section 2.1. All of the rights, powers, prerogatives, and authority of the management of the Employer's operations are retained by the Employer and remain exclusively within the rights of management. Such rights of management include, but are not limited to, the following:**

**A. To fully manage the operations;**

**B. To plan, direct, control, decrease, or increase the number of jobs and the size of the**

**work force;**

**C. To determine on an on-going basis which programs of care and treatment procedures will or will not be provided or utilized and to staff according to its discretion;**

**D. To establish new jobs and abolish or change jobs and job duties;**

**E. To hire and classify new employees in both temporary and regular jobs;**

**F. To assign and transfer employees in their work;**

**G. To establish, maintain, and enforce rules and regulations regarding work place conduct, safety, patient care, and regarding any and all other aspects of the operations, and to change and abolish same;**

**H. To promote and demote employees to positions both within and outside the bargaining unit:**

**I. To determine the number and location of its operations;**

**J. To suspend, curtail, or close down operations in whole or part whenever, in its exclusive judgment, conditions warrant such suspension, curtailment, or discontinuance:**

**K. To lay off and recall employees;**

**L. To determine job classifications and standards of performance and to require satisfactory compliance therewith;**

**M. To plan, direct, control, decrease, increase, rearrange, or discontinue any procedure, program, department operation, equipment, facilities, job methods, or types of services rendered;**

**N. To determine work schedules and manner of scheduling work;**

**O. To assign and require the performance of overtime work;**

**P. To discipline and discharge employees for just cause.**

**Section 2.2. It is understood and agreed that the rights of management, examples of which are set forth in the paragraph next above, shall be deemed only to be limited by express provisions of this Agreement and not by implication or construction. The failure of the Employer to exercise its full rights of management or discretion on any matter or occasion shall not be a precedent or binding on the Employer, nor the subject or basis of any grievance, nor admissible in any arbitration proceeding.**

**Section 2.3. The above functions of management are not all-inclusive but indicate the type of matters or responsibility which belong to and are inherent to management. Any of the rights, powers, or authorities that the Employer had prior to the signing of this Agreement are retained by the Employer, except those specifically abridged, delegated, granted to others, or modified by this Agreement or by any supplementary agreements that may hereafter be made.**

## ARTICLE III

## UNION SECURITY

**Section 3.1. MEMBERSHIP - Employees covered by the terms of this Agreement shall not be required to become members of the Federation but may voluntarily join and have dues deducted by the Employer. Employees who choose not to join the Federation shall, as a condition of employment, pay a representation fee as a contribution toward the administration of this Agreement. Employees who fail to comply with this requirement**

**shall be discharged by the Employer within thirty (30) days after written notice to the Employer from the Federation.**

**Section 3.2. DUES OR REPRESENTATION FEE - The Employer upon written authorization from the employee, shall deduct regular monthly dues or a representation fee from the employees' pay and remit such deduction by the fifteenth day of the following month to the Federation's local Treasurer and include therewith a list of the names of active dues paying and representation fee paying bargaining unit employees. The Federation shall notify the employer in writing of the exact amount of such dues or representation fee to be deducted and changes in the rates shall be certified in writing by an authorized Federation officer. It is also understood between the Parties that the Union will provide the Employer with proper completed authorization forms for all current employees and will in the future provide the same for each employee.**

**Section 3.3. VOLUNTARY CONTRIBUTIONS TO THE FEDERATIONS' COPE FUND - The Employer upon written authorization from the employee, will deduct voluntary contributions to the Federation's COPE Fund from the employees' regular paycheck. The amount to be deducted shall be that amount designated by the employee in their voluntary written authorization. The sum of all monies collected shall be remitted to the Federation in a separate check from the dues/fees check at the same time as the latter deduction is remitted together with a list of employees from whom the voluntary contributions are deducted and amount deducted from each.**

**Section 3.4. INDEMNIFICATION - The Federation agrees to indemnify, defend, and hold the Employer harmless against any claims, demands, suits, or other forms of liability that**

**shall arise out of or result from any actions taken by the Employer for the purpose of complying with this Article.**

## ARTICLE IV

## NO STRIKE AND NO LOCK OUT

**Section 4.1. The Employer and Union agree that the grievance procedure provided in Article V herein, and the orderly processes of collective bargaining are adequate to provide a fair and final determination of all disputes, complaints or grievances arising under the terms of this Agreement or otherwise. The Union agrees that during the term of this Agreement, it, its members, or representatives shall not encourage, authorize, condone or engage in a work stoppage, strike, slowdown, against the Employer, including sympathy strikes.**

**Section 4.2. It is further agreed that in all cases of an unauthorized action as described above, the Union shall undertake effective means to induce such employees to return to their jobs. It is further specifically understood and agreed that participation in an unauthorized action as described above, will be deemed just cause for disciplinary action up to and including discharge.**

**Section 4.3. The Employer agrees that neither the Employer nor its representatives shall put into effect any lockout during the term of this Agreement.**

## ARTICLE V

## GRIEVANCE AND ARBITRATION

**Section 5.1. A grievance is defined as a dispute arising out of the application or interpretation of a particular Article(s) and Section(s) of this Agreement or arising out of**

**the alleged failure of the Employer to follow or to consistently apply a then current written rule(s) and regulations(s) which management has adopted pursuant to Article II, Section 2.1 (G) regarding employee workplace conduct. A statement of grievance shall include: the date the alleged violation took place; date filed; name of grievant; factual statement of the grievance; particular Article(s) and Section(s) of the Agreement allegedly violated and/or the rule(s) and regulations allegedly not followed or inconsistently applied; and the specific relief being sought.**

**<u>Section 5.2.</u> Grievances shall be settled in the following manner:**

**STEP 1 - The grievant(s) and/or Federation representative acting on behalf of the grievant(s) shall present a written statement of grievance to the Human Resource Department within fifteen (15) days of the date of the incident that gave rise to the grievance or within fifteen (15) days of the date the grievant(s) through the exercise of reasonable diligence and attention should have been aware of the incident. Within ten (10) days of the date of the initial filing of the grievance, the grievant and/or Federation representative shall meet with the Human Resources Manager and/or such other management representative(s) as management designates to attempt to resolve the matter. The Human Resources Manager (or designee) shall respond in writing within ten (10) days of the date of the Step 1 meeting.**

**STEP 2 - If not settled in STEP 1, and the grievant or the Federation desires to process the grievance further, it shall be presented to the Administrator (or designee) within ten (10) days of the response of the Human Resources Manager. The grievant and/or Federation representative shall meet with the Administrator (or designee) to attempt to**

**resolve the matter within ten (10) days of receipt of the appeal at Step 2. The Administrator (or designee) shall respond in writing within ten (10) days of the date of the STEP 2 meeting.**

**STEP 3 - If the grievance is not resolved at STEP 2, the Union may submit the matter to arbitration. The Union shall notify the Employer in writing of its intention to arbitrate the matter within ten (10) days of the date of the Employer's answer in STEP 2.**

**Section 5.3. Arbitration - Within ten (10) days of the Union's notification to the Employer of its intention to arbitrate a matter, the Union shall by certified mail, return receipt requested, request a list of seven (7) arbitrators from the Federal Mediation and Conciliation Service. The letter shall be the standard form letter agreed to by the Employer and the Union, and a copy of it shall be simultaneously served upon the Employer by regular mail. The Parties shall alternately strike names from the list of names until one remains, and that person shall be the Arbitrator. A coin toss shall decide which party strikes the first name. The Union by regular mail shall notify the Arbitrator of his/her selection and solicit available dates for a hearing. The letter shall be the standard form letter agreed to by the Employer and the Union, and a copy of it shall be simultaneously served upon the Employer by regular mail.**

**The Award of the Arbitrator shall be final and binding upon both Parties provided such decision is within the terms of this Agreement and does not change any of its terms and conditions. The Arbitrator shall not have authority to add to, modify, or ignore the terms hereof, or to impose on any Party hereto limitations or obligations not specifically provided for in this Agreement. The Arbitrator shall not have the power to substitute his**

**judgment for that of management unless he/she finds that management acted in violation of express terms of this Agreement.**

**In any matter in which the Union seeks a back pay remedy and in which the Arbitrator finds such remedy appropriate to his/her award, the Arbitrator shall award no amount more than that which would make the grievant whole for time actually lost from work, with standard deductions being made - such deductions resulting from, by way of example only, interim earnings, incapacity to perform work, unavailability of work, failure to make reasonable efforts to mitigate, amounts of unemployment compensation received. Further, in fashioning such a make whole remedy, the Arbitrator shall be limited to a period of time of not more than the first one hundred eighty days(180) days from the first day of lost earnings, unless the Union can establish by convincing proof that a longer period is justified due to: dilatory practices on the Employer's part in moving the matter to arbitration hearing; incapacity or illness of grievant, a witness, or a party representative; other circumstances clearly beyond the control of the Union. It is agreed that this limitation on the make whole remedy is the result of the Parties' desire to have grievances which involve a potential for lost earnings resolved in an expeditious fashion.**

**Section 5.4. Failure by the Employer to respond within the prescribed time limits shall automatically refer the grievance to the next step in the grievance procedure. Failure of the Union and/or the grievant to take action within the prescribed time limits shall result in the grievance being considered settled on the basis of management's last response. Time limits listed herein are for calendar days, and time limits may only be extended by mutual written agreement. Any grievance may be expedited by eliminating steps by mutual written**

**agreement of the Parties. Grievances may be combined only by mutual written agreement of the Parties.**

**Section 5.5. The investigation and reduction to writing of grievances shall be engaged in only during the non-working time of all participants, and there shall be no interruption of scheduled work hours. The investigation and reduction to writing of grievances shall not occur in a manner so as to interfere with the work of others and shall only occur in non-patient care areas. Use of the Employer's telephones, photocopy and fax machines is permitted in the processing of grievances so long as such use occurs during non-working time and without interruption of working hours and so long as such use is requested in writing to the Human Resource Department and does not interfere with the business use of such equipment. The Employer reserves the right to charge the Federation the cost it incurs for long distance telephone calls and $.05 per page for photocopy and fax machine use. The funds received from such charges will be placed by the Employer in the Employee Patient Care Fund.**

**Grievance meetings referenced in STEPS 1 and 2 will be held at times that cause the least interference with employees' work (which includes the Employer's right to meet during an employee's non-working time). In the event that an employee is involved in a grievance meeting during his/her non-working time, the Employer will not be obligated to pay for such time unless the employee's presence has been requested by the Employer. An employee involved in an arbitration proceeding will not be compensated by the Employer for such time unless the employee's presence has been requested by the Employer.**

**Section 5.6. Each Party shall bear its own expenses incurred in Arbitration. Expenses and fees of the Arbitrator shall be equally divided between the Employer and the Federation to include the cost of a transcript of the Hearing should the Arbitrator request same.**

## ARTICLE VI

## FEDERATION RIGHTS

**Section 6.1. The Federation agrees to furnish the Employer with a written list of the names of those stewards and/or officers from among the non-probationary period bargaining unit employees designated by the Federation to represent bargaining unit employees in situations where the right to such representation is mandated by Law and/or the terms of this Agreement. The Employer will be notified in writing of changes of personnel to be afforded designated status as they occur. The Employer shall recognize an individual as a designated representative only upon receipt of written notification.**

**Section 6.2. A non-employee representative of the Federation will be permitted access to the Employer's Butte, Montana facility under the following circumstances: a) to participate in the processing of grievances as provided in Step 3 of Paragraph 5.2 of Article V; b) to advance the Parties' mutual interest in avoiding grievance filings and such cannot be accomplished other than by entry upon the Employer's premises; c) to carry out the Federation's lawful role in administering this Agreement and such cannot be accomplished other than by entry upon the Employer's premises. During such visitations there shall be no interference with the work of any employee. The representative shall be permitted to privately interview employees, but only during their non-working time, except when the interview is in conjunction with a meeting as provided in Step 3 of Paragraph 5.2 of Article**

**V. Any observations by the representative of conditions under which employees are employed or any entry into or movement within a secured or "locked area" will occur only when accompanied by a representative of management. The representative will notify the Human Resources Manager of his desire to visit the Employer's facility and the nature of the visit so that any necessary arrangements can be made to accommodate access. The representative will in all respects comply with the customary procedures established by the Employer for visitations by members of the general public including, but not limited to the signing of a confidentiality statement.**

**Section 6.3. Bulletin Board - The Employer shall provide two (2) dedicated bulletin boards for the exclusive use of the Union for the posting of notices of union meetings, elections, or social events. The bulletin boards shall be located in: 1) the maintenance hallway and 2) the employee lounge. Postings on the bulletin board must be signed by appropriate union officials and shall not contain language which is inflammatory or political in nature or derogatory to the Employer, its suppliers, subcontractors or employees. Postings not in compliance with this section are subject to removal by the Employer.**

**Section 6.4. Suggestion Boxes - The Employer will install in the employee lounge for the sole and exclusive use of the Federation, a Federation supplied suggestion box, said box to be of similar size and design to those suggestion boxes currently in use by the Employer.**

**Section 6.5. Federation Mailboxes - The Employer will install in the employee lounge for the sole and exclusive use of the Federation a mailbox containing ten (10) slots, said mailbox to be of similar design to those mailboxes currently in use by the Employer.**

**Section 6.6.** **During each year of this Agreement, the Federation will be afforded the opportunity, on an occasion of its choosing, to distribute via the Employer's internal mailboxes a notice which reminds employees of the location of the two bulletin boards which have been set aside for the exclusive use of the Federation and the location of the suggestion box which has been set aside for the exclusive use of the Federation.**

**Section 6.7.** **Federation Leave - At the beginning of each contract year, the Federation shall be credited with a total of eighty (80) hours of leave time to be used by employees who are Federation officers or their designees at the discretion of the Federation. The Federation will reimburse the Employer for Federation Leave at the hourly rate of the employee using the leave.**

**It is understood that the Federation will provide a minimum of thirty (30) calendar days' notice of the identity of any direct care staff (BHA I,BHA II, Activity Services, Teachers, Therapists) who will take leave and the length of said leave. In the case of all other job titles, the Federation will provide fourteen (14) calendar days' notice of the identity of the staff member and the length of said leave. Also it is understood that due to the nature of the Employer's resident care responsibilities and operations, the Employer retains the right to decline leave requests which if granted could compromise the quality of care and/or efficient operations.**

## ARTICLE VII

## DISCIPLINE AND DISCHARGE

**Section 7.1.** **The Employer retains the full right to establish, modify, and enforce disciplinary rules, standards, and requirements concerning employee work performance,**

**attendance, and all other categories of work place conduct. However, disciplinary action, including discharge, administered by the Employer shall be for just cause. The Parties acknowledge that certain forms of misconduct are so serious as to give rise to just cause for immediate termination without prior warning or progressive discipline. In instances where such serious misconduct meriting immediate termination is not present, the Employer will utilize forms of prior warning or progressive discipline directed toward making the employee a better employee.**

**Section 7.2. Prior to taking disciplinary action against an employee, the Employer will conduct an investigatory meeting with the employee under investigation. During such an investigatory meeting, and in subsequent meetings which the Employer may elect to hold to announce disciplinary action to be taken, the Employer will permit the subject employee to be represented by an individual designated by the Federation pursuant to Article VI, Federation Rights, Section 6.1., provided the employee expresses a desire for such representation. It is understood that no employee is entitled to representation by a particular individual and that the employer is not required to delay the holding of a meeting to await the presence of a particular individual. In the event a particular individual is not readily available the Federation must designate a substitute then available to provide the requested representation.**

**Section 7.3. The Employer will act without unreasonable delay in investigating potential incidents of employee misconduct and in taking any subsequence disciplinary action.**

**Section 7.4. All formal disciplinary actions shall take place in a private area away from other staff, residents and family members.**

**Section 7.5. All documented disciplinary notices shall suggest corrective action for the employee and a timeline for accomplishing such action. It is agreed by the Parties, however, that: such indicated corrective action and such timelines are provided only as an aid to the employee; corrective action is ultimately the responsibility of the employee himself; the suggested corrective action and timeline may not be used to prejudice the Employer's position in any arbitration proceeding which may result from the disciplinary action. All documented disciplinary notices shall be read and signed by the employee being disciplined. The employee may draft a rebuttal on the disciplinary notice. (Additional pages will be maintained with the disciplinary notice.) If a rebuttal is drafted, the employee's signature will be deemed to have indicated only an acknowledgment that discipline occurred and that the employee was notified. Upon request, the employee will be given a copy of the documented disciplinary notice and any rebuttal the employee elects to draft. Should an employee fail to process a grievance concerning a disciplinary action in a timely manner pursuant to Article V, such disciplinary action shall be deemed to have been given for just cause.**

**Section 7.6. A documented disciplinary notice shall not be used as a basis for further disciplinary action upon the expiration of eighteen (18) months of continuous service from the date of said notice except when an additional disciplinary action(s) has in the meantime occurred which is sufficiently related to the subject of the prior discipline so as to provide just cause for continued active use of the prior disciplinary notice in progressive disciplinary action.**

**Section 7.7. In the event that the employee elects not to have Union representation, the Employer will provide the Federation written notice that disciplinary action has occurred, said notice to be provided within 24 hours of the taking of said action. The Employer shall also provide copies of employment documents such as personnel files and medical files to the Federation upon written authorization by the employee.**

## ARTICLE VIII

## EMPLOYEE CATEGORIES

**Section 8.1. A regular employee is an employee who is regularly scheduled to work thirty-six (36) hours or more per work week, and who has successfully completed the appropriate probationary period.**

**Section 8.2. A PRN employee is an employee who has successfully completed the appropriate probationary period and who works: (a) on an as-needed, fill-in or replacement basis; (b) pursuant to a regularly assigned work schedule, such schedule ordinarily being less than thirty-six (36) hours in a work week.**

**Section 8.3. A temporary employee is an employee hired to perform a specific task for a specified period of time not to exceed one hundred twenty (120) days. In the event that unusual circumstances occur, however, which would require an extension of the one hundred twenty (120) days, the Employer will notify the Union of the circumstances and the anticipated length of the extension. The extension will not exceed sixty (60) days. If the need exists for the position to be filled after one-hundred eighty (180) days, management will post the position for bid.**

**Section 8.4. A probationary period employee is an employee who has not completed the appropriate probationary period.**

## ARTICLE IX

## PROBATIONARY PERIOD

**Section 9.1. All new employees (including employees who have been rehired after loss of seniority) hired for the purpose of ultimately holding a position of regular employee, shall be probationary period employees for the ninety (90) days following their most recent date of hire.**

**Section 9.2. The probationary period for PRN employees shall be ninety (90) days on which work is actually performed, said time period to begin following their most recent date of hire. Should a PRN employee who has completed the probationary period of employment become a regular employee as a result of a job bid or otherwise, such employee will not be required to undergo a new probationary period of employment applicable to the new category. However, in the event such employee has not completed their probationary period for their PRN position, they will continue to be in a probationary period in the regular position until such time as the days credited toward their probationary period while in PRN status when added to a period of employment following the date they became a regular employee exceeds ninety (90) days.**

**Section 9.3. Upon the completion of the probationary period, an employee will become a regular employee or a PRN employee as the case may be, and his seniority shall only then be deemed to have been accruing commencing with his most recent date of hire.**

**Section 9.4. The Employer shall be the sole and exclusive judge in deciding whether to continue the employment of any probationary employee. There shall be no responsibility on the Employer's part for the rehiring or recalling of probationary employees if their services are dispensed with during the probationary period. The discharge or lay-off of a probationary employee shall not be subject to the grievance and arbitration procedure provided herein in Article V.**

## ARTICLE X

## SENIORITY AND JOB BIDS

**Section 10.1. Seniority shall be applicable only as expressly provided in this Agreement. Seniority is defined as the continuous length of service with the Employer measured in calendar days commencing with an employee's most recent date of hire, less any adjustment periods as provided for in this Agreement and less any adjustments which may have been made prior to the effective date of this Agreement. If the use of this definition of seniority results in two (2) or more employees having the same seniority, the order of seniority will then be determined by a coin toss to be witnessed by a Federation representative and the Human Resources Manager. The completion of the probationary period by a PRN employee shall not result in such employee acquiring preference over any other employee by reason of length of service except, as will be addressed below, in the case of other PRN employees in the context of a job bid. Upon the completion of the probationary period, a PRN employee only becomes a seniority employee to the extent that the employee may: 1) file a grievance under Article V herein; and 2) may bid on job**

**openings as provided in this Article. (Note: In job bidding, a PRN employee shall receive a preference on the basis of date of hire of the PRN employee only over subsequently hired PRN employees, with it being understood that bids will be awarded consistent with Section 10.4.) Upon any promotion by job bid or otherwise into the regular employee category, a former PRN employee who as of that effective date has completed the PRN employee probationary period shall begin to accrue seniority in all other respects and for all other purposes, and as to his exercise of seniority under this Agreement and his eligibility for an accrual of benefits, said effective date shall be regarded as his seniority date which may be subject to subsequent adjustments as provided in this Agreement. (Former PRN employees who must undergo a probationary period in the regular position will, upon completion of that probationary period, then be regarded as having a seniority date identical to the date of their entry into the regular position, with said date being subject to subsequent adjustments as provided in this Agreement.)**

**Section 10.2. Unless otherwise indicted in this Agreement, when the Employer in its discretion allows a regular employee to voluntarily incur a reduction in work hours so that the employee becomes categorized as a PRN employee as per Article VIII, the seniority of the employee shall be frozen as of the date the reduced schedule is commenced. For so long as the employee works as a PRN employee the employee shall not be a benefits eligible employee as per Article XVI and shall only have seniority rights as described in Section 10.1 above. Upon the return of the employee to a work schedule of a regular employee, the seniority of the employee shall again begin accumulating from the point it was frozen, the right to exercise seniority as per this article shall be returned in full, and the employee's**

**eligibility for benefits shall be restored and determined as per Article XVI.**

**Section 10.3. When a regular employee suffers an involuntary reduction in work hours due to a flex down so that the employee becomes categorized as a PRN employee as per Article VIII, the seniority of the employee shall continue to accumulate for a period of six months during such time as the employee works as a PRN employee. If the period of PRN status exceeds six months, the seniority of the employee shall be frozen but may again begin to accumulate from the point it was frozen at such time as the employee returns to regular status. It is further understood that in the event an employee refuses on three or more occasions during the six-month period to accept PRN work opportunities, then in such case seniority will be deemed frozen as of the date of the third refusal.**

**Section 10.4. It is recognized by the Parties hereto, that the services rendered by the Employer mandate that it retain in any reduced workforce, recall to its workforce, promote to positions it determines are to be filled, and in all other respects conduct its operations, only with those employees then most qualified to perform the available work. Judgments concerning such qualifications shall be made by the Employer, but such judgments and actions resulting from them shall be subject to the Grievance and Arbitration procedure contained in Article V herein. In making judgments concerning such qualifications, the Employer may consider: educational background (relative to the minimum educational requirements for the job in question); job requirements, including physical requirements, characteristics or attributes; present ability; performance in previous positions held with duties and responsibilities to the position in question; judgment; disciplinary record and interpersonal skills. If the Employer determines on this**

**basis that qualifications are relatively equal as between two (2) or more employees, the Employer will give preference to the employee with the most seniority.**

**Section 10.5. New Positions Or Openings In Existing Positions.**

**Section 10.5.1. If the Employer determines to fill a new position or an opening in an existing position within the bargaining unit, the Employer will post a notice of vacancy or job opening on employee bulletin boards for seven (7) consecutive days. Any employee may submit a bid for the job by signing the bid sheet during the posting period. It is within the sole discretion of the Employer to receive and consider a bid submitted by an employee who has not yet accumulated six months of seniority serving in his then current position. If the Employer determines there to be one or more bidders who, consistent with the provisions of Paragraph 10.4 above, are equally qualified, the Employer will award the job to the most senior among them. Bidders shall be notified in writing of acceptance or rejection within fourteen (14) calendar days after posting is closed. If the Employer determines that no employees qualified for the posted job have submitted bids for the job, the Employer may fill the job from any source. If they make an inquiry of the Human Resources Manager, unsuccessful bidders will be notified of the reason they were not awarded the job. The successful bidder will be transferred to the bid job as soon as practical. It is recognized that a successful bid on an open job may create a possible secondary opening in the position formerly held by the successful bidder, and, similarly, that as the bidding process further runs its course subsequent openings may occur. It is agreed that nothing in this Article and Section nor elsewhere in this Agreement is intended to prevent the Employer from exercising its sole discretion to employ and train new**

**employees while the bidding process successively unfolds so as to have qualified employees readily available to promptly assume any position(s) left open after the bidding process has run its course.**

**Section 10.5.2. Any employee filling a job opening under the procedure outlined above may be disqualified at any time within a thirty (30) day trial period commencing upon the initial date of service in the bid job if the Employer determines that he is not satisfactorily performing the job. Any employee who successfully completes the thirty (30) day trial period may be required to stay on the bid job for a period of six (6) months, and during this time, any bid he places upon another job, to the extent the Employer wishes to consider it, shall be given consideration by the Employer only after all other bidders have been rejected. A successful bidder may disqualify himself from the bid job at any time prior to the conclusion of the tenth working day after entry into the job. If management has determined any time during the thirty (30) day trial period that a bidder is not satisfactorily performing the bid job, or in the event the bidder voluntarily disqualifies himself within the ten (10) working day period, he shall be placed back into the previously held job.**

**Section 10.5.3. Should an employee bid upon a lower rated job he shall be paid the start rate of the job upon his entry into it, and shall thereafter remain at that rate until an increase is provided by the terms of this Agreement.**

**Section 10.5.4. Should an employee bid upon a higher rated job, the employee will be paid the start rate of the job or his current rate whichever is higher. Upon the successful completion of the thirty (30) day trial period, the employee, if his hourly rate on**

**the job from which he bid was higher than the start rate for the bid job, shall receive an increase of two percent (2%) of the rate received on the job from which he bid.**

**Section 10.6. Intra-Job Title Schedule Preference Transfers**

**Section 10.6.1. In circumstances where there are multiple employees holding the same job title but assigned to work schedules with different work hours and/or scheduled days off, opportunities for an employee holding the job title to transfer to a preferred work schedule will occur as follows:**

**a. The Employer will post a notice of transfer opportunity identifying the shift, work hours and scheduled days off. The notice will be posted on employee bulletin boards for a period of seven (7) consecutive days. Employees may indicate their preference to transfer to a posted opportunity by completing a "Transfer Form" and submitting it to the Human Resources Department.**

**b. Within two (2) working days following the notice posting period, the Employer will notify the employee who has successfully exercised his preference. Selection of that employee shall occur on the basis of seniority except that seniority will not govern the selection in the event any of the following apply:**

**i. The following employees will be considered to be precluded from submitting a valid Transfer Form for a posted transfer opportunity: an employee who is in his probationary period; a non-probationary employee who is subject to an act of final warning (or, if the Employer, in its sole discretion has chosen to use one, a Last Chance Agreement) based on any disciplinary or performance reason; any employee who has previously successfully exercised his transfer preference within one hundred twenty (120)**

**days prior to the date the subject notice of transfer opportunity is posted;**

**ii. In the event that the transfer opportunity were to exist in a treatment program which requires specialized knowledge and/or experience, and/or physical requirements, characteristics or attributes which the Employer determines the senior employee does not possess, the next senior employee determined to meet the demands and requirements of the opportunity will be selected, this selection decision being subject to challenge through the grievance and arbitration procedure in Article 6 by the senior employee(s) not selected. In the event the selection decision is grieved and in the further event that an arbitrator renders an award granting the grievance, the sole remedy shall be to allow the aggrieved employee to bump the junior employee holding the job title and working the schedule to which the grieving employee sought transfer. Under no circumstances will a monetary payment for time not worked be a component of such an award. Further, no grievance may be filed by any employee whose employment status or schedule is affected directly or indirectly, as a result of the remedial bargaining action which occurs.**

**Section 10.7. Nothing in the Agreement will be deemed to require the Employer to fill any opening. In the event the Employer posts a job for bid, but thereafter determines that it does not wish to fill the job, a notice will be placed on appropriate bulletin boards indicating same. Nothing in this Agreement shall prevent the Company from temporarily assigning any employee to perform any duties of a job in order to meet operating requirements, or in order to make effective and efficient use of an employee's skills and service. However, it is understood that the Employer will not use employees under the guise**

**of temporary assignments to fill positions which circumstances clearly indicate are on-going in nature and thus are not temporary.**

**Section 10.8. Employment and seniority of employees shall be terminated for the following reasons:**

**A. Voluntary quit.**

**B. Retirement.**

**C. Discharge for just cause.**

**D. Failure to report to work at the termination of a leave of absence.**

**E. Failure to respond or return to work following lay-off as required in Article XII Section 12.3.**

**F. Absence from scheduled work for two (2) consecutive scheduled work days without notice or call-in unless the employee is incapacitated or for other similar compelling reasons is precluded from giving notice or calling-in.**

**G. Inactive lay-off status for a continuous period of time exceeding six (6) months or length of seniority whichever is less.**

**H. Inactive status due to any form of leave for a continuous period of time exceeding twelve (12) months.**

**I. As otherwise provided in this Agreement.**

**Section 10.9. The Employer will provide a seniority list of all employees in the bargaining unit within thirty (30) days of the effective date of this Agreement and semiannually in January and July, no later than the 15th of the month, to the Federation, and shall also post such list on the Employer's bulletin boards adjacent to the time clocks. Any protest of**

**a seniority date by an employee must be made in writing within thirty (30) calendar days of the date the seniority date in question first appears on a posting made pursuant to this Section, otherwise, said seniority date shall thereafter be deemed correct for any and all purposes.**

## ARTICLE XI

## LOW CENSUS/FLEX DOWN

**Section 11.1. When the Employer experiences a reduction in resident census in a department or program, the Employer may flex-down staff by job title within a department or program (see Appendix B) in accordance with the following:**

**A. In a manner to be determined in its discretion, the Employer will flex-down temporary, probationary or PRN employees, and contract labor personnel before any regular employees, provided there remain regular employees qualified to perform the available work as determined in accordance with Section 10.4 of Article X. Such flex-down may involve reassignment or reductions/elimination of hours.**

**B. If, following the application of paragraph (a) above, the Employer determines a further adjustment in staffing is required, then, on the basis of lowest seniority, regular employees will be flexed-down provided there remain regular employees with greater seniority qualified to perform available work as determined in accordance with Section 10.4 of Article X. Such flex-down may involve reassignment or reduction/elimination of hours.**

**C. Nothing in the foregoing shall prohibit the Employer from seeking volunteers to accept a reduction of hours or reassignment. Regular employees who are**

**voluntarily or involuntarily flexed-down shall have the option of using available PTO in lieu of days off without pay.**

**D. A regular employee's time off work on flex-down shall count toward seniority and benefit eligibility.**

**Section 11.2. During periods of flex-down, the Employer's supervisors and managers will perform work in the bargaining unit only to the degree such work is contemplated by Article XIII., Bargaining Unit Work.**

**Section 11.3. It is recognized that regular employees who are flexed-down and who presently possess the requisite skills, abilities and qualifications to perform such work without training or break-in shall be given priority for PRN assignments in their own department or program or in another department or program ahead of PRN employees.**

**Section 11.4. In the event of a flex-down involving action as described in Section 11.1 (b) above which continues for a period in excess of sixty (60) consecutive days, beginning with the first day the first department or program was assigned flex-down, the provisions of Article 12.1, Lay-off and Recall, will then apply, unless otherwise mutually agreed in writing by the parties.**

## ARTICLE XII

## LAY-OFF AND RECALL

**Section 12.1. In the event of a reduction in the work force which exceeds the maximum flex-down period as provided in Article XI, or in the event of the abolishment of a job(s) or the suspension, curtailment, or discontinuance of a part of the Employer's operations covered by this Agreement, lay-off procedures shall be implemented. Employees who, as a result of**

**the application of the lay-off procedures below, experience a diminishment of hours but who none-the-less perform work and/or who experience a job displacement shall be considered on active lay-off. Employees who, as a result of the application of the lay-off procedures below, experience a complete cessation of work hours shall be considered to be on inactive lay-off. A lay-off shall occur as follows:**

**A. Senior employees shall be offered the opportunity to displace junior employees in departments other than their own provided they are judged to be qualified in accordance with Section 10.4 of Article X, Seniority;**

**B. Junior employees so displaced shall have the same displacement right if opportunities for its exercise exist.**

**Section 12.2. The Employer agrees to post a general notice of impending lay-off seven calendar days (with the day of posting being counted) prior to the implementation of the foregoing lay-off procedures. It is understood that employees who wish to exercise their displacement rights as described above must inform the Human Resources Manager of the job title to which they wish to apply their displacement rights by no later than 5:00 p.m. on the seventh calendar day from the day notice of lay-off was posted (with the day of posting being counted), or else such rights shall be forfeited. The Employer will thereafter take reasonable steps to place those who are to be laid off into new positions as per the foregoing procedures. As a general rule, this should occur during the first full pay period following lay-off. However, it is recognized that factors such as the integrity of a program of care, needs of a particular patient(s), complications related to secondary displacements, proper evaluation of an employee's qualifications as per section 10.4, and the scope of the lay-off**

**may result in it taking a longer period of time to place an employee in the position to which they are exercising displacement rights. Should an employee be placed on temporary inactive status prior to being placed in the job to which it is determined they have displacement rights, such time on inactive status will not be compensated. Finally, it is understood that interruption of work caused by fire, flood, adverse weather conditions, acts of God, or other events or circumstances beyond the direct control of the Employer do not constitute a lay-off, and therefore no notice of lay-off is required, nor is time missed from work to be deemed compensable unless otherwise required by law.**

**Section 12.3. Employees who are laid off shall be recalled to work in accordance with Section 10.4 of Article X, Seniority.**

**Section 12.4. Recall.**

**Section 12.4.1. Recalls from lay-off may consist of:**

**a. for employees on active lay-off, a return to pre-lay-off work hours and/or a return to the job from which they were displaced;**

**b. for employees on inactive lay-off, a return to active employment.**

**Recall of employees from active lay-off shall occur either by personal or telephonic notification to the employee by the Human Resources Manager (or designee).**

**Section 12.4.2. Recall of employees from inactive lay-off shall be conducted in the following manner:**

**a. Notice of recall shall be given by telephone or by certified mail, return receipt requested, sent to the last address provided the Employer by the**

**employee;**

**b. The notified employee shall advise the Employer within two (2) days of receipt of the notice of his/her desire to return to work, and shall report for work within five (5) days of receipt of the notice.**

**Section 12.4.3. The failure of a recalled employee to take either step required in Section 12.4.2.b., above shall result in severance of seniority and the employment relationship.**

## ARTICLE XIII

## BARGAINING UNIT WORK

**Section 13.1. Work which has been customarily performed by bargaining unit employees on a routine basis may be performed by non-bargaining unit employees in the following circumstances:**

**A. To train or instruct either bargaining unit employees or non-bargaining unit employees;**

**B. In any situation where the health and safety of an employee or patient is in jeopardy;**

**C. In cases of emergencies, or where immediate assistance may be needed;**

**D. In instances related to efforts to determine a bargaining unit employee's performance and effectiveness;**

**E. To cover for PTO, EID, absenteeism, and tardiness;**

**F. As necessary to maintain the accreditation and licensure of the Facility, the bargaining unit employee, or the non-bargaining unit employee;**

**G. To implement new programs of care or experimental work, services, or treatment;**

**H. To take advantage of a non-bargaining unit employee's special skills or knowledge of a modality, therapy, or work task;**

**I. In flex-down circumstances when the Employer's manning grids call for work to be performed by non-bargaining unit employees;**

**In circumstances where non-bargaining unit personnel have historically performed such work so as to: 1.) maintain familiarity with and/or evaluate the effectiveness of the Employer's operations and/or treatment programs; 2.) fill shift openings (no more than two shifts per week) which occur after a department's existing regular and PRN employees have been scheduled.**

**Except in the circumstances indicated above, non-bargaining unit employees will not regularly schedule themselves to perform work which has been customarily performed by bargaining unit employees on a routine basis.**

**Section 13.2. Work which has been customarily performed by bargaining unit employees on a routine basis may be contracted to others not in the employ of the Facility when: there does not exist in the bargaining unit the current necessary staffing (that is bargaining unit employees cannot be spared from other assignments or be reassigned without disrupting services or treatment); there does not exist among those in the bargaining unit the present skill, ability, qualifications necessary to perform the services or treatment without additional training; there does not exist the necessary equipment or facilities on hand to adequately serve in the performance of the services or treatment in question; the services or treatment in question can be performed or rendered more economically, or competently,**

**or within time limits as are necessary for accomplishment.**

**Section 13.3. It is agreed that under no circumstances will performance of bargaining unit work by non-bargaining unit persons be considered a basis for a monetary remedy in any arbitration award unless the performance of such work by such persons has initiated the lay-off of regular or PRN bargaining unit employees on the active payroll. Further, it is agreed that work which has not been customarily performed by bargaining unit employees on a routine basis may be performed by such persons or entities as the Employer determines.**

## ARTICLE XIV

## HOURS OF WORK, OVERTIME ASSIGNMENTS AND ON-CALL PROCEDURE

**Section 14.1. The work week shall begin Sunday at 12:01 a.m. and shall end on Saturday at 12:00 p.m. Work that is performed after Saturday 12:00 midnight, but is commenced prior thereto, or is begun in conjunction with a shift commenced prior thereto, shall be work performed in the week just ending and not the new work week.**

**Section 14.2. Employees will be paid biweekly.**

**Section 14.3. The number of shifts, the starting time of each shift, and the number of hours worked on each shift shall be within the sole discretion of the Employer. All regular employees shall receive a "K" time differential of $1.00 per hour for hours worked between 3:00 p.m. and 11:00 p.m.; and they shall receive a "C" time differential of $1.50 per hour for hours worked between 11:00 p.m. and 7:00 a.m. It is understood that in the case of "spill over" shift work, an employee must work more than 1.25 hours into the next shift in order to be eligible for the "K" or "C" time differential. If more than 1.25 hours is worked**

**into the next shift then all hours worked past 3:00 p.m. or 11:00 p.m., as the case may be, will be compensated with the appropriate differential. All regular hourly employees shall receive an additional $1.00 per hour weekend differential for hours worked beginning Friday at 3:00 p.m. to Monday at 7:00 a.m. The weekend time differential is in addition to the "K" and "C" time differentials. It is understood that any hours worked before or after the above outlined time frames would not be paid the weekend time differential of $1.00 per hour.**

**Section 14.4. Overtime paid at the rate of time and one-half (1½) the regular straight-time hourly rate shall be paid for all hours actually worked in excess of forty (40) in a work week except in the case of salaried employees exempt from overtime payments. In no event shall there by any overtime pay based upon or due for hours paid for, but not worked. There shall be no pyramiding or duplicating of overtime hours or pay. In instances involving absenteeism, or operational or clinical emergencies, overtime may be made mandatory at the discretion of management.**

**Section 14.5. Overtime Assignments. While the Employer retains the right, as set forth in Section 14.4 above and elsewhere in this Agreement, to mandatorily assign overtime, it is the preference of the Parties that overtime be worked voluntarily. Further, it is the preference of the Parties that opportunities to work overtime be afforded to employees in a fair and transparent manner. Accordingly, voluntary overtime assignments will be made in accordance with the following procedure:**

**Section 14.5.1. The purpose of this procedure is to provide the means by which the Employer may obtain an employee on a voluntary basis to work a full or partial**

**shift or workday to which the employee is not regularly assigned in circumstances such as, but not limited to, the following: to fill in for an employee whose absence from work has been pre-scheduled; when a position is temporarily vacant; when the Employer determines that the workload or other development on a shift requires additional personnel. However, nothing in this Section or elsewhere in this Agreement is intended to prohibit, nor shall it be interpreted to prohibit the Employer from first utilizing employees holding PRN or Temporary status to fill positions when these or other such circumstances exist, nor from the Employer permitting an on-duty employee to "hold over" and work into the following shift when an oncoming employee assigned to that shift is tardy or absent with no or limited prior notice. It is also further agreed that nothing in this Section or elsewhere in this Agreement shall be interpreted to require the Employer to fill any position it determines it does not wish to fill.**

**Section 14.5.2. It is understood that terms used in this Section such as "overtime", "Overtime Volunteer List" and the like are terms commonly used by employees in the workplace to describe assignments to perform work on a shift or workdays other than the shift or workdays to which they are regularly assigned, and such terms are used herein merely due to that common usage. It is recognized by the Parties, however, that assignments which occur pursuant to this Section may or may not result in the subject employee actually working "overtime", that being work in excess of forty (40) hours in a workweek and, therefore, being paid at the overtime rate, that rate only being paid when an employee, in accordance with Section 14.4, has actually worked in excess of forty (40) hours in a workweek.**

**Section 14.5.3. An Overtime Volunteer List will be established and maintained by the Employer for each job title that is held by two (2) or more employees. Prior to the publication of the initial Overtime Volunteer List, the Employer will post on a designated bulletin board a preliminary Overtime Sign-Up List on which employees regularly holding the subject job title and who wish to be on the Overtime Volunteer List may indicate their desire to do so. However, notwithstanding the foregoing, it is understood that in the case of the Overtime Sign-Up List to be used for the job titles of Behavioral Health Associate I and Behavioral Health Associate II, employees currently holding another job title, but who is also presently qualified to fully perform the duties of the Behavioral Health Associate I and Behavioral Health Associate II job titles, may also place their names on the Overtime Sign Up List.**

**Section 14.5.4 The preliminary Overtime Sign-Up List will be posted for a period of ten (10) consecutive days, during which employees enter their names. Within five (5) days of the end of this posting period, the Employer will determine the seniority of those employees who "signed up" on the List, and, in the case of the List for the Behavioral Health Associate I and Behavioral Health Associate II job titles, the Employer will also determine the current job title held by each signee. The Employer will establish the Overtime Volunteer List for all job titles except BHA I and BHA II by listing, by seniority, the employees currently holding the job title who have signed the list. As to the list for job titles of BHA I and BHA II, the Employer will establish the Overtime Volunteer List by first listing, by seniority, all employees currently holding the job title. The names of these employees will then be followed, in seniority order, the names of the employees who do not**

**currently hold the job title, but who is also presently qualified to fully perform the duties of the job title. The Employer will then publish the Overtime Volunteer List for each eligible job title. Thereafter, the Overtime Volunteer List for each job title will be an evolving document, changing in accordance with procedures set forth below, as employees, as the case may be, have their names added to the List or have their names voluntarily or involuntarily removed from the List.**

**Section 14.5.5. It is understood that the following employees are ineligible to be on the Overtime Volunteer List: a probationary employee; a non-probationary employee who is subject to an active Final Warning (or if the Employer, in its sole discretion has chosen to utilize one, a Last Chance Agreement) based on any disciplinary or job performance reason; an employee who is ineligible due to the application of Sections 14.5.8, 14.5.9 and 14.5.12 below; any employee whose name has been removed from the On-Call Roster due to the application of Section 14.6.7.**

**Section 14.5.6. As overtime opportunities arise, they will be offered to employees on the Overtime Volunteer List in the descending order of the names appearing on the List. An employee who is on duty at the time an overtime opportunity is to be offered will be presented with the opportunity at the workplace. If the employee is not on duty, a call will be made to make the overtime opportunity offer to the employee at the cellphone or telephone number which the employee has placed on file with the Employer as the designated number to which such calls are to be directed. If the employee fails to answer, a voice message will be left instructing the employee to place a "callback" within thirty (30) minutes of the time the call to make the offer occurred, unless the staffing**

**circumstances are of such an emergency nature that such thirty (30) minute "callback" time cannot be afforded. In the event, as the case may be, a phone call has been made to an employee but has not been timely responded to during the thirty (30) minute callback period, or the employee responds but rejects the opportunity, or responds and accepts the opportunity, he will, in any of these cases, be "credited" with the opportunity. The "crediting" of an overtime opportunity will result in the next employee on the List being offered, as the case may be, the rejected overtime opportunity or the next overtime opportunity. Offers of overtime shall be made through the final name on the Overtime Volunteer List. Thereafter, offers will then be made starting with the name of the employee topping the List. As to the Overtime Volunteer List for the job titles of Behavioral Health Associate I and Behavioral Health Associate II, it is understood that when an employee on the List who does not regularly hold job title, but who is also presently qualified to fully perform the duties of the title, performs work pursuant to an offer made under the foregoing procedures, he/she shall be paid at, as applicable, a straight time or overtime rate based on the hourly rate he/she then is receiving in the job title to which he/she is regularly assigned.**

**Section 14.5.7. An employee who did not sign the initial Overtime Sign-Up List, but who is otherwise eligible to have his name appear on the Overtime Volunteer List may indicate his desire to be added to the Overtime Volunteer List. However, his name will be entered on the List above the name of the employee who was first offered the last overtime opportunity.**

**Section 14.5.8. An employee whose name appears on the Overtime Volunteer**

**List may request that it be removed. However, he shall be barred from having his name added back to the List until the expiration of a one-hundred twenty (120) day period beginning the date of his request that his name be removed. If, at the expiration of this period, he requests that his name be added back to the List, it will be added back in accordance with Section 14.5.7 above.**

**Section 14.5.9. An employee who, on a total of three (3) occasions during any one hundred twenty (120) day period, either separately or in combination, rejects an overtime opportunity, or fails to timely respond to a call made to offer an overtime opportunity shall have his name removed from the Overtime Volunteer List. He shall not thereafter be eligible to have his name added back to the List until the expiration of a period of one-hundred twenty (120) days beginning the date of the removal of his name from the List. If, at the expiration of this period, he requests that his name be added back to the List, it will be added back in accordance with Section 14.5.7 above.**

**Section 14.5.10. Should it occur that during the offering of overtime opportunities in accordance with the provisions of this Section the Employer inadvertently bypasses an employee(s) who should have been afforded the opportunity and instead makes the offer to another employee, the sole remedy will be for the bypassed employee(s) to be offered the next opportunity occurring after the discovery of the error. The application of this remedy will foreclose the bypassed employee from filing a grievance regarding the matter and shall likewise foreclose the filing of a grievance by any employee whose opportunity for overtime is delayed, directly or indirectly, by the remedial offer made to the bypassed employee. Under no circumstances will the application of the procedures set**

**forth in this Section result in an employee receiving pay for time not worked.**

**Section 14.5.11. Notwithstanding the foregoing procedures related to the Overtime Volunteer List, the Parties recognize that there may be circumstances in which an overtime opportunity may exist in a position in a treatment program which requires specialized knowledge and/or experience, and/or physical requirements, characteristics, or attributes which the Employer determines that the employee who would otherwise be offered the overtime opportunity does not possess. In such a circumstance, the opportunity will be offered to the next employee on the List determined to meet the demands and requirements of the opportunity. Further, in such case, as in the circumstances described in Section 14.5.10 above, the bypassed employee will be afforded the next opportunity, and the remedial limitations set forth in Section 14.5.10 will also apply to all employees.**

**Section 14.5.12. It is understood that an employee who accepts an overtime opportunity offered to him, but who with regard to that opportunity is absent, or tardy, or leaves early without advance notice and/or a compelling, verifiable reason, is subject to disciplinary action under the Employer's Attendance Control policy. Further, as a separate and distinct penalty related to this Section 14.5.12, the failure of the employee to present advance notice and/or a compelling, verifiable reason shall result in the employee not being offered the next two (2) overtime opportunities he would otherwise have been entitled to be offered. Finally, in the event the employee is absent or tardy for, or should he leave early on, a voluntary overtime opportunity assignment he accepted without advance notice and/or a compelling, verifiable reason on a second occasion within a period of one-hundred twenty (120) days then, again as a penalty related to this Section 14.5.12 that shall be**

**considered separate and distinct from the Employer's Attendance Control policy and any penalty appropriate pursuant to it, his name will be removed from the Overtime Volunteer List. He shall thereafter be ineligible to have his name added back to the List for a period of one-hundred twenty (120) days from the date of the removal of his name from the List. If, at the expiration of this period, he requests that his name be added back to the List, it will be added back in accordance with Section 14.5.7 above.**

**Section 14.6. On-Call Procedure**

**Section 14.6.1. In order to effectively deal with unanticipated short staffing circumstances which can arise on weekends and holidays due to absenteeism, an on-duty employee's mid-shift illness or personal emergency, operational or clinical emergencies, and the like, the Employer will publish a quarterly On-Call Roster for use in backfilling positions as necessary.**

**Section 14.6.2. An On-Call Sign-Up List will be utilized by the Employer to identify employees wishing to be on-call for those job titles which the Employer, in its discretion, determines must necessarily be supported by the on-call procedure. The On-Call Sign-Up List will be posted on a designated employee bulletin board on the first day of the month preceding the month this procedure is to be implemented (the "initiating month") and thereafter on the first day of the third month of each calendar quarter. The On-Call Sign-Up List will be posted in the "initiating month" for fifteen (15) calendar days. It will also be posted for the first fifteen (15) calendar days of the last month of each subsequent calendar quarter. The On-Call Sign-Up List will identify for each job title a date and shift for which on-call employees need to be identified. Employees regularly holding the particular job title**

**will indicate their desire to be on call for a particular day and shift by signing up in the appropriate space on the list. Employees may not sign up to be on call for ~~consecutive days or~~ consecutive shifts on a single date.**

**Section 14.6.3. The following employees are not eligible to participate in the On-Call Procedure: probationary period employees; a non-probationary employee who is subject to an active Final Warning (or, if the Employer, in its sole discretion has chosen to use one, a Last Chance Agreement) based on any disciplinary or performance reason; any employee who is precluded by the terms of Section 14.5.9 or 14.5.12 from having his name appear on the Volunteer Overtime List; an employee whose name has been removed from the On-Call Roster due to the application of Section 14.6.7 below.**

**Section 14.6.4. The On-Call Roster will be posted by the twenty-first (21st) day of the month preceding the commencement of the calendar quarter to which the Roster will apply. The On-Call Roster will designate, for each day shift and "K" shift occurring on each Saturday, Sunday and holiday occurring in the upcoming calendar quarter, the two (2) employees who are to be on-call.**

**Section 14.6.5. The Employer will select employees for assignment to the On-Call Roster by reviewing the particular entries employees have made on the On-Call Sign-Up List and to the degree reasonably possible equalizing the number of assignments on the On-Call Roster among the signees, in accordance with the days and shifts they have selected. Any residual opportunities which are insufficient in number to be allocated to all of the subject signees on the On-Call Sign-Up List will be assigned to the more senior of the signees equally in accordance with the days and shifts they have designated on the basis of**

**seniority. The Parties agree that, if possible, it is desirable that no employee be assigned more than ten percent (10%) of the total on-call opportunities that are available for the calendar quarter. After completing a draft On-Call Roster to the degree possible utilizing equalization efforts and adherence to the ten percent (10%) limitation, a representative of the Employer will meet with the Local Union President to review the draft On-Call Roster. The Union President and the Employer representative will discuss the draft document, make changes as necessary, and upon reaching agreement regarding its contents will both "sign off" and thereby certify that the On-Call Roster meets the requirements of this Section and is to be posted. If the application of this process, and in particular the ten percent (10%) limitation, results in there still being openings on the On-Call Roster as posted, the Employer will place a notice of available opportunities alongside the On-Call Roster when it is posted and will invite employees who are not regularly assigned to the job title in question, but who are presently skilled, able and qualified to perform its duties, to sign up for the available opportunities. Such employees will be placed on the On-Call Roster utilizing the same guidelines set forth herein for the assignment of employees who are regularly assigned to the job title, including a follow-up meeting between a representative of the Employer and the Local Union President and their review and certification that the additions to be made to the posted On-Call Roster meet the requirements of this Section. If there remain openings on the On-Call List thereafter, the Employer may fill these openings by any means necessary, including mandating service on the On-Call List. If mandating service is required, it will be required of those regularly assigned to the job title in question on the basis of seniority.**

**Section 14.6.6. Notwithstanding the foregoing, it is understood that there may be circumstances in which a position in a treatment program requires specialized knowledge and/or experience, and/or physical requirements, characteristics, or attributes which the Employer determines an employee, whose seniority would otherwise result in him being on the On-Call Roster, does not possess. In such a circumstance, the employee will not be placed on the On-Call Roster for call-in to the position. The employee will be notified of the Employer's determination and action. Said determination and action shall then be subject to challenge by the employee through the grievance and arbitration procedure in Article 6. In the event the Employer's determination and action is grieved, and in the further event that an arbitrator renders an award granting the grievance, the sole remedy shall be to place the aggrieved employee on the then-current On-Call Roster for the position initially sought, and also for the position on future On-Call Rosters, provided the employee "signs up" for the position on the On-Call Sign-Up List. Under no circumstances will a monetary payment for time not worked be a component of any such arbitration award. Further, no grievance may be filed by any employee whose position on the On-Call Roster is affected, directly or indirectly, as a result of the remedial action of placing the grievant's name on the On-Call Roster.**

**Section 14.6.7. Should an employee on the On-Call Roster face an unanticipated circumstance which would preclude him from being able to respond to a call-in, he must notify the Employer immediately upon his determination that this circumstance exists. If such notice is provided within seven (7) calendar days of the date the employee would otherwise be subject to call-in, the employee must present the Employer with a compelling,**

**verifiable reason for his inability to remain on the On-Call Roster for the day and shift in question. If such reason is not provided, his name shall be subject to removal from the current On-Call Roster in the manner described below. Removal of an employee's name in a manner described below shall also occur in the following circumstances: an employee fails to answer the Employer's phone call to report for a day and shift he has agreed to be on-call for; an employee reports for duty but is tardy or otherwise fails to work the entire shift, except in the case of a compelling, verifiable illness, injury or personal emergency; an employee reports for duty but is determined to be unfit for duty; an employee requests that he be excused for three (3) occasions he is scheduled for call-in during a calendar quarter regardless of whether his requests are based on compelling, verifiable reasons. In the event of any of these circumstances, the employee shall forfeit the opportunity to participate in the On-Call Procedure until the commencement of the publication of the On-Call Sign-Up List which occurs subsequent to the one (1) year anniversary of the removal of his name from the On-Call Roster. It is further understood that in addition to the separate and distinct penalties described herein which are related to Section 14.6, employee absences, tardies, early departures from a shift or reporting to work unfit for duty will also be matters subject to the appropriate disciplinary action set forth in, as the case may be, the Employer's Attendance Control Policy, and/or its Workplace Conduct Rules.**

**<u>Section 14.6.8</u>. It is the responsibility of an employee on the On-Call Roster to provide the Employer a cellphone number to be used to place the call to the employee notifying him to report to work for the on-call opportunity. As to the obligation of the employee to be prepared to report, he shall be prepared for a continuous period extending**

**from one (1) hour prior to the start of the shift for which the employee is on call to one (1) hour prior to the end of that shift, this being the period in which he shall be regarded as being in on-call status.**

**Section 14.6.9. If called in by the Employer, it is the responsibility of the on-call employee to report to the facility no later than one (1) hour from the time the employee receives the call-in phone call. It is understood that the employee, upon reporting, must be, in all respects, fit for duty.**

**Section 14.6.10. An employee who is in on-call status is free to engage in any and all activities, except those which would prevent him, if called in, from being able to report for duty within the one (1) hour time limit, or from being able to report fit for duty in all respects. Should an employee report for duty but be determined to be unfit for duty, he will be subject to disciplinary action under the Employer's Workplace Conduct Rules and/or its Attendance Control policy, and such penalties administered thereunder will be separate and apart from the applicable penalties set forth in Section 14.6.7 above.**

**Section 14.6.11. Except as provided below, an employee, while in on-call status, will receive compensation in the amount of Two Dollars ($2.00) per hour ("On-Call Pay"). If called in, the employee will receive this Two Dollar ($2.00) rate until such time as he has clocked in at the Employer's facility when he will then begin being paid his regular hourly rate, plus any applicable shift differential, except that if the hours actually worked during the call-in result in the hours worked during the subject workweek exceeding forty (40) hours, then, in such case, he shall be paid at the overtime rate for the hours exceeding forty (40). It is further understood that pursuant to the provisions in Section 15.5 of this**

**Agreement, when employee is called in and there remains less than two (2) hours in the subject shift, he shall nevertheless be afforded, at the Employer's election, a minimum of two (2) hours of compensation or two (2) hours of work opportunity, said compensation, whether paid outside of, or in connection with work, being calculated in the manner described above.**

**Section 14.6.12. Notwithstanding the provisions of Section 14.6.11 above, and in addition to penalties that may be administered pursuant to Section 14.6.7 above, it is understood that should an employee fail to answer the Employer's phone call notifying him to report for duty, or answers the call but fails to report for duty, or reports for duty but is determined not to be fit for duty, or reports for duty but is tardy or fails to work the balance of the shift (except when such failure to complete the shift due to a compelling, verifiable illness, injury or personal emergency), he shall forfeit all On-Call Pay for the day in question.**

**Section 14.7. Exchange of scheduled shifts and days off may be arranged so long as the employees are equally qualified and a written request has been submitted to the supervisor for approval at least twenty-four (24) hours in advance of the proposed exchange and the written request is signed by the supervisor. An exchange will not be approved when it will result in an employee working overtime or being projected to work overtime.**

**Section 14.8. All employees, except those holding the position of Behavioral Health Associate I and II, or except as provided in Section 14.10. below, shall ordinarily receive a non-paid thirty minute meal period which shall be considered personal, non-working time to be taken away from the immediate work area, except when working circumstances**

**preclude such meal period. When an employee cannot disengage himself from work for a meal period, the employee should indicate the missed meal period on his time card so that he can be paid for the missed meal period.**

**Section 14.9. All employees, except as provided in Section 14.10. below, shall ordinarily receive two fifteen minute rest breaks which shall be considered compensable time. One break shall ordinarily occur during the first half of the shift; the other shall ordinarily occur during the second half of the shift. Breaks shall be scheduled by the supervisor. It is understood, however, that working requirements may require suspension or interruption of rest breaks.**

**Section 14.10. Employees scheduled to work four (4) hours shall be ordinarily eligible to receive a fifteen-minute rest break, but shall not receive a meal period.**

**Section 14.11. Employees shall not leave the premises during meal periods and rest breaks without permission of their supervisor.**

**Section 14.12. Nothing contained in this Article or Agreement shall be deemed a guarantee of hours of work per day or hours of work per week.**

**Section 14.13. The Employer will consult with the Union concerning scheduling issues upon the Union's request. Final decisions regarding scheduling, however, are within the reserved rights of management under Article II.**

## ARTICLE XV

## WAGES

**Section 15.1. Effective the first full pay period following January 1, 2019, each bargaining unit employee holding the job title of Teacher or Teacher Assistant shall receive a four**

**percent (4%) increase in his/her respective, then-current hourly base rate of a pay.**

**Section 15.2. Effective the first full pay period following January 1, 2019, each bargaining unit employee holding a job title other than Teacher, Teacher Assistant, Behavioral Health Associate I or Behavioral Health Associate II shall receive a two percent (2%) increase in his/her respective, then-current hourly base rate of pay, or, if applicable, in his/her then-current bi-weekly salary.**

**Section 15.3. Appendix A, titled "Job Title Entry Base Rates and Effective Dates", sets forth the hourly rate to be paid during the term of this Agreement to new hires in designated job titles and the effective date of those rates. Except in the case of all Therapist job titles, if, during the term of this Agreement, the Employer hires an employee at a rate of pay higher than the entry base rate of the applicable job title as provided in Appendix "A", then, all employees then employed in the particular title and being paid less than the new hire shall receive an increase so as to bring their hourly rate to the entry base rate being paid the new hire.**

**Section 15.4. Employees who experience a demotion during the term of this Agreement shall be paid in accordance with the following formula: (start rate of job to which demoted) + (the percentage differential of the former pay rate versus the start rate for the former position as such differential is applied to the start rate for the job to which demoted) = rate for job to which demoted.**

**Section 15.5. An employee who, while at a location other than the Employer's premises, is notified by the Company to report for work at a time other than the employee's regularly scheduled starting time, shall be entitled to a minimum of two hours of work opportunity**

**or two hours of pay at the employee's straight time hourly rate, the election of which to be made by management.**

## ARTICLE XVI

## BENEFITS ELIGIBILITY

**Section 16.1. When used in this Agreement, the term "enrollment eligible employee" includes "regular employees" as that term is defined in Section 8.1 of this Agreement, and with regard to Employer-sponsored insurance plans and supplemental plans, and Health Savings Accounts and Flexible Spending Accounts, the term also includes PRN employees who are determined by the Employer to average thirty (30) hours or more of work per week pursuant to an analysis in compliance with the Patient Protection and Affordable Care Act. If enrollment eligible employees are determined to be eligible to participate in these plans and accounts, participation may begin the first day of the calendar month after completing thirty (30) days of employment in a full time position and must completing the enrollment form(s) during this period. If enrollment forms are not completed and received within this timeframe, the employee may lose his/her right to participate or change participation until the next open enrollment period unless otherwise permitted by the terms of a particular plan. It is solely the employee's responsibility to ensure that enrollment is completed in a timely manner.**

**Section 16.2. 401K eligibility includes regular employees and PRN employees, who average 20 hours per week. Such employees are eligible to voluntarily participate in the retirement savings plan if they are 21 years of age and have completed a thirty (30) day waiting period.**

## ARTICLE XVII

## INSURANCE

**Section 17.1. The coverage and amount of employee premium contributions regarding the following forms of insurance or other benefits, as the case may be, which go into effect as of January 1, 2019 and information about which has been provided the Union, will remain in effect for the term of this Agreement:**

- **Employee Assistance Program**
- **Group Life**

**Section 17.2. The Employer will continue to afford for the term of this Agreement payroll deduction of employee premiums for employees who acquire any or all of the following forms of optional, supplemental plans, which are funded entirely through employee premiums and which are in effect as of the effective date of this Agreement:**

- **Optional supplemental Life**
- **Optional supplemental Accidental Death and Dismemberment**
- **Optional supplemental Short Term Disability**
- **Optional supplemental Long Term Disability**

**The Employer reserves the right, at its discretion, to replace the carriers of any or all of the foregoing optional, supplemental plans, but the Employer shall remain obligated to payroll deduct employee premiums for employees who acquire coverage as charged by such replacement carrier it selects.**

**Section 17.3. Except as provided below, effective January 1, 2019, and for the term of this Agreement, Group Medical insurance coverage will be made available to enrollment**

**eligible employees through three coverage options, information regarding which has been provided the Union. These options are commonly known and referred to as the Base Plan, the Buy-Up Plan, and the High Deductible Plan. Effective January 1, 2019, and for the term of this Agreement, group dental coverage will be made available to enrollment eligible employees through a plan, which may stand alone (The Dental Insurance Plan), or which may be combined with a Vision Insurance Plan as discussed below (The Dental/Vision Insurance Plan), information regarding which has been provided the Union. Effective January 1, 2019, and for the term of this Agreement, group vision coverage will be made available to enrollment eligible employees through a plan, which may stand alone (The Vision Insurance Plan), or which may be combined with a Dental Insurance Plan (The Dental/Vision Insurance Plan), information regarding which has been provided the Union.**

**The monthly employee contributions toward the premiums charged for the above-referenced insurance plans during the term of this Agreement and the effective dates of same are set forth in Appendix C.**

**The Employer reserves the right, at its discretion, to replace the carriers of any or all of the above-referenced plans as well as to modify or eliminate any of the three plans providing group medical insurance coverage. Should a particular plan be eliminated, or the terms of coverage be changed by an existing carrier or should a plan to be obtained from a new carrier differ from a then existing plan, the Federation will be notified and provided an opportunity to determine if it wishes alternative coverage separate and apart from the plan or plans the Employer is then able to make available. It is understood that if alternative coverage is to be acquired, the Employer's cost shall not exceed that cost it**

**would have incurred under the Employer plan or plans which otherwise would have been available.**

**Section 17.4. It is understood and agreed by the Parties that with regard to any Group Medical Insurance Plans, the Dental Insurance Plan, the Vision Insurance Plan and all other plans and benefits referenced in this Article which are offered by the Employer during the term of this Agreement, formal plan or benefit documents are controlling on all issues which may arise, including, but not limited to, employee and dependent eligibility for coverage and benefits provided, exclusions, conditions and administration. It is also understood and agreed that the Employer's responsibility under this Article is limited to the payment of its agreed upon portion of the necessary premiums, to purchase the insurance or benefit plans, as the case may be, identified in Section 17.1 and 17.3, and to provide only payroll deduction of the premiums charged employees by carriers of Plans identified in Section 17.2. The Employer has no liability for the failure or refusal of any insurance carrier or benefit plan provider to pay benefits on any claim and no refusal to honor a claim or pay benefits shall be attributable to the Employer nor shall it constitute a breach of this Agreement.**

## ARTICLE XVIII

## PAID TIME OFF (PTO) AND EXTENDED ILLNESS DAYS (EID)

**Section 18.1. Benefits eligible employees will accrue PTO at the rates shown below. Upon successful completion of the applicable ninety (90) day waiting period, those employees who have become regular employees will be credited with accrued PTO from their full time effective date, which will be regarded as their seniority date, unless such date is modified**

**due to subsequent adjustments. In the case of PRN employees who become regular employees, accrual shall commence on their seniority date:**

**Accrual Schedule**

| Seniority | PTO Hours Accrued Biweekly | Accrued Per Year |
|---|---|---|
| 0-1 Year | .08846 | 184 |
| More than 1 to 2 Years | .09231 | 192 |
| More than 2 to 3 Years | .09615 | 200 |
| More than 3 to 4 Years | .10000 | 208 |
| More than 4 to 5 Years | .10385 | 216 |
| More than 5 to 6 Years | .10769 | 224 |
| More than 6 to 8 Years | .11154 | 232 |
| More than 8 to 10 Years | .11538 | 240 |
| More than 10 to 15 Years | .11923 | 248 |
| More than 15 Years | .12308 | 256 |

**Changes in an employee's rate of accrual of hours will be implemented in the first full pay period following the employee's seniority date. Likewise, changes in an employee's percentage of accrued hours will be implemented in the first full pay period following the employee's change in employee category and regularly scheduled work hours. A regular employee may accrue PTO to a maximum of two hundred forty (240) hours. When maximum accrual is reached any hours accrued above the maximum will be credited to an eligible employee's Extended Illness Days (EID) account and such time will be subject to EID requirements as set forth in this article.**

**Section 18.2. PTO will be paid at the employee's regular straight time hourly rate of pay. PTO shall not be regarded as hours actually worked for overtime computation. PTO is calculated on the actual number of regular hours worked/or the number of PTO hours**

**paid each pay period, not to exceed 80 hours per pay period.**

**Section 18.3. Eligible employees who are not scheduled to work on observed holidays will be granted the day off with pay and the time will be deducted from accrued PTO. Employees who do not have enough PTO accrued to cover a holiday will be granted time off with pay for the holiday, and the time will be deducted from accrued PTO at a later date. Holidays observed are as follows:**

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

**Except as expressly provided in this section, PTO may not be taken until it is earned. Employees who have not accrued enough PTO during their probationary period to cover a recognized holiday will be granted time off with pay for the holiday, and the time will be deducted from accrued PTO at a later date or upon termination.**

**In the event an employee is scheduled to work on an observed holiday, the employee will be compensated at one and one-half (1½) times his hourly rate for hours worked on the holiday. Employees who work the holiday may choose one of two options: (1) they may elect to receive PTO payment for the holiday in addition to pay they receive for working the holiday, (in that case eight (8) hours will be deducted from their PTO accounts for the holiday); or (2) they may elect to schedule the holiday time off on another date and receive pay for only the holiday hours actually worked. Should management choose to grant the request of a non-scheduled employee to work on an observed holiday, such employee will**

**be compensated at the applicable straight time rate for hours worked.**

**Section 18.4. Accrued PTO may only be utilized in one (1) hour increments. Except in instances where the desired time off work could not have been reasonably anticipated, an employee must submit to his immediate supervisor (or designee) a completed PTO Request Form. For PTO time of sixteen (16) hours or less, the request form must be submitted at least seventy-two (72) hours in advance. For more than sixteen (16) hours of PTO time, the request form must be submitted fourteen (14) calendar days in advance. The supervisor (or designee) will respond on the PTO request form within forty-eight (48) hours of the employee's submission. In making decisions regarding the granting of PTO, the Employer may consider, among other things: staffing needs as it has determined them to exist; the seniority of the employee(s); necessary present skill, ability and qualifications required to perform the work and the comparability of employees in this regard; the amount of advance notice that has been provided by the employee(s). Once the leave is approved by management, it may only be cancelled and the employee called to work in cases of emergency.**

**In instances where the desired time off work could not have been reasonably anticipated by the employee (for example, a sudden illness), the employee is expected to notify his supervisor (or designee) as soon as possible, but not later than the start of the employee's shift.**

**Absent extraordinary circumstances, failure to give the appropriate amount of advance notice will result in no PTO payment. Any absence which is not requested in advance will be considered an unscheduled absence and may result in no PTO payment. In**

**the event of a continuing period of absence the employee should report the continuing need for time off as per his supervisor's (or designee's) instructions.**

**Section 18.5. If, because of a reduced workload, an employee is released early from his shift, the employee has the option of requesting that the hours reduced in the shift be PTO. Except in this sole instance, however, eligible employees may not take any unpaid time off if there is a balance remaining in their PTO account.**

**Section 18.6. Eligible employees, who have accumulated six (6) months of seniority, may receive payment through cash conversion in lieu of taking time off for accrued PTO hours. However, a minimum balance of forty (40) hours must be maintained in order to exercise the cash conversation option, and a minimum of sixteen (16) PTO hours must be cashed in at a time. The cash conversion option is available to an employee while on flex-down, PTO, Leave subject to the Family and Medical Leave Act (FMLA), Military Leave, or lay-off. PTO cash conversion requests must be made via the PTO Request Form. Completed forms must be received by payroll by 12:00 Noon, ten (10) calendar days preceding the next scheduled payday in order for payment to be made on that payday. Requests received after the deadline will be paid the following payday.**

**Section 18.7. Upon termination of employment, or upon a voluntary reduction of hours in a non-flex down setting such that the employee becomes categorized as a PRN employee, any eligible employee who has completed six (6) months of continuous service will receive pay for all PTO hours earned but not utilized, subject to the maximum accrual applicable to the employee.**

**Section 18.8. Benefits eligible employees will accrue Extended Illness Days (EID) at a rate**

**equivalent to 7 days per year, regardless of the length of employment. This benefit is calculated by multiplying .0269 times the actual number of regular hours worked and/or the number of PTO hours paid each pay period, not to exceed 80 hours each pay period. On completion of the employee's applicable ninety (90) day waiting period the employee's EID account is credited with retroactive EID for his first ninety days of work. EID is earned each pay period, beginning with the pay period in which the employee's 91st day of full-time employment falls. The maximum amount of EID that an employee may accrue is limited to five hundred sixty (560) hours.**

**<u>Section 18.9.</u> EID may be used by eligible employees in the following circumstances:**

**A. A personal illness or injury, not subject to the Montana Workers' Compensation Statute, lasting longer than three (3) consecutive days on which the employee is scheduled to work, except that if the employee's condition is due to her own pregnancy or birth of her own child, the use of EID may begin with the first day of absence, and, except further, that if the personal illness or injury requires the employee to be an in-patient in a hospital, use of EID may commence the first day of hospitalization;**

**B. To care for an immediate family member who is dependent on the employee for care and who has a serious health condition lasting longer than three (3) consecutive days, except that if the serious health condition of the immediate family member requires the individual to be an in-patient in a hospital, use of EID may commence on the first day of hospitalization (For purposes of this Article, the term "immediate family member" is defined as the employee's spouse, child, step-child, parent, or one**

**who has stood *in loco parentis*);**

**C. In the event of an illness or injury subject to the Montana Workers' Compensation Statute, to provide the employee income for work he/she would otherwise have been scheduled to perform during the required waiting period provided for by the Statute. (EID may not be used for any other purpose in connection with an illness or injury which is subject to the Statute).**

**Section 18.10. The Employer reserves the right to require a signed statement of the health care provider confirming the circumstances under which EID is requested before it can be used. Likewise, the Employer reserves the right to require a provider's certification that an employee is capable of returning to work. Finally, the Employer reserves the right to require a second confirmation or certification by a health care provider of its choosing. If such is requested, the cost will be borne by the Employer.**

**Section 18.11. EID is for leave and there is no cash conversion option for EID including excess PTO credited to employee's EID account. Likewise, unused EID will not be compensated in the event of termination of employment.**

**In the event of a voluntary reduction in hours in a non-flex-down setting such that the employee becomes categorized as a PRN employee, EID accrual shall be frozen for a period up to one year from the effective date of the voluntary reductions, and EID may not be used. If the employee remains a PRN employee for more than one year, all accrued, but frozen, EID shall be lost. If within a year of the effective date of the voluntary reductions the employee returns to employment as a regular employee, EID accrual will resume and EID may be used consistent, in both instances, with the category of employment the**

**employee has returned to.**

## ARTICLE XIX

## FUNERAL LEAVE

**Section 19.1. Upon the death of a member of his immediate family as defined below and in accordance with the schedule below, a benefits eligible employee may be granted one (1) day off with pay and use up to three (3) days of EID for time actually lost from work (not to exceed eight (8) hours per day involved) at his regular straight time hourly rate when a death occurs in the employee's immediate family as defined below.**

**Immediate Family:**
**Current spouse, domestic partner, child, step-child, mother, step-mother, father, step-father, brother, step-brother, sister, step-sister, mother-in-law, father-in-law, sister-in-law, brother-in-law, grandparent, grandchild, son-in-law, daughter-in-law.**

**The days must be consecutive and one of the days must be the day of the funeral. No extra pay allowance will be made for multiple or simultaneous deaths. No pay shall be granted under the provisions of this paragraph where: a) the employee does not attend the funeral of the deceased relative, or b) the employee fails upon request to provide the Employer with proof of death and attendance at the funeral. Any pay received for such leave of absence on a holiday shall be in lieu of pay for such holiday.**

**Employees who wish to extend the bereavement leave must use PTO or take an unpaid leave of absence.**

## ARTICLE XX

## LEAVES OF ABSENCE

**Section 20.1. Personal Leave. Regular employees who have completed one (1) year of**

**continuous service are eligible to request a Personal Leave of Absence. To be considered, requests shall be in writing, shall state the reason for the leave and the amount of leave time being requested, and shall be submitted to the Human Resources Department in a timely manner. Each request will be considered on its own merit and must be approved by the Human Resources Manager. Decisions to grant or deny such leave requests are solely within the rights and discretion of management. If granted, a Personal Leave, including any extension which may be granted, shall not exceed 180 calendar days. Such leave shall be unpaid except that the Employer may require the employee to utilize all available PTO in conjunction with the leave.**

**Section 20.2. Education Leave. Regular employees who have completed one (1) year of continuous service are eligible to request an Educational Leave of Absence to pursue a course of study related to their work. To be considered, such requests must be in writing and must identify the school to be attended, the course of study to be followed, the length of leave desired, and, further, must state the employee's full intention toreturn to work upon completion of the leave. Such requests shall be submitted to the Human Resources Department in a timely manner. Each request will be considered on its own merit and must be approved by the Human Resources Manager. Decisions to grant or deny such leave requests are solely within the rights and discretion of management. If granted, an Education Leave, including any extension that may be granted, shall not exceed one (1) year. Such leave shall be unpaid except that the Employer may require the employee to utilize all available PTO in conjunction with the leave.**

**Section 20.3. Family/Medical Leave. The Employer shall grant leave under the Family and**

**Medical Leave Act (FMLA) to an employee eligible for such leave. The Employer reserves all rights and prerogatives permitted it under said Act. Such leave shall be unpaid except that the Employer may require the employee to utilize all available PTO and EID, in conjunction with the leave.**

**Section 20.4. Military Leave. Leaves for service in the United States Armed Forces or the National Guard of the State will be granted in accordance with the provisions of applicable federal or state law.**

**Section 20.5. Jury Service Leave. An employee called to jury service must notify the Human Resources Department in a timely manner. When such notice is given, a regular full-time employee called for jury service shall be excused from work for the day(s) on which he serves and shall receive paid civil leave for each day of jury duty. Employees whose shift begins at 11:00 p.m. and ends at 7:00 a.m. shall have the option to be excused from either their regular shift which commences immediately preceding the day of jury duty or their regular shift which commences the day of the jury duty. Paid jury duty is subject to a three (3) day limit. If the jury duty extends for more than three days, the employee must use PTO or take the remaining jury duty leave without pay. Employees must give reasonable advance notice of their obligation to serve and may be required to produce verification of such duties.**

**The Employer does not request jury service postponements in routine cases. However if the timing of an employee's jury service imposes a business hardship, it may be necessary to request a rescheduling of the jury duty if the employee's absence would create a hardship on his/her department.**

**If released from jury duty during hours he otherwise would be working, the employee shall report to work. Failure to return timely from jury duty is treated as an unexcused absence.**

**Section 20.6. Obtaining other Employment, Falsification. The falsification of reason for a leave under this Article or of a document used in connection with the leave shall constitute just cause for termination of employment. During the course of Education Leave, an employee may, with the prior consent of the Human Resources Manager, seek and obtain part-time employment elsewhere, if such employment is temporary, and is undertaken in order to provide financial support during the leave or is undertaken as part of a educational requirement. The seeking or obtaining of employment elsewhere during any other leave provided for in this Article, shall constitute just cause for termination of employment.**

**Section 20.7. Reinstatement. In the case of personal leaves of thirty (30) days or less, or in the case of an Education Leave or in the case of Family/Medical Leave an employee, upon return from leave, will be reinstated into their previous position or one with comparable duties, responsibilities and rate of pay. An employee on a personal leave of absence in excess of thirty (30) days is not assured of reinstatement to their previous position or one comparable. However, such returning employee may use his seniority to exercise the displacement of the least senior employee in a position for which he is deemed equally or more qualified in accordance with Section 10.4 of Article X, Seniority. Persons returning from a Military Leave of Absence will be reinstated in accordance with existing law.**

**Section 20.8. Compensation, Seniority Continuation, and Benefit Participation. Unless otherwise indicated, all leaves granted under this Article shall be without pay. Seniority**

**shall accumulate during all leaves granted under this Article. In the case of all leaves granted under this Article, there shall be no holiday pay for holidays, which fall within the period of leave. In the case of education, personal and military leave, an employee who wishes to maintain coverage under the various insurance plans provided in this Agreement shall be responsible for the cost of such coverage as required by the Employer under the COBRA statue. In the case of Family/Medical Leave, an employee wishing to continue such insurance coverage shall be responsible for continuing to make their normal monetary contribution toward the premium(s) and, if such is continued, the Employer shall continue to make its contribution toward such premium(s).**

## ARTICLE XXI

## PROFESSIONAL LABOR/MANAGEMENT COMMITTEE

**Section 21.1. A committee to be known as the Professional Labor/Management Committee shall be formed. The Committee shall consist of five members appointed by the Employer and five members appointed by the Federation from members of the bargaining unit. The Committee shall meet quarterly, or more frequently if mutually agreed, in the Employer's facility or at an off-site location arranged for by the Employer so as to provide uninterrupted meeting time, except that in the months of July, August, September in the final year of this Agreement the Committee shall meet monthly to discuss issues in advance of collective bargaining. Prior to holding a Committee meeting and in furtherance of its preparation for that meeting, the Union, upon request, will be allowed to conduct, at a mutually agreed upon date, an informational meeting with off-duty bargaining unit employees in the Library at the Employer's facility between the hours of 2:30 p.m. to 3:30**

**p.m., with attendance at said meeting being voluntary and on the non-working time of all employees in attendance.**

**Section 21.2. The purpose of the Committee shall be to: facilitate communication between the employees represented by the Federation and management; establish a forum for open discussions of mutual concerns regarding the administration of this Agreement and the effect(s) of its terms, the efficiency of operations, and the health and safety of employees; improve understanding of the problems and needs of management and staff.**

**Section 21.3. The names of those employees selected by the Federation from the bargaining unit to participate in committee meetings shall be given to the Human Resources manager at least fourteen (14) calendar days in advance of the date of the meeting so that work schedules of these employees can be adjusted as necessary. Changes will be made as necessary to alter the work schedule of bargaining unit member attendees so that the day of the meeting will be outside their assigned work schedule for the week in which the meeting takes place. It is understood and agreed by the Parties that attendance at the meeting by bargaining unit employees is voluntary. It is further understood that attendance at the meeting is not related directly to the employee's job and participation in the meeting does not constitute the performance of productive, compensable work. It is agreed that time spent in committee meetings by bargaining unit members shall, therefore, not be counted as time worked. The Employer will pay employees who voluntarily participate in such committee meetings an amount equal to their usual hourly rate for time actually spent in committee meetings; however, such hours and pay will not be counted when calculating overtime pay in the work week in which the meeting is held.**

**Section 21.4.** **The Committee will develop and update on an on-going basis as necessary a presentation to be presented to new hires into bargaining unit positions as a part of the Employer's new hire orientation program. Such presentation shall be limited to twenty (20) minutes in length and shall be jointly presented by a representative of management and an employee holding a position of authority with the union. The purposes of the program will be as follows:**

**A. To introduce new hires to the central provisions of the collective bargaining agreement and the role the agreement has in the new hire's employment;**

**B. To explain the obligation of the new hire under the union security provision of the collective bargaining agreement, the means by which the obligation can be fulfilled, and to provide necessary forms;**

**C. To explain the role of the Professional Labor/Management Committee and the desire of the Employer and Union to maintain a cooperative relationship in order to advance their mutual interests and the interests of residents who are being provided care at the Employer's facility.**

**It is the responsibility of the Union representative to have on hand for distribution to presentation attendees a sufficient quantity of:**

**a. dues deduction authorization forms;**

**b. membership forms;**

**c. copies of a list of current Union stewards and officers;**

**d. copies of this Agreement.**

## ARTICLE XXII

## 401 K PLAN

**Section 22.1. The Employer shall maintain in effect for the term of this Agreement the 401(K) Plan currently in effect. For the term of this Agreement, bargaining unit employees will be permitted to participate in the 401(K) Plan, subject to all plan eligibility requirements. It is recognized by the Union, however, that the 401(K) Plan is a corporate-wide plan applicable also to non-bargaining unit employees of the Employer who work both at the Butte, Montana facility and at numerous other locations. Accordingly, it is understood and agreed that any changes of any kind which may occur in the 401(K) Plan which affect other comparable 401(K) Plan participants not in the bargaining unit shall apply equally to the employees in the bargaining unit.**

## ARTICLE XXIII

## ORIENTATION, IN SERVICE, CONTINUING EDUCATION

**Section 23.1. New employee orientation shall include, but not be limited to, the following:**

1. **A complete tour of the facility and a full explanation of the fire and disaster plan;**
2. **Review of personnel policies;**
3. **General review of treatment methods and plans;**

**Section 23.2. In addition to the foregoing, those new employees who are in positions of providing direct care to residents shall be assigned to work with a preceptor(s). Preceptors shall be experienced employees. The new employee's immediate supervisor will determine the length of preceptor assessment. Except in instances of emergency, no employee shall be assigned sole responsibility for a patient without first being adequately trained and**

**oriented. However, this requirement for adequate training and orientation does not apply to training the Employer could logically and reasonably believe the employee should already possess, and, furthermore, in the event of a dispute as to whether such training and orientation has properly occurred, the employee, as in all disputes under this Agreement, shall perform the duties assigned to the best of his ability consistent with the "work now/grieve later" principle.**

**Section 23.3. The Employer shall provide new employees with a copy of their current job description.**

**Section 23.4. In-service education programs will be provided on a continuing basis. New procedures and treatment techniques will be covered by in-service before being implemented in the facility, if circumstances permit.**

**Section 23.5. All probationary employees will receive a written evaluation on or before the last day of their probationary period. Evaluations will occur thereafter at such particular time in each calendar year when the Employer has determined it will conduct performance reviews on a bargaining unit-wide basis. Evaluations are for constructive employee development and will not be used as or in place of discipline.**

**Section 23.6. Annual evaluations will be based on the employee's current job description, and the employee will be given a copy of his/her current job description. The employee will be presented with his/her evaluation in a private conference outside the work area. Information for evaluations will be gathered openly and fairly and will not contain rumor or other unsubstantiated information. If an employee's performance is evaluated unfavorably, a plan of action for improvement will be presented by the management**

**representative conducting the evaluation.**

**Section 23.7. Employees shall have the right to insert any comment in the evaluation or comment about their work situation. Employees may write a rebuttal to be included in the evaluation.**

**Section 23.8. Those bargaining unit employees who are required to maintain licensure or certification will be provided two days of paid leave in each year of this Agreement to attend instructional courses in connection with the continuing educational requirements necessary for maintenance of such licensure or certification. Said pay shall be limited to eight (8) hours of the employee's straight time hourly rate, or, if salaried, the employee will simply be allowed off with pay.**

## ARTICLE XXIV

## HEALTH AND WELFARE

**Section 24.1. The Employer shall make reasonable provisions for the health, safety, sanitation, and security of its employees during the hours of their employment. Employees shall notify the Employer of any safety or health hazards observed during employment and employees shall keep places of work and rest (including locker rooms) clean and orderly.**

**Section 24.2. The Employer and employees shall endeavor to keep the work place free from sexual harassment. In the event any sexual harassment should occur, the Employer shall take corrective action as appropriate. The Employer shall not retaliate against an employee who complains of sexual harassment or who is a witness to such harassment.**

**The term "sexual harassment" includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical contact of a sexual nature when:**

**A. submission to such conduct is made either explicitly or implicitly a term or condition of employment;**

**B. submission or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual;**

**C. or such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.**

**Section 24.3. The Employer shall provide an infection control plan that reasonably provides for the safety of employees.**

**Section 24.4. The Employer will provide TB testing and Hepatitis B immunization as required by law.**

**Section 24.5. The Employer will provide just compensation for destruction of clothing and personal property (e.g. glasses, watches, shoes) of employees incident to the performance of patient care work-related duties in accordance with the following schedule:**

**A. Clothing - 50% of cost incurred in verified, comparable replacement up to a maximum of $50.00 of total Employer contribution per incident. Alternatively if the employee cannot verify comparability and cost, replacement will occur in accordance with the following schedule, subject to the same $50.00 maximum Employer contribution per incident:**

**shirt (including polo shirt, t-shirt)-$10.00**

**sweater and sweatshirts- $15.00**

**jeans- $25.00**

**pants- $20.00**

**B. Watches and Jewelry - Actual cost of repair or verified, comparable replacement up to a total of $50.00 per incident in either case. Alternatively if the employee cannot verify comparability and cost, replacement will occur: watchbands will be replaced at a flat $10.00 per incident and such amount shall be included in the $50.00 maximum Employer contribution per incident.**

**C. Glasses - verified cost of comparable replacement of broken lenses and actual cost of repair or verified, comparable replacement up to a total of $75.00 per incident in either case.**

**Section 24.6. Employees who have experienced a work-related injury shall be provided paid release time from work for the purpose of attending follow-up appointments with Physical Therapists and Physicians in conjunction with such injury subject to the following guidelines:**

**A. Pay for release time shall only occur when such time is not compensable under Workers' Compensation;**

**B. Paid time shall be limited to time actually lost from work up to a maximum of one hour per appointment and a total of 12 hours per injury;**

**C. The scheduling of the appointment outside scheduled work hours was not reasonably possible.**

**The Employer reserves the right to verify the fact of, need for, length of, and scheduling restrictions applicable to, the appointment via documentation from the health care provider.**

## ARTICLE XXV

## CONDITIONS REGARDING VIDEO CAMERAS

**The parties recognize that it is in the best interest of the facility to utilize video technology to assure the safety of the staff and residents. It is agreed that video surveillance will be utilized at the facility. However, the Parties recognize the privacy rights of the employees and therefore agree that:**

**A. Cameras equipped with video capabilities only will be used. No audio surveillance equipment will be installed.**

**B. Camera monitoring will not include internet monitoring.**

**C. No cameras will be installed in employee lounges, staff locker rooms, or designated staff restrooms.**

**D. Cameras will be installed in the locations provided to the Union on November 14, 2007. No changes or additions to camera location will be made without notification to the Union at least five (5) days in advance.**

**E. Staff will be informed about the location of the "rover/covert" camera, if any. Notice will be provided if/when this camera is to be moved.**

**F. Routine monitoring to determine that video equipment is in working order and that video images are being captured shall be limited to the Maintenance Director and/or Safety Officer. When such routine monitoring is being performed, the door shall be closed at all times to protect the privacy of staff and the residents. When such monitoring is not occurring, the monitor shall be turned off.**

**G. Should the Union believe that information recorded by the surveillance cameras has**

**bearing on the investigation and processing of a grievance, then, in a manner consistent with applicable law and regulation regarding resident privacy, the Union may have access to and may, if necessary, duplicate any relevant material.**

**If video images are, in whole or in part, a basis for management placing a bargaining unit employee on administrative leave pending completion of investigation, the President of the Local Union (or his/her designee who must be a bargaining unit employee and an officer of the Union) shall, upon request, be provided within forty-eight (48) hours (not including Saturday and Sunday) of the commencement of the administrative leave an opportunity to view a copy of the video footage at issue. It is understood and agreed by the Union that in keeping with the privacy concerns sought by the Parties to be protected in this Article, the Local Union President (or his/her designee) is to keep the content of the video observed confidential, to include the nature and particulars of the incident captured on the videotape and the identity of those persons depicted.**

## ARTICLE XXVI

## GENERAL

**Section 26.1. Non Discrimination - The Employer and the Union agree that this Agreement shall be applied without unlawful discrimination against any individual because of their age, race, creed, color, sex, ethnic or national origin, disability, marital status, parental status, status of sexual preference, or by reason of union membership or non-membership. It is understood, however, that no benefits that do or could accrue to a spouse under the terms of this Agreement shall accrue to a non-spouse domestic partner or spouse equivalent.**

**Section 26.2. Gender Reference - Whenever the masculine gender is used in this Agreement it shall apply to both males and females.**

**Section 26.3. Severability - Any terms of this Agreement which are or may be in conflict with any valid laws or governmental regulation, shall be considered of no force and effect to the extent of such conflict, but the invalidity of any provision herein for such reason shall in no way affect any other portion of this Agreement, all of which shall remain in full force and effect.**

**Section 26.4. The selection and retention of employees in lead positions shall be in the sole discretion of the Employer. However, when serving as a lead, an employee will receive $1.00 an hour above the regular rate for all hours worked.**

**Section 26.5. The Employer will provide a reasonable amount of shelf space in the library of its 55 Basin Creek Road facility to house such government published pamphlets and similar reading material regarding employment rights under state and federal statutes, as may be provided by the Federation.**

**Section 26.6. The Parties recognize that due to the nature of the services provided by the Employer currently and which may be provided in the future, certain clients/patient referral sources may establish certain requirements which would be applicable to bargaining unit employees and which must be satisfied in order to obtain or maintain client/patient referrals. Likewise, certain requirements also applicable to bargaining unit employees may from time to time be dictated by licensing bodies. The Employer will notify the President of the local union of such requirements as they may from time to time arise or change. The Parties agree that the failure of any employee to comply with such**

**requirements in a cooperative and a timely manner is detrimental to the Employer's operations and is just cause for appropriate disciplinary action up to and including termination of employment.**

**Section 26.7. During the negotiations of this Agreement, the Employer and the Union each had the unlimited right and opportunity to make demands and proposals with respect to any subject matter as to which the National Labor Relations Act imposes an obligation to bargain. Except as specifically set forth elsewhere in this Agreement, the Employer expressly waives its right to require the Union to negotiate, and the Union expressly waives its right to require the Employer to negotiate, over all matters to which the National Labor Relations Act imposes an obligation to bargain, whether or not: a) such matters are specifically referred to in this Agreement; b) such matters were discussed between the Employer and the Union during the negotiations which resulted in this Agreement; or c) such matters were within the contemplation or knowledge of the Employer and the Union at the time this Agreement was negotiated and executed. This Agreement contains the entire understanding, undertaking, and agreement of the Employer and the Union, after the exercise of the right and opportunity referred to in the first sentence of this section, and finally determines all matters of collective bargaining for its term. Changes in this Agreement, whether by addition, waiver, deletion, amendment, or modification must be reduced to writing and executed by both the Employer and the Union.**

## ARTICLE XXVII

## TERM OF AGREEMENT

**Section 27.1. This Agreement shall be effective as of the 21st day of December, 2018 (Effective Date) and shall continue in full force and effect until midnight, December 8, 2019, and yearly thereafter unless one of the Parties hereto shall serve notice in writing upon the other Party hereto of an intent to modify or terminate not less than ninety days prior to the aforementioned expiration date or any anniversary date thereafter. If such notice is served by either Party hereto, this Agreement shall terminate upon the aforementioned expiration date.**

**EXECUTED by the undersigned authorized agents of the Employer and the Federation on the date each has affixed below:**

**For: Acadia Montana**

Signature / 1/14/19
**Signature** **Date**

_____/_____
**Signature** **Date**

_____/_____
**Signature** **Date**

**For: The Montana Federation of Healthcare Employees Local 5095, Montana Federation of Public Employees**

Signature / 1/14/19
Signature Date

_____/_____
**Signature** **Date**

_____/_____
**Signature** **Date**

_____/_____
**Signature** **Date**

## APPENDIX "A"
## JOB TITLES AND ENTRY HOURLY BASE RATES

| JOB TITLE | Entry Hourly Base Rate |
|---|---|
| DIETARY AIDE | 8.79 |
| HOUSEKEEPER | 9.75 |
| ADMINISTRATIVE CLERK (RECEPTIONIST) | 8.59 |
| BEHAVIORAL HEALTH ASSOCIATE I | 11.50 |
| COOK | 9.30 |
| MEDICAL RECORDS CLERK | 13.34 |
| BUSINESS OFFICE COORDINATOR | 9.04 |
| MAINTENANCE ASSISTANT | 9.85 |
| TRANSCRIPTIONIST | 14.35 |
| BEHAVIORAL HEALTH ASSOCIATE II | 11.50 |
| UNIT CLERK | 8.79 |
| CARE MANAGER | 14.35 |
| DIETICIAN | 11.19 |
| TEACHERS ASSISTANT | 12.50 |
| TEACHER | 17.55 |
| TEACHER WITH CURRENT SPECIAL EDUC. CERTIFICATE | 21.63 |
| ACTIVITY ASSISTANT | 9.04 |
| THERAPIST MA/MSW (NON-EXEMPT) | 19.40 |
| THERAPIST LCPC/LCSW (EXEMPT) (EXEMPT) | 1864.38BW |

**APPENDIX "B"**
**DEPARTMENTS AND PROGRAMS**

**Departments:**

**Admissions/Intake**
**Marketing/Business Development**
**Business Office**
**Health Information Management**
**Maintenance**
**Housekeeping**
**Dietary**
**Nursing**
**Education/Teachers**
**Care Management/Utilization Review**
**Activities Therapy/ Recreational Therapy**
**Administration**
**Transportation**
**Human Resources**
**Payroll**
**Risk Management**
**Medical Staff**
**Social Services**
**Program Management**
**Accounting**

**Treatment Programs:**

**Adolescent Boys Program**
**Adolescent Girls Program**
**Children's Program**
**Pre-Adolescent Program**

**Note: The foregoing lists are <u>not</u> limited to, nor are meant to identify those programs or departments in which bargaining unit positions are located, and no implication to the contrary is to be drawn. It is also understood that treatment programs provided by the Employer may, from time to time, change, with programs either being eliminated or added. Appendix B will be modified on an on-going basis as to reflect such changes.**

## Appendix "C"

## EMPLOYEE INSURANCE PREMIUMS

**Medical Insurance**

**For the period January 1, 2019 through December 31, 2019, monthly employee contributions to group health insurance coverage premiums shall be as indicated on Exhibit 1 to this Appendix "C" for the respective plans and categories of coverage shown.**

**Dental/Vision Insurance**

**For the period January 1, 2019 through December 31, 2019, monthly employee contributions to Dental/Vision Plan premiums shall be as indicated on Exhibit 1 to this Appendix C for the respective category of coverage shown.**

## Appendix C Exhibit 1

**Semi-Monthly Employee Contributions**
**1/1/2019 to 12/31/2019**

**Health Insurance**
**BCBS of TN**

| | Base | Buy Up | HDHP |
|---|---|---|---|
| Employee Only | $72.86 | $88.61 | $48.58 |
| Employees + Spouse | $410.60 | $465.16 | $169.19 |
| Employee + Children | $328.48 | $372.13 | $146.63 |
| Family | $472.18 | $534.92 | $237.15 |

Non-Tobacco Incentive

All employees and spouses covered by an Acadia's Employer Medical Plan who are tobacco users and have not completed an approved tobacco cessation program will pay an additional premium of $16.25/pay period for each covered tobacco user, up to a maximum of $32.50. This includes cigarettes, cigars, chewing tobacco, pipe tobacco, snuff, dip, e-cigarettes or similar tobacco-related product.

| | Delta Dental Base Plan | Value Plan | Vision Insurance Plan Vision |
|---|---|---|---|
| Employee Only | $15.94 | $5.98 | $3.30 |
| Employees + Spouse | $29.95 | $11.08 | $6.53 |
| Employee + Children | $33.28 | $15.16 | $7.06 |
| Family | $54.10 | $23.65 | $11.09 |

Supplemental Coverages

Accident, Critical Illness, Long Term Disability, Short Term Disability and Supplement Life Insurance Rates will be determined at the time of enrollment. Rates are based on participant's age, base salary and benefit amount elected.

**INCORPORATION OF EXISTING**
**MEMORANDA OF AGREEMENT OR UNDERSTANDING**

**During the negotiation of the 2018-2019 collective bargaining agreement ("CBA"), the Parties agreed that the following Memoranda of Agreement or Understanding ("MOA'S" or "MOU'S") which they have previously agreed to and all past practices followed in the interpretation and implementation of said MOA'S or MOU'S are to be effective during the term of the CBA:**

1. **Memorandum of Agreement Regarding Bargaining Unit Work of Education Principal (Attachment A);**

2. **Memorandum of Agreement regarding Behavioral Health Associate/Resident Ratio (Attachment B);**

3. **Memorandum of Understanding Regarding Use of Residual Direct Care Funding For Compensation (Attachment C).**

**Mutually agreed by the Parties on the date each has affixed below:**

**FOR ACADIA MONTANA:**

Signature / 1/14/19
Signature Date

**Signature** / **Date**

**Signature** / **Date**

**FOR THE MONTANA FEDERATION OF HEALTHCARE EMPLOYEES, MEA-MFT, AFT AFL-CIO AND ITS LOCAL 5095:**

Signature / 1/14/19
Signature Date

**Signature** / **Date**

**Signature** / **Date**

**Signature** / **Date**

**Attachment A**

**MEMORANDUM OF AGREEMENT REGARDING**
**BARGAINING UNIT WORK OF EDUCATION PRINCIPAL**

**WHEREAS, Acadia Montana, Inc. ("Acadia") and Montana Federation of Health Care Employees, MEA-MFT, AFT, AFL-CIO, and its Local 5095 (collectively, "Union") are parties to a collective bargaining agreement with a term of December 9, 2007 to midnight, December 8, 2010 (the "CBA"); and**

**WHEREAS, the CBA contains provisions placing limits on the performance of work of bargaining unit employees by non-bargaining unit employees; and**

**WHEREAS, Acadia and the Union agree that the position of "Education Principal" is a non-bargaining unit, management position, and, further, that the position of "Teacher" is a bargaining unit position; and**

**WHEREAS, Acadia and the Union each agree that it is in their interest and in the interest of children treated at Acadia for the person holding the position of Education Principal to continue to serve as a part-time teacher while also being employed in the Education Principal position;**

**NOW, THEREFORE, the parties agree that for the duration of the current CBA, and notwithstanding any provision contained therein, the person holding the position of Education Principal, while performing the duties of that position, may also continue to perform the duties of a part-time teacher, provided that the hours worked in that capacity continue to be maintained at a part-time level consisting of no more than twenty (20) hours per week, except in circumstances described in Article XIII, Bargaining Unit Work.**

**Mutually agreed to by the undersigned parties this 30th day of November, 2007.**

**For: Acadia Montana**

**For: Montana Federation of Health Care Employees, MEA-MFT, AFT, AFL-CIO, and Local 5095**

1/14/19

**Attachment B**

**MEMORANDUM OF AGREEMENT**
**REGARDING**
**BEHAVIORAL HEALTH ASSOCIATE/RESIDENT RATIO**

**The Employer and the Union agree that implementation of the Employer's policy regarding Behavioral Health Associate/Resident ratios is important to the safety of residents as well as employees.**

**Teachers, nurses, program leads and any other qualified staff may be included in the ratios for such period of time as necessary to relieve BHA's for breaks, deal with emergencies or increased levels of acuity, or in the case of absenteeism until such time as replacements arrive on site. It is recognized that the current ratios were established to meet the State of Montana's expectations and the Employer's good faith interpretation of the expectations of licensing and regulator authorities for the programs of care currently provided. It is further understood that the Employer retains the right to modify ratios to meet changes in programs in and/or changes in the Employer's good faith interpretation of licensing and regulatory authority expectations. When the Employer institutes a change in this policy, it will notify the employees and the Union within five (5) days.**

**Through this MOU the employer agrees to communicate this policy to all staff at the facility on or before December 20, 2007.**

**Employees in the bargaining unit are expected to report observed overloads to the nurse or the program lead. Should this action fail to result in corrective action by the employer, the employee shall report the overload to the Chief Executive Officer of the facility.**

**It is understood that any employee following the guidelines in this Memo and reporting overloads shall not be reprimanded for such action nor shall they be retaliated against.**

**Agreed this 30th day of November, 2007, by the undersigned authorized agents of the Employer and Union.**

**For: Acadia Montana**

**For: The Montana Federation of Healthcare Employees, MEA-MFT, AFT, AFL-CIO. and its Local 5095**

1/14/19

**Attachment C**

**MEMORANDUM OF UNDERSTANDING**
**REGARDING USE OF**
**RESIDUAL DIRECT CARE FUNDING FOR COMPENSATION**

**WHEREAS, Acadia Montana ("Acadia") and Montana Federation of Health Care Employees, MEA-MFT, AFT, AFL-CIO and its Local 5095 ("Union") agree that Acadia currently receives at the end of each calendar month funds from the State of Montana, the purpose of which funds is to provide additional compensation to employees who perform "direct care" activities and who, in the case of Acadia, have been identified by the Parties as being employees holding the job titles of BHA I and BHA II ("Direct Care Employees"); and,**

**WHEREAS, the Union acknowledges that pursuant to a Memorandum of Understanding between the Parties which predated the December 9, 2016 through December 8, 2018 Collective Bargaining Agreement ("CBA") and occurred mid-term in the predecessor Agreement to the CBA ("Mid-Term MOU"), Acadia increased the Base Rates of the direct care job titles and appropriately increased the then-existing individual hourly pay rate of each Direct Care Employee so as to incorporate all but a residual portion of direct care funds into the ongoing pay structure applicable to current and future Direct Care Employees; and,**

**WHEREAS, the Parties have incorporated the aforementioned mid-term modification in the terms of the CBA, and now wish to account for the portion of the direct care funds they previously accounted for in the Mid-Term MOU, but have yet to account for in the CBA, this residual portion being referred to by the Parties for the purposes of this Memorandum as "Residual Monthly Direct Care Funds";**

**NOW THEREFORE, the Parties agree as follows:**

**1. It is the intent of the Parties that should Residual Monthly Direct Care Funds be available, such funds shall be used to provide Direct Care Employees with additional compensation for each hour actually worked in the second pay period of each calendar month, with the term "actually worked", meaning for purposes of this Memorandum, and notwithstanding any other definition or other verbiage appearing in the CBA, time actually spent by a Direct Care employee in performing direct care duties.**

**2. The Parties acknowledge that the availability of Residual Monthly Direct Care Funds is not guaranteed for any particular period of time or in any particular amount, that the amount of such funds from the State of Montana is subject to fluctuation month to month, and thus that Direct Care Employees may receive zero additional compensation, and, if received, that such additional compensation may range from one cent ($0.01) to six cents ($0.06) per hour actually worked in the second pay period of the month.**

**3. The Parties further recognize that the State of Montana may discontinue providing Acadia with direct care funding at any time and the Parties agree that should such funding be discontinued then, following the issuance of the final payroll containing Residual Monthly Direct Care Funds, Acadia will have no further obligation to account for and include said Funds in the compensation of Direct Care Employees, and Acadia will have no obligation to self fund payments to Direct Care Employees as a substitute for the then no longer available Residual Monthly Direct Care Funds.**

**For: Acadia Montana**

**Date: December 9, 2016**

**For: The Montana Federation of Healthcare Employees, MEA-MFT, AFT, AFL-CIO and its Local 5095**

1/14/19

**Date: December 9, 2016**

JACKSON, SHIELDS, YEISER & HOLT
ATTORNEYS AT LAW
262 GERMAN OAK DR.
MEMPHIS, TENNESSEE 38018
TELEPHONE (901) 754-8001
FACSIMILE (901) 754-8524
www.jsylawfirm.com

Ted M. Yeiser, Jr.

Email: tyeiser@jsyc.com

December 21, 2018

Mr. Larry Nielsen
Montana Federation of Health Care Employees
Local 5095, Montana Federation of Public Employees
1232 E 6th Avenue
Helena, Montana 59601

RE: Acadia Montana and Montana Federation 2018 Negotiations - Special Arrangement Regarding Healthcare Insurance Premium Contributions For Calendar Year 2019

Dear Larry:

During our recent negotiation of the successor Agreement that will have a term of December 21, 2018 through December 8, 2019, the Parties came to a special, one-time agreement regarding employee contributions to premiums for Company-sponsored health insurance plans. This letter will record that understanding.

It was agreed by the Parties that the 2019 premium contribution amounts presented to the Federation during the course of collective bargaining will be the rates that will appear in Appendix C in the published CBA. However, in actual application, the Company has agreed to limit the dollar increase certain employees will experience over amounts paid in 2018. Thus, when an employee elects the same category of coverage ("Employee Only" or "Employee + Spouse", or "Employee + Children" or "Family") under the same plan (i.e. the "Base" plan, or the "Buy Up" plan, or the "High Deductible" plan) for 2019 as he/she had elected in 2018, and experiences an increase in his/her bi-monthly premium contribution of more than Twenty Dollars and 00/100 ($20.00) higher than the bi-monthly contribution he/she made in 2018, the Company will limit the increase to $20.00 and will absorb the balance in the premium contribution it makes on the employee's behalf. It is understood and agreed by the Parties that this special arrangement was agreed to by the Company for the sole purpose of bringing the negotiations of the December 21, 2018 through December 8, 2019 Collective Bargaining Agreement to a close. It is the further understanding of the Parties that the Company's agreement to this arrangement has been made without precedent or prejudice to any position the Company may wish to take in future negotiations with the Federation

regarding insurance coverage and employee contributions toward the cost of same. More specifically, it is understood that this special arrangement shall in no way prejudice the right of the Company to propose, in good faith, that employee insurance premium increases which may occur for calendar year 2020, be considered as increases to the rates actually published for 2019 in Appendix C.

Thank you for your efforts in bringing the negotiations of the new Collective Bargaining Agreement to a close. Please indicate your agreement with the understandings recorded in this letter by signing and dating below and returning the executed original to me.

Sincerely,

JACKSON, SHIELDS, YEISER & HOLT

Ted M. Yeiser, Jr.

ACCEPTED:

Larry Nielsen

18 January 2019

Date