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## **PREAMBLE**

- A. This National Master Contract is made between the Department of Veterans Affairs (VA) and National Nurses United (NNU). For purposes of this Contract, the Department of Veterans Affairs will be referred to as VA or the Department, and the National Nurses United will be referred to as NNU or the Union.
- B. The Department and NNU agree a constructive and cooperative working relationship between labor and management is essential in achieving the VA's mission and to ensure a quality work environment and work life. NNU and the Department recognize their relationship must be built on a solid foundation of cooperation, collaboration, trust, mutual respect, understanding, and sharing in the responsibility for organizational success. On issues that carry an obligation to bargain under the Federal Service Labor Management Relations Statute (the Statute), the parties agree that discussion will occur at the earliest opportunity.
- C. The parties acknowledge that the Registered Nurse (RN) is critical to delivering safe patient care. RNs base actions and decisions on sound professional judgment, Scope and Standards of Professional Nursing Practice and the Nurse Practice Act of their respective states.
- D. This contract will support a quality working environment for the recruitment and retention of RNs. Therefore, the parties agree to work together in collaboration and through this contract to identify opportunities for improvement, enhance productivity, and deliver the best quality of service to our nation's Veterans and their families. The parties agree that the RN is an advocate for patient safety. Patient safety is an integral part of the RN role.

## **GENERAL PROVISIONS**

### **ARTICLE 1: RECOGNITION AND COVERAGE**

#### **Section 1: Exclusive Representation**

NNU is recognized as the sole and exclusive representative for all RNs, in units, hereinafter referred to as local units, consolidated and certified by the Federal Labor Relations Authority (FLRA) in case No. WA-RP-10-0039, dated November 23, 2010, and any subsequent certifications or amendments. NNU and the Department agree that should NNU request the FLRA to include subsequently organized RNs within the Veterans Health Administration, such as new units, satellites, clinics, call centers, Community Based Outpatient Clinics (CBOC), Consolidated Patient Accounting Centers (CPAC) etc. in the consolidated unit, such FLRA certification will not be opposed by the Department if the unit would otherwise be considered an appropriate unit under the law, but the Department retains its right to challenge specific inclusions and exclusions. Upon certification by the FLRA, such groupings are automatically covered by the Master Contract.

#### **Section 2: NNU Role**

As the sole and exclusive representative, NNU at the national and local unit level is entitled to act for and to negotiate contracts covering all RNs in the bargaining unit. NNU is responsible for representing the contractual interests of all RNs in the bargaining unit, regardless of membership status.

#### **Section 3: Registered Nurse Representation**

A. The Department recognizes NNU as the exclusive representative of all RNs in the bargaining unit; NNU has the right to speak for and to bargain on behalf of the RNs it represents.

B. The NNU will be given reasonable advance notice as to provide sufficient notification for a representative to be present at any formal discussions with bargaining unit employees concerning matters affecting personnel policies, practices or working conditions. In situations where the Department knows far in advance of the formal discussion, it should not delay in providing notice to NNU of the meeting. The intent is not to delay time-sensitive discussions or to prevent a sufficient opportunity to attend the meeting.

C. The Department agrees that by participating in such discussions, the parties do not waive their rights under the Statute to request formal bargaining as appropriate.

#### **Section 4: Bargaining Unit Eligibility**

A. Prior to taking an existing bargaining unit position out of the unit, the Department will discuss the unit status with NNU. Subsequent to such discussions if the Department takes the position out of the unit, NNU will be notified in writing. Such notice will include the basis for the removal.

B. The Department will provide NNU, by the 15<sup>th</sup> day of each quarter, to the extent available, information from the PAID system or an existing data base regarding bargaining unit RNs.

Should the Department fail to provide the information by the 15<sup>th</sup>, NNU will provide the Department with one reminder message and the Department will immediately provide the information.

#### **Section 5: NNU Representatives**

Union officials/representatives are defined as elected officers or RN representatives who are designated by NNU. NNU at the appropriate level will provide the Department with an annual updated list of the names, titles, room numbers and telephone numbers of all officials. Only representatives on this list are authorized to represent NNU. This list can be updated at any time, verbally, electronically or in writing, as changes occur.

## **ARTICLE 2: GOVERNING LAWS AND REGULATIONS**

### **Section 1: Relationship to Laws and Regulations**

- A. In the administration of all matters covered by this Contract, applicable Federal Statutes and their implementing regulations shall govern management officials and RNs. They will also be governed by Government-wide regulations in existence upon the approval date of this Contract.
- B. Under 38 USC 7422, collective bargaining by RNs appointed under Title 38, including RNs, may not "cover, or have any applicability to, any matter or question concerning or arising out of (1) professional conduct or competence, (2) peer review, or (3) the establishment, determination, or adjustment of RN compensation under this title." "... The term 'professional conduct or competence' means any of the following: (1) Direct patient care, (2) Clinical competence." By law, these areas are excluded from collective bargaining, including any grievance procedure under this Contract and are governed exclusively by VA regulations. NNU and the Department intend that all articles in this Contract should be interpreted consistent with such statutory provisions, regardless of whether or not 38 USC 7422 is specifically cited in the article.
- C. NNU and the Department agree that 38 USC 7422 shall govern each and every article and section of this Contract as described in Section 1B above.

### **Section 2: Relationship to Department Policy**

- A. Where any Department or VHA policy expressly conflicts with this Contract, this Contract shall govern. Portions of Department or VHA policy, including Directives/Handbooks, which do not conflict with this Contract will remain in force.
- B. All local and national VA policies, including, but not limited to, standard operating procedures, guidelines which affect personnel policies, practices or working conditions of RNs will not be added, eliminated or modified without bargaining as appropriate when such a duty to bargain is triggered by the Federal Service Labor-Management Relations Statute (the Statute).
- C. Nothing in this provision is intended to waive the NNU's right to demand to bargain, or to satisfy the Department's obligation to bargain upon demand, over any change(s) in working conditions when such a duty to bargain is triggered by the Statute.

## **ARTICLE 3: COLLABORATION AND LABOR-MANAGEMENT FORUMS**

### **Section 1: Purpose**

- A. Labor-Management Forum (LMF) involves the design, implementation, and maintenance of a cooperative working relationship between Labor and Management. LMF functions as an integral part of the labor-management relationship in creating a conducive and supportive work environment, promoting morale, and disseminating information.
- B. The Department and NNU are encouraged to support collaborative relationships that will renew their efforts in improving service to Veterans and providing a positive work environment for RNs.
- C. As long as [Executive Order \(EO\) 13522](#) is in effect, the Department, in accordance with that EO, shall, to the extent permitted by law, allow RNs and their NNU representatives to have pre-decisional involvement in all workplace matters to the fullest extent practicable, without regard to whether those matters are negotiable subjects of bargaining under 5 USC 7106; provides adequate information on such matters expeditiously to NNU representatives where not prohibited by law; and makes a good-faith attempt to resolve issues concerning proposed changes in conditions of employment, including those involving the subjects set forth in 5 USC 7106(b)(1), through discussion in its LMFs. If the parties are no longer required by EO 13522 to engage in pre-decisional involvement, it is the intent of the Department and NNU to encourage effective labor-management cooperation at all levels.
- D. Participating in LMFs or other collaborative activities may eliminate the need for formal bargaining but is not a waiver of bargaining rights of either party under law or government-wide regulation.

### **Section 2: Principles**

- A. The principles that guide collaborative relationships will be determined by the LMF at the appropriate level. The activities of the LMF should be designed to promote a high-quality, desirable work environment for the best nursing practice, more effective recruitment/retention of RNs, more effective and efficient administration of the Department programs, and improved services to Veterans.
- B. NNU and the Department encourage open communication that facilitates collaborative recommendations, cooperation, and mutual respect.

### **Section 3: Collaboration**

- A. Effective labor-management collaboration allows and promotes RNs through NNU to be given the opportunity to help shape decisions in the workplace.
- B. Collaboration can lead to a functional and effective labor-management relationship. This includes discussion with NNU of potential changes in the workplace and the accomplishment of work by RNs, prior to the change being effectuated. Collaboration may

enhance the decision-making process by providing the opportunity for NNU and the Department to discuss proposed changes, identify potential problems, exchange ideas and explore solutions. To the extent practicable, the Department will bring forth issues at the earliest possible time during collaborative discussions in order to minimize the time spent in, or the need for, formal negotiations.

- C. Effective collaboration should include the development of metrics by LMFs to monitor improvements in areas such as labor-management satisfaction, productivity gains, cost savings, and other areas as identified by the LMF participants.

#### **Section 4: Training**

For optimal results, the local LMF shall determine the need for and type of cost-effective LMF training.

#### **Section 5: Veterans Integrated Service Network (VISN) and Local LMFs**

- A. Where LMFs are already in existence, this section will not change any agreements about the operations of those LMFs. If not addressed in existing LMFs, LMFs need to:
  - 1. Develop a charter to memorialize basic rules governing the LMF;
  - 2. Meet at mutually agreeable times, normally at least quarterly;
  - 3. Have adequate membership to discuss the agenda items for each session;
  - 4. Timely exchange agenda items prior to the meeting in order to allow full and honest discussion of the issue;
  - 5. Develop metrics to monitor improvements in areas such as labor-management satisfaction, productivity gains, cost savings, and other areas as identified by the LMF participants;
  - 6. Participate in subcommittees or workgroups determined by the LMF; and,
  - 7. Examine issues specific to that LMF.
- B. Effective use of LMFs may lead to agreement on workplace changes without need for formal bargaining. If an agreement is reached using LMFs, the parties will memorialize the agreement after appropriate review.

#### **Section 6: Expenses**

LMF costs shall be the responsibility of the Department.



## **ARTICLE 4: LABOR-MANAGEMENT RELATIONS TRAINING**

### **Section 1: Joint Labor-Management Relations Training**

- A. The parties agree that joint Labor-Management Relations (LMR) training is of mutual benefit when it covers appropriate areas such as contract administration, joint master contract training, interest-based bargaining, and other labor-management relations issues.
- B. Bargaining unit RNs attending joint LMR training will be on duty time and such training may, as appropriate, count towards any annual training requirement that the Department may establish. The NNU representatives conducting joint LMR training will be on official time subject to applicable allocations.
- C. Joint national LMR training will be provided by mutual agreement of the parties. This training does not preclude separate training by either party.
- D. Joint local LMR training will be provided by mutual agreement of the local parties. If approved, the nature, amount, and scheduling of the joint LMR training will be resolved locally. This training does not preclude separate training by either party.
- E. Any training documents and media will be prepared jointly and published by the Department.

### **Section 2: NNU Sponsored Labor-Management Relations Training**

- A. NNU and the Department agree that NNU sponsored LMR training is of mutual benefit when it covers appropriate areas such as contract administration and interest-based bargaining. NNU sponsored training will be clearly identified as such. The intent of NNU sponsored training is to enable and empower local Union representatives to carry out their permitted representative functions and to train staff RNs on labor-management relations.
- B. Subject to advance Department approval, official time allocated from the Official Time Article of this Contract can be used for appropriate union sponsored training, including travel time conducted during duty hours.
- C. Bargaining unit RNs may request to attend NNU sponsored LMR training, subject to advance approval by the Department. If approved, attendance will be on duty time and such training may, as appropriate, count towards any annual training requirement that the Department may establish. If the request is not approved, NNU will be provided the reason for the decision, upon request.
- D. NNU will notify the appropriate Department supervisors as soon as possible, but at least four weeks prior to the desired training date of the individuals selected for, or desiring to attend, NNU sponsored training. Additionally:
  - 1. For national NNU sponsored LMR training, VACO LMR will be given reasonable advance notice of the training along with a specific agenda.

2. For local NNU sponsored LMR training, the appropriate Department official of the local health care system will be given reasonable advance notice of the training along with a specific agenda.
- E. Training that relates to internal union business will not be conducted or attended on official time.

### **Section 3: Third-Party Sponsored Training**

Third-party sponsored training may be considered an appropriate use of official time.

## **ARTICLE 5: NATIONAL LABOR-MANAGEMENT RELATIONS (LMR) – NNU MEETING**

- A. There shall be an annual one day joint face-to-face National VA Labor Management Relations – NNU meeting. The location of the meeting will be in Washington DC, unless mutually agreed otherwise. NNU and the Department may mutually agree to extend the meeting beyond one day. NNU and the Department will exchange agenda items no later than six weeks in advance, unless mutually agreed otherwise. NNU and the Department will jointly determine whether additional meetings via current telecommunications technology are necessary.
- B. The Department will authorize official time (if otherwise in a duty status), travel and per diem for eight NNU representatives. NNU will provide to VA Central Office management the names of the NNU designated representatives no later than six weeks in advance of the meeting, so that official time and travel may be authorized and properly arranged. The amount and use of official time for the national meeting will be subject to the allocations established in the Official Time article of this Contract.
- C. Upon request of NNU, a representative from the Office of Nursing Services (ONS) will attend the National VA Labor Management Relations – NNU meeting to address specific agenda items.
- D. On an as needed basis, the parties may schedule meetings via current telecommunications technology to address time sensitive issues with NNU and either ONS or LMR.

## **ARTICLE 6: RN RIGHTS**

### **Section 1: General Rights**

- A. RNs are integral members of the health care team. In an atmosphere of mutual respect, all RNs shall be treated fairly, equitably and without discrimination, including but not limited to, their political affiliation, union activity, race, color, religion, national origin, gender, sexual orientation, marital status, age, or non-disqualifying disabling conditions. RNs will also be afforded proper regard for and protection of their privacy and constitutional rights. It is therefore agreed that the Department will establish working conditions that will be conducive to enhancing and improving RN morale and efficiency.
- B. RNs have the right and responsibility to self-monitor their performance. Should a RN identify an issue/concern, the RN will notify the appropriate supervisor or service chief of the issue identified. RNs have the right to expect the Department to correct systems issues and to provide the education or skills training required to improve their performance, competence, or safety. The Department will foster an atmosphere of safety by encouraging RNs to identify systems issues without fear of reprisal.
- C. RNs have the right to have all communications, including but not limited to, instructions and assignments given in a clear, reasonable and constructive manner. Such communications will be provided in an atmosphere that will avoid embarrassment or ridicule.
- D. Information sharing between/from Department representatives, including but not limited to, electronic mail messages (email) regarding conduct or performance deficiencies, will not be distributed to or shared with other employees who do not have a need to know.
- E. If a RN is to be served with a warrant or subpoena, the Department will take steps to ensure that it will be done in private without the knowledge of other employees to the extent it is within the Department's control. A Department representative will escort the RN to the VA Police Department or Human Resources as appropriate.
- F. Consistent with the Non-Disciplinary, Disciplinary and Major Adverse Actions Article of this Contract, disciplinary and adverse actions will be impartial, taken with due process, not based on gossip or unsubstantiated rumors, and timely, based on the circumstances and complexity of each case.
- G. RNs have the right to work in an environment free from inappropriate behavior such as intimidation, coercion, harassment, bullying behavior, non-verbal threatening gestures or reprisal and no RN will be used as an example to threaten other RNs.
- H. RNs are encouraged to give suggestions and ideas to make the Department a better workplace and employer of choice. These suggestions and ideas will be given due consideration and feedback will be provided by the Department.
- I. Any surveys of RNs will be done in a manner that will ensure anonymity.
- J. The RNs shall be advised of the subject, location and time of all meetings with the Department. The RN will be advised of their right to NNU representation at the same time, if applicable.

## **Section 2: Rights to NNU Membership**

Each RN in the bargaining unit will have the right to join NNU, engage in any statutory rights or rights under this Contract, including but not limited to, submitting an Assignment Despite Objection (ADO), consulting with the Union, filing a grievance or other complaint, asking for Union representation, participating in the Union, and acting as a designated representative without fear of penalty or reprisal. This right shall extend to participation in all NNU activities including service as officers or representatives.

## **Section 3: Rights to NNU Representation**

- A. The Department recognizes a RN's rights to assistance and representation by NNU, and the right to meet and confer with NNU representatives in private during duty time, consistent with law and with this Contract. If the RN or the Union official request to meet and confer regarding representational issues, the Department will endeavor to allow the RN to be released within the work shift in which the request is being made. A RN must have supervisory permission prior to leaving the work unit unless the RN is on break or meal period.
- B. The right to meet with a NNU official to discuss representational and other issues includes the right to meet in a nearby non-work area, including but not limited to, available break rooms, conference rooms, and unused patient rooms where privacy is assured.
- C. If the RN cannot be released immediately upon request to meet with a NNU representative, the RN will be released within a reasonable timeframe (generally no later than the day following the request) to schedule and meet with a NNU representative on duty time. If such release is not made or not possible, appropriate relief from grievance time frames will be afforded. The Department may track the amount of time RNs use while on duty to meet and confer with Union representatives.
- D. When the RN chooses to meet with the Union on scheduled meal or break times, supervisor permission is not required.
- E. During all New Employee Orientations (NEO), RNs will be provided with a copy of Weingarten Rights and receive a copy of the NNU Master Agreement and any local supplement as applicable. The RNs will also be advised how to access these documents electronically including access on the internet.
- F. After NEO, RNs may request a copy of the Contract by contacting NNU or the local Human Resources office.

## **Section 4: Weingarten Rights**

- A. The Department agrees to inform all RNs annually of their right to NNU representation under 5 USC 7114 (a)(2)(B), commonly known as the Weingarten Right. Specifically, the Weingarten right provides the following: in any examination of a RN by the Department (or any agency acting as an agent of the Department) in connection with an investigation, the

RN has a right to NNU representation if he/she reasonably believes that the examination may result in disciplinary action, and NNU representation is requested by the RN.

- B. In addition to an annual notification of the Weingarten Right, at the beginning of any actual examination of a RN in connection with any investigation, the Department also agrees to provide notice to the RN of his/her right to have an NNU representative present during the examination, if the RN so requests.
- C. The Department will not dissuade a RN on the need for, or from requesting Union representation.
- D. If the RN requests NNU representation, the Department may delay or reschedule the meeting, if necessary, in order to give NNU an opportunity to be present. NNU recognizes that the RN has the right to waive or refuse NNU representation.
- E. A RN may rescind the waiver to NNU representation and invoke this right at any time during the process.

## **Section 5: Counseling**

- A. Both verbal and written counselings shall be reasonable, fair, and used constructively to encourage a RN's improvement in areas of conduct and performance. A counseling, either verbal or written, does not constitute a disciplinary action.
- B. Conduct or performance deficiencies will be discussed with a RN in private.
- C. The Department official, at their own determination, may invite a NNU representative to attend a counseling session.
- D. If there is to be more than one Department official involved in a counseling session or meeting with a RN, the RN will be so notified in advance and informed of the right to request NNU representation.
- E. After a counseling session, if the RN is dissatisfied and wishes to pursue a grievance, the RN may proceed to either Step 1 or to Step 2 of the grievance procedure.
- F. Verbal Counseling:
  - 1. When it is determined that verbal counseling is necessary, the counseling will be accomplished during a private meeting with the concerned RN.
  - 2. Verbal counselings will be reasonable, fair, and used constructively to encourage the RN's improvement in areas of conduct and performance.
  - 3. If a written confirmation or record of the verbal counseling is made by the Department, the RN will be provided a copy as soon as possible. It will be annotated on the confirmation notice to the RN that the counseling is verbal.
  - 4. The RN may request NNU representation if appropriate. For example, a verbal counseling does not constitute a disciplinary action or entitle the RN to representational

rights. However, if the counseling turns into a Weingarten meeting (i.e., where a Department official questions a RN and the RN reasonably believes that the questions may lead to his/her discipline as described in Section 4 of this Article) then the RN is entitled to NNU representation upon request. At any point during the counseling session where a RN has the right to local NNU representation, the RN shall be advised of that right immediately.

**G. Written Counseling:**

1. Written counseling will be reasonable, fair, and used constructively to encourage the RN's improvement in areas of conduct and performance. When it is determined that written counseling is necessary, the counseling will be accomplished during a private meeting. Two copies of the written counseling will be given to the RN.
2. Consistent with the Non-Disciplinary, Disciplinary and Major Adverse Actions Article of this Contract, written counselings may only be kept or used to support other personnel actions for up to six months.
3. The RN may request NNU representation if appropriate. For example, a written counseling does not constitute a disciplinary action or entitle the RN to representational rights. However, if the counseling turns into a Weingarten meeting (i.e., where a Department official questions a RN and the RN reasonably believes that the questions may lead to his/her discipline as described in Section 4 of this Article) then the RN is entitled to union representation upon request. At any point during the counseling session where a RN has the right to local NNU representation, the RN shall be advised of that right immediately.
4. In the case of probationary RNs, written counselings may be kept up to the time a decision is made whether or not the RN will be continued beyond the probationary period. Thereafter, all written counselings must be removed.

**Section 6: Use of Recording Devices**

- A. No recording device, electronic or otherwise, shall be used to make a record of any conversation between a RN and Department official without mutual consent except for Administrative Investigations, Inspector General investigations, Office of Resolution Management (ORM)/Equal Employment Opportunity (EEO) or law enforcement investigations.
- B. In the instance that the Department makes a recording of a statement given by a RN, the electronic recording will be transcribed. When a recording is made, the RN will be given the opportunity to review the original transcript, if any, or the recording for accuracy, and may make corrections as needed. Upon request, the RN will be provided a copy of the recording or transcript, as appropriate, as well as a copy of their final corrected transcript, if applicable.
- C. RNs who are disciplined based on statements given to Department officials must be provided with the final written transcript of their statement prior to the action being taken. If information is obtained in conflict with this Section, the reason for the conflict and any negative impact to the RN must be considered and addressed, if needed, before using such evidence against any RN.

## **Section 7: First Amendment Rights**

RNs have the right to present their views to Congress, the Executive Branch, or any other authorities and to otherwise exercise their First Amendment rights, consistent with applicable laws, without fear of penalty or reprisal.

## **Section 8: Access to Documentation**

Upon proper request, RNs have a right to be made aware of and receive copies of any information, including anecdotal notes, specific to them maintained under their name, social security number, and/or any recognizable personal identifier, pursuant to the Privacy Act of 1974, 5 USC Section 552a(d)(1). The Department agrees to follow the requirements for creating and/or maintaining systems of records consistent with law and government-wide regulation.

## **Section 9: Personal Rights**

- A. RNs will have the right to direct and fully pursue their private lives, personal welfare, and personal beliefs without interference, coercion, retribution, or discrimination by the Department, so long as such activities do not conflict with job responsibilities.
- B. The Department will make every reasonable effort to provide for secure storage of personal belongings.
- C. Upon request, the Department will instruct RNs on how to file a claim for reimbursement under 31 USC 3721 and related regulations and will make forms available in case of loss if some personal item is damaged, irretrievably lost, or destroyed.

## **Section 10: Dignity and Self-Respect in Working Conditions**

RNs, individually and collectively, have the right to expect and to pursue conditions of employment that promote and sustain human dignity and self-respect. Therefore, they will be treated with dignity and respect in the performance of their duties by all those they encounter. It is the RN's right to expect zero tolerance for violence in the workplace whether from other employees, patients or the public.

## **Section 11: RN Right to Privacy**

- A. RNs may store personal papers and effects in their office, desk, file cabinet, or lockers. Personal papers and effects stored in Department areas are subject to warrantless search or seizure if the Department has reasonable grounds for suspecting the RN is engaged in work-related misconduct or the search is necessary for a non-investigative work-related purpose.



- B. Additionally, consistent with the Article on Surveillance and Monitoring of this Contract, search of a RN's person and personal items owned by the RN, such as handbags, briefcases, backpacks, or other like material, may be permitted only on the basis of reasonable suspicion based on specific, objective evidence and/or reasonable inferences drawn from the evidence of work-related misconduct or criminal activity.

### **Section 12: Whistle-Blower Protection**

Consistent with the Federal Whistleblower Protection Act, 5 USC 2302 (b)(8), RNs will be protected against reprisal for the disclosure of information not prohibited by law, rule, regulation or Executive Order, that the RN reasonably believes evidences a violation of law, rule or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. "Public" includes patients and RNs to the extent permitted by law.

### **Section 13: Unlawful Improper or Conflicting Orders**

- A. RNs have a right to practice within their scope of practice as dictated by the state of licensure and statutory requirements.
- B. RNs have a right to their professional opinion, and when they believe they are being asked to perform an order that violates the law or act beyond their scope of practice as defined by licensure, privileges, competencies, or qualifications they will immediately bring their specific concerns to the supervisor or appropriate Department official.
- C. RNs have the right to promptly bring their concern about the improper or conflicting order to the person giving the order. If unable to resolve the issue, RNs have the right to present their concerns up the supervisory chain of command and will follow the direction by their appropriate chain of command. RNs retain the right to initiate an ADO.
- D. RNs will not be subjected to disciplinary or adverse action for reporting or failing to follow an unlawful, improper or conflicting order if, after administrative review, the Department determines that the order was unlawful, improper or conflicting.

### **Section 14: Group Meetings**

- A. When the Department conducts group meetings with RNs and the topics include personnel policies, practices, or working conditions, NNU will be notified in advance and given the opportunity to be present.
- B. RNs may request group meetings with the Department and NNU representatives to discuss workplace issues. The Department will schedule the meeting in coordination with NNU. The Department agrees that by participating in such meetings NNU does not waive its right to request formal bargaining consistent with the Statute.
- C. RNs may raise workplace concerns to the Department and/or NNU. RNs can request a meeting with NNU to discuss RN representational issues but only the Department can allow RNs to have a meeting on work time, and determine the number of RNs to be released and

the time of the release. Other than meetings conducted in space reserved for NNU, NNU may request meeting space, subject to the Department's approval which will be based on local availability and as not to disrupt patient care. Subject to Department approval, RNs will be allowed to attend a meeting with other RNs and NNU, and/or Department representatives to discuss these concerns while on duty. These meetings may be staggered or several meetings scheduled to allow all interested staff to attend.

## **ARTICLE 7: ADVANCED PRACTICE REGISTERED NURSES (APRN)**

### **Section 1: General**

- A. The Department and NNU agree that Advanced Practice Registered Nurses (APRN) definitions are contained in VA policy and state licensure laws. APRNs are covered by this Contract, applicable government-wide rules and regulations, and applicable VA Handbooks and Directives. Assignment of duties and scope of work is consistent with 38 USC 7422 and VA regulations including [VHA Handbook 1100.19](#) and [VA Handbook 5005](#).
- B. The Department and NNU recognize that APRNs are valuable and contributing members of the healthcare team, who may manage a caseload of patients independently or in a collaborating role. APRNs, as either team members or in a collaborative environment, will have adequate support to manage their work assignments.
- C. The term Advanced Practice Registered Nurse refers to nurses with nationally recognized graduate educational preparation and certification, usually as either a clinical nurse specialist (CNS) or nurse practitioner (NP), but can also refer to nurse anesthetists, nurse midwives, etc. These nurses provide advanced clinical care to achieve optimal patient outcomes.

### **Section 2: APRN Collaboration**

The Department and NNU recognize that the ability of physicians and APRNs to work together as a unified team is important to patient care. The Department is encouraged to consider interpersonal relationships when making collaborative placements.

### **Section 3: Continuing Educational Opportunities**

- A. The Department recognizes the value of continuing educational activities to enhance the professional competency of APRNs. Upon request, APRNs may be granted Authorized Absence (AA) in order to participate in continuing education conferences relevant to their area of practice. The Department will fully consider requests for AA or Leave Without Pay (LWOP) and, where appropriate, funding for APRNs to attend such conferences. APRNs will follow the local process for requesting funding and AA.
- B. Since professional development is critical to maintaining the performance of the APRN, support for continuing education and training will be in accordance with the Professional Development and Education Article.

## **ARTICLE 8: SENIORITY**

### **Section 1: Seniority Definition**

- A. Unless otherwise defined below, NNU adopts for their bargaining unit RNs that the general seniority definition will be defined as entrance on duty date (EOD) as a Title 38 RN for/at the local facility. Only periods of service for/at the local facility as a RN will be used to compute and establish seniority. If there is more than one RN with the same date, the RNs of that date will be ranked alphabetically.
- B. Current VA policy, which is not part of this negotiated Contract, will govern the determination for seniority for reduction in force (RIF) procedures.
- C. In the event of a merger, a department initiated realignment of facilities or an involuntary transfer of RN(s) the seniority of the affected RN(s) will remain intact.

### **Section 2: Seniority Rosters**

- A. NNU will be provided quarterly seniority rosters to each local unit by Time and Leave (T&L). Should the Department fail to provide the information, NNU will provide the Department with one reminder message and the Department will expeditiously provide the information.
- B. These rosters will also be provided, maintained and accessible to all RNs on each nursing unit or work area. In the event that NNU believes a RN's seniority date is improperly identified in this report, NNU is responsible to identify the error upon their receipt of the quarterly report or when NNU first becomes aware of the error.

## **ARTICLE 9: WORK UNIT**

- A. A work unit is defined as bargaining unit RNs in a physical area or clinical function if a physical area is not applicable.
- B. This definition will be utilized when dealing with issues that impact working conditions including, but not limited to, overtime assignments, annual leave solicitation, details and floats.
- C. NNU will be involved in changes regarding work units.

## **ARTICLE 10: HOLIDAYS**

### **Section 1: General**

- A. NNU and the Department agree that it is the responsibility of the Department to provide for the safety of patients and their families as well as for the safety of the staff assigned. As such, it is a management right to assign work and approve or change schedules, including schedules created from procedures in this Article, to meet direct patient care needs and ensure RN safety, consistent with 38 USC 7422.
- B. Upon the request of either party, scheduling days off for holidays is subject to local bargaining. If there is no request to bargain locally, the process will be as follows in the remainder of this Article.

### **Section 2: Designated Federal Holidays**

RNs covered by this Contract will be entitled to the benefit of the holiday provisions set forth in applicable statutes and regulations. The ten recurring Federal holidays currently established are:

- A. New Year's Day - January 1<sup>st</sup>
- B. Martin Luther King Day - the 3rd Monday in January
- C. President's Day - the 3rd Monday in February
- D. Memorial Day - the last Monday in May
- E. Independence Day - July 4<sup>th</sup>
- F. Labor Day - the first Monday in September
- G. Columbus Day - the second Monday in October
- H. Veteran's Day - November 11<sup>th</sup>
- I. Thanksgiving Day - the fourth Thursday in November
- J. Christmas Day - December 25<sup>th</sup>

### **Section 3: Other Holidays**

- A. Other holidays may occur based on regional, ethnic, religious or other considerations and traditions. RNs are not entitled by law to these other holidays.
- B. Other holidays, though not considered an entitlement, may be requested as days off or annual leave. When a RN routinely observes a bona fide religious, ethnic or other consideration or tradition, the RN may register a request in writing to his/her supervisor or

manager stating their preference for observing such a holiday. Requests should be submitted as far in advance as possible, but no later than one week before the posting date of the work schedule on which the holiday appears. Subject to staffing requirements, direct patient care needs, and this Contract regarding leave and absences, requests of this nature will be accommodated by the Department whenever possible.

#### **Section 4: Holiday Scheduling**

- A. Scheduling time off for all holidays, Federal and other, will be done on a fair and equitable basis, taking into account the mission and requirements of the Department.
- B. Peer negotiation will be used for scheduling holidays. Peer negotiation is defined as RNs first discussing holiday preferences among themselves to determine holiday selection in lieu of the Department making the determination. The outcome reached through peer negotiation is subject to supervisory approval.
- C. Process for Holiday Coverage
  - 1. The RN solicitation for requests for holidays off or to work a holiday during the next leave year beginning with pay period one through pay period twenty-six will be posted on each work unit by September 1<sup>st</sup>. RNs should indicate their holiday preferences in priority order, number one being the first choice off, by September 30<sup>th</sup>.
  - 2. The finalized holiday schedules for the following leave year will be approved and posted by November 15<sup>th</sup> of the current year.
  - 3. Where there are more requests for a specific holiday than can be supported by the staffing plan, the following priorities will be applied:
    - Priority 1 - Peer negotiated arrangement
    - Priority 2 - RNs that did not have that holiday off in the preceding year
    - Priority 3 - Determined by seniority once management makes a determination as to qualified staff
  - 4. If there are additional opportunities identified for holidays off, the Department will maximize the number of RNs off. If the Department posts open slots on the holiday schedule, the Department will promptly consider RN requests, determine whom to approve based on the above process beginning with those previously denied, and post the approved RN requests for those holiday periods. These requests will not be arbitrarily denied.
  - 5. When there are more RNs wanting to work the holiday than are required, the determination will be based on seniority (most senior) once management makes a determination as to qualified staff.

6. The Department will make efforts to minimize impact on reassigned RN(s) with previously approved holiday requests. The affected RN(s) will keep their previously approved holiday request, unless there is no other qualified RN to perform the assignment, including the utilization of alternative staffing methods. RNs hired or transferred in after the submission of holiday preferences will have their requests considered fairly and equitably after the application of the above process.
7. When the RN has approved annual leave where the time period includes a holiday, the holiday will be approved. The holiday within the leave period will be considered the RN's first priority request.



## ARTICLE 11: LEAVE AND ABSENCES

### **Section 1: General Leave Provisions**

- A. NNU and the Department agree that it is the responsibility of the Department to provide for the safety of patients and their families as well as for the safety of the staff assigned. As such, it is a management right to assign work and approve or change schedules, including schedules created from procedures in this Article, to meet direct patient care needs and ensure RN safety, consistent with 38 USC 7422.
- B. Leave for Title 38 RNs is governed by VA Directive and Handbook 5011, Part III, Chapter 3, laws, government-wide regulations, and this Contract.
- C. RNs are responsible for planning and managing their leave. RNs recognize that planned leave should be requested as far in advance as possible in order to increase the likelihood of approval and facilitate the scheduling of other RNs' leave.
- D. All leave charges will be in minimum increments of one-quarter hour.
- E. No arbitrary or capricious restraints will be established to restrict when leave may be requested or approved. Rather, the Department's leave program shall be applied fairly and uniformly, consistent with VA regulations.
- F. The proper care and treatment of patients shall be the primary consideration in granting leave. The Department will give due regard to the welfare and preferences of individual RNs.
- G. RNs will not be denied leave or adversely affected in any employment decision based solely on their leave balances.
- H. Leave will be denied only for appropriate reasons and not as a form of discipline. No approved leave or approved absence will be a basis for disciplinary or other action except when it is clearly established that the RN submitted fraudulent documentation or misrepresented reasons for the absence.
- I. For clearly compassionate and appropriate reasons, the Department may increase the stated limits applicable to all forms of leave in accordance with applicable government-wide regulation and law.
- J. Documents required to support RN absences for leave purposes are highly sensitive. The Department will ensure that records are secure, confidential, and all information divulged will be to those who have a need to know.
- K. Upon request of either local party, the portions of this Article concerning the process for yearly annual leave solicitation are subject to local negotiation after two full leave years from the effective date of the Contract. If the local parties do not request to bargain annual leave solicitation, Section 2 below will be followed.

## **Section 2: Annual Leave**

### **A. Use of Annual Leave:**

1. The taking of annual leave is an absolute right of the RN, subject to the right of Management to determine and approve when leave may be taken.
2. RNs may request or schedule annual leave and are entitled to use the entire 208 hours of annual leave they earn each year. Annual leave is subject to approval by the appropriate official.
3. RNs are encouraged to take a minimum of two consecutive weeks of annual leave per year.
4. The Department may advance up to 208 hours of annual leave to a RN as provided in Handbook 5011, Part III, Chapter 3, Paragraph 6.f.(2).

### **B. Accrual and Carry Over:**

1. Full-time RNs accrue annual leave at the rate of eight hours per each full biweekly pay period. Part-time RNs accrue annual leave at the rate of one hour per ten hours in pay status.
2. If a full-time RN elects not to use all accrued leave:
  - a. Annual leave accumulates to a maximum carry over leave balance of 685 hours at the end of each leave year.
  - b. Generally, part-time RNs may not carry over more than 240 hours of annual leave at the end of each leave year.
3. Accumulated annual leave exceeding the applicable limit is considered "use or lose" leave, meaning any unused balance over the maximum will be forfeited at the end of the leave year unless the annual leave was properly scheduled in advance and canceled by the Department for business reasons.
  - a. RNs in "use or lose" status are encouraged to schedule sufficient leave (at least 26 days) during the year to avoid the possibility of loss. The restoration of any leave lost under this provision is described in VA Handbook 5011.
  - b. The RN is encouraged to consider donating excess annual leave to another Federal employee in need of donated leave to cover illness or injury.
4. Between August 15<sup>th</sup> and August 31<sup>st</sup> of each year, the Department will notify RNs of the following:
  - a. A full-time RN can carry no more than 685 hours and a part-time RN can carry no more than 240 hours of annual leave;
  - b. RNs should request to use any amount of annual leave accrued and that will be earned during the rest of the leave year that is over the maximum carryover;

- c. The RN will not have priority status for annual leave consideration after September 15<sup>th</sup> of the leave year;
  - d. RNs who are in “use or lose” status should plan to schedule five weeks of annual leave during the planning period for the next calendar year;
  - e. Failure to use excess annual leave may result in forfeiture of any amount exceeding the maximum carryover amount;
  - f. Each RN may access their leave information by logging on to <https://mypay.dfas.mil/mypay.aspx> and accessing a current Leave and Earnings Statement (LES). Within the leave block on the LES, RNs will see a current leave balance and any amount of “use or lose” leave (if applicable) for that leave year.
5. The notification requirement of Section 4 above cannot change the Department’s requirements regarding the carry over or restoration of annual leave.

C. Planned Annual Leave:

- 1. The Department determines how many RNs may take annual leave during any given week and reserves the right to determine qualified staff mix and appropriate staff workload distribution and assignments for patient care.
- 2. There will be sufficient leave weeks available to ensure that RNs can take five weeks, or twenty-six days, annually. In the rare and unusual circumstance that there are not sufficient weeks available, the Department will immediately notify NNU, and upon request, meet to discuss the matter.
- 3. All RNs in a work unit will submit leave requests with other RNs for that work unit.
- 4. The RNs may use an annual leave planning calendar provided by the Department to assist in working out differences with their peers during the request period. This annual leave planning calendar will not be a substitute for placing the annual leave request in the Electronic Time and Attendance (ETA) system.
- 5. The annual leave planning calendar will contain the following information:
  - a. The maximum number of RNs who can be off duty on annual leave at any given time as determined by the Department;
  - b. A list of each week, by date, in the leave year.
- 6. RNs will submit requests for annual leave during the planning period between September 1<sup>st</sup> and September 30<sup>th</sup> for the next leave year beginning with pay period one through pay period twenty-six.
- 7. RNs fill in the annual leave planning calendar according to the following process:
  - a. The RN will submit leave requests in 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, etc., choices to the leave approving supervisor.

- b. Where there are more RN requests for specific annual leave in a work unit than can be supported, the following priorities will be applied:
    - i. Priority 1 - Peer negotiated arrangement.
    - ii. Priority 2 - RN that did not have that annual leave time off in the preceding year.
    - iii. Priority 3 - Determined by qualified seniority.
- 8. The Department will approve or disapprove all timely submitted requests before considering requests that failed to meet the deadline.
- 9. The Department will notify the RN by no later than October 15<sup>th</sup> of approved or disapproved annual leave and post the approved annual leave calendar on the unit.
- 10. The posted annual leave calendar will contain the following information:
  - a. The maximum number of RNs who can be off duty on annual leave at any given time as determined by the Department;
  - b. A list of each week, by date, in the leave year;
  - c. The name(s) of the RN(s) who have been approved for annual leave will be annotated next to the corresponding week and will be updated as changes occur;
  - d. Any open weeks which will be updated as changes occur.
- 11. If a RN is notified by October 15<sup>th</sup> that any portion of his/her annual leave request(s) has been disapproved, he/she may submit another request for the open weeks no later than October 31<sup>st</sup>. These requests will be approved or disapproved by November 15<sup>th</sup> and posted on the annual leave calendar.
- 12. RNs will place all approved and disapproved annual leave requests from planning period in the ETA system by December 15<sup>th</sup>. The Department will approve/disapprove all the planning period requests by December 30<sup>th</sup>.
- 13. The Department will update the posted approved annual leave calendar as annual leave requests are approved and as RNs are no longer employed in the work area. Upon request, changes in the annual leave calendar will be provided to the local Union on a monthly basis.
- 14. If the Department posts open slots on the annual leave schedule, the following process will be followed:
  - a. Those RNs that wish to be considered for the open slot(s) will submit a request(s);
  - b. The Department will promptly consider RN requests;
  - c. Peer negotiated arrangement will be used first;

- d. Those RNs who were previously denied will annotate this information on the leave request and will be given first consideration for the open slot(s);
- e. RNs who did not have off the preceding year will annotate this information on the leave request and will be given such consideration;
- f. Determined by qualified seniority;
- g. When this process is complete the Department will post the approved RN requests for those annual leave periods.

15. RNs who have been previously approved for annual leave, but do not have enough annual leave or compensatory time available to cover their absence when the leave period arrives, will not be able to take annual leave. The RN may request Leave Without Pay which is subject to approval by the Department and is not an entitlement.

D. Unplanned Annual Leave or Compensatory Time Requests:

- 1. Unplanned (incidental) annual leave or compensatory time requests are those not requested during the planning period.
- 2. When an unplanned need arises, the RN must contact their supervisor or designee with leave approving authority to request the leave. The RN may verbally request annual leave or compensatory time not in excess of three days. Request for leave in excess of three days will be made into the ETA system unless not practicable. The RN will be informed whether leave is approved or disapproved at the time of the request.
- 3. There will always be someone available who is authorized to receive and act upon the leave request.
- 4. The RN must have annual leave or compensatory time for this request to be approved.

E. Days Off In Conjunction With Annual Leave:

- 1. Normally, a RN will have weekends off before, during, and after a week(s) of annual leave unless the RN requests other days off in conjunction with annual leave.
- 2. RNs who work weekends and/or compressed tours of duty may not routinely get the traditional weekend (Saturday and Sunday) off. RNs who request annual leave for an entire workweek will be entitled to two days off prior to the start of the week of annual leave and two days off at the end of the week of annual leave. For example, RNs on compressed tours, such as four 10-hour shifts, are entitled to two days off prior to the annual leave, four days of annual leave, their normal off day, and two additional days off for their weekend.
- 3. When a RN requests annual leave in conjunction with their normally scheduled days off, if the annual leave is approved the Department will make every effort to not change those days off. If days off are changed the Department will notify the RN prior to posting the schedule to ascertain whether the RN still desires to use the requested annual leave.

4. NNU and the Department agree annual leave scheduling may alter weekend rotation. All efforts will be made to minimize changes to the weekend rotation.

F. Transfer/Reassignment of RNs:

1. The Department will make every effort to allow voluntarily transferred/reassigned RNs to keep their previously approved leave.
2. If the RN did not request the transfer or reassignment, the affected RN will keep their previously approved annual leave request(s), unless there is no other qualified RN to perform the assignment, including the utilization of alternative staffing methods.

G. Cancellation of Leave by the Department:

1. In an unusual or emergent situation, previously approved annual leave may be canceled and the RN directed to return to duty. Generally, the authority to cancel leave will not be exercised unless there is an urgent unforeseen circumstance and it is feasible for the RN to return to duty.
2. The following process will be used to select the RN(s) whose leave will be canceled:
  - a. Volunteers will be solicited first, then;
  - b. Peer negotiation, then;
  - c. If no resolution, the least senior qualified RN will be selected.
3. If previously approved annual leave is canceled, the effected RN will be notified of any changes as far in advance as possible. The Department will work with the RN to reschedule the leave.
4. Upon request, a RN will be provided a written reason why the annual leave was canceled.

**Section 3: Sick Leave**

A. Accrual of Sick Leave:

1. Full-time RNs accrue sick leave at the rate of four hours per pay period. Part-time RNs accrue sick leave at the rate of one hour for each twenty hours in a pay status.
2. Consistent with VA Handbook 5011, Part 3, Chapter 3, Paragraph 6.f.(2), sick leave, not to exceed 360 hours, may be advanced to full-time RNs at any time. However, sick leave shall not be advanced to RNs on time limited appointments in an amount in excess of that amount which could accrue during the remainder of the current appointment. Consistent with VA Handbook 5011, Part 3, Chapter 3, Paragraph 6.f.(3), part-time RNs may be advanced sick leave based upon their appointment.

- B. The RN may request annual leave or leave without pay instead of sick leave for an absence for which sick leave would otherwise be appropriate, subject to approval by the Department.
- C. Consistent with the Overtime and Compensatory Time Article, requests to use compensatory time earned will be made and approved in the same manner as requests for other types of leave. When compensatory time is requested instead of sick leave it will be approved when possible.
- D. In an effort to minimize leave usage, the Department will attempt to accommodate RNs who request a change in work schedule in advance to meet medical and dental appointments.
- E. Use of Sick Leave
  - 1. Sick leave is the RN's earned benefit and will be granted to the RN for appropriate absences.
  - 2. Sick leave may be used when RNs:
    - a. Receive medical, dental, or an optical examination or treatment;
    - b. Are incapacitated for the performance of duties by physical or mental illness, injury, pregnancy, or childbirth;
    - c. Are required to give care and attendance to an immediate family member who is afflicted with a contagious disease and/or would jeopardize the health of others by being present on duty after exposure to a contagious disease;
    - d. Must be absent from duty for purposes related to the adoption of a child, including appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; and any other activities necessary to allow the adoption to proceed.
- F. Use of Sick Leave for Family Care or Bereavement
  - 1. Use of sick leave for Family Care or Bereavement is subject to the limitations in VA Handbook 5011, Part 3, Chapter 3. Leave approving officials may additionally grant or advance sick leave. Sick leave for Family Care Bereavement is used to:
    - a. Provide care for a family member or close affinity that the RN regards as family incapacitated by a medical or mental condition or attend to a family member receiving medical, dental, or optical examination or treatment; or
    - b. Make arrangements necessitated by the death of a family member, bereavement or attend the funeral or memorial service of a family member. This includes, but is not limited to, necessary travel pre/post funeral gatherings or ceremonies, memorial services and reading of the will.
- G. RNs are not required to reveal the nature of the illness as a condition for approval of sick leave.

- H. It is the responsibility of the RN who is incapacitated for duty to notify the immediate supervisor or designee (or to have any responsible person make the notification for the RN) at the work site as soon as possible but no later than two hours after the RN is scheduled to report for duty unless mitigating circumstances exist. The Department will assure a designated number is established for the supervisor or designee to receive such notifications; the RN's obligation is to complete one phone call, to either the established number or to an alternate number the RN was notified to use. In the unlikely event that the RN does not speak with a supervisor and leaves a voicemail message, the RN may be called back by a Department representative regarding the sick leave message.
- I. The Department will ensure that there will always be someone available who is authorized to receive and act upon the leave request.
- J. A RN who expects to be absent more than one day will inform the supervisor or designee of the expected date of return. If the RN is unable to return to duty on the expected date, the supervisor or designee will be notified as soon as the RN is aware that he/she will be unable to report for duty. Daily reports will not be required.
- K. All requests for sick leave must be entered into the ETA system and should be entered within two days after the RN's return to duty unless the leave was requested in advance.
- L. For absences in excess of three consecutive workdays, the Department may require a medical certificate or other administratively acceptable evidence. Where a doctor is not available or where the RN's illness does not require a doctor, self-certification in writing may be provided by the RN. If the medical certificate does not provide sufficient information to warrant approval of the sick leave, a RN may be required to furnish additional evidence.
- M. Medical certificates or other evidence of illness which may be required will be submitted within 15 days after the RN's return to duty. If, due to circumstances beyond the control of the RN, he or she is unable to provide the documentation within 15 calendar days, the RN must provide the evidence or medical certification no later than 30 calendar days after returning to work. A RN who does not provide the required evidence within 30 calendar days is not entitled to sick leave.
- N. Sick Leave Certification:
  - 1. Frequency or amount of sick leave used, or leave for which acceptable medical documentation has been provided, will not be the sole factor(s) for determining sick leave abuse.
  - 2. In cases that indicate excessive absence on account of illness, or where there appears to be an abuse of the sick leave privilege, medical certificates may be required for any period of absence provided the RN has been informed in advance, in writing, that such a requirement has been established for that RN.
  - 3. Failure to provide the required medical certification may be grounds for disapproval of sick leave.



4. The RN may request that his/her sick leave usage be reviewed every three months. If it is determined that a medical certificate is no longer warranted for sick leave of three consecutive workdays or less, the RN shall be notified in writing.
5. Sick leave certification will normally be for a six-month duration. At the end of the six-month period, the sick leave usage will be reviewed and the certification letter will be removed should the Department determine that the RN's leave usage so warrants.

#### **Section 4: Leave for Childbirth, Paternity Reasons, and Adoption**

- A. Leave related to maternity or paternity reasons may consist of sick leave, annual leave, compensatory time, or leave without pay, as applicable. RNs who have worked for the Department for a minimum of 12 months may also be eligible to receive leave under the Family and Medical Leave Act (FMLA). The Department may grant additional leave if the situation warrants.
- B. The circumstances of a RN's case will be considered in determining a RN's capacity for duty as a result of pregnancy. RNs seeking a change in assignment or work schedule are responsible for providing medical documentation confirming the pregnancy and any required job restrictions or modifications. The Department will make every effort to provide a temporary modification in assignment, as needed, for RNs as a result of pregnancy. A RN will not be adversely impacted for making such a request.
- C. NNU and the Department agree that unexpected absences may be required to attend the delivery of a family member's child birth. A family member is defined as an individual related by blood or affinity that the RN regards as family. The Department will make every effort to grant this leave to RNs to attend the child birth.
- D. The local parties will discuss the possibility of designated parking for pregnant RNs.

#### **Section 5: Family and Medical Leave**

- A. [The Family and Medical Leave Act \(http://www.opm.gov/oca/fmla/fmla96.pdf\)](http://www.opm.gov/oca/fmla/fmla96.pdf) (FMLA) allows eligible RNs to be granted up to 12 or 16 work weeks of unpaid leave during any 12-month period for one or more of the following reasons:
  1. Maternity and Paternity Leave:
    - a. Under FMLA and this Contract, RNs are entitled to 16 weeks of leave without pay during any 12-month period for the following reasons:
      - i. Birth of a son or daughter and the care of such son or daughter; and,
      - ii. Placement of a son or daughter for adoption or foster care.
    - b. The Department is encouraged to approve additional leave as circumstances warrant.
  2. Other Family Medical Leave:

- a. Under FMLA and this Contract, RNs are entitled to 12 weeks of leave without pay during any 12-month period for one or more of the following reasons:
  - i. The care of a family member of the RN with a serious health condition. Family member is defined as:
    - a) Spouse and parents of spouse;
    - b) Children, including adopted children;
    - c) Parents.
  - ii. A serious health condition of the RN that makes the RN unable to perform the functions of the position of such RN.
- B. A RN does not qualify for FMLA benefits until the RN has worked for a minimum of 12 months for the Department.
  - 1. If FMLA leave is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment, the RN shall provide notice of his/her intention to take FMLA leave not less than 30 calendar days before the date the leave is to begin.
  - 2. If FMLA leave is foreseeable but the date of birth or placement or planned medical treatment requires leave to begin within 30 calendar days, the RN shall provide such notice as is practicable.
  - 3. If the need for FMLA leave is not foreseeable (e.g., a medical emergency or the unexpected availability of a child for adoption or foster care, etc.) and the RN cannot provide 30 calendar days notice of his/her need for leave, the RN shall provide notice within a reasonable period of time. In circumstances where the RN is incapable of requesting the FMLA leave, a family member or other responsible party may make the request and the request will be timely reviewed for approval.
  - 4. The RN may request extensions of the above time limits. The Department will give serious consideration to this request and should grant it when good cause is shown.
  - 5. The Department may require the RN to submit certification from a health care provider to substantiate that the leave is due to the serious health condition of the RN or the RN's immediate family member. Failure to submit certification from a health care provider may result in a delay in the start of the FMLA leave or the failure to approve requested FMLA leave until the appropriate medical certification is provided.
- C. A RN who has received approval for unpaid leave under the FMLA may elect to substitute accrued annual leave accrued compensatory time, donated leave, or accrued sick leave for all or any part of the approved weeks of unpaid leave.
- D. The Department will provide RNs with access to information on the FMLA on appointment and annually.
- E. Family Care and Bereavement:

1. Consistent with the Federal Employees Family Friendly Leave Act, RNs may use up to 104 hours (13 days) of sick leave each leave year to care for a family member or to arrange for or attend the funeral of a family member. Family member in this section is defined as an individual related by blood or affinity that the RN regards as family.
2. However, such leave is limited as follows:
  - a. Full-time RNs may use up to 104 hours of leave in a year for these purposes.
  - b. Part-time RNs are entitled to the amount of leave pro-rated based on their part-time hours.

#### **Section 6: Entry of Leave into the Electronic Time and Attendance System (ETA)**

- A. All requests for leave outside the planning period must be entered into the ETA for approval. Leave will be approved or disapproved within five days and/or prior to the leave request, whatever comes first. Exceptions are when a RN has already filled out a paper request, such as a SF-71.
- B. All requests for sick leave must be entered into ETA within two workdays after the RN's return to duty unless the leave was requested in advance.
- C. All requests for leave will be entered and approved in advance whenever practicable.

#### **Section 7: Excused Absences (Also referred to as Administrative Leave or Authorized Absence)**

- A. The Department should excuse, without charge to leave, brief tardiness/absences of up to 59 minutes which are infrequent and for good cause.
- B. With proper documentation, excused absence is permitted with the prior approval of the appropriate official for the following:
  1. Up to four hours for donating blood to a recognized facility-sponsored or endorsed blood program;
  2. Absence for RNs participating as living bone marrow, tissue, or organ donors, including time for donor screening, the medical procedure and recovery. This type of leave is generally limited to seven workdays per year for bone marrow donation and thirty workdays per year for organ donation;
  3. Other reasons consistent with VA policy, including participation in emergency/disaster preparedness and civil defense activities, attending professional educational events, and participation in VA-supported programs whether offered by the Department or a third party.
- C. RNs may be excused to attend educational lectures, seminars, courses of instruction, etc., in the Department in-service training programs and to participate in other training as defined

in 5 USC 4104. While absent from the usual worksite for such activity, the RN is considered to be on official duty during normal work hours.

- D. The Department may excuse NNU representatives without charge to leave for training sponsored by labor organizations or the Department where the training will be a benefit to both the Department and NNU within the meaning of 5 USC 7131 and VA Handbook 5011, Part III, Chapter 2, paragraph 12.i, as made applicable to RNs by VA Handbook 5011, Part III, Chapter 3, paragraph 9.o. Normally attendance at labor organization conventions is considered internal Union business unless there is clear and unequivocal information to the contrary. Requests for excused absence for training of a Union representative should be submitted by the RN in writing together with information supplied by the Union setting forth the content of the training, its duration, a statement of how training is related to the RN's performance of VA duties and a statement that the training is required. In addition, the RN's request should be submitted sufficiently in advance so that the Department can review the matter and make a decision.

### **Section 8: Military Leave**

- A. Military leave will be granted consistent with Federal law, government-wide rules and regulations.
- B. In accordance with VA Handbook 5011, Part III, Chapter 3, paragraph 9, full-time RNs whose appointments are not limited to one year, who are members of the National Guard or the Armed Forces Reserves, are entitled to fifteen calendar days of military leave in a fiscal year for active duty or active duty for training. RNs that do not use the entire 15 days can carry any unused military leave (not to exceed 15 days) over to the next fiscal year. Military leave balances may never exceed 30 days in any 1 calendar year. Military leave is pro-rated for part-time career RNs.
- C. Regular military leave is charged in increments of one hour and does not include non-workdays falling within the period of absence of military duty. The Department will not arbitrarily deny a RN's request for military leave.
- D. The Department will take into consideration the schedules of RNs who work off tours and will arrange schedules to allow such RNs to have scheduled days off immediately preceding and following the required military leave consistent with Section 2.
- E. The Department will charge military leave on an hourly basis and will allow military leave to be taken intermittently, a day at a time, or all at one time. At the RN's request, the Department may charge the RN's absence to perform service to annual leave or available compensatory time balance, but not sick leave. Sufficient certification by the proper Department of Defense entity is required to grant military leave.
- F. In accordance with the Presidential Memorandum dated November 14, 2003, as a welcome home, returning RNs who were called to active duty in the Global War on Terrorism will be granted five days of excused absence for every deployment.

### **Section 9: Leave Without Pay**

- A. Leave without pay is a temporary non-pay status and absence from duty.
- B. Leave without pay may be requested in the same manner and for the same purposes as annual leave and sick leave.
- C. Requests for leave without pay will be given serious, bona fide consideration. The leave without pay program will be administered fairly and uniformly.
- D. Approval of leave without pay is a matter of administrative discretion. A RN cannot demand that leave without pay be granted as a matter of right except in the following cases:
  - 1. Disabled veterans who are entitled to leave without pay if necessary for medical treatment;
  - 2. Reservists and members of the National Guard who are entitled to leave without pay if necessary to perform military training duties;
  - 3. A RN has suffered an incapacitating job related injury or illness and is waiting adjudication of a claim for RN compensation by the Office of Worker's Compensation Program;
  - 4. A RN makes a request under the FMLA and meets the criteria for that program.
- E. Upon written request from the appropriate Union office, a RN may be granted leave without pay to engage in Union activities. Such requests will be referred to the appropriate Department official. Such RNs shall continue to accrue benefits in accordance with applicable OPM regulations. Leave without pay for this purpose is limited to one year but may be extended or renewed upon proper application.
- F. Upon return to duty after a period 30 days or more of leave without pay, RNs can usually expect to return to their former position. However, it may become necessary in the interest of the service to reassign them to other positions during their absence or upon their return.
- G. RNs may request leave without pay for educational purposes.

#### **Section 10: Hazardous Weather/Emergency Conditions**

- A. The Department and the NNU Local at each facility will jointly plan any new procedures or revisions for hazardous weather/emergency conditions. These procedures will be communicated to the RNs annually and as changes are made.
- B. The local NNU Director or designee shall be informed by the appropriate Department official at the time the facility declares hazardous weather/emergency conditions. The most expedient method for such notification will be used, including but not limited to, phone or email. The Local NNU Director is responsible for keeping the local facility informed as to who will receive the notification, the method for communication, and phone number/email address to be reached.
- C. When hazardous conditions exist, including but not limited to, extreme weather conditions, serious interruptions in public transportation, earthquake and disasters such as flood, fire or

other natural phenomena, the Department will determine whether all or part of the facility should be closed or remain open. If the Department decides to close all or part of the facility during periods the facility would otherwise be open, the Department will notify RNs whether liberal leave or authorized absence will be authorized. RNs who are prevented from reporting to work due to the closure of all or part of the facility should be granted authorized absence in accordance with OPM guidance and/or government-wide regulations.

- D. In the event of extreme hazardous conditions above, RNs are expected to report to work and must make all reasonable efforts to get to work. However, in the rare instance where certain RNs who provide critical services make every reasonable effort to get to work and are unable to do so, the Department may approve excused absence without charge to leave.
- E. RNs may be granted a two-hour grace period (authorized absence) during periods of inclement weather or government declared emergencies as needed to travel to and from work safely.
- F. Facilities under emergency conditions will provide services, including but not limited to, meals, sleeping accommodations and essential items for performing their official duties (a clean uniform, etc.) for RNs who are required to remain on duty.
- G. RNs who are requested to report to duty prior to their scheduled tour or unable to leave the facility at the end of their shift will be compensated in accordance with VA regulations, law and/or government-wide regulations.
- H. Assignments made during hazardous/emergency situations will consider RNs physical abilities. Limited duty or disability restrictions of any RN will be adhered to by the Department during hazardous/emergency situations.
- I. Consistent with VA policy, the VA Incentive Awards Program will be utilized for recognizing dedication and commitment by RNs during emergency/hazardous weather conditions.
- J. In accordance with government-wide regulations, the Department will fully implement the provisions of any approved program designed to provide inter-agency leave donation for RNs affected by natural disasters.

### **Section 11: Absent Without Leave**

Absent without leave is an unauthorized absence from duty. The RN receives no pay for such absence. Absent without leave is a payroll classification, and is not a disciplinary action in and of itself but may serve as the basis for disciplinary action.

### **Section 12: Court Leave**

- A. Court leave is permitted for RNs called to jury duty, in accordance with applicable laws and regulations. Court leave is also permitted when RNs are called to be witnesses or to be deposed in any legal matter to which the United States, the District of Columbia, or a state or local government is a party, regardless of which party requests the presence of the RN.

- B. Even though no compensation is received for serving on jury duty in a federal court, RNs may keep expense money received for mileage, parking or required overnight stay. Money received for performing jury duty in state or local courts is indicated on the pay voucher or the check as either “fees for services rendered” or “expense money”. “Expense money” may be retained by the RN, “fees for services rendered” must be submitted to the appropriate financial office.
- C. It is agreed that days off and or schedules will not be changed to avoid granting absence for court or court-related services.
- D. A RN who is granted court leave and is excused or released by the court for a day or substantial portion of the day is expected to return to the RN’s regular duties except when:
  - 1. Only a small portion of the work day remains and no appreciable amount of service would be performed;
  - 2. The distance from the court to the duty station is such that it would be an unreasonable requirement; or,
  - 3. The RN is regularly scheduled to work on a tour any part of which includes 1800-0600.
- E. A RN who is granted court leave and serves for a full day or a substantial portion of the day is not expected to report for the next tour of duty if that tour occurs within 24 hours of the court leave and if any or all of the tour occurs between 1800-0600.

### **Section 13: Registration and Voting**

Subject to direct patient care needs, the Department agrees that when the voting polls are not open at least three hours before or after the RN’s regular hours of work, RNs will be granted an amount of excused leave to vote, or to register to vote, which will permit them to report to work three hours after the polls open or leave work three hours before the polls close, whichever requires a lesser amount of time. If unable to be released at the beginning or end of the work day, the Department, to the extent possible, will make other arrangements to allow the RN a reasonable amount of time during the work day to vote or register to vote. Under unusual circumstances, RNs may be excused up to the full day.

### **Section 14: Unavoidable Delay While On Government Business**

When a RN is unable to return to his/her duty station through no fault of the RN while on authorized government business, the RN will notify their supervisor as soon as possible and obtain appropriate instructions. In such instances, the RN will be paid overtime unless compensatory time is requested in writing, for any time beyond normal duty hours that they are determined to be performing official duties. If the RN is unable to return to his/her duty station and must stay overnight at some other location, per diem expenses will be paid when appropriate.

### **Section 15: Accommodation for Religious Observances**

- A. A RN whose personal religious beliefs require abstention from work during certain periods of time may elect to work overtime to compensate for time lost by meeting those religious requirements.
- B. To the extent that such modifications in work schedules do not interfere with the efficient accomplishment of the VA's mission, the Department shall in each instance afford the RN the opportunity to work compensatory time earned and shall in each instance grant compensatory time used to a RN requesting such time off for religious observances when the RN's personal religious beliefs require that RN abstain from work during certain periods of the workday or workweek.
- C. For the purpose stated in Paragraph B of this Section, the RN may work such compensatory time earned before or after the granting of compensatory time used. Advanced compensatory time used should be repaid with the appropriate amount of compensatory time earned within a reasonable amount of time. Compensatory overtime shall be credited on an hour by hour basis or authorized fractions thereof. Appropriate records will be kept of compensatory overtime earned and used.

#### **Section 16: Advanced Annual/Sick Leave**

- A. A RN may be advanced all annual leave that will accrue up to the end of the leave year. However, advanced annual leave may not be granted to a temporary RN beyond the date set for the expiration of the RN's temporary appointment, or to any RN if there is a likelihood that the RN will retire, be separated, or resign from the VA before the date the RN will have earned the leave. Upon separation, RNs must repay the balance of any remaining advanced annual leave; however, a RN may request a waiver in writing.
- B. Advanced sick leave may be combined with annual leave, compensatory time or leave without pay when necessary to cover one continuous period of absence.
- C. The application for advanced leave will be processed and approved promptly.
- D. Advanced leave may be approved in accordance with the RN's type of appointment. The RN will not be required to utilize any annual leave prior to utilizing the advanced sick leave.
- E. Denials of requests for advanced leave will be conveyed in writing to the RN promptly and will contain an explanation of the reasons for the denial.
- F. The Department agrees to notify RNs of the ability to request advanced leave annually and individually to RNs as the need arises.

#### **Section 17: Voluntary Leave Transfer Program**

- A. RNs are entitled to donate and receive leave for medical needs consistent with VA and government-wide regulations.



- B. The Leave Transfer Program allows a RN to transfer annual leave to an approved leave recipient (excluding the RN's supervisor) up to one-half of the amount of annual leave the RN will accrue during the leave year.
- C. The minimum amount of annual leave that may be transferred to and from a Title 5 or Title 38 RN who is charged leave in hours is four.
- D. The Department will assist RNs in preparing, or will prepare the application for leave donation and the solicitation memorandum. The solicitation memorandum identifies the recipient of the donated leave. The Department will advise RNs of how and where to receive such assistance.
- E. The application for leave donation will be processed and approved promptly.
- F. When a RN receives donated leave, it may be used only for the medical need for which it was donated.
- G. NNU may work with the Department to determine whether donated annual leave is needed by its RNs in disaster situations and can quickly facilitate the transfer of donated annual leave among administrations.
- H. Forms for donating and receiving annual leave under the inter/intra-agency Emergency Leave Transfer Program can be accessed on OPM's web site at <http://www.opm.gov/oca/leave/html/ELTP.asp>

## **ARTICLE 12: DETAILS, FLOATS AND TEMPORARY ASSIGNMENTS**

### **Section 1: General**

- A. The Department and NNU recognize the importance of properly orienting RNs to their functions and work environment, and to protect the health, safety, and welfare of RNs to practice within that RN's scope of practice. The Department and NNU recognize quality patient care is the guiding principle in assigning RN staff. To that end, the Department may temporarily assign, detail or float an RN to ensure adequate coverage. VA Directives, Handbooks, and this Contract will govern the details, floats and temporary assignments of RNs.
- B. Decisions by management to place RNs on a temporary assignment, detail or float will be based on qualifications and competencies of the RN. Upon request, the Department will explain to NNU the reasons for making the decision.
- C. Temporary assignments, details and floats shall not be used as harassment or reprisal.
- D. Even though management has the right to make work assignments, the Department will explore supplemental staffing alternatives (for example, unscheduled hours, alternate schedules, intermittent RN staff, etc.) before detailing, floating or temporarily assigning RNs away from their work unit to avoid disruption in care, to allow continuity of assignments, and to address RNs' work-life issues.

### **Section 2: Definitions**

- A. A detail is the temporary assignment of a RN to a different set of duties for a specified period of time. For the purposes of this Contract, a detail is treated the same as a temporary assignment. There is no formal position change; officially, RNs continue to hold the position from which they were detailed and keep the same status and pay. The exception is if a RN is detailed into a nurse manager position that exceeds more than 30 days.
- B. A float is a short term assignment of a RN from the assigned nursing work unit to meet the nursing care needs on another work unit for all or part of a single tour of duty of 12 hours or less.
- C. Consistent with the Seniority Article, seniority is defined as entrance on duty date (EOD) as a Title 38 RN for/at the local facility. Only periods of service for/at the local facility as a RN will be used to compute and establish seniority.

### **Section 3: Orientation and Training**

- A. Consistent with the Professional Development and Education Article, Section 4, the Department will provide orientation for all RNs upon detail or float to a different position/location or area. As needed, this orientation will include clinical requirements and competencies specific to the area of assignment.

- B. Orientation for floats will minimally contain a review of the physical location, emergency procedures, and evacuation plan to ensure safe patient care.

#### **Section 4: Temporary Assignments and Details**

- A. When a RN position is vacant or a temporary need exists, the Department may detail a RN to that position. Generally, details will be 30 days, extended in 30 day increments and not to exceed 1 year. The detail may be terminated prior to the expiration date. The Department may approve extensions of the detail beyond one year when circumstances warrant.
- B. The Department will provide written notice to the affected RN(s) and NNU containing the specifics of all temporary assignments or details in excess of seven days, including, but not limited to the reason for the detail, location, duration, duties, supervisor, work assignment and tour of duty, as soon as practicable. NNU will be given the opportunity to discuss this assignment or detail. The Department will ensure that RNs possess the nursing skills required to provide safe and competent care in the specific area the RN will be temporarily assigned or detailed.
- C. If the RN believes that he/she does not possess the nursing skills required to provide safe and competent care in the specific area to which the RN is temporarily assigned or detailed, the RN will immediately report these concerns to the supervisor. The RN may complete an Assignment Despite Objection (ADO) form without reprisal and provide a copy to the supervisor and to NNU. The supervisor and RN will discuss the matter, the supervisor will consider the concerns raised by the RN and make a decision regarding the assignment.
- D. The Department will seek qualified volunteers for the temporary assignment or detail from the unit /area. If there are more qualified RN volunteers than needed, the Department shall select the most senior RN.
- E. A unit based rotation list based on reverse seniority will be used to determine which individual RN will be detailed when there are no volunteers. If there are no volunteers, the Department shall select the least senior RN (from the seniority list) of those previously determined to be qualified.
- F. For temporary assignment or details outside of the RN's current work location, the RN shall be reimbursed mileage over their normal daily commute.
- G. The Department will make effort to minimize impact on the affected RN(s) including, but not limited to tour of duty and work hours, work schedules, and current differentials. The affected RN(s) will keep their previously approved leave, unless there is no other qualified RN to perform the assignment, including the utilization of alternative staffing methods.
- H. The Department will work with NNU to avoid placing a NNU representative on a temporary assignment or detail that would negatively impact or prevent them from performing their representational functions.

#### **Section 5: Floats**

- A. A unit-based rotation list based on reverse seniority will be used to determine which individual RN is required to float when there are no volunteers.
- B. Once a RN has floated for a period of 15 minutes or more, the RN's name will go to the bottom of the rotational list regardless of whether the RN volunteered for the float.
- C. If floating is required, the Department will first solicit volunteers determined to be qualified by management. If the number of volunteers exceeds the number required to float, the most senior qualified RN will be selected.
- D. If there are no volunteers, the Department will select the RN who is at the top of the unit-based rotation list for the assignment.
- E. RNs on orientation will not have their names on the unit-based rotation list and will not be floated until orientation is completed.

## ARTICLE 13: WORK SCHEDULES

### **Section 1: General**

- A. All sections are subject to the limitations set forth in [38 USC 7422](#).
- B. The provision of quality, safe patient care is essential to the accomplishment of the Department's mission. Accomplishment of that mission requires a highly motivated and skilled professional RN workforce as well as appropriate staffing levels and staff mix. Nothing in this Article is intended to permit collective bargaining over staffing, including but not limited to staffing levels, qualifications, staff selection, levels and/or staff mix in a given patient care setting.
- C. In keeping with the Department's stated goal to become an employer of choice, the Department recognizes that scheduling is a work life issue and must be addressed to the extent permitted by Law.
- D. The Department will endeavor to minimize involuntary overtime. Involuntary overtime will not be used for routine scheduling unless all of the conditions set forth in [38 USC 7459\(c\)](#) are met. Please refer to Section 4 of the Overtime and Compensatory Time Article for more complete information.
- E. Any VA Directives or Handbooks referenced in this Article are provided for informational purposes.
- F. Nothing in this Article is intended to waive NNU's right to demand to bargain or the Department's obligations to give notice and bargain when an obligation to do so is triggered by the Statute.
- G. The Department shall encourage and support RNs having meaningful input into their schedules, for example through the use of wish lists or preferences, self scheduling, peer negotiated scheduling, or similar methods as determined by the Department. If the proposed schedule meets staffing needs as determined by the Department, requests for days off/on should be honored.

### **Section 2: Work Schedules**

- A. Work schedules for RNs will be planned on an equitable basis giving consideration to the competencies of the RNs and the staff mix required to meet patient care needs.
- B. Schedules will be posted in a designated and accessible area for periods of a minimum of four weeks at a time, and shall be signed by the appropriate Department Official and posted in final form not later than four weeks prior to the first work date on the schedule. Upon request, NNU will be provided copies of schedules.
- C. Should it become necessary for the Department to post the work schedules in less than the prescribed time frame above, the NNU local will be notified with a specific explanation of the unusual cause of delay and the date the work schedule will be posted. This can be done via email to an appropriate local NNU representative.

D. Subject to direct patient care needs, the Department:

1. will not change work schedules once posted except by request or by mutual prior consent of all affected individual RNs;
2. will grant each RN two weekends off in a four week period or two consecutive days off during each pay period unless otherwise requested in writing by the RN;
3. will make every practical effort to avoid scheduling nurses to work more than five consecutive days unless requested in writing by the RN;
4. will give RNs at least 11 hours of non-duty time between scheduled tours of duty. Exceptions may be made at the written request of the RN;
5. will not schedule RNs to rotate between more than two tours of duty during each posted schedule, except by the RN's written request;
6. will grant individual RN requests for specific tours of duty or time-off on an equitable basis. An explanation, in writing (when possible through the electronic time and leave system), will be provided for denials of requests;
7. will avoid rotating RNs on permanent off tours to other tours unless requested by the RN;
8. will allow the RN to elect to take leave or flex the next tour when involuntary overtime occurs and the RN is scheduled to work so as to allow at least 11 hours off between tours. The proper arrangements and approval for the next tour starting time or leave will be obtained from the appropriate Department official.

### **Section 3: Tour Rotation**

- A. A RN who normally works a preferred tour may request to rotate to an alternate tour of their choice. The Department will endeavor to approve the request, provided:
1. The RN's performance and dependability are satisfactory;
  2. Requests do not exceed available openings on alternate tours; and,
  3. The Department has determined that the competencies and skills of the RN are commensurate with the assignment.
- B. RNs may request a preferred tour and/or tour rotation, including RNs working 12 hour tours or other alternative work schedules.
- C. All tour and weekend rotations will be done on an equitable basis among qualified RNs as determined by the Department.
- D. The Department will consider the requests of RNs for preferred tours by seniority. Seniority is defined as Entrance On Duty (EOD) date as a Title 38 RN for/at the local facility.

- E. RNs may request evening or night tours of duty as primary assignments. The Department will endeavor to create and fill permanent evening and night positions for RNs to minimize tour rotation.
- F. RNs that are moved from a permanent tour of duty will be given first opportunity to return to the tour when a position becomes available unless the RN was moved for cause by the Department.

#### **Section 4: Alternative Work Schedules (AWS)**

- A. Subject to direct patient care needs, the Department will endeavor to offer RNs Alternative Work Schedules. Examples may include Baylor Plans, part-time or partial tour scheduling, job sharing, compressed tours, flexible scheduling, 72/80 scheduling, and other innovative scheduling options. [See VA Handbook 5011, Part II, Chapter 3.](#)
- B. NNU local units may submit recommendations on testing other systems of scheduling work time or AWS, including but not limited to; self-scheduling or peer-negotiated scheduling, length of trial period, 12 hour rotational scheduling and pattern schedule for consideration by the Department.
- C. RNs on AWS must be scheduled and work consistent with 38 USC 7456A.

#### **Section 5: Break and Meal Periods**

- A. Safety for the RN and for the patients being of paramount importance, the Department will provide the RN with a 15 minute rest break on duty time for every 4 hours of duty, where direct patient care needs permit. This is separate and distinct from any meal period not on duty time.
- B. Breaks and meal periods will normally be assigned at the beginning of the shift.
- C. The Department will provide a meal period not on duty time or the RN will be appropriately compensated consistent with law, rule and regulation for this work.
- D. RNs that are unable to take their scheduled meal periods will notify their supervisor promptly. The appropriate Department official will determine if relief is available.
- E. RNs unable to take their scheduled breaks should notify their supervisor as soon as possible. The appropriate Department official will endeavor to provide the RN a break before the end of the RN's scheduled tour. RNs will note this on the appropriate document, such as the 24 hour report.

#### **Section 6: Errors in Time Keeping**

- A. In the event of an error in timekeeping, the RN will contact the supervisor/ timekeeper. The appropriate Department Official, where appropriate, will initiate corrective action and coordinate any changes/corrections with the manager or supervisor.

- B. Timekeeping errors, once identified, will be addressed immediately.
- C. Whenever a Department error results in the failure of a RN to receive full salary payment on time, the Department will take immediate action to promptly pay the RN. The Department will endeavor to make payment on the next bi-weekly paycheck.

### **Section 7: On-Call Duty**

- A. Pursuant to [38 USC 7453\(h\)](#) and [VA Handbook 5007, Part, V, Ch. 5 Paragraph 1](#), which is not a part of this negotiated agreement, a RN who is officially scheduled to be on-call outside the regular duty hours of the RN will receive pay for each hour of on-call duty, except for such time as the RN may be called back to perform overtime work.
- B. Pursuant to [38 USC 7453\(e\)](#) and [VA Handbook 5007, Part V, Ch. 2, Paragraph 2](#), which is not a part of this negotiated agreement, when called back to perform overtime work, the RN will receive overtime pay for a minimum of two hours for each incident.
- C. A RN will be available for prompt response to perform service when scheduled on-call duty.
- D. On-call pay will be suspended during the period of actual overtime duty. When released from overtime duty the RN will return to the remaining scheduled on-call duty, if any, and receive on-call pay accordingly.
- E. In the event of incapacitation for availability during the period for which scheduled to be on-call, such unavailability shall be reported promptly. A RN who is relieved from scheduled on-call duty as a result of incapacitation thereof will not receive on-call pay during the period from which relieved.
- F. The RNs who are on-call and are called back to duty may request to take leave or flex the next tour (where flexible tours currently exist) they are scheduled to work if they are called back to duty. Subject to direct patient care needs, the Department will give consideration to this request (e.g. adjusting the next regularly scheduled tour, leave request) following on-call duty so as to allow adequate rest between work periods.
- G. Subject to law, rule, and regulation, the Department will provide communication devices to RNs who are on-call.
- H. Once the Department has determined the qualified RNs, on-call scheduling will be assigned in an equitable manner amongst these RNs in the work unit.
- I. Except for rare and unusual circumstances, RNs who work 16 continuous hours of direct patient care in a 24 hour period will be relieved of further call and work duty to allow for adequate rest, subject to direct patient care needs.
- J. When it can be demonstrated that on-call duty will not assure availability of employees for essential patient care needs, standby duty may be authorized as an exception to on-call duty. The Department's authorization of standby duty and standby premium pay will be pursuant to [VA Handbook 5007, Part V, Chapter 5](#).



## ARTICLE 14: OVERTIME (OT) AND COMPENSATORY TIME (CT)

### **Section 1: General**

- A. Overtime pay for RNs is governed by [38 USC 7453\(e\), 7456A and 7459](#), and subject to 38 USC 7422. Overtime and compensatory time are governed by [Directives and Handbooks 5007, Part V, Chapter II](#) and [5011, Part II, Chapter 3](#). Any language in sections 1 and 2 of this Article that reference Title 38 law or VA regulations is being provided for informational purposes only.
- B. If a RN performs officially ordered or approved hours of work in excess of the RN's basic work requirement, the RN may request compensatory time or be paid overtime. These hours of work will include both direct and non-direct care, such as VA education, mandatory in-services, committee meetings or staff meetings.
- C. When a RN works overtime, such overtime will be paid in increments of 15 minutes. RNs will be paid differential and premium pay in addition to the overtime compensation.
- D. The Department shall make reasonable effort to give the RN as much notice as possible when overtime is needed.
- E. RNs who work overtime will be allowed to make calls at no cost to them to make necessary arrangements. This shall include, but is not limited to, dependent care arrangements and updates, medical appointments, classes and self-improvement commitments.
- F. A RN's decision to volunteer for overtime or compensatory time or refrain from volunteering for overtime or compensatory time will not be used as a basis for discrimination or preferential treatment and no RN will be coerced into working for compensatory time instead of overtime.
- G. RNs who are called back to work for overtime are entitled to a minimum of two hours overtime pay. This also applies when the RN is scheduled to work OT on a regularly scheduled day off.
- H. RNs whose request for relief for a meal period is denied shall be paid OT unless CT is requested in writing.
- I. Consistent with 38 USC 7459, RNs may not work more than 12 hours in a 24 hour period or 60 hours in a seven calendar day period, except in emergency circumstances.
- J. Overtime is payable for service performed in excess of 40 hours in an administrative workweek, or in excess of 8 consecutive hours, whichever is greater, at a rate of one and one-half times the RN's basic hourly rate of pay. For a full-time RN on a compressed work schedule, overtime is payable for hours of work in excess of the basic work requirement. For a part-time RN on a compressed work schedule, overtime is payable for hours of work in excess of the basic work requirement (but must be in excess of 8 consecutive hours) or for a week (but must be in excess of 40 hours).

## **Section 2: Compensatory Time**

- A. Requests for compensatory time off in lieu of overtime pay must be made and directed to an official authorized to approve overtime work. Pursuant to [38 USC 7453\(e\)\(3\)](#), compensatory time off in lieu of pay for service performed under the provisions of this subsection shall not be permitted, except as voluntarily requested in writing by the RN in question.
- B. RNs are encouraged to include the date(s) and time(s) for which they would like to use the CT in the same written request in an effort to reduce the risk of a RN losing earned CT. Requests to use CT earned will be made and approved in the same manner as requests for other types of leave.
- C. Compensatory time off should be taken as soon as possible after it is earned. When the RN is unable to use earned CT within 26 pay periods due to the exigencies of the service, the CT will be paid to the RN at the OT rate. If CT is not taken within this period because of personal reasons not due to the exigencies of the service, the right to compensatory time off or overtime pay for the duty is lost.
- D. The supervisor cannot select the date(s) and time(s) that the RN will use the earned CT.
- E. Generally, the supervisor will approve or disapprove the CT request within five days. The supervisor will continue to consider and may grant previously disapproved CT requests up until the pay period prior to the requested date. If later approval can be granted, the RN will reenter the request in the Electronic Time and Attendance system.

## **Section 3: Voluntary Overtime Procedures**

- A. RNs may voluntarily place their names on rosters that will be used when overtime opportunities become available.
- B. Assignment of voluntary overtime will be as follows:
  - 1. The Department reserves the right to determine qualified staff to be solicited for voluntary overtime.
  - 2. A volunteer roster will be maintained on each unit. The roster will include the names of the RNs desiring to perform OT work. The unit roster will be set up by seniority beginning with the most senior RN. The names of new RNs assigned to the unit will be added by seniority. As RNs work voluntary OT, the date will be entered on the roster.
  - 3. Volunteers to work OT will first be solicited from those RNs on duty from the unit to which they are assigned. If there are more volunteers than OT opportunities, the roster will be used, regardless of compensation requested. The RN(s) whose last date of voluntary OT work is most distant from the current date will be selected to work.
  - 4. If there are no volunteers from the unit's roster, the overtime opportunity will be offered to other on-duty qualified RNs, regardless of compensation requested.

5. If no on-duty RNs volunteer to work OT, the off-duty RNs on the unit's volunteer roster will be contacted, regardless of compensation requested.
6. If there are no off-duty volunteers from the unit's roster, the overtime opportunity will be offered to other off-duty qualified RNs, regardless of compensation requested.

#### **Section 4: Involuntary Overtime Procedures**

- A. Involuntary overtime is governed by 38 USC 7459 and applicable Department regulations. Any language in this section regarding 38 USC 7459 is being provided for informational purposes only.
  1. Unless provided below, the Department may not require RNs to work more than 40 hours (or 24 hours if such staff is covered under 38 USC 7456) in an administrative work week or more than 8 consecutive hours (or 12 hours if such staff is covered under 38 USC 7456 or 38 USC 7456A).
  2. The refusal of RNs to work overtime hours shall not be grounds to discriminate (within the meaning of section 704(a) of the Civil Rights Act of 1964 (42 USC 2000e-3(a))) against the RN; to dismiss or discharge the RN; or for any other adverse personnel action against the RN.
  3. The Department may require RNs to work overtime hours if:
    - a. the work is a consequence of an emergency that could not have been reasonably anticipated;
    - b. the emergency is non-recurring and is not caused by or aggravated by the inattention of the Department or lack of reasonable contingency planning by the Department;
    - c. the Department has exhausted all good faith, reasonable attempts to obtain voluntary workers;
    - d. the RN has critical skills and expertise that are required for the work; and
    - e. the work involves work for which the standard of care for a patient assignment requires continuity of care through completion of a case, treatment, or procedure.
  4. RNs may not be required to work overtime hours after the requirement for a direct role by the RN in responding to medical needs resulting from the emergency ends.
- B. The Department reserves the right to determine qualified staff for involuntary overtime.
- C. An involuntary OT roster will be maintained on each unit. The unit roster will initially be set up by entry on duty date as a Title 38 RN for/at the local facility, beginning with the least senior RN. The names of new RNs assigned to the unit will be added to the top of the roster. As RNs work involuntary OT, the date will be entered on the roster.
- D. Involuntary OT will be assigned using the unit's involuntary OT roster. When there is a need for involuntary OT, the RNs on duty for the unit of need will be assigned by roster. The RN(s) whose last date of involuntary OT work is most distant from the current date will be selected to work.

- E. Any increment of pay (quarter hour or more) will serve as the RN's turn at involuntary overtime.
- F. RNs may have legitimate reasons in which they may be unable to work OT, such as illness, extreme fatigue, unique dependent care issues, etc. However, the Department reserves the right to mandate overtime consistent with Federal law and VA regulations. If the Department determines not to mandate the overtime due to the RN's request, the RN will be mandated to work the next period of involuntary OT, even if the previously established selection process would not require them to work the OT. NNU and the Department will work together to resolve issues of possible abuse.

## **ARTICLE 15: WORK ASSIGNMENTS AND OBJECTION TO WORK ASSIGNMENTS**

### **Section 1: General**

- A. NNU and the Department agree that it is the responsibility of the Department to provide for the safety of patients and their families as well as for the safety of the staff assigned. As such, it is a management right to assign work to meet the needs of patients and ensure RN safety, consistent with 38 USC 7422.
- B. The Department recognizes the importance of RNs' input regarding safe patient care. RNs will not be subjected to intimidation or reprisal for providing input regarding safe patient care, questioning an assignment or completing a written objection.
- C. The Department and NNU agree that staffing requirements determined through the VA's staffing methodology support and maintain a standardized approach to ensure adequate nursing personnel across the VA.
- D. Every RN employed by the Department is required to hold a current full and unrestricted license as a Registered Nurse in a State, Territory, or Commonwealth (e.g., Puerto Rico) of the U.S. or in the District of Columbia as a condition of employment.
- E. The Department and NNU are jointly committed to ensuring that RNs:
  - 1. Are prepared to provide safe nursing care within their skills and competencies and
  - 2. Receive a comprehensive hand-off report of the patient's condition and the work expected of them during the tour of duty, including time for providing and/or receiving this information.
- F. The Department is committed to ensuring that appropriate staffing levels and staff mix are available to provide professional nursing care. Upon NNU request, the Department will provide reports which include variances and discuss with NNU the variances of staffing.

### **Section 2: Work Assignments and Objections to Work Assignments**

- A. It is the RN's responsibility to notify the Department at the time when in the RN's professional judgment the assignment has become unsafe for patients or staff. This can be at any point during the work shift.
- B. Each facility will utilize and communicate to RNs a clear chain of responsibility to assess/reassess the appropriateness of work assignments for RNs.
- C. When a RN believes a work assignment would place a patient, the RN, or another staff member in an unsafe situation, the RN will immediately verbally notify the supervisor or other appropriate Department official if the supervisor is not available. The supervisor or other appropriate Department official will then discuss and assess the situation and determine whether or not the assignment should be carried out. If the supervisor or

Department official determines the assignment should be carried out, the RN will complete the assignment.

- D. A RN who wishes to express concern about a work assignment or believes the work assignment was unsafe must submit written documentation, such as the NNU Assignment Despite Objection (ADO) form (see Appendix A), email or other written memo to the appropriate supervisor. This can be submitted at any time during the assignment or after completion. The RN is free to make suggestions or recommendations for resolution of concerns. The Department will give full consideration to any concerns or suggestions raised by the RN.
- E. RNs will forward copies of completed NNU ADO forms, email or other written memo to the Nursing Supervisor on duty, Nurse Manager and NNU.
- F. Any objection to work assignments including completion of the NNU ADO form, email or other written memo will not be considered by either party as punitive but as a communication tool to improve working conditions and patient care.
- G. The Department will immediately address the situation documented in the NNU ADO form, email or other written memo. The Department will respond to the RN and take action as warranted. If the Department makes a written response a copy will be provided to the RN and NNU.
- H. At the request of NNU, the Nurse Executive or designee will meet with NNU to discuss objections to work assignments. The Department will give full consideration to any concerns raised.
- I. NNU may educate all RNs on the use of the ADO process.

## **ARTICLE 16: STAFFING**

### **Section 1: General**

- A. This Article is subject to 38 USC 7422. It is not intended to require union involvement in day-to-day staffing decisions or formal bargaining over matters excluded from bargaining under [38 USC 7422\(b\)](#) or 5 USC Ch. 71.
- B. The Department will notify the Chair NNU-VA and the affected NNU Director when the Department changes its staffing plan and provide NNU a written copy of the changes in a timely manner. At any time NNU may provide, and the Department will consider, input at the facility or national level, as appropriate regarding changes in staffing.
- C. It is the responsibility of the Department to provide safe, appropriate, high-quality health care to Veterans.
- D. The Department recognizes that staffing can affect the types and amounts of duties required of a RN and may potentially impact upon the RN's licensure. Subject to law, rule, and regulation, a RN has the right to function within their scope of practice.
- E. The Department recognizes that the safety of patients is impacted by staffing and the Department strives to reduce care related errors and injuries while increasing positive patient/RN satisfaction. The Department also recognizes that there is a need for adequate levels of ancillary personnel to assist RN's to provide safe patient care and assure patient/RN satisfaction.

### **Section 2: Staffing Methodology Information**

- A. Local NNU Directors will be given copies of the current staffing methodology in place upon the completion of this Contract. Additionally, upon request, the local NNU Director will be provided the staffing plans for all patient care areas. This information, if available, will include but is not limited to, the name of each unit, the care delivery model utilized on the unit, and the projected staffing needed to safely provide care by tour, including any changes needed for the week-end patterns and how the staffing level and skill mix was derived.
- B. The NNU Local Director (or designee), any NNU representative on the facility Staffing Methodology Panel and any RN on the Unit Based Expert Panels will be provided the same training as the other panel members.
- C. NNU will appoint one RN to serve on the Facility Expert Panel in a representational capacity on official time.
- D. NNU may recommend a RN for the Unit Based Expert Panel to the Nurse Executive. NNU's recommendation must be from the nursing staff on the nursing work unit for each Unit Based Expert Panel. If the Department accepts the NNU recommendation for the Unit Based Expert Panel, the recommended RN is not on official time and must act as a peer on the Unit Based Expert Panel, not as a NNU representative.

- E. If the Department does not approve the summary work of the Unit Based Expert Panel, the Unit Based Expert Panel will be notified if they need additional clarification and additional information will be requested, consistent with Department policy.
- F. The NNU representative on the Facility Expert Panel will have access to the same information as all other members of the Panel to examine the staffing requirements used in the facility staffing methodology plan. This information can be shared with local NNU officials, including any follow-up action plan, but shall not be disseminated beyond officials with a need to know.



## **ARTICLE 17: JOB SHARING**

### **Section 1: General**

- A. Job sharing is a form of part-time employment in which the tours of duty of two RNs are arranged in such a way as to cover a single full-time position.
- B. Job sharing can provide the Department and RNs with considerable work scheduling flexibility.

### **Section 2: Procedures**

- A. The Department determines whether RNs can job share, what hour or tours can be worked, and what potential patient care and clinical competence concerns exist with respect to the potential job sharing. The Department agrees that entry into job sharing is strictly voluntary, initiated by the RNs, and without coercion by the Department. Job sharing can be considered when traditional part-time employment is not practical or feasible.
- B. The Department shall give bona fide consideration to RNs' requests regarding part-time job sharing employment, including requests for reassignment from a non job sharing arrangement to a job sharing arrangement and from a job sharing arrangement to a non job sharing arrangement, consistent with the Department's resources and mission requirements. RNs working under similar functional statements, or in the same clinical settings, may request the opportunity to enter a job sharing arrangement. RNs must qualify for the position for which they are applying.
- C. RNs interested in job sharing will submit a written proposal to the immediate supervisor. The job sharers are expected to seek the Department's assistance and approval in drawing up the job sharing plan so that the work will be properly divided. RNs will receive a written response from the Department within a reasonable amount of time from the date of submission of their written proposal informing them of acceptance or rejection of their job sharing proposal or if the Department requires additional time for review or information from the job sharers before making a decision. If rejected, the reasons will be stated in writing. The RNs may revise their written proposal to accommodate the reasons given for rejection and resubmit it for reconsideration.
- D. Although the RNs share the duties of a full-time position, job sharers are considered to be individual part-time RNs for all personnel and employment purposes.
- E. A variety of different work scheduling arrangements can be used as long as each job sharer works the hours as indicated in their signed job sharing agreement. For example:
  - 1. Split days (one RN works mornings, and the other afternoons);
  - 2. Alternate days (one RN works Monday and the other Tuesday, etc.);

3. Split weeks (one RN works Monday through noon Wednesday and the other works noon Wednesday through Friday; although most job sharers split the hours of a full-time position in half, this is not a requirement);
  4. The work schedules of job sharers may overlap (one job share may work from 10 a.m. to 2 p.m. every day and the other from noon to 4 p.m.). This arrangement can provide the Department with extra coverage during heavy workload periods. A certain amount of overlap may also be desirable to enable job sharers to attend staff meetings or provide hand-off communication.
- F. The employment of a RN in a part-time position shall not be a basis for exclusion from participation in job sharing.
- G. Each RN entering into a job sharing arrangement shall be given a written explanation of his/her work schedule and an explanation of the impact of conversion to part-time on his/her rights and benefits. The job sharing agreement shall incorporate the understanding that in the event one of the job sharing RNs leave and the Department concludes that the needs of the position requires full-time staffing, the Department shall make a reasonable effort to assist the remaining RN in finding another partner. The remaining RN will be given a reasonable amount of time, normally 30 days to find another RN job sharer.
- H. The decision to end a job sharing arrangement is at the Department's discretion. When drafting the job sharing arrangement, it should include what can be done if one partner is unable to maintain the arrangement.

## **Article 18: Alternative Workplace Arrangements (Telework)**

### **Section 1: General**

- A. Telework refers to a work flexibility arrangement under which a RN performs the duties and responsibilities of such RN's position, and other authorized activities, from an approved worksite other than the location from which the RN would otherwise work. Telework within the Department must be administered in accordance with The Telework Enhancement Act of 2010 ([Public Law 111-292](#)), which is aimed at increasing telework in the Federal Government, and VA Handbook 5011.
- B. Telework may benefit the Department and RNs by providing an alternative work situation, which may improve services to Veterans, improve productivity, help with recruitment and retention, and improve the quality of life of RNs. The primary intent of the program is to support the mission of the Department in an alternative work setting.
- C. Telework must not be used as an alternative to, or in lieu of, dependent care.
- D. Flexi-place, telecommuting, work-at-home, and telework all refer to paid employment away from the traditional office. The terms are synonymous and may be used interchangeably.
- E. A community based telecenter is an office, typically in a space owned or leased through General Services Administration (GSA), and/or other Federal Government facility, which may be shared by multiple agencies, or a satellite office of a single agency where a RN works one or more days in the workweek.
- F. Home-based/work-at-home telework means allowing RNs to use information technology and communication packages to work one or more days in the workweek at the RN's place of residence.
- G. Mobile/virtual office means a location or environment, which may include customer sites, hotels, cars, or at home, where a RN performs work through the use of portable information technology and communication packages.
- H. Official duty station means the official duty station for a RN's position of record as indicated on the most recent notification of personnel action.

### **Section 2: Telework Guidelines**

- A. Department officials are responsible for determining whether a position is suitable for telework, notifying newly hired RNs of position suitability for telework, and deciding whether a RN is eligible for telework. 38 USC 7422 applies to telework.
- B. Consistent with law and VA policy, certain RNs are not eligible for telework. This includes:
  - 1. A RN who has been officially disciplined for absence without approved leave for more than five days in any calendar year;

2. A RN who has been officially disciplined for violations of subpart G of the Standards of Ethical Conduct for Employees of the Executive Branch for viewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties; and
  3. RNs with a performance rating less than successful or equivalent.
- C. RN participation in a telework arrangement is voluntary. RNs who volunteer and those who do not volunteer for telework will be treated equitably.
- D. Prior to teleworking, RNs must complete all required VA forms, including a [telework proposal](#), [telework agreement \(A sample is currently found in VA Handbook 5011, Part II, Appendix A\)](#), as well as a [safety checklist](#).
- E. Telework agreements must be completed with each RN participant. The agreement must include, but is not limited to;
1. A preamble statement of voluntary participation;
  2. The identity of the signatories, duty station and alternative worksite;
  3. A description of the work schedule and tour of duty;
  4. A description of required equipment/supplies an explanation of the responsible provider;
  5. The parameters of work assignments to be performed as well as performance criteria. Teleworkers and non-teleworkers will be treated the same for purposes of performance criteria; and,
  6. The provisions describing requirements for leave, overtime, liability, work area (for work at home only), worksite inspection, alternative worksite costs, injury compensation, cancellation, privacy obligations, standards of conduct, and paragraph on appropriate disciplinary or adverse action.
- F. Telework may be used as a reasonable accommodation for employees with qualifying disabilities under the Americans with Disabilities Act, [42 USC 12101](#).
- G. Modifying or terminating a telework arrangement that affects RNs is a grievable issue.
- H. The Department should notify the RN of any modification or termination of the telework arrangement. This notice should be given as soon as practicable, but normally at least two weeks in advance. A RN may terminate his/her telework arrangement at any time. However, the RN must provide at least two weeks advance notice to the Department.
- I. There will be no change in telework arrangements based solely on a change in supervision.
- J. Department officials are responsible for assisting the RN with completion of the User's Remote Computing Security Agreement. The agreement is available in the "[VA Remote Access Guidelines](#)". Department officials will assist the RN in coordinating the request for remote access through the Information Security Officer. The RN is responsible for working with the Department official to complete the required forms.

- K. Appropriate Department officials may conduct safety inspections, as required, during normal working hours, to ensure proper maintenance of any Government-owned property and conformance with safety standards. The safety inspection will be limited to ingress, egress and the telework area. The RN will be provided advance notice of any safety inspection.
- L. Full-time, part-time, and temporary RNs may request a telework arrangement. Each arrangement for telework is to be considered individually.
- M. The Department is encouraged to provide training to facilitate the use of telework.
- N. If appropriate, the opportunity for RNs to voluntarily use their own personally owned equipment will be explored to decrease the cost of the telework program. To the extent possible, security inspections of personally owned equipment will be strictly limited to sections of the equipment used for telework.
- O. Periodic work reviews between Department officials and the RN are encouraged.
- P. The RN's time and attendance will be recorded as performing official duties at the official duty station or alternative worksite, as applicable. To verify attendance at the alternative worksite, Department officials may periodically contact the RN and/or permit RN self-certification. To help ensure that RNs on telework arrangements work as scheduled, Department officials should focus on the completion of work products, as applicable.
- Q. Based on work requirements, the Department may arrange telework schedules to allow RNs to work on a telework arrangement one day per pay period, one day per week, or as often as five days per week. Department officials may also approve alternative work schedules for RNs on telework arrangements when doing so is consistent with work requirements. Consistent with VA Handbook 5011, Department may change telework schedules, including an alternative work schedule which is part of the RN's telework agreement, normally with a two week notice to the RN.
- R. With regard to emergency situations that may impact official duty stations and/or alternative duty stations, the following rules apply:
  - 1. A telecommuting RN will sometimes, but not always, be affected by an emergency requiring his/her official duty station to close. When both the official duty station and the alternative duty station are affected by a widespread emergency, the Department should grant the telecommuting RN excused absence as appropriate.
  - 2. When an emergency affects only the alternative duty station for a major portion of the workday, the Department can require the telecommuting RN to report to his/her official duty station, approve annual leave or leave without pay, or authorize an excused absence.
  - 3. The telework site may be unaffected by emergencies that lead to closings and dismissals at the official duty station. If work can proceed at the alternative duty station, then the RN may not be excused from duty just because other employees elsewhere have been dismissed or excused from reporting.

- S. When the Department determines exigent circumstances exist (for example, a RN's sudden illness precluding work at the official duty station), the Department may institute an ad hoc telework arrangement without completion of required documentation. Ad hoc arrangements should only be instituted to assist RNs and management in unforeseeable and unavoidable emergency circumstances, and to ensure improvement of services to Veterans, increase productivity, recruit and retain RNs, and improve their quality of life. After effecting an ad hoc arrangement, a telework agreement should be completed at the earliest possible opportunity. Ad hoc telework can also be done on an occasional, episodic or short-term basis. These situations include, but are not limited to; specific projects, reports or short-term assignments. Such situations may occur throughout the year or be a one-time event.
- T. Expenses and Equipment
1. The Department may issue and/or pay for equipment, software, equipment maintenance, and repair based on the availability of funds and equipment. The decision to purchase or provide Government issued equipment is discretionary on the part of the Department.
  2. When needed, the Department may pay expenses associated with working at home such as: pens, paper, printer cartridges, printer, phone charges (long-distance and other); and the cost of computers, fax machines, computer software, modems, and equipment maintenance and repair.
  3. The RN will incur the cost of utilities associated with working at home.
- U. When acting within their official capacity, RNs on telework arrangements are covered under the Federal Tort Claims Act and the Federal Employees Compensation Act. RNs are required to submit reports of OCWP injury/illness consistent with facility policy.

## ARTICLE 19 CONTRACT RNS

### **Section 1: General**

- A. This Article is subject to 38 USC 7422. It is not intended to require Union involvement in day-to-day staffing decisions or formal bargaining over matters excluded from bargaining under [38 USC 7422\(b\)](#) or 5 USC Ch. 71. When the use of Contract RNs causes a change in working conditions of bargaining unit RNs, which triggers a duty to bargain under the Statute, the Department will bargain as appropriate.
- B. It is the responsibility of the Department to provide safe, appropriate, high-quality health care to Veterans, and well-qualified, dedicated and properly oriented RNs are important in fulfilling the Department's mission. The Department is authorized to use Contract RNs to meet mission needs. However, the Department must manage Contract RNs just as it must manage nursing services and RNs who are permanently employed by the Department.
- C. When the Department determines the need to establish a contract for RNs, NNU will be notified.

### **Section 2: Orientation and Competencies**

The Department will maintain a policy(s) regarding the hiring, including pre-employment requirements and utilization of contract employees, which include(s) Contract RNs.

## **ARTICLE 20: CALL CENTER**

- A. The primary purpose of monitoring call center conversations is to ensure complete and accurate information is courteously provided to the customer, to retrieve performance data, and to determine training requirements.
- B. The Department and NNU agree that data collected from the call center system should not be used as the sole source for evaluating performance or proposing discipline. This section does not prevent the Department from taking appropriate disciplinary action under 5 USC 7106. The data may be used to support appropriate disciplinary action when such information is reliable and/or used in conjunction with additional evidence analysis.
- C. The Department is not currently using call center monitoring for timekeeping purposes. The Department will notify NNU and meet all statutory bargaining obligations prior to changing this practice.
- D. The Department will notify the RN when monitoring data has been collected for the purpose of evaluating performance. If the monitoring data is actually used for evaluating performance, the RN and NNU, upon written request, will receive a copy of the data.



## ARTICLE 21: UNIFORMS, APPEARANCE AND PROFESSIONAL IDENTIFICATION

### **Section 1: Uniforms & Appearance**

- A. When a duty to bargain is triggered under the Statute by any changes to the uniform and appearance policy, the Department will negotiate with NNU at the appropriate level.
- B. If there is an existing local Department policy that provides a different number of uniforms than provided in this Article, those amounts will not be changed.
- C. If there is a question as to whether a RN is adhering to the uniform and appearance policy, a Department official will make a determination. If the RN disagrees, they may seek NNU representation. The Department will discuss the matter with the NNU representative, upon request.
- D. In various work settings at each facility, uniform requirements may vary based on the clinical environment (i.e. psychiatry, home health, etc.). The requirements are determined by local facility policy.
- E. RNs will remain in compliance with safety and infection control guidelines in order to maintain a safe work environment for patients and staff.
- F. When the Department requires a RN to change into a uniform after the RN arrives onsite, the RN will be provided up to 10 minutes at the beginning and end of a tour for the RN to change clothes. In addition, RNs will be allowed a reasonable amount of time to change clothes when their clothing becomes soiled.
- G. Each RN will present a clean, well-kept, and professional appearance.
  - 1. Work uniforms, whether provided by the RN or by the Department, will be appropriate and safe for the work environment.
  - 2. Footwear should be appropriate and safe for the patient care environment and in compliance with infection control policies and safety requirements.
  - 3. When the Department does not provide uniforms, RNs will be provided with a uniform allowance in accordance with [VHA Handbook 1850.04](#).
  - 4. When the Department issues uniforms, the Department will be responsible for their maintenance.
  - 5. RNs who normally work in non-uniform work areas will be temporarily provided a suitable uniform when placed on a float or detail to an area where a uniform is required. If the RN is temporarily reassigned to an area that requires uniforms, the Department will coordinate a uniform allowance or provide uniforms, as appropriate, for the duration of the temporary assignment.
- H. If it is determined by the Department that a RN is in violation of the uniform and appearance policy, a temporary suitable uniform may be loaned to the RN instead of sending him/her

home to change clothes. Failure to follow the uniform and appearance policy may lead to discipline.

- I. RNs who are issued uniforms by the Department will be provided with uniforms of proper size and fit for the RN.
- J. RNs who are issued uniforms will be issued a suitable number to allow for laundry turnaround, normally five complete sets of uniforms. If scrub jackets are required by the Department, RNs will be issued a suitable number to allow for laundry turnaround, normally two scrub jackets. These numbers may vary for RNs who do not work full-time.
- K. RNs who do not normally wear uniforms but work in a clinical setting will be issued, upon request, a suitable number of lab coats to allow for laundry turnaround, normally four lab coats. This number may vary for RNs who do not work full-time.
- L. When available at the facility, a RN will be loaned an available uniform when his/her uniform is soiled during his/her tour of duty. This loan will be obtained by the appropriate Department official or by the RN with supervisory permission and will be returned within three working days.
- M. NNU has the right to distribute buttons, pins, etc. that solely identify NNU affiliation, for use by RNs in areas of the hospital where other buttons, pins, etc., of a similar size are allowed.
- N. Additionally, RNs may wear local and nationally developed Union buttons, pins, etc., addressing nursing issues and concerns of the Union on their uniforms. NNU will provide the Department a preview copy of the buttons, pins, etc., at least three business days in advance, prior to distributing the buttons, pins, etc., to the RNs. Patient receptivity will be considered when developing messages. The Department retains the right to approve or disapprove distribution.
- O. At local facilities where NNU scrub tops and/or nurse uniforms with the NNU insignia have been permitted in the past, the parties may continue this practice. At facilities where such a practice does not exist, the parties may discuss the option to use NNU scrub tops and/or uniforms that solely identify NNU affiliation. In either instance, the scrub top and/or nurse uniform must meet the local uniform and appearance policy.

## **Section 2: Professional Identification**

- A. Name badges or identification cards must be worn according to Department policy.
- B. Personal Identification Verification (PIV) cards or equivalent must be worn. The RN or Nurse Practitioner designation will be on all PIV cards.
- C. Currently, RNs are not charged for damaged, lost or stolen PIV cards. RNs will not be disciplined for the accidental loss or damage to a PIV card. This is not intended to prevent discipline for the intentional misuse of a PIV card. If Department policy is developed addressing replacement costs or loss of PIV cards, any such policy will be sent to NNU prior to issuance for appropriate bargaining. The Department will meet its statutory duty to bargain over any charges for replacing PIV cards.

- D. RNs who have been issued a PIV card but occasionally forget to bring it to work may be issued a temporary badge after presenting appropriate picture identification, such as a driver's license. A RN who fails to bring his/her PIV card to work for three or more consecutive days may be required to obtain a replacement PIV card. RNs will not be charged for the temporary badge or replacement PIV card until a VA policy is developed and the Department has met any statutory duty to bargain.
- E. RNs will be provided appropriate PIV applicant training on duty time.
- F. Procedure for providing RNs controlled access to secured areas will be determined locally.
- G. Currently, the Department does not use the VA PIV card as a time card. The Department will bargain any changes for the use of a PIV card for recording a RN's time and attendance when a duty to bargain is triggered under the Statute.
- H. When name badges or identification cards are worn around the neck on cords, lanyards or badge holder devices, those devices will have a safety breakaway feature so that the RN is at no risk for choking should the device be pulled accidentally or intentionally in the workplace.
- I. RNs may wear appropriate pins and/or buttons that identify them as Department employees or reflect recognition by the facility. Such pins or buttons will not obscure the view or function of name badges or identification cards and will comply with applicable laws and safety considerations.

## **ARTICLE 22: VACANCY ANNOUNCEMENTS**

### **Section 1: General Provisions**

- A. A vacancy is defined as an opening for a position within the bargaining unit presently unfilled including newly created positions, whether temporary or permanent, as well as positions currently filled but anticipated to be open in the future.
- B. The Department retains the right to decide whether to fill a position, to determine qualifications for positions to be filled, to determine the area of consideration, and to make judgments as to RN qualifications.
- C. The Department recognizes that the announcement of a RN position can enhance retention and career mobility and allow for RNs to gain additional experience. Although the Department is not required to announce all vacant RN positions, the Department will announce RN positions. When a vacant local bargaining unit position is announced, it will be made available to all RNs on bulletin boards or by computerized announcements. When the position is announced, the posting and application period will run simultaneously for a minimum of 10 calendar days.

### **Section 2: Vacancy Announcement**

The notice of a job vacancy should contain the following information:

- A. Position title
- B. Unit or service or department of assignment
- C. Description, role, function and qualifications
- D. Educational and experience requirements
- E. Tours of duty, if specific
- F. Anticipated date the vacancy will exist, if in the future
- G. Nature of position-permanent/temporary, full-time or part-time, float or relief
- H. The closing date of the announcement

### **Section 3: Vacancy Procedures**

- A. The Department will accept and consider NNU comments on posted vacancy announcements.

- B. NNU may make recommendations for criteria to be used for all newly created RN positions. The Department will provide draft position announcements for the newly created positions to NNU which may submit comments within 48 hours of receipt.
- C. Vacancy announcements may be advertised simultaneously internally and externally, and should contain the same qualifications. The Department is encouraged to give internal RNs first consideration when filling bargaining unit positions.
- D. RNs will have an opportunity to apply for a posted vacancy. Applicants that are interviewed for a job vacancy will be asked the same questions related to the job and past experiences as indicated in the vacancy announcement. The RN will apply for positions as indicated in the announcement.
- E. If the Department determines that two or more RNs are equally qualified and competent for a position, the most senior RN will be selected.
- F. Shadowing consists of up to a four-hour observation period during which the RN will shadow/observe another RN on the unit for which he/she has been selected. This will allow the RN selectee to make an informed decision regarding the new position prior to acceptance. When requested by a RN, he/she may be allowed to shadow. This experience will be arranged by the supervisors of the affected areas.
- G. All applicants will be notified of the selection or non-selection in writing. All non-selected applicants will be given the opportunity to discuss with the selecting official (or designee) how he/she can improve his/her chances for selection in the future. NNU will be notified of the selection at the same time as the selectee(s) and may share such information with bargaining unit RNs.
- H. When a vacancy is filled internally, efforts will be made to make the transfer within 60 days of the decision. If the RN cannot be moved within 60 days the Department will provide a firm move date with the expectation that the move will occur in the next 30 days. The intent is to move the RN to the new position as soon as possible.
- I. If available, NNU local units will receive reports of transfers, gains, losses and name changes as the report is generated with the expectation that it will be done at least monthly.
- J. The Department will inform NNU in advance of new RNs entering onto duty for orientation.

## **ARTICLE 23: PROFESSIONAL DEVELOPMENT AND EDUCATION**

### **Section 1: General**

- A. The provisions of this Article are intended to be consistent with 38 USC 7422.
- B. Nursing professional development is the lifelong process of active participation by RNs in learning activities that assist in developing and maintaining their continuing competence, enhancing their professional practice, and supporting achievement of their career goals. The Department and NNU agree on the following principles:
  - 1. Lifelong learning is essential to maintain and increase competence in nursing practice.
  - 2. Continuing nursing competence is essential to the provision of safe, quality nursing care.
  - 3. The public expects continued professional competence throughout the RN's career.
  - 4. Professional nursing competency is definable, measurable, and quantifiable.
  - 5. A variety of educational options to meet the diverse needs of the professional RN may include, but are not limited to: academic education, specialty and nursing certifications, experiential learning, consultation, teaching others, professional reading, distance learning, research, and self-directed educational activities.
  - 6. Educational programs and offerings will reflect changes and advances in nursing practice, health care delivery systems and technology, and consumer demographics.
- C. It is agreed that it is the responsibility of the Department to improve clinical efficiency through the professional growth and development of RNs. Toward that end, the Department agrees to provide appropriate orientation, training programs, staff development and continuing and academic education programs for RNs.
- D. The Department acknowledges the role of the RN in preparing, leading and delivering educational programs to enhance patient care and maintain professional credentials. To support this end, Department supervisors will work with RNs to allow for a reasonable amount of on-duty time for RNs providing training to allow for preparation of in-services and other educational programs.
- E. The Department recognizes the RN's need to access the Internet and other resources for clinical and other job responsibilities. In addition, RNs will have access to the Internet for nursing practice, related research and career development.
- F. The Department will provide local resources that support career development and education, including but not limited to: access to each facility's general and medical library resources and educational programs for using technology-based learning. Access to the resources not located on the unit will be with the permission of the supervisor if the RN is on duty. Department supervisors will work with RNs to allow for such opportunities. The Department agrees to keep RNs informed of training and reimbursement opportunities.

- G. The Department will strive to offer in-service education on all tours. If in-service education is not available on all tours, the Department will endeavor to offer accommodations as applicable for attendance.
- H. Should the Department offer Educational Programs for RNs via computer or other technology for which an RN requires assistance, the Department shall provide such assistance.
- I. Each October the Department will announce education programs which will enhance career development and potential academic growth. The October announcement time may be adjusted locally based upon changes in programming. Should the Department fail to provide the information, NNU will provide the Department with one reminder message and the Department will immediately provide the information. Information regarding new or changed educational programs will be distributed as soon as practicable.
- J. It is the personal and professional responsibility of each RN to maintain his/her licensure requirements.

## **Section 2: Continuing Education and Training**

### **A. Definitions:**

- 1. Academic education consists of courses taken for undergraduate or graduate credit in an institution of higher learning, whether via traditional or distance learning, that may lead to a degree or a certification upon completion.
- 2. Continuing education refers to systematic professional learning experiences designed to augment the knowledge, skills, and aptitudes of RNs and therefore enhance contributions to quality healthcare and their pursuit of professional career goals.
- 3. Staff development is a directed process that promotes professional practice and continuing competence through assessment of needs, program planning and evaluation.

### **B. Mandated training and training to meet local requirements specific to a position will be provided to all RNs.**

- 1. In addition to mandatory education topics, the Department will provide in-service education and opportunities for professional continuing education consistent with budgetary constraints. RNs will be encouraged and permitted to attend such offerings on a fair and impartial basis (i.e., consistent with merit factors required by applicable law, rule or regulation). The Department supervisors will work with RNs to allow for such opportunities.
- 2. All bargaining unit RNs can request funding for training and the Department will strive to allow maximum training opportunities.

### **C. Mandated training will be on duty time and the Department will pay all costs.**

- D. The Department will encourage RNs to further their academic education. Managers are encouraged to work with the RN to develop options, such as flexible work schedules, that will accommodate the RN's academic needs.
- E. Upon request, RNs may be granted Authorized Absence (AA) in order to participate in workshops and attend educational programs. The Department will fully consider requests for AA or Leave Without Pay (LWOP) and, where appropriate, per diem expenses, travel and fees for RNs to attend educational courses, lectures, seminars, courses of instruction, etc. RNs will follow the local process for requesting funding and AA.
- F. Educational announcements (both internal and external) will be distributed to all RNs manually or electronically generally two months in advance, or as soon as practicable, and shall include subject, time, date, location, amount of credit (time) if offered, and cost (if any).
- G. The Department will maintain a record of training.
- H. RNs may access programs presented by the Department. Copies of reference materials including, but not limited to: the VA Formulary, Medical Dictionary, Pharmacy Reference, policy and procedure manuals, shall be available on each work location, either electronically or in hard copy.
- I. The NNU will have representation on appropriate local education-related committees impacting bargaining unit RNs. Additionally, NNU will be invited to participate in related national committees, as appropriate.

### **Section 3: Competencies**

- A. In accordance with VA policy, RN competence will be assessed and validated during the orientation process. This orientation will specifically address aspects of performance in accordance with the RN's functional statement.
- B. The Department will ensure ongoing assessment of RN knowledge, skills and abilities, necessary to assure continued competence in the workplace.
- C. The Department will support and encourage continuing education and training required to allow RNs to practice nursing competently. Such support may include, but is not limited to the following:
  - 1. Involving practicing staff nurses and NNU in identification and development of facility-wide and unit-based RN competency needs.
  - 2. Soliciting input from practicing staff RNs and NNU into ongoing evaluation/updating of staff RN competencies.
  - 3. Ensuring that RN competencies are within the scope of applicable State Nurse Practice Acts, VA regulations and laws.
  - 4. Ensuring that RNs are familiarized, trained and have supervised practice with demonstration/return demonstration on all new equipment used by the Department. If the RN is not competent with an assigned task, using certain equipment, or other



technology that is introduced, he/she will be afforded a reasonable amount of time for review and training as determined by the Department.

5. Ensuring that competencies are clearly written and clearly communicated to all affected RNs, and document the RN's completion of competencies.
6. Providing a copy of current facility-wide and unit-based competencies to the local NNU bargaining unit.

#### **Section 4: Orientation**

- A. The Department will provide orientation for all new RNs upon their entrance on duty and upon reassignment to a different position/location or area. As needed, this orientation will include clinical requirements and competencies specific to the area of assignment.
- B. The Department will use experienced RNs as preceptors and mentoring concepts as a component during RN orientation. It is expected that the RN will work closely with the preceptor and when possible management will assign the orienting RN to work the same schedule as the preceptor. NNU and the Department agree that continuity during orientation is of upmost importance to ensure a competent, independent and well qualified nursing workforce to ensure the highest quality of patient care.
- C. RN expertise develops from novice to expert through stages based on experience. (For informational purposes only see Appendix B) NNU and the Department recognize the importance of a quality orientation and that RNs have varying backgrounds and levels of experience requiring a specialized orientation process. The orientation period will be individualized in length and scope based on the RN's needs in collaboration with the RN, the RN preceptor and the Nurse Manager. Orientation is finished when the orientation checklist is completed.

#### **Section 5: Career Development Program**

- A. The Department encourages RNs' efforts in enhancing and developing their professional careers, and will provide a career development program consistent with budget capabilities. For those RNs interested in career development a Personal Development Plan (PDP) or its equivalent should be developed in conjunction with their supervisor/preceptor.
- B. Participation will be voluntary and non-participation will not adversely impact the RN's proficiency rating.

## **Article 24: Nurse Professional Standards Boards (NPSB)**

### **Section 1: General**

- A. This Article is subject to the provisions of 38 USC 7422. The NPSB is a peer review process which is excluded from collective bargaining. Procedures for these boards are governed by VA Handbook 5005 and VA Handbook 5021. ([VA Handbooks 5005/5021](#))
- B. The VA Nurse Qualification Standards (NQS) define the performance, experience and education requirements for a RN to be appointed, advanced, and promoted within the VA. The performance of RNs will be evaluated using the NQS. This process is governed by VA Handbook 5005 Part II Appendix G-6.
- C. NNU and the Department agree that the provisions of this Article include recommendations for promotions, disciplinary board actions or retention. These recommendations are to be made equitably and in a consistent manner. The NPSB is a recommending body only and will forward all recommendations to the Executive Level for approval.
- D. The NPSB represents a peer review body, which compares each RN's performance, education and experience against professional standards and guidelines.

### **Section 2: Nurse Professional Standards Boards**

- A. On an annual basis, membership of the NPSB will be reviewed. NNU may recommend bargaining unit RNs for appointment to the NPSB. Such appointments are made without regard to bargaining unit membership or other affiliations. RNs appointed to the NPSB must divest themselves of their identity with the particular facility at which they are employed, and their labor union, and must become the representative of the Secretary of the VA.
- B. The Department will publish the membership of the NPSB to include the dates of appointment, the term of the appointment and the projected schedule of board meetings on an annual basis and provide a copy to the local NNU. The Department should publish this information on their local websites. The membership of the NPSB will be provided to the RNs annually and as changes are made.
- C. The function and composition of local NPSBs will be in accordance with VA policy, which sets the procedures by which RN members of the NPSB are recommended by the Nurse Executive and appointed by the Medical Center Director.
- D. All RNs will be educated on the role and responsibilities of the NPSB during face to face training upon their appointment. Additionally, training on the NPSB will be done on an annual basis. The Department will provide additional education and/or training on the NPSB as changes or updates occur. [http://vaww1.va.gov/nursing/npsb\\_rsrc.asp](http://vaww1.va.gov/nursing/npsb_rsrc.asp)
- E. Additional training on the NPSB may be provided by NNU. The Department will consider RN requests for authorized absence to attend these educational sessions. The Department may request additional information regarding the content of the training such as agenda to be presented if not previously provided.

- F. When a RN is the subject of a Title 38 Disciplinary Appeals Board (DAB), the RN is entitled to designate a personal representative of their choice, who may be from NNU. The NNU representative must protect the confidentiality of any information to which they have access in connection with the DAB hearing. A representative in a DAB hearing may speak, clarify, ask questions, and present the interests of the RN for whom they represent. However, the representative may not unnecessarily interfere with or delay the proceeding.
- G. When a RN is the subject of a Summary Review Board (SRB), the RN is entitled to a representative of their choice, provided the choice would not create a conflict of interest. The NNU representative must protect the confidentiality of any information to which they have access in connection with the SRB hearing. A representative in a SRB hearing may speak, clarify, ask questions, and present the interests of the RN for whom they represent. However, the representative may not unnecessarily interfere with or delay the proceeding.
- H. If the RN does not choose to have NNU representation, NNU will be permitted to have a non-participatory observer present at the DAB. The NNU observer may attend the hearing only during the RN's presentation. The observer must protect the confidentiality of any information to which they have access in connection with the board hearing.
- I. The Department will notify each RN of the recommendations of NPSB action in writing. The notice will include reconsideration and/or appeals processes, if appropriate. Additionally, the rating official or designee will conduct in-person meetings with the RN regarding the board action.
- J. The Department retains the discretion to determine when RN boarding will take place. Generally, RNs Grade I and II will be boarded annually at their anniversary date and RNs Grade III will have a onetime review for scope and complexity for promotional consideration to Nurse IV.
- K. The Department should use the notification letters as provided by the Office of Nursing Services (ONS) website to communicate board actions. If the board does not recommend promotion, the notification letter will include the specific elements not met, the reconsideration and/or appeals processes, the projected date of the RN's next scheduled boarding. Anytime the boarding date is extended beyond one year an explanation will be provided in writing.
- L. The board chair will not share any board information regarding the recommendation until the approving official signs off on the board action. Board action discussions will be relative to the specific individual in question.

## **ARTICLE 25: NURSE QUALIFICATION STANDARDS (NQS) AND PROFICIENCY REPORTING**

### **Section 1: General**

This Article is subject to the provisions of 38 USC 7422. The information in this Article is subject to the policies and procedures outlined in VA Handbook 5005, Part II and VA Handbook 5013, Part II (<http://vaww1.va.gov/ohrm/HRLibrary/Dir-Policy.htm>). Additional Nurse Qualification Standards and proficiency information is found at the Office of Nursing Services website: <http://www.va.gov/nursing/>.

### **Section 2: Nurse Qualification Standards (NQS)**

- A. The VA Nurse Qualification Standards define the performance, experience and education requirements for a RN to be appointed, advanced, and promoted. The performance of RNs will be evaluated utilizing the NQS.
- B. Each RN will be oriented and provided a copy of the NQS upon appointment and subsequently upon request.

### **Section 3: Proficiency Reporting**

- A. There will be a continuous learning environment for RNs in preparing for and writing proficiency content related to the NQS and professional requirements for performance.
- B. All newly-appointed RNs will be educated in the proficiency requirements to include processes and procedures for providing input into the evaluation process. This initial training will be face-to-face. Annual training on NQS and proficiencies will be provided. Additional ongoing education for all RNs is available on the Office of Nursing Services website ([ONS](#)).
- C. Upon appointment, advancement, promotion and upon request, each RN will be provided a copy of performance requirements, such as competency checklists and functional statements for the position they occupy. All RNs will receive updated copies of promotion and special advancement criteria when changes are made.
- D. Each RN will be notified 90 days prior to the due date of the proficiency. RNs have the right to provide input into their proficiency for the rating official's consideration and incorporation where appropriate. The Department will provide copies of the NQS for their grade and career path for use as a reference. If the RN requires additional training prior to completion of the evaluation, a request will be made to the rater or the approving official. Input into the evaluation should be completed and provided to the rater no less than 45 days before the proficiency is due. Failure of the RN to provide input should not delay the completion of the proficiency report.
- E. Each RN has the responsibility to participate in the development of their professional goals.

- F. The Department and NNU agree that in order to accomplish the mission of the Department, every effort will be made to provide timely proficiency reports to ensure professional growth and/or resolve performance problems.
- G. The Department will follow its policy concerning the timeliness or and procedures for notification to RNs and completion of RN proficiencies. The Department recognizes the importance of having proficiencies completed by supervisors trained in the Department's proficiency rating system.
- H. The Department recognizes the importance of having proficiencies submitted to the NPSB in a timely basis consistent with VA regulations.
- I. All RNs will have in-person discussions with their rater by the proficiency due date, so that clear understanding of the areas of accomplishment, professional growth opportunities and goals are discussed. Constructive feedback will be provided to clearly explain the overall rating and performance expectations.
- J. Upon completion of the discussion and review of the written evaluation the RN will have the opportunity to sign the evaluation. Signing the report indicates the RN has seen the report and had an opportunity for discussion. RNs who disagree with the proficiency may provide concise comments in writing to their supervisor to be filed in the eOPF. The RN may decline signing the proficiency report and if so the rater will indicate such on the proficiency report and forward to HR.
- K. Delay of a proficiency report will follow the guidance outlined in the Department policy. If a RN's proficiency is delayed and the RN is later advanced or promoted, the Department will make the individual whole back to the date the change would have taken effect, including back pay and corrected date of promotion. This section is not intended to allow for arbitration or other third party review other than that referred to above.
- L. Upon the request of NNU, the Department will provide a list of all bargaining unit RNs' delayed proficiencies. The report will contain the RN's name, the RN's proficiency due date and number of late proficiencies for that facility.
- M. RNs who demonstrate areas of less than satisfactory performance will be given written counseling which includes direction for improvement. Each RN will be given an opportunity to improve, normally no less than 90 days prior to the proficiency due date. Counseling and follow up to improve the less than satisfactory performance will be completed according to the guidance in VA Handbook 5013, Part II.

## ARTICLE 26: RECOGNITION AND AWARDS

### **Section 1: General**

- A. RNs who make noteworthy contributions in support of organizational goals and objectives should be considered for recognition consistent with local policy and [VA Directive and Handbook 5017](#) or successor.
- B. Definitions:
  - 1. Awards refer to the entire range of rewards available to recognize a RN under the VA Employee Recognition and Awards Program, including cash, non-monetary, honorary, and time-off awards.
  - 2. Cash awards are monetary awards. This type of award may include one-time awards like Special Contribution Awards, Suggestion Awards, On-The-Spot Awards, gift certificates and savings bonds. Special Advancement for Achievement or Performance are awards that may result in an increase to base pay.
  - 3. Non-monetary awards refer to non-cash awards such as certificates and plaques.
  - 4. Honorary awards refer to recognition at a special event, or one of the several types of named awards such as the Secretary's Hands and Heart Award. This category may also include recognition plaques for service awards.
  - 5. Time-off awards are blocks of time-off awarded to RNs without charge to leave. The minimum time-off award is four hours. The maximum amount of time-off that may be granted to any RN during a (12) month period is (80) hours, with no more than (40) hours being granted to a RN for a special contribution.

### **Section 2: Awards Process**

- A. NNU, the Department, RNs, and other employees all have important roles in identifying RNs who may be deserving of recognition and awards. NNU and RNs may provide recommendations concerning awards and recognition to be considered by the Department.
- B. RNs will be encouraged to submit suggestions and to assist in the development and testing of ideas. RNs may request supervisory assistance so that the suggestion is sufficiently described for successful evaluation.
- C. NNU and the Department are encouraged to develop awards and recognition programs through local collaborative processes.
- D. RNs may be granted a one time cash award at the conclusion of the performance rating cycle each year based on their rating of record. These awards are not subject to review and approval by the Nurse Professional Standards Board (NPSB).

- E. NNU may designate a member on the facility awards committee. The committee will review award submissions and make recommendations to the Medical Center Director (MCD). The MCD retains sole authority to decide on awards within his/her jurisdiction.
- F. Awards will be processed in a timely and expeditious manner after they have been approved by the appropriate Department official(s).
- G. Special Advancements for Achievement, Special Advancements for Performance, and Exemplary Job Performance are part of the awards program for RNs.

## ARTICLE 27: SAFETY, HEALTH, AND ENVIRONMENT

### **Section 1: General Duty Clause**

- A. A safe and healthy work environment is highly valued by the Department and RNs. All Department officials and RNs must adhere to high standards of safety, health, and the environment. The Department will investigate and abate workplace hazards and/or provide engineering and administrative controls, material substitution, training and personal protective equipment to reduce RN exposures to recognized safe levels.
- B. The Department is responsible for conducting routine health and safety inspections at all VA facilities and coordinating with the property owners of leased facilities to perform such inspections.
  - 1. NNU will be afforded the opportunity to be an active participant in all health and safety inspections.
  - 2. The Department is responsible for timely investigating and correcting, as needed, all issues found on health and safety inspections at VA facilities.
  - 3. For leased facilities, the Department will work with the owner of the leased facilities to ensure that unsafe or unhealthy working conditions are addressed and/or corrected in a timely manner.
  - 4. If the Department cannot timely correct unsafe working conditions, the Department will take steps to ensure RN safety, which may include assigning RNs to alternative work areas.
- C. When a RN determines that he/she has an unsafe or hazardous condition in the work environment, he/she will immediately report the danger to the appropriate Department official. When the Department receives a report of a potentially dangerous or unhealthful condition affecting RNs, the Department shall notify NNU of the alleged dangerous or unhealthful condition. The Department will promptly initiate appropriate corrective action when an unsafe or potentially hazardous condition is reported.
- D. In the case of imminent danger situations, RNs shall make reports by the most expeditious means available. The term "imminent danger" means any condition(s) or practice(s) in any workplace which are such that a danger exists which would reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through normal procedures ([29 CFR 1960.29\(u\)](#)). The RN has a right to decline to perform his/her assigned tasks because of a reasonable belief that, under the circumstances, the task poses an imminent risk of death or serious bodily harm coupled with a reasonable belief that there is insufficient time to effectively seek redress through normal hazard reporting and abatement procedures. However, in these instances, the RN must report the situation to his/her supervisor or another supervisor who is immediately available.
- E. When NNU identifies or receives a complaint by a RN of a potentially unsafe or unhealthful working condition, NNU will report the complaint as soon as possible to the appropriate Department official. Additionally, NNU has the right to review and/or look into a RN



complaint of potential and/or actual unsafe or unhealthful working conditions and assist the RN in filing a report or initiating a report on the RN's behalf to the appropriate Department official or authority.

- F. While awaiting an inspection and the completion of any repairs resulting from the inspection, the Department may require that the RN perform alternative tasks for which the RN is qualified.
- G. A NNU representative will be given the opportunity to be present during the inspection by the safety and/or health personnel representative. The Department shall investigate all instances where the safety or health personnel have failed to notify NNU of inspections or failed to provide an opportunity for NNU to be present during inspections. The Department shall provide the NNU Local with a written explanation stating the reason(s) for such failure and any corrective actions taken.
- H. If the Department safety or health personnel representative decides a condition does not pose an imminent danger, the instruction to return to work shall be in writing and contain a statement with an explanation as to why the area is deemed to be safe and free of danger. Refusal to perform an assignment after the safety or health personnel representative has deemed it to be safe may result in disciplinary action.
- I. When the Department receives a report that a dangerous, unhealthful or potentially dangerous or unhealthful condition is present at a particular work site, the Department shall notify the facility safety committee and the local NNU Health and Safety Representative of the alleged dangerous or unhealthful condition.
- J. Each Department facility will maintain conditions of safety, health and sanitation in accordance with all applicable laws, regulations and directives. The Department will provide risk assessments and determine the appropriate engineering and administrative controls and guidelines. Upon request, NNU will be provided with a copy of the risk assessment, including but not limited to action plans or interventions.
- K. All health and safety equipment that is determined necessary by the Department for a particular job will be furnished by the Department. RNs may be assigned alternative tasks until the necessary equipment is provided.
- L. If a workplace illness or injury necessitates removal of the RN from their normal work environment pending a final decision by Office of Workers' Compensation Programs (OWCP), a reasonable effort will be made to place that RN in another work environment which makes use of the RN's professional knowledge, skills, and abilities. In accordance with the Details, Floats and Temporary Assignments Article, if a RN is detailed or temporarily reassigned for more than seven days, NNU will be notified.

## **Section 2: NNU Involvement**

- A. NNU, recognizing the importance of safety, health and environment to the well-being and working conditions of RNs, will appoint National Safety Representatives from among its membership. The Department will notify three individuals identified by NNU on national safety issues. The Department will solicit at least one NNU nomination for appropriate national level safety/health/environment initiatives.

- B. A NNU National Safety Representative and one local NNU safety representative from each NNU facility will attend one safety training class per year, either Basic Safety, Intermediate Safety or another VA approved national safety conference at the Department's expense. This includes tuition, travel and per diem, as appropriate. Additionally, NNU may request funding for additional events, which the Department will consider subsidizing based on available travel funds and overall benefit.
- C. Consistent with Department policy, each local facility will develop and/or maintain safety policies and procedures to be observed by all RNs. NNU representatives make valuable contributions when participating in the development of safety and health policies and procedures. The Department will solicit NNU participants in/on taskforces and committees related to this field. NNU retains the right to comment on policies and procedures proposed by the Department and to negotiate where a duty to bargain is triggered under the Statute.
- D. NNU will be represented on the local safety and Environment of Care standing committee(s) in each Department facility, as permitted by Department policy. NNU will be offered representation on all other safety-related committees affecting bargaining unit RNs, both locally and nationally. The NNU representative will have the right to submit agenda items, request evaluation of hazards and represent a NNU member at the RN's request. The NNU representative on these committees will be permitted use of telephones, conference call and videoconferencing facilities when required in support of committee business.
- E. The NNU local safety representative will be afforded the opportunity to participate in health or safety related inspections impacting RNs. NNU reserves the right to jointly submit its own findings or observations for inclusion in the inspection report. Sufficient notice will be provided when management has advance notice or scheduling authority. NNU has the right to submit findings, recommendations and observations to investigators and management, with the understanding that they may or may not be included in the final report or abatement plan if based on unsupported content, as determined by the Department. If an inspection leads to implementation of an abatement plan, NNU will participate in Occupational Safety and Health Administration/Environment of Care committee oversight of such plan.

### **Section 3: Training**

In accordance with Department policy, each facility will provide RNs with safety training annually. All RNs will be provided training and/or retraining, as appropriate, on procedures and equipment, recognized best safety practices and manufacturer recommendations. RNs are responsible for reporting operational and equipment status to supervisors and ensuring safe and proper use of equipment.

### **Section 4: Ergonomics and Safe Patient Handling**

- A. It is the responsibility of the Department to maintain an effective ergonomics program or similar program in order to help control occupationally related cumulative trauma and/or musculoskeletal disorders consistent with [VHA Directive 2010-032](#).

- B. NNU has the right to identify potential ergonomic workplace hazards and request evaluation of a designated workplace and/or workplace equipment.
- C. Safe Patient Handling (SPH):
  - 1. Consistent with VHA Directive 2010-032, it is the responsibility of the Department to maintain a SPH program that protects both RNs and patients.
  - 2. Any lifting equipment should take into account operational and RN needs, physical environment, hazard assessment and injury analysis. In addition, NNU may provide input into the selection and evaluation of patient transfer equipment.
  - 3. Each Department workplace will conduct an ergonomic assessment of its patient transfer program to ensure that it has appropriate staffing, equipment and training. Lifting team programs augment the use of assistive lifting devices and may be considered, where appropriate. Single person lifts in patient care areas will be discouraged. Upon request, NNU will be provided a copy of the ergonomic evaluation.
  - 4. The patient Fall Risk Assessment will be conducted and communicated to affected staff according to established Department policy.
- D. New construction and renovation will take into account the need for SPH and moving equipment.
- E. Consistent with VHA Directive 2010-032, oversight for the Department's SPH program is the responsibility of each local facility's health and safety committee. This includes:
  - 1. Ensuring utilization by the Department of SPH expertise when developing renovation plans, facility projects, and new construction that involve introduction or installation of patient handling equipment; and,
  - 2. Ensuring that appropriate patient handling (lifting) equipment is installed during new construction and renovation construction projects in unit and clinical areas where patient handling occurs.
- F. An effective safety program requires the following from the Department:
  - 1. Completion of a detailed ergonomic evaluation during the design requirements planning process to determine necessary patient lifting equipment and to provide such to NNU upon request;
  - 2. Installation of ceiling-mounted or overhead lift systems, where necessary and feasible; and,
  - 3. Provision of adequate and accessible storage space for portable or floor-based and other patient handling equipment.
- G. The Department normally provides members of the local facility's health and safety committee with employee injury and illness summary reports (OSHA 508 report). Upon request, the Department will provide this report to NNU. NNU has the right to look into and

review injuries of bargaining unit RNs, provide recommendations, and track these injuries by unit, area, and facility consistent with law or government-wide regulation.

- H. NNU and end-user RNs are encouraged to provide recommendations and feedback on equipment for purchase and currently in use for SPH.

### **Section 5: Latex Allergy**

- A. Latex sensitivity constitutes a health risk to patients and RNs, therefore lowering the latex exposure risk is beneficial to patients, visitors and RNs. Latex-related health problems may be minimized by reduction of exposure, appropriate work practices, training and education of staff, monitoring symptoms and substituting non-latex products when appropriate and available.
- B. Each Department facility will provide non-latex or powder-free low latex content products to the extent their usage is appropriate. The Department will strive to reduce the use of latex products and protect at-risk patients and RNs wherever feasible.
- C. If severity of the latex allergy necessitates removal of the RN from his/her normal work environment, the RN will be offered another assignment in accordance with applicable regulations. NNU notification regarding reassignments will be consistent with the Details, Floats and Temporary Assignments Article.

### **Section 6: Occupational Health Program**

- A. Occupational Health is governed by [VA Handbook 5019](#) and the subject of 38 USC 7422. Each Department facility will provide Occupational Health services.
  - 1. When feasible, RNs are responsible for notifying their supervisor of their intent to seek medical treatment in the Occupational Health Unit. When this is not feasible, the RN may report directly to the Occupational Health Unit authorized to render emergency care.
    - a. The RN may obtain emergency diagnosis and initial treatment for injuries or illness that becomes necessary during working hours and that are within the competency of the professional staff and facilities of the Occupational Health Unit. During non-administrative hours, the RN may report directly to Urgent/Emergent Care Departments, where available.
    - b. In cases where the necessary emergency treatment is outside the competency and resources or scope of practice of the health service staff and facilities, conveyance of the RN to his/her physician or suitable community medical facility may be provided at the request of or on behalf of the RN.
    - c. The Department needs to ensure that a determination is made as to whether or not the RN is to be billed for the VA health care received. The RN will be notified as soon as feasible after the billing decision is made.
  - 2. Annual physical examinations will be performed at the request of the RN. In cases where the RN elects not to have an annual physical evaluation, the RN may then choose to

undergo screening tests as are available at the medical facility. Screening tests may consist of blood tests, urinalysis, EKG, and any other special tests as determined by the local facility provider.

3. All medical examinations, tests and/or immunizations deemed essential and authorized/mandated by VA regulations will be provided.
  4. The Occupational Health program is not a substitute for the RN's personal physician. However, if a RN suffers a minor illness or injury, which interferes with their ability to perform their duties, treatment may be provided to relieve their discomfort and enable the RN to remain at work. In an emergency, appropriate care to stabilize and transport the RN will be rendered.
  5. Preventative services, including health education programs and specific disease screening examinations, may be offered when appropriate.
- B. Documentation of any examinations or screenings will be kept in the RN's Employee Medical File (EMF) and will be considered confidential. In accordance with OSHA regulations, and appropriate statutes, RNs may request in writing, to view and/or receive copies of the contents of their EMF, and may submit a release of information request to provide the EMF to their personal physician. The EMF is a VA system of records with disclosure governed by the Privacy Act. RN medical records maintained by the Department must be separately and distinctly secured from any other medical records. OWCP files will be maintained consistent with Department of Labor regulations.
- C. If a RN believes that he/she contracted a contagious, work related illness that may adversely impact patients or other employees, he/she shall notify their supervisor. Additionally, he/she may subsequently report to the Occupational Health Unit and has the right to file a claim for a work related illness. A determination on the RN's claim can only be made by OWCP.
- D. When a RN needs medical treatment while at work, the Department's first concern is to act in a prompt and responsible fashion.
- E. The Department agrees to maintain Automated External Defibrillators (AED) at each VHA facility and work unit. RNs will also have reasonable access to first aid supplies, either on the work unit or at the Occupational Health Unit.

## **Section 7: Exposure Prevention and Management**

- A. The Department will implement programs addressing blood borne pathogens, high risk exposure situations, hazardous material safety data, radiation exposure and tuberculosis (TB) in accordance with OSHA, Nuclear Regulatory Commission regulations and other applicable Federal and VA Directives.
- B. Needlesticks/Other Exposures:
1. Each Department location will establish a system to continuously evaluate the sharps causing injuries in their facilities; sharps which have not yet been replaced with safer

devices; new and existing commercially available engineered devices; and a system for introducing, testing and accepting or rejecting those devices.

2. NNU and bargaining unit RNs will be involved in the selection, evaluation and review of current and new needlestick devices.
3. The Department will use safety devices on all sharps and needles for the protection of the RN consistent with law and government-wide regulation.
4. Every RN is required to report promptly to his/her immediate supervisor either verbally or in writing, in accordance with current regulations:
  - a. All needlestick/sharps accidents occurring on the job;
  - b. All illnesses that may have been contracted as a result of the performance of their duty or exposure to the same.
5. In accordance with Department regulations, each Department facility shall provide appropriate medical supervision and treatment, both preventative and curative, in the event any RN is exposed to any illness or injury in the performance of his/her duty.
6. Universal Precautions must be observed in accordance with Department policy.
7. The VHA facility will provide an exposure management program for occupational exposure to blood-borne pathogens in accordance with law and regulation and current Centers for Disease Control (CDC) Guidelines.
8. Post-exposure evaluation and follow-up will be conducted in accordance with applicable OSHA standards in [29 CFR 1910.1030\(f\)\(3\)](#). The Department shall provide relief as soon as possible to ensure timely treatment.
9. Following a report of an exposure incident, the Department will make immediately available to the exposed RN, a confidential medical evaluation and follow-up in accordance with [29 CFR 1910.1030\(f\)\(3\)](#).
10. In the event of a needlestick or other possible exposure, the Department will not deny or delay any indicated medical treatment merely because the patient involved in the needlestick or exposure refuses to be tested or the patient has not tested positive.

#### C. High Risk Exposure Situations

1. The RN exposed to a patient(s) with an undiagnosed communicable disease will be notified by the appropriate Department official, as soon as the diagnosis is established on a laboratory or clinical basis. A RN who feels he/she has had exposure to a potential transmitter of a communicable disease shall, as soon as possible, notify the supervisor.
2. RNs who are immunosuppressed, have clinical conditions including pregnancy, breastfeeding, or on chemotherapy should discuss their work responsibilities and environment with their supervisor. RNs with documented special needs will be addressed on an individual basis, as appropriate.

3. RN assignments may incur a hazard or high risk exposure, including but not limited to, administering chemotherapy, experimental drug therapies or treatments. The Department will take appropriate steps to protect RNs who deliver such medical care.

#### D. Radiation Exposure

1. RNs working with radiation will be issued and required to wear approved personal protective equipment (PPE) and exposure monitoring devices when the management official responsible for radiation safety determines that such devices and equipment are needed. Results of monitoring badges will be provided to the RN when exposures are out of range or upon the RN's request.
2. RNs who are, or may be, pregnant and are concerned about exposure should immediately report this to their supervisor, who will request that exposure be evaluated by management officials responsible for radiation safety to determine whether the RN should be placed on a limited exposure protocol.

#### E. Tuberculosis

1. RN training, surveillance, and treatment will occur as stated in VA policy in [VA Handbook 5019, Part IV, Section 2](#) and current CDC guidelines and will be at no cost to the RN.
2. Provisions for reading TB skin tests during non-administrative hours will be made by the Department and communicated to all RNs subject to testing at the time of the annual TB skin test.
3. The appropriate Department official shall take medical and public health steps to ensure adequate disposition of active cases of TB and to protect other VA employees and patients.
4. Testing of RNs for exposure or potential exposure to TB will be done consistent with current CDC guidelines and VA policy.
5. RNs will be fit-tested for respirators for respiratory isolation for TB exposure and treatment.

#### F. Pandemic Events

In the event of a declared pandemic event, the appropriate Department official shall take action to address the event, which may include immunization of RNs and family members and the use of appropriate PPE. [Pandemic Plan Website](#)

#### G. Hazard Communication

1. Pursuant to OSHA Hazard Communication Standard ([29 CFR 1910.1200](#)), Material Safety Data Sheets (MSDS) for all hazards, including cleaning materials, medications, and therapeutic agents utilized in the work environment, will be readily accessible in each work area, electronically and/or printed form.

2. The Department has the responsibility to ensure that the hazards of all chemicals used in the performance of RN duties are communicated to RNs. This may include hazard communication education programs and training.
3. RNs will be trained annually, as appropriate, on the handling and disposal of each hazardous chemical.
4. If the Department is made aware that a RN may be or has been affected by a hazardous chemical, the Department will immediately notify the RN.

## **Section 8: Security**

### **A. Work Environment**

1. Each Department facility will provide:
  - a. Security for all RNs on each tour of duty, in the work environment, in common use areas and in areas for parking and approaches to the workplace on Department-owned property. The Department will address the issue of security when leasing space utilized by RNs;
  - b. Facilities for those RNs, both male and female, who are required by the Department to change in and out of uniform; and,
  - c. A safe place to eat on all tours and at all Community Based Outpatient Clinics (CBOCs) and facilities.
2. The Department will make reasonable efforts to provide secure space for placement of purses and wallets in a designated area.

### **B. Parking**

1. All Department grounds and parking areas including CBOCs and any building where RNs ingress and egress to their worksite will be well-lighted, whenever possible.
2. Upon request, the Department will provide escorts, when available, for RNs to cars on site and to any offsite parking locations.
3. The Department will ensure that pedestrian crosswalks from parking areas on VA property are clearly marked.
4. Provisions for parking for RNs is an area for local negotiations.

## **Section 9: Patient Safety Incident Reports**

RNs may voluntarily submit patient safety incident reports and may do so confidentially and without retaliation. The intent of these reports is to encourage anyone who witnesses or experiences an error or close call involving a patient to report it, so that systems improvements can be identified and VHA becomes the safest system for health care.



### **Section 10: Mold**

- A. It is the responsibility of the Department to make the workplace free of mold, to inspect and monitor as necessary, and to take appropriate action to contain and remove mold from any RN work environment.
- B. The Department will notify NNU and affected RNs of any mold found in any RN work environments.
- C. Upon request, NNU Health and Safety Representatives will be given a copy of all tests monitoring mold levels.
- D. Mold abatement plans may include the discontinuance of work or the shifting of the RNs work location. Notice of such abatement action will be provided to NNU in a timely manner.

### **Section 11: Asbestos**

- A. It is the responsibility of the Department to address the discovery of airborne asbestos in the workplace, to inspect, monitor as necessary and take appropriate action.
- B. The Department will notify NNU and affected RNs of any asbestos found in any RN work environments.
- C. The Department will notify NNU prior to initiating asbestos removal or containment projects.
- D. Upon request, NNU will be given a copy of all tests monitoring asbestos levels and any abatement plans.

### **Section 12: Ergonomic Work Station Design & Work Units**

- A. The Department acknowledges that there are certain ergonomic and environmental factors that can contribute to the health and comfort of RNs. These factors involve the proper design of work stations and the education of managers, supervisors, and RNs about the ergonomic job design and organizational solutions to design.
- B. The Department agrees that RNs should be provided information about ergonomic hazards and how to prevent ergonomically-related injuries. This information could be provided by OSHA Safety and Health Guidelines and other available literature. The Department agrees to provide, to the maximum extent possible, workstations and equipment (including but not limited to chairs, tables, workstations, portable workstations, Bar Code Medication Administration carts, lighting, keyboards, screens, scanners, accessory equipment, and printers) that meet ergonomic design criteria. RNs will be given training on the use of equipment provided, as appropriate.
- C. The Department will strive to meet the ergonomic needs of RNs on the work unit. A RN may request an ergonomic assessment which will identify the RN's needs and the available

modifications. Upon request, the Department will meet with the RN and his/her NNU representative to discuss the assessment and how to proceed.

D. Lighting

1. The Department will endeavor to place computer monitors in work locations to avoid unnecessary glare and allow the use of anti-glare screens, as needed.
2. The Department will provide lighting that is adequate/appropriate for the work setting.

E. Keyboard and Screen

1. Keyboards should be placed on a level and stable surface for normal keying function and be adjustable vertically and horizontally to fit the RN's height. The keyboard and screens will be able to move out of the way for patient care duties and allow line of sight to the patient while charting.
2. Keyboards, in combination with their supporting surface, chairs, carts and other furniture shall permit RNs to adopt and maintain neutral wrist positions.
3. Screens should be easily adjustable for brightness and field of vision of the RN.
4. RNs engaged in continuous computer and/or keyboard use are encouraged to engage in other work duties on a periodic basis (e.g. hourly) to avoid unnecessary eye or wrist strain.

F. Printers

The Department will endeavor to place printers in a manner so that RNs do not have to excessively bend, stoop, or reach to remove printed materials.

**Section 13: Emergency Preparedness**

The Department shall have an emergency preparedness plan. This plan will publish the chain of command, which will identify a member of the Department who will be physically present for RN direction during all scheduled work hours in each installation. The plan will also cover RN procedures in the event of snow and/or blizzard, fire, earthquake, bomb threat, tornado, flood, hurricane, weapons of mass destruction, or similar locally or nationally declared emergencies. The Department will conduct evacuation drills, normally conducted on a quarterly basis.

**Section 14: Smoking Cessation Program**

- A. The Department and NNU are committed to making smoking cessation programs available to each and every RN who wishes to participate in them.
- B. The Department will provide nicotine patches or other appropriate medications, in addition to counseling, at no cost to the RN pursuant to [VHA Directive 2010-041](#), Smoking Cessation Benefit for VHA Employees: No-Cost Provision of Nicotine Replacement Therapy.

- C. RNs who wish to stop smoking, but who are unable to successfully complete a smoking cessation program, or who have quit smoking but are experiencing related difficulties, may seek additional assistance through Employee Assistance Program (EAP). RN participation in assistance or cessation programs is strictly voluntary.

#### **Section 15: Wellness Program**

- A. NNU and the Department agree that recognizing, minimizing, and coping with stress are essential parts of RNs' wellness. Local facilities should consider making stress reduction a part of their wellness program, which can include training and education on stress reduction.
- B. RNs who feel they are experiencing harmful levels of job-related stress may contact EAP.
- C. At any local facility where a wellness committee or subcommittee exists or is subsequently established, NNU may serve as a member on such committee.
- D. The Department and NNU support wellness and initiatives that focus on various activities, which may include: physical activity, weight management, smoking cessation, stress management, healthy lifestyle classes, and nutrition.
- E. VHA facilities have the option to allow RNs access to exercise facilities when it does not conflict with patient use.

#### **Section 16: Use of Insecticides/Chemicals**

- A. The Department is responsible for the safe use of insecticides and chemicals in and around RN work areas. This may include the use of paint, carpet glue, HVAC cleaning agents, and similar construction or maintenance chemicals.
- B. Whenever such chemicals are used in the work environment, NNU and RNs will receive advance notice.
- C. If a RN has special health care needs which may be affected by the use of certain insecticides and/or chemicals, the RN should immediately notify their supervisor and the Department will work with the RN to address their health needs.

## **ARTICLE 28: WORKPLACE VIOLENCE PREVENTION**

### **Section1: General**

- A. The Department is responsible for maintaining an Occupational Safety and Health (OSH) program. This includes:
  - 1. Providing safe and healthful work environments for all RNs;
  - 2. Complying with OSH requirements contained in Federal laws, regulations, executive orders, and VA policies;
  - 3. Prohibiting reprisals against RNs who exercise their rights under the VA OSH program.
- B. [VA Directive 7700](#), [VHA Directive 7701](#), and [VHA Handbook 7701.01](#) or successor document, establishes the Department's workplace violence prevention policy.
- C. For informational purposes only, workplace violence such as threats of violence, assault, physical or emotional injury, lateral violence, and non-physical violence such as workplace bullying may include any incidents in which an individual is threatened, verbally or physically assaulted, harassed, injured, or killed.

### **Section 2: Workplace Violence Prevention**

- A. Workplace violence is an occupational and security issue as well as a potential criminal issue and is not tolerable in the Department.
- B. The Department will develop, implement and maintain workplace violence and abuse policies. Where not currently in existence, the Department will:
  - 1. Develop and implement policies and procedures for the awareness and prevention of violence or potential violence and reporting of same including but not limited to; training, environmental design, and emergency response based on the local hazard analysis and the Occupational Safety and Health Administration (OSHA) Guidelines.
  - 2. Develop training for RNs on the appropriate process for reporting and documenting workplace violence. This process will minimally include notification of the immediate supervisor, Risk Management, VA Police and NNU. The Department will take action to stop all workplace violence immediately.
  - 3. Provide risk assessments and recommend the appropriate engineering and administrative controls and guidelines to local management. NNU may request to be included in a facility's risk assessment team. This request will be approved unless NNU is a subject of the complaint. Upon completion of the assessment, NNU can request a copy of the team report.
  - 4. Provide training programs on violence assessment, prevention and verbal de-escalation, and reaction to violence for all RNs.

5. Take immediate action to investigate when a RN reports bullying, harassing, and any other negative behavior that violates a RN's right to a safe work environment to the Department.
  6. Report any injury or illness to the appropriate agencies and provide the affected RN(s) with medical and psychological services consistent with Federal law, rule, and government-wide regulation.
  7. Assure that all RNs have the right to police protection while on VA property. RNs with protective orders may provide a copy to VA Police for its records. The Department will abide by and enforce the terms of such protective orders in which they have jurisdiction.
  8. Assure that all incidents of workplace violence will be reported to the appropriate facility committee for review and appropriate intervention.
- C. NNU will have a designated member on committees or programs associated with workplace violence prevention. Participation in such committees or programs will be on official time.
- D. RNs are required to notify VA Police and Security of any suspicion of weapons on Department property.
- E. All Department grounds and parking areas including CBOC and any building where RNs work will be well-lighted whenever possible. Upon request, the Department will provide escorts, when available, for RNs to cars on site and to any offsite parking locations.
- F. Subject to law, rule, and regulation, the Department will provide communication devices to RNs whose job duties require work outside of the facility.
- G. Upon request, affected RNs will be provided with copies of any documents relating to any incident of workplace violence whether the RN is the victim or a witness of the incident, subject to law, rule, and regulation.

## ARTICLE 29: INVESTIGATIONS

### **Section 1: General**

- A. The term investigation in this section covers routine fact findings and preliminary inquiries by supervisors and other Department officials. The Department has the authority to conduct a formal investigation consistent with [VA Directive 0700](#) and [VA Handbook 0700](#) and Section 2 of this Article.
- B. Consistent with the RN Rights Article, Section 4 and pursuant to 5 USC 7114(a)(2)(b) (Weingarten), in any examination of a RN by the Department (or any agency acting as an agent of the Department) in connection with an investigation, the RN has a right to NNU representation if he/she reasonably believes that the examination may result in disciplinary action and NNU representation is requested by the RN.
- C. Consistent with the RN Rights Article, Section 4, at the beginning of any actual examination of a RN in connection with any investigation, the Department agrees to provide notice to the RN of his/her right to have an NNU representative present during the examination, if the RN so requests.
- D. If the RN requests NNU representation, the Department may delay or reschedule the meeting, if necessary, in order to give NNU an opportunity to be present.

### **Section 2: Formal Investigations**

- A. The process and procedure for conducting a formal investigation, known as Administrative Investigation Boards (AIB) (also known as Administrative Board of Investigation (ABI) and Administrative Investigations (AI)), is established under VA Directive 0700 and VA Handbook 0700.
- B. Formal investigations do not include quality assurance documents or information protected by [38 USC 5705](#), such as those listed in [VHA Directive 2008-077](#); investigations into complaints of discrimination conducted by the Office of Resolution Management pursuant to the regulations of the EEOC; investigations conducted by personnel of the Office of the Inspector General or the Office of the Medical Inspector; investigations by VA police officers conducted pursuant to VA Directive 0730 and VA Handbook 0730; or tort claims investigations conducted by, or under guidance from, the Office of the General Counsel.
- C. The Department will give consideration to scheduling a RN's AIB testimony during the RN's tour of duty or temporarily changing the RN's tour of duty. If this is not possible, the RN will be properly compensated for his/her time on duty while participating in an AIB.
- D. It is the responsibility of the Department to ensure that employees performing an AIB are sufficiently trained.
- E. The Department will inform NNU, in advance, if a RN is the subject of an AIB.

- F. Upon request, a RN has the right to NNU representation during his/her AIB testimony. If a RN is the subject of an AIB, he/she will be informed of the right to local NNU representation prior to the questioning of the RN.
- G. If the RN is the subject of the investigation, they may request and receive a written copy of the Charge Letter of the AIB.
- H. Upon request, a copy of the RN's testimony will be provided to the RN and/or the RN's representative.
- I. Once the AIB is certified as complete, the Department will provide written notice to the subject of the AIB and any RNs who gave testimony that the investigation is complete. Upon request, the subject of the investigation will be furnished with a complete copy of the AIB report that is otherwise releasable under the Freedom of Information Act (FOIA).
- J. Consistent with VA Handbook 0700, a RN will be given a written notice of witness obligations, protections and Privacy Act matters prior to the start of the investigation.
- K. The NNU representative in attendance at an AIB is entitled to take an "active role," which generally includes clarifying questions asked of the RN, assisting the RN in producing relevant information, and consulting with the RN. However, the NNU representative may not disrupt or delay the AIB, and may not answer for the RN.

## **ARTICLE 30: SURVEILLANCE AND MONITORING**

### **Section 1: General Provisions**

- A. This Article applies to computer monitoring (including but not limited to keystroke monitoring, email access monitoring, and browser history retrieval), and individual or workplace monitoring (including but not limited to video or audio monitoring, covert surveillance, proximity cards, or other devices or technology attached to or directed at the person, including the ID badge, clothing, or uniform of a RN, or at particular areas where RNs work).
- B. The Department's right to determine its internal security practices under [5 USC 7106\(a\)\(1\)](#) includes the right to determine the policies and practices that are part of its plan to secure or safeguard its personnel, physical property, and operations against internal and external risks. Surveillance of work areas is conducted for safety and security reasons.
- C. The use of covert cameras to achieve internal security objectives is a right reserved to the Department. If the Department uses covert or hidden surveillance during an investigation, and a proposed disciplinary/adverse action results, the RN will be given upon request and at no cost, two copies of the evidence file including any surveillance media utilized to support the charge(s).
- D. There will be no monitoring of RNs in rest rooms, locker rooms, staff lounges, or other areas where a RN would have a reasonable expectation of privacy unless the Department has a reasonable suspicion of work-related misconduct. In such cases, monitoring will be narrowly tailored to the extent feasible to capture the suspected misconduct.
- E. Department authorized employees involved in monitoring and surveillance will ensure the proper handling and release of protected information gathered in any monitoring or surveillance activities. Additionally, the Department will use such information only for legitimate Department purposes.
- F. No provision of this Article precludes the routine security monitoring by the Police Department of hallways, corridors, and entrances in and to the Medical Center.

### **Section 2: Computer/Individual/Workplace Monitoring and Surveillance**

- A. When the Department monitors government information resources, it will do so consistent with VA policy, including but not limited to VA Handbook and Directive 6500 or successor document. Department officials with a need to know may access electronic communications.
- B. This Article shall not preclude the introduction of valid information, incidentally obtained through computer, individual and workplace monitoring to support appropriate disciplinary action.
- C. NNU representatives will be authorized access to and provided any data obtained through computer or workplace monitoring that is reasonably available and necessary to represent bargaining unit RNs pursuant to 5 USC 7114(b)(4).



- D. Where a duty to bargain is triggered under the Statute, NNU will be notified in advance of any new or changed monitoring or surveillance programs and be given the opportunity to bargain as appropriate.
- E. Data collected from current or future systems including, but not limited to; patient call systems, patient bed monitoring systems, hand wash monitors, nurse location monitors, nurse communication system, or Bar Code Medication Administration (BCMA) systems has a main purpose of improving patient care and identifying systems issues. This data may be used to support appropriate disciplinary action when such information is reliable and/or used in conjunction with additional evidence analysis.
- F. A search of a RN's person and personal items owned by the RN, such as handbags, briefcases, backpacks, or other like material, may be permitted only on the basis of reasonable suspicion based on specific, objective evidence and/or reasonable inferences drawn from the evidence of work-related misconduct or criminal activity.
- G. RNs who are the subject of a search for misconduct-related reasons will be afforded their Weingarten rights, specifically the right to Union representation. The Department will take steps to protect the RN's privacy and avoid any undue embarrassment during the search.
- H. If the RN requests Union representation, the search will be postponed until a Union representative can be present. However, when VA Police and Security need to perform an immediate search in order to secure or prevent tampering with evidence, the right to representation will not prevent the Department from proceeding.
- I. RNs will not suffer loss of pay or leave or be disciplined for not reporting to work on time due to delays attributed to nonrecurring security inspections.
- J. Monitoring, surveillance, and/or searches of NNU's office, workplace, lockers, etc., may be permitted only based on specific, objective evidence of workplace misconduct and/or reasonable inferences of evidence of criminal activity. If NNU's office, workplace, lockers, etc., is subject to a criminal search, a Union official will be present. However, when VA Police and Security need to perform an immediate search in order to secure evidence or prevent tampering with evidence, the Department may proceed if a Union official is not immediately available.
- K. In an effort to protect the right of the RN to meet with their NNU representative in private, the entrances or exits to the NNU office(s) will not be monitored, except for reasonable suspicion of criminal activity.

## **ARTICLE 31: NON-DISCIPLINARY, DISCIPLINARY AND MAJOR ADVERSE ACTIONS**

### **Section 1: General**

- A. NNU and the Department recognize that the public interest requires the maintenance of high standards of conduct which will promote quality patient care. NNU and the Department agree that no bargaining unit RNs will be subject to disciplinary or major adverse action except for just cause. The parties further agree to the principle of progressive discipline, which is designed to correct and improve RN conduct rather than impose punishment. Disciplinary or major adverse actions will be taken when other supervisory techniques, including but not limited to, coaching, mentoring and education, have failed to correct a given problem, or would be inappropriate. This is not intended to infringe upon management's right to discipline as appropriate.
- B. Disciplinary and major adverse actions will be taken for such cause as will promote the efficiency of the service. The Department bears the burden of proving by a preponderance of evidence the charges that form the basis for the action.
- C. The provisions of this Article are intended to be consistent with applicable laws, regulations and policy.
- D. Disciplinary and major adverse actions will be impartial, taken with due process, and timely based on the circumstances and complexity of each case. Actions will not be based on gossip or unsubstantiated rumors. When an incident occurs which may result in a potential disciplinary or major adverse action, inquiry will be made into the incident as soon as practicable to obtain the facts and determine what action, if any, to initiate. If action is initiated, it will be taken as soon as practicable.
- E. After determining the facts of the case, the deciding official should consider any extenuating or mitigating circumstances and/or contributing factors surrounding the offense, including but not limited to, the RN's past work record, awards and recognitions, whether the offense was intentional, technical, or inadvertent and potential for the RN's performance improvement. Actions taken should be consistent with penalties for like offenses, with due consideration of any extenuating circumstances.
- F. Officials involved in taking a disciplinary or major adverse action against a RN must observe the prohibitions against improper "ex parte" communications. Department officials may communicate with each other during the decision-making process; however, it is improper for an interested party (e.g., supervisor, proposing official), to pressure the deciding official into making a particular decision. Such communications may support reversal of the action upon appeal.

### **Section 2: Definitions**

For informational purposes only, the following definitions in [VA Handbook 5021](#) are provided:

- A. A disciplinary action is defined as an adverse action, other than a major adverse action, which includes admonishment and/or reprimand based on conduct or performance.
- B. A major adverse action is a suspension (including indefinite suspension), transfer, reduction in grade, reduction in basic pay, or discharge taken against a RN for misconduct or performance.
- C. "Professional conduct or competence" is a question that involves direct patient care and/or clinical competence. Clinical competence includes issues of professional judgment.

### **Section 3: Removal of Disciplinary Actions**

- A. Admonishments and reprimands may be removed from a RN's Merged Record Personnel Folder and/or electronic Official Personnel Folder (eOPF) after a six-month period if the purpose of the discipline has been served. If a RN requests removal of such actions within the above time frames, the Department may comply with such request. If the Department determines that the discipline should not be removed, the deciding official will meet with the RN and NNU upon request to discuss their decision. A grievance may not be filed based on a supervisor's decision not to remove the action earlier than the time frames set forth above.
- B. An admonishment will be removed from a RN's eOPF after two years and a reprimand will be removed after three years. However, in cases of patient abuse, an admonishment or reprimand may be retained in the RN's eOPF indefinitely.
- C. Management should consider the recency of any past disciplinary actions that form part of the basis for the proposed action. Consideration should be given to the use of any actions which are more than three years old, even if they have remained in the personnel folder. They should be examined closely to ensure their relevance to the proposed action before they are used to support such action.

### **Section 4: Non-Disciplinary Actions**

Performance Improvement Plans (PIPs), remedial training, and administrative reassignments are not considered to be disciplinary actions but may be used to support disciplinary or major adverse actions. A written counseling for conduct or performance may only be kept or used to support other personnel actions for up to six months unless additional related misconduct occurs, and then it may be retained up to one year.

### **Section 5: Processing Proposed Disciplinary Actions and Major Adverse Actions**

- A. Disciplinary Actions
  - 1. In general, meetings to merely deliver a letter of proposed action or final decision for discipline do not require the RN to have NNU representation. However if the supervisor requires additional Department representatives to deliver the notice or letter the RN will be entitled to NNU representation. In addition, if there is to be any discussion or if any discussion begins management will immediately stop the meeting and notify the RN of their right to NNU representation.

2. The Department shall propose in writing to a RN any disciplinary action prior to issuance. A RN against whom an admonishment or reprimand is proposed is entitled to 14 days advance written notice, except when the crime provision has been invoked. The notice will state specific reasons for the proposed action. The RN shall be given the opportunity to use up to eight hours of duty time to review the evidence used to support the proposed action and prepare the reply. Additional time may be granted on a case-by-case basis. If the RN requests additional official time beyond what was originally approved, the request may be honored if it is reasonable. The RN will be given two copies of the proposed action and the RN may furnish one copy to NNU.
3. If a proposed disciplinary action is contemplated, the evidence file must be assembled and two copies will be ready for the RN before the proposed notice is issued. The file must contain the evidence upon which the notice of proposed action is based, and which supports the charges in that notice. Evidence will be developed impartially and an effort will be made to resolve any conflicting statements by developing additional evidence. Material which cannot be disclosed to the RN or to NNU may not be used to support a disciplinary action. Upon request, two copies of the evidence file will be provided to the RN on the same day the proposed action has been issued and the RN may furnish one copy to the NNU.
4. Additional evidence acquired after the issuance of a notice of proposed action may be added without necessitating reissuance of the notice except when the additional evidence forms the basis for initiating new reasons for proposing the action, or it is determined that a different action should be proposed. Two copies of any material added to the evidence file must also be provided.
5. The RN and/or NNU may respond orally and/or in writing as soon as practical but no later than 10 calendar days from receipt of the proposed action notice. The response may include written statements of the persons having relevant information and/or other appropriate evidence. If the Department official is not able to hear the oral reply within the 10 calendar day period, this period will automatically be extended until the Department official is available to meet.
6. Extensions for replying to proposed admonishments and reprimands may be granted based on individual circumstances. This time frame may be extended by mutual agreement in writing prior to the expiration of the time frame.
7. In responding to a proposed admonishment or reprimand, the RN may request NNU representation.

#### B. Major Adverse Actions

1. In general, meetings to merely deliver a letter of proposed action or final decision for major adverse action do not require the RN to have NNU representation. However if the supervisor requires additional Department representatives to deliver the notice or letter the RN will be entitled to NNU representation. In addition, if there is to be any discussion or if any discussion begins management will immediately stop the meeting and notify the RN of their right to NNU representation.

2. A RN against whom a major adverse action is proposed is entitled to 30 days advance written notice, except when the crime provisions have been invoked. The notice will state specific reasons for the proposed action. The RN shall be given the opportunity to use up to eight hours of duty time to review the evidence that is being relied on to support the proposed action and prepare the reply. Additional time may be granted on a case-by-case basis, i.e. complex cases. If the RN requests additional official time beyond what was originally approved, the request may be honored if it is reasonable. The RN will be given two copies of the proposed action and the RN may furnish one copy to NNU.
3. If a proposed major adverse action is contemplated, the evidence file must be assembled and two copies will be ready for the RN before the proposed notice is issued. The file must contain the evidence upon which the notice of proposed action is based, and which supports the charges in that notice. Evidence will be developed impartially and an effort will be made to resolve any conflicting statements by developing additional evidence. Material which cannot be disclosed to the RN or to NNU may not be used to support a major adverse action. Upon request, two copies of the evidence file will be provided to the RN on the same day the proposed action has been issued and the RN may furnish one copy to NNU.
4. Additional evidence acquired after the issuance of a notice of proposed action may be added without necessitating reissuance of the notice except when the additional evidence forms the basis for initiating new reasons for proposing the action, or it is determined that a different action should be proposed. Two copies of any material added to the evidence file must also be provided.
5. The RN and/or NNU may respond orally and/or in writing as soon as practical but no later than 14 calendar days from receipt of the proposed action notice. The response may include written statements of the persons having relevant information and/or other appropriate evidence. The Department has the right to restrict the response time to seven days when invoking the crime provision. If the Department official is not able to hear the oral reply within the 14 calendar day period, this period will be automatically extended until the Department official is available to meet.
6. Extensions for replying to proposed major adverse actions may be granted based on individual circumstances. This time frame may be extended by mutual agreement in writing prior to the expiration of the time frame.
7. In responding to a proposed major adverse action, the RN may request NNU representation.

## **Section 6: Final Written Decision of Disciplinary and Major Adverse Actions**

- A. The Department official will issue a written decision as early as practicable, but no later than 21 days after receipt of any RN response, or 21 days from when the response was due if no response was made.
- B. The written decision will contain the following information:

1. A statement of whether any of the charges sustained arose out of a question of professional conduct or competence;
  2. A statement that consideration has been given to all evidence developed, including the RN's reply or replies. If the RN replies both orally and in writing, both must be mentioned;
  3. A statement of the deciding official's determination regarding which charges, if any, in the advance notice were sustained, and which charges, if any were not sustained;
  4. If a record of prior disciplinary actions was cited in the advance notice, the decision will indicate how the past record, as cited in the advance notice, was taken into consideration in determining the proper action; and,
  5. A statement concerning the RN's rights to file a grievance or appeal, and the time limit within which it must be filed. In addition, a statement advising the RN that a further explanation of the RN's appeal rights may be obtained by consulting the local HR office or NNU. A copy of the Disciplinary Appeals Board (DAB) policy and appeal process will be given to the RN if a DAB is applicable.
- C. If the action imposed is a major adverse action, the effective date will be at least 30 days after the date of the proposed action.
- D. The appropriate Department official will issue the written decision on a major adverse action at least five days prior to the effective date of the action. If the action is a suspension, the inclusive dates of the suspension will be stated.
- E. The RN will be given two copies of the final written decision and the RN may furnish one copy to NNU.
- F. The final written decision will advise the RN how long the disciplinary action will be maintained in their eOPF. Upon the RN's request, the Department will schedule a meeting with the RN to discuss the decision. If the RN elects to have a NNU representative present, the RN will be given a reasonable amount of time to secure a representative.

## **Section 7: Investigations**

- A. The Department will investigate an incident or situation as soon as practicable to determine whether or not discipline is warranted.
- B. In an investigation, reasonable efforts will be made to reconcile conflicting statements. In all cases, the information obtained will be documented.
- C. During the advance notice period of a proposed action, it may be necessary to remove the RN from the worksite. In those instances where it is determined that the RN's continued presence at work during the advance notice period might pose a threat to the RN or others, result in loss of or damage to Government property, or otherwise jeopardize legitimate Government interests, the following alternatives can be considered.

- D. Such alternatives include, but are not limited to, reassignment or detailing the RN to other duties to eliminate concerns arising out of the proposed action. In such instances, the Department will take into consideration the impact of the resulting assignment to the RN as well as the relationship between the temporary assignment and their previous work assignment.
- E. A preliminary inquiry is used to cover informal day to day inquiry by the supervisor. Ordinarily, a preliminary inquiry will be made by the appropriate line supervisor. A further formal investigation under VA Handbook 0700 may be warranted depending on the nature and seriousness of the incident. In either instance, the RN is entitled to union representation.

## **ARTICLE 32: ALTERNATIVE DISPUTE RESOLUTION (ADR)**

- A. The Department and NNU acknowledge that the use of ADR problem solving methods, which seek early informal resolution of disputes, helps to foster a good labor/management relationship. ADR will only be used by mutual agreement.
- B. The use, nature and implementation of the ADR program is encouraged by NNU and the Department where appropriate and will be determined at the appropriate level.
- C. ADR resolutions shall not set precedent unless mutually agreed to by NNU and the Department. Resolutions under ADR cannot conflict with or supersede collective bargaining agreements.
- D. The Department recognizes that NNU is a vital component to development, implementation and assessment of an overall effective VA ADR Program and is encouraged to participate in this endeavor. All local ADR programs shall be jointly designed and implemented in good faith with NNU and include the use of mutually agreed upon neutral third parties. Any ADR program will be designed to resolve conflicts and disputes in a more timely, less costly and less adversarial manner than litigation or administrative adjudication. RN participation in the ADR process must be voluntary.
- E. Mediators and facilitators shall be adequately trained. Training for NNU facilitators for the Department's ADR program will be coordinated and/or provided at the local level and such training costs will be paid by the Department. NNU will be involved in the selection of bargaining unit RNs to be trained as mediators and facilitators.
- F. NNU and the Department will have the right to participate in all stages of the ADR process. Disputes settled by ADR are final when a settlement is written, signed and reviewed by NNU to ensure that the settlement is not in conflict with the contract. Once a bargaining unit RN elects to use the ADR process, NNU has a right to participate. This right is in addition to the RN's right to Union representation.
- G. It is agreed by all parties that the ADR process is confidential and should not be shared with anyone without a need to know. All settlement agreements are binding on NNU and the Department.
- H. ADR methods may be used prior to or during a grievance/arbitration or statutory appeal. In the use of ADR processes, contractual time frames will be stayed by mutual agreement.



## **ARTICLE 33: EQUAL EMPLOYMENT OPPORTUNITY**

### **Section 1: General**

- A. The Department and NNU affirm their commitment to the policy of providing equal employment opportunities to all RNs and to prohibit discrimination because of race, color, religion, sex (including sexual harassment), sexual orientation, national origin, age, political affiliation or disability. Reprisal based on prior Equal Employment Opportunity (EEO) activity is prohibited. RNs' EEO rights are not set or altered by any provision of this Article.
- B. The Department's EEO Program promotes equal employment opportunity and diversity in every aspect of the Department's personnel policy and practice in accordance with applicable law and government-wide rules and regulations.
- C. The Department agrees to provide RNs with electronic access to information describing the discrimination complaints procedures.
- D. The Department agrees to post the telephone number of the Office of Resolution Management (ORM), local EEO representative and VISN EEO representative, if any, on appropriate bulletin boards, electronically and online.
- E. NNU may designate a representative for membership on any local EEO Advisory Council/Committee.

### **Section 2: Equal Employment Opportunity Program**

The Department's EEO Program shall be administered to promote equal employment opportunity in every aspect of the Department's personnel policy and practice. The program shall be administered in accordance with applicable law and government-wide rules and regulations, including the [Civil Rights Act of 1964](#), as amended; the [American with Disabilities Act](#), as amended; the [Rehabilitation Act of 1973](#), as amended; and the [Vietnam Era Veterans' Readjustment Assistance Act](#), as amended.

### **Section 3: Complaints**

- A. Any RN who wishes to file or has filed an EEO complaint will not be subjected to coercion, interference, dissuasion, and/or reprisal of any kind.
- B. RNs will pursue their complaints through established Department procedures.
- C. If the RN elects to file a complaint, he/she must choose to file the complaint under either the negotiated grievance procedure, a prohibited personnel practice charge, or the statutory EEO process, but only one avenue of redress may be selected. If there is an established Alternative Dispute Resolution (ADR) procedure, and ADR is elected during the pre-complaint processing period, the EEO counseling period will be extended up to 90 calendar days.

- D. The RN may elect to use an existing ADR process; however, the RN's rights to pursue an EEO complaint are not waived during the ADR process. At the same time, the RN's responsibilities to comply with all requirements of the EEO process (e.g., time limits and points of contact) must be followed. In the event that ADR is terminated for any reason, the RN may continue to pursue an informal resolution of the matter with the EEO counselor, or may request a Notice of Final Interview from the EEO Counselor. Guidance on the requirements of discrimination complaint appeals will be available in the appropriate administrative office.

#### **Section 4: Reasonable Accommodations**

- A. The Department will provide reasonable accommodation to a *qualified individual with a disability* as defined by the Rehabilitation Act.
- B. All Department facilities will be physically accessible to all RNs with disabilities.
- C. The Department will permit, when appropriate, the use of accrued paid or unpaid leave as a form of reasonable accommodation when necessitated by a RN's disability or disabling condition.
- D. The Department will provide RNs who are *qualified individuals with a disability* consideration for training opportunities.
- E. Where the Department has determined that reasonable accommodation is appropriate, RNs will be provided appropriate assistive devices, flexible schedule or other changes in the work environment. Such equipment does not cover personal items that the RN would be expected to provide such as hearing aids or eyeglasses.
- F. Sick leave will be appropriate for use by RNs who are *qualified individuals with a disability* (who use prosthetic devices, wheelchairs, crutches, guide dogs, or other similar type devices) for equipment repair, guide dog training or medical treatment. The Department may grant any form of leave under this paragraph if the RN's current sick leave balances do not cover the absence from duty.

#### **Section 5: Reports**

- A. At the National level, the Department will provide the NNU with a copy of the National Affirmative Employment Plan and any other reports submitted to the Equal Employment Opportunity Commission (EEOC), including statistical data, as these reports are generated.
- B. Upon request by the local NNU each facility or installation preparing an Affirmative Employment Plan, and any other EEO-related reports, will provide a copy of the same, including statistical data, to the appropriate local NNU representative.

#### **Section 6: Special Emphasis Programs/EEO Advisory Committees**

The Department will request nominations from the local NNU and the local NNU unit may submit names, for consideration by the Department to serve as Special Emphasis Program Coordinators and/or as EEO Advisory Committee members on a collateral duty basis.

## ARTICLE 34: REASONABLE ACCOMODATIONS FOR RNs WITH DISABILITIES

### **Section 1: General**

- A. In accordance with Section 501 of the Rehabilitation Act of 1973, as amended, government-wide rules and regulations and VA policy, including but not limited to [VA Handbook 5975.1](#), the Department is committed to affirmative action for the employment, placement, and advancement of qualified RNs with disabilities.
- B. The Department shall provide reasonable accommodations to qualified individuals with disabilities to allow them to fully participate in the application process, perform essential job functions, and enjoy equal benefits and privileges of employment, in accordance with all applicable laws, regulations, and VA policies, unless to do so would cause undue hardship to the Department.
- C. RNs may request NNU assistance and/or representation at any time during the reasonable accommodation process.
- D. When a duty to bargain is triggered by the Statute after the Department approves reasonable accommodation to a RN, the Department will bargain appropriate arrangements and procedures.

### **Section 2: Definitions**

- A. Individual with a disability: a person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment.
- B. Qualified individual with a disability: an individual with functional limitation who, with or without reasonable accommodation, can perform the essential functions of the position without being a direct threat to the health or safety of the individual or others. A “qualified individual with a disability” must satisfy the requisite skill, experience, education, and other job-related requirements of employment for the position the individual holds or desires.
- C. Reasonable accommodation: a change in the work environment or in work processes that enables a qualified individual with a disability to enjoy equal employment opportunities. The accommodation must be effective in meeting the needs of the individual by addressing the barrier created by the functional limitations.
- D. Undue hardship: the significant difficulty or expense incurred or anticipated, should the organization provide a particular accommodation. The following criteria are used to determine undue hardship:
  - 1. Nature and cost of the accommodation;
  - 2. Overall size of the organizational unit with respect to the number of employees, facilities, and size of the budget;

3. Type of operation, including composition and structure of the workforce; and,
  4. The impact of the accommodation on the operation of the organization, including the impact on the ability of other employees to perform their duties and the impact on the organization's ability to conduct business.
- E. Additional definitions regarding the reasonable accommodation process can be found in [VA Handbook 5975.1, Paragraph 4](#).

### **Section 3: Reasonable Accommodation Guidance**

- A. Consistent with VA policy, the Department shall process a RN's request for reasonable accommodation and provide accommodations as soon as possible, normally within 30 calendar days from the date the request was received. The parties recognize that individual accommodations will be determined on a case-by-case basis, taking into consideration the RN's specific disability, the RN's suggestions for reasonable accommodations, existing limitations, the work environment, any threat to the health and safety of any employee, and undue hardship imposed on the operation of the Department's program.
- B. Reasonable accommodation for a non-probationary RN may include reassignment to a funded vacant position for which he/she is otherwise qualified, consistent with EEO and VA regulations. Reassignment will be considered only if there are no other accommodations available that will enable the RN to perform the essential functions of his/ her current job.
- C. The Department recognizes that job restructuring may constitute a reasonable accommodation such as reallocating or redistributing marginal job functions that a RN is unable to perform because of a disability or altering when and/or how an essential or marginal function is performed. The parties recognize, however, that the Department has no duty to eliminate or reallocate the essential functions of a position as a reasonable accommodation.
- D. The parties agree that in many cases, changes in the work environment and other accommodations enable RNs with disabilities to more effectively perform their job duties. An active interaction and discussion between the RN, NNU (if requested by the RN) and the Department offers the best opportunity to reach agreement on a reasonable accommodation to meet the RN's needs, even if the accommodation is not the specific request. Alterations and accommodations may include, but are not limited to, the following:
  1. Rearranging files or shelves;
  2. Widening access areas;
  3. Maintaining hazard-free pathways;
  4. Raising or lowering equipment;
  5. Moving equipment controls from one side to the other, or modifying them for hand or foot operations;

6. Installing special holding devices on desks, benches, chairs or machines;
7. Providing qualified interpreters for the hearing impaired; and,
8. With respect to the modernized systems environment, examples of accommodations may include:
  - a. The surface that holds the terminal will be adjusted to a level suitable to the RN's needs;
  - b. The keyboard will have "light touch," guards, and other adaptive devices that will be considered;
  - c. Visually impaired RNs will be permitted to label "home" keys;
  - d. Operational and training materials will be available in Braille;
  - e. Lap trays will be considered;
  - f. Computer based voice-output systems or computer screen enlargers or other appropriate devices will be provided for visually impaired RNs;
  - g. Hardware and software will be configured to accommodate color blindness (blinking cursor, highlighting);
  - h. Printer switches will be available in "light touch" and located in an easily accessible location;
  - i. Sight adaptive devices for medication administration; and,
  - j. Adaptive devices for medication carts.
- E. RNs may be provided assistive devices if the Department determines that the use of the equipment is necessary to perform official duties. Such equipment does not cover personal items which the employee would be expected to provide such as hearing aids or eye glasses.
- F. The Department facilities shall be accessible to RNs with disabilities.
- G. The Department will be liberal in granting leave to accommodate the disabling condition of RNs. For example:
  1. Leave without pay may be granted for illness or disability; and,
  2. Sick leave can be appropriately used by a RN with a disability (who uses prosthetic devices, wheel chairs, crutches, guide dog, or other similar type devices) for equipment repair or guide dog training or medical treatment.
- H. The Department will provide training to RNs with disabilities on the same basis as to other RNs consistent with the Professional Development and Education Article of this Contract.

Once an RN is selected for training, the Department will provide reasonable accommodations to the RN to attend and complete the training. It is the intent of the Department to provide on-the-job training opportunities to qualified RNs with a disability on the same basis as other RNs consistent with operational needs.

- I. For the purpose of continuing to provide reasonable accommodations for hearing-impaired RNs, the Department agrees to provide interpreter services, auxiliary aids or assistive technologies, as appropriate, for those RNs who seek Union assistance and/or representation for their individual concerns. To the extent possible, interpreter services should be arranged in advance unless the RN wants to retain confidentiality.
- J. To provide RNs with disabilities an equal opportunity to perform official business travel, certain additional travel expenses necessarily incurred to reasonably accommodate the RNs disability may be reimbursed consistent with the Federal Travel Regulations.
- K. RNs with disabilities may, where appropriate as a reasonable accommodation, utilize work-at-home accommodations, flexi-place work setting or Telework.

## **ARTICLE 35: WORKERS' COMPENSATION**

### **Section 1: General**

- A. A RN's entitlement to benefits under the Federal Employee Compensation Act (FECA) as administered by the Department of Labor (DOL) depends on his/her meeting the criteria set by Federal statutes and regulations, including [5 USC 8101](#), et seq. and [20 CFR Parts 1-25](#). This Article is intended to provide RNs with a general overview of the FECA processes. However, RNs' rights to workers' compensation benefits are not set or altered in any way by any provision of this Article.
- B. In accordance with the FECA, when a RN suffers or alleges a work related illness or injury, the appropriate Department official will inform the RN of the following:
  - 1. The right to file for workers' compensation benefits;
  - 2. The types of benefits available;
  - 3. The procedure for filing claims;
  - 4. The option to use compensation benefits, if approved, in lieu of sick or annual leave; and,
  - 5. The option to use continuation of pay (COP) for traumatic injuries in lieu of sick or annual leave.
- C. The DOL's Office of Workers' Compensation (OWCP) is responsible for decisions on workers' compensation claims. The Department is responsible for completing and forwarding OWCP forms and related documentation in accordance with DOL regulations.
  - 1. RNs with pending workers' compensation claims are encouraged to discuss their questions about the timely filing of their claim with the local facility employee responsible for processing of OWCP claims. The Department will discuss any such concerns with the RN.
  - 2. After this discussion, if the RN has unresolved concerns regarding the Department's failure to forward any claim forms or related paperwork to OWCP, the RN may request, in writing, a written response to their outstanding concerns, which the Department will provide in a timely manner.
- D. NNU will have access to the ASISTS program for tracking injuries at all facilities. Upon request, the Department will notify NNU of the number of RNs on light duty in a work unit due to an on-the-job injury.
- E. The Department will maintain a responsible OWCP program in accordance with DOL implementing regulations and other applicable laws, rules, and regulations.

### **Section 2: FECA Definitions Provided for Informational Purposes Only**



- A. Traumatic injury is defined as a wound or other condition of the body caused by external force, including stress or strain. The injury must be identifiable by time and place of occurrence and member of the body affected and must be caused by a specific event or incident or series of events or incidents within a single workday or tour of duty. A traumatic injury also includes damage to or destruction of prosthetic devices or appliances.
- B. Occupational Disease/Illness is defined as a condition produced in the work environment over a period longer than a single workday or tour of duty. It may result from systemic infection, repeated stress or strain, exposure to toxins, poisons, or fumes, or other continuing conditions of work.
- C. Form CA-1 is the appropriate form for reporting a traumatic injury.
- D. Form CA-2 is the appropriate form for reporting an occupational disease or illness.
- E. Form CA-16 authorizes an injured RN to obtain examination and/or treatment from a physician for an on-the-job injury.
- F. Form CA-17 Duty Status Report is used to report the duty status of the RN, including when placed in a limited duty status, etc.
- G. Form CA-20 is the Medical Report Form.

### **Section 3: Procedure for Filing Claims for Workers' Compensation**

- A. As soon as/if possible after experiencing a job related injury or illness, the RN should contact his/her supervisor and provide hand-off communication to another RN.
- B. The Department shall, at the time the injury is reported, assure that the RN is provided the proper forms and assist the RN in filling them out. The Department shall provide the RN with copies and forms as needed.
- C. The appropriate sections of the forms [CA-1 \(Traumatic Injury\)](#) or [CA-2 \(Occupational Disease\)](#) should be filled out by the RN electronically and given to the supervisor as soon as possible, but not later than 30 calendar days from the date of the occurrence. If the RN is incapacitated, this action may be taken by someone acting on his/her behalf in accordance with existing regulations. An alternate means of notification of rights and filing will be provided when electronic submission is not possible or electronic information is not available.
- D. The Department agrees to post a notice in centralized areas where RNs gather, advising RNs of the appropriate office location for filing workers' compensation claims. This notice will include office telephone numbers for obtaining information and assistance relevant to workers' compensation claims. The Department agrees to provide access to information on FECA procedures available through electronic means. Additional specific information on FECA benefits is available at <http://www.dol.gov/owcp/dfec/>.
- E. The Department will not request a RN to release their medical records and/or personally identifiable information except to the extent required to process the RN's claim. This release

will be specific to the injury/illness claimed. The RN will be informed of and afforded the opportunity to discuss the release of records with NNU prior to submitting the release.

- F. When the RN has elected NNU representation in writing, the Department will give that NNU representative notice within a reasonable time frame of when a RN's claim has been approved or denied.
- G. A RN has the initial right to select a provider or physician of his/her choice to provide necessary treatment. Whenever possible, the RN will be provided a CA-16 (Authorization for Examination and/or Treatment) or successor document within four hours. When it is not possible, the Department will authorize medical treatment by telephone and send the completed form to the provider or physician within 48 hours.
- H. The DOL provides the [online medical provider search tool](#). Upon request, the Department will assist the RN in accessing and using the list. The Department cannot assist the RN in selecting a provider or physician. The fact that a provider or physician is listed in no way constitutes the Department's endorsement of the provider or physician or their services.
- I. The responsible Department official should complete the Department's portion of the CA-17 or successor document by describing the physical requirements of the RN's job and noting the availability of any light or limited duty. The provider or physician uses this information in determining what, if any, work restrictions are needed. The RN must use this form each and every time they visit the provider or physician. The form is returned to the supervisor after completed by the provider or physician. The responsible Department official may send the form to the provider or physician at reasonable intervals (but not more often than once per week) to monitor the RN's medical status and ability to return to light or full duty.

#### **Section 4: Placement of Workers' Compensation Claimants and Light Duty**

- A. The Department has no obligation to provide permanent light duty assignments or to create positions reserved for RNs who need temporary light duty assignments. However, the Department will make a reasonable effort to grant a requested light duty assignment. The Department will determine whether a RN can be provided light duty assignments consistent with the RN's qualifications and medical limitations as well as the patient care needs of the Department. When the Department approves a light duty assignment, it will be of limited duration, not permanent in nature and provided to the RN in writing.
- B. RNs who are determined by the DOL not able to perform his/her assigned duties will be offered another available position in accordance with applicable law and regulations.
- C. If the DOL, OWCP determines that a RN who was previously deemed disabled has recovered and is medically able to be reemployed, the Department will endeavor to offer placement in accordance with applicable law and regulations.
- D. The Department, upon receipt of indication by the RN of a desire to accept or pursue a retirement option for which he/she is eligible, will provide information and assist the RN with the application process with a goal of expediting the retirement application.

#### **Section 5: OWCP Rights for RNs**

- A. The Department may contact the attending provider or physician only in writing and only to clarify or obtain additional information about the RN's duty status or medical progress.
- B. Consistent with DOL regulations, time lost on the date of injury should be changed to administrative leave. The period to be charged to COP begins with the first day or shift of disability or medical treatment after the date of injury, provided that the absence began within 45 days after the injury. A RN's regular pay may continue for up to 45 calendar days of wage loss due to disability and/or medical treatment after a traumatic injury. A RN is entitled to receive COP when he/she is absent from work due to disability or medical treatment. After entitlement to COP ends, the RN may apply for compensation or use leave.
- C. Pending the approval of the compensation claim for traumatic injury by OWCP, the RN may elect to use annual leave (AL), compensatory time (CT), sick leave (SL) or leave without pay (LWOP). The RN has the right to complete a CA-7 and submit it to the DOL for consideration of wage loss compensation.
- D. Consistent with DOL regulations, entitlement to COP is not available to RNs who file an occupational disease claim.
- E. The Department will not place a RN in absent without leave (AWOL) status for absences directly related to an approved OWCP claim. However, the RN is still required to follow proper leave procedures.
- F. The Department will not place a RN on leave restriction or sick leave certification for absences directly related to an approved OWCP claim.

## **ARTICLE 36: SPECIAL PHYSICAL EXAMINATION (COMMONLY KNOWN AS FITNESS FOR DUTY) AND PHYSICAL STANDARDS BOARD**

### **Section 1: General**

- A. The Department and NNU recognize that [38 USC 7422](#) prohibits negotiating, grievances, and any other form of collective bargaining over issues of professional conduct or competence and direct patient care, including RNs' physical or mental fitness for duty.
- B. In accordance with [VA Handbook 5019](#), the Department may direct a RN to undergo a special physical examination (fitness for duty) to resolve questions of physical or mental ability to perform the duties of a RN position. An examination may also be necessary to determine physical and mental fitness to resume duty after illness.
- C. In the event that the Department objectively determines that a RN is physically or mentally incapable of performing their duties, the RN shall be entitled to meet with the recommending medical official to discuss grounds for such action, and to provide any oral and written evidence before a recommendation is made. In any such meeting, the RN is entitled to NNU representation.
- D. No RN will be determined physically or mentally incapable of performing duties satisfactorily without benefit of a Physical Standards Board deliberation unless the RN is being evaluated for medical disability retirement.
- E. All matters relating to Special Physical Examinations and Physical Standards Board proceedings and recommendations will be confidential, and related documents will be secured in accordance with applicable VA regulations and this Contract.

### **Section 2: Notice of Examination**

- A. In unusual circumstances, e.g., when an immediate determination must be made as to a RN's mental or physical fitness to remain on duty, the RN will be given verbal notice as to the grounds for such an examination and the right to NNU representation.
- B. Otherwise, at least a 14-day advance written notice of a special physical examination shall be given to the RN. The notice will include:
  - 1. Reason for examination;
  - 2. Date, time and location of examination (including travel information, if appropriate);
  - 3. A citation to any specific VA policies, Handbooks, Directives, etc., pertaining to the examination procedure;
  - 4. Right to submit physical examination results or other medical evidence obtained at the individual's own expense for consideration by the VA Occupational Health Care Provider and/or, if appropriate, a Physical Standards Board; and

5. Right to NNU representation during all phases of the process.

### **Section 3: Status Pending Examination Outcome**

In the event that the Department determines that a RN must be reassigned pending the outcome of the special physical examination, NNU will be notified. In the event the Department determines a RN must be removed from duty pending the outcome of a special physical/mental exam, the RN may be given Authorized Absence (AA) until a decision is made.

### **Section 4: Decision and Appeal**

- A. If a decision is made that would remove any RN from his/her position or duties for physical or mental inability to perform, the RN shall be entitled to use the appropriate appeals procedure under existing Title 38 regulations. A copy of the relevant VA Directives/Handbooks, policies, etc., pertaining to the appeals procedure will be given to the RN.
- B. If the Board determines a RN to be physically and/or mentally incapable of performing the duties of the assignment and the nature of the physical condition is one that may be corrected by remedial treatment, the Department may grant sick leave and annual leave, or leave without pay may be granted as appropriate.

## **ARTICLE 37: DEPENDENT CARE**

### **Section 1: General**

- A. NNU and the Department recognize that RNs may have special dependent care needs during working hours. For the purposes of this Article, the definition of dependants includes any individual related by blood or affinity whose close association with the RN is the equivalent of a family relationship who routinely relies on the RN for economic, medical, social or emotional support.
- B. NNU and the Department recognize the need for RNs to secure appropriate dependent care arrangements.

### **Section 2: Dependent Care Activities**

- A. The Department will provide information on its human resources website on such things as dependent care, parenting information, dependent care resources, referral information, workshops, and government-wide initiatives such as long-term care insurance, flexible spending accounts for dependent care needs, and counseling available through the Employee Assistance Program. Should its human resources website as described herein no longer remain accessible, the Department agrees to meet and bargain with NNU for the purpose of making such information available to RNs when a duty to bargain is triggered by the Statute.
- B. The Department supports the finding of creative solutions to meet RN dependent care needs.
- C. In accordance with applicable public laws, rules and regulations, the Department agrees to pay legally permissible expenses for VA employed dependent care employees for training, conferences, or other meetings deemed necessary, relevant, and connected to the provision of dependent care services should the Department provide dependent care services at any facility.

### **Section 3: Dependent Care Committees**

If a decision is made to establish a dependent care facility, a local committee will be established. A NNU representative, on official time, will be a member of any such committee.

### **Section 4: RN Related Dependent Care Needs**

- A. The Department recognizes that requiring additional hours of duty can cause issues with dependent care. When the Department requires additional hours of duty that cause issues with dependent care, it is agreed that the appropriate Department official should allow the RN time to make alternate dependent care arrangements and grant unplanned leave requests brought about by unexpected changes in dependent care arrangements, consistent with 38 USC 7422 and the Leave and Absences Article of this Contract. Requests will not be unreasonably denied.

- B. The Department will consider the use of employment options such as: part-time employment, job sharing, leave, flexi-time, compressed tours, etc., to assist RNs with dependent care needs.
- C. The Department recognizes that on occasion RNs may need to make reasonable, brief contact with dependent care providers, family members and/or dependants during duty hours as long as it does not interfere with patient care delivery.

### **Section 5: Facilities**

If a dependent care facility is established, it will be governed by appropriate laws and regulations.

### **Section 6: Miscellaneous**

NNU will be kept informed of local dependent care initiatives.

## **ARTICLE 38: APPOINTMENT AUTHORITY CHANGES**

- A. Prior to granting a RN's request for a change in appointment authority (including but not limited to conversion from temporary to permanent, full-time to part-time, part-time to full-time, per diem, intermittent or from Title 38 to Title 5), an explanation of the change in rights and benefits will be provided verbally, as well as in writing, to the RN by the Department. Presenting this information verbally allows the RN to ask questions and gain clarification. The RN will sign a document acknowledging his/her receipt of this explanation.
- B. When the appointment authority of a RN is changed, an official personnel action will be processed in a timely manner.



## **ARTICLE 39: OFFICIAL RECORDS AND PROTECTION OF IDENTIFIABLE INFORMATION**

### **Section 1: Official Records and Files**

- A. No personnel record may be collected, maintained, or retained except in accordance with law, government-wide rules and regulations, VA regulations, this Contract and any Local Contract.
- B. All Electronic Official Personnel Folders (eOPF) are confidential. Occupational Health Recording Systems (OHRS) (employee health medical records) are confidential and protected by the [Health Insurance Portability and Accountability Act](#) (HIPAA). Both will be known, viewed, or disclosed by/to officials only with a legitimate need to know for the performance of their duties or as otherwise required by law. The RN will be notified within a reasonable amount of time after any episode of failure to provide for security of the records.
- C. All eOPFs, medical and other records with personally identifiable information (PII) will be maintained in a secure location.
- D. RNs will be annually advised of the purpose and intended use of the eOPF or any other file specific to them maintained under their name, social security number and/or any recognizable personal identifier, and its location.

### **Section 2: Access to Records**

- A. A RN's right of access and/or review of records containing PII will be granted in accordance with all Federal laws including [FOIA](#), [Privacy Act](#), and HIPAA as well as [VHA Handbook 1650.1](#). During normal duty hours, a RN and/or his/her representative(s) designated in writing will have the right to examine records personally identified to the RN (Including but not limited to: eOPF, EEO, evidence files, appeal and grievance records, employee medical folders). The Department will allow a RN and/or his/her representative access to such records requested within a reasonable period of time. If the records are not maintained at the local facility, the Department will initiate action to obtain the records and make them available to the RN or designated representative within three working days.
- B. Consistent with VHA Handbook 1650.1, a person of the RN's own choosing may accompany the RN to review a record. A written statement is required from the individual authorizing discussion of the record in the accompanying person's presence ([VA Form 07-5571](#)). A Department official must be present at all times during any personal review of a record to ensure the integrity of the record.
- C. The RN, or his/her designated representative(s) in writing, may receive, at no cost, two copies of personally identified records. Additional copies will be provided, however, there may be a charge in accordance with the Department fee schedules in effect at the time of the request.

### **Section 3: Clarification or Rebuttal of Information in Official Records**

- A. Every RN has the right to prepare and enter a concise statement of disagreement with, rebuttal to, or clarification of, any document filed in the eOPF and the proficiency folder. All requests for amendment of such records will be processed under the provisions of Title 38, CFR Part I, and VA Handbook 6300.4
- B. Nothing in this section shall negate the RN's right to grieve matters covered by the grievance procedure.

#### **Section 4: Outdated Records**

- A. All eOPFs will be purged and information disposed of in accordance with the appropriate records control schedule.
- B. Upon request, the Department will work with a RN and his/her representative to explain the records retention timeframes and, if necessary, assist the RN in reviewing his/her eOPF to ensure any outdated records are purged.
- C. If any outdated or unauthorized material is accidentally left in a file, it may not be used to support any personnel action detrimental to the RN.

#### **Section 5: Supervisory Notes**

- A. Department officials at any level will not keep files specific to individual RNs maintained under their name, social security number, and/or any recognizable personal identifier not approved by the Department as an official system of records.
- B. If a Department official creates a supervisory note regarding a RN, the RN will be given a copy within a reasonable time after it is written. If there has been a delay in providing a copy and it is used to support an action against the RN, the delay must be considered by the Department before a decision is made. Exceptions may be made if showing the note to the RN may impair the Department's ability to conduct an investigation or may impose a safety or security issue.

#### **Section 6: Uses and Misuses of RN Social Security Numbers and Identification**

- A. The Department shall maintain the confidentiality of the RN's social security number in accordance with Executive Order 9397, the Privacy Act, and all applicable legal requirements.
- B. Consistent with Executive Order 9397 and the Privacy Act, lists or documents requiring the use of the social security number and/or birth date will be kept confidential and disclosed only on a job-related need-to-know basis or as required by law.
- C. RNs will not be identified by their full or partial social security number on any publicly available lists, including but not limited to educational offering sign-in sheets.

- D. Consistent with the Privacy Act, HIPAA and to the extent technologically feasible, RN health records accessible via the computer or paper will have the social security number and birth date data protected.
- E. Should an RN have any problems related to identity theft, the Department will cooperate with any related investigation and/or prosecution. Should the Department find that the offender in such a case is a Department RN, it will refer the offender for criminal prosecution and/or administrative action as appropriate.

## **ARTICLE 40: OUTSOURCING**

### **Section 1: General**

This Article is subject to law, rule and regulation, including the [Federal Acquisition Regulation](#).

### **Section 2: Consultation**

The Department will notify and seek NNU input when it considers outsourcing RN work. NNU may provide and the Department will consider NNU input at the appropriate level when considering whether to outsource any work performed by RNs or to outsource work that will require RNs to perform additional duties. Upon request, the Department will provide NNU with a copy of the actual published request for bids.

### **Section 3: Site Visits and Notification**

- A. The Department will notify NNU if a site visit, either physical or virtual, is going to be conducted for potential bidders seeking to contract for work performed by RNs in a work location. A NNU representative may attend any such site visit/meeting. NNU will be given notice and an opportunity to bargain when the duty to bargain is triggered under the Statute.
- B. Upon request, NNU will be provided a copy of the contract that was awarded.

### **Section 4: Placement**

When RNs are adversely affected by a decision to outsource, the Department will endeavor to find available positions for affected RNs. This effort will include, but is not limited to:

- A. Establishing a Reemployment Priority List and a placement program;
- B. Giving special selection priority for available positions to which the RN applies;
- C. Paying reasonable costs for training and, when appropriate, relocation that contributes to placement; and,
- D. Providing career transition assistance which may include: office space, telephones, copy and fax machines, computers, and job placements specialists in the effort to obtain other employment.

### **Section 5: NNU Representation**

Official time is appropriate for NNU representatives when conferring with affected RNs regarding the outsourcing impact.

## **ARTICLE 41: DRUG TESTING**

### **Section 1: General**

- A. Bargaining unit RNs are subject to mandatory drug testing according to applicable government-wide Federal regulations and [VA Handbook 5383](#) or successor which is referenced for informational purposes only.
- B. RNs are entitled to NNU representation throughout the entire process including actual drug testing. However, the right to representation cannot delay or prevent any testing requirements of applicable federal regulations and any applicable VA policies, both local and national.
- C. In the event of a positive test result, the RN will be given two copies of the test results. The RN may furnish one copy to NNU for use if a RN requests NNU representation with regard to any proposed disciplinary action or major adverse action that is based, in whole or in part, on the results of a drug test. For negative test results, the RN may request a copy of the test result which will be provided in a timely manner so long as the facility received a copy of the test result.

### **Section 2: Collection of Independent Samples Authorized**

- A. A RN required to submit to a mandatory drug test will, upon request, be permitted to provide an additional sample (the independent sample) for testing by an independent HHS-certified laboratory at the RN's expense. The Department will provide an additional container for the independent sample, which will be collected from and packaged by the RN in the presence of a Department representative at approximately the same time as the samples collected by the Department.
- B. Once collected and packaged, the RN shall be responsible to deliver the independent sample to a HHS-certified laboratory for testing, and to document the sample's chain of custody. For the purposes of this paragraph, it shall be sufficient for the RN to package the independent sample for delivery by a commercial messenger service to the chosen laboratory in the presence of a Department observer. The RN shall be responsible for the costs of delivery and testing of the independent sample.
- C. The RN shall be permitted, but not required, to submit the results of an independent sample collected and tested under this Section to the relevant Medical Review Officer for his/her consideration in certifying results.
- D. In making any personnel decision based on a RN's drug test, the Department shall not draw a negative inference if the RN provided an additional sample for independent testing, nor whether the RN submitted the results of such an independent test to the Medical Review Officer.

## **ARTICLE 42: EMPLOYEE ASSISTANCE PROGRAM**

### **Section 1: Program Purpose**

- A. The Department agrees to make the Employee Assistance Program (EAP) available to RNs with personal issues. Examples of issues for which EAP may be appropriate include but are not limited to: emotional and mental distress, family discord, marital counseling, substance abuse, financial stressors. This list is not meant to be all encompassing, as other issues may be covered.
- B. Information on the EAP will be available electronically and posted on bulletin boards. Updates and changes on the EAP will be distributed as changes are made. Information on the EAP will also be made available after catastrophic events affecting RNs.
- C. The EAP is subject to Federal law and government-wide regulations, including [42 USC 290aa et seq.](#), [5 USC 7361 et seq.](#), [Executive Order 12564](#).
- D. RNs are encouraged to consult the Office of Personnel Management's website <http://www.opm.gov/>: [OPM EAP Fact Sheet](#), for further information about the scope of assistance available through EAP and the rules and regulations pertinent to the program.

### **Section 2: Record of Participation**

- A. The Department will ensure that no RN will have their job security or promotion opportunities jeopardized as a direct result of initiating a request for counseling or referral assistance. This may not apply if there are related existing or pending disciplinary or major adverse actions.
- B. The Department will ensure the confidentiality of all RN records consistent with current public laws and Office of Personnel Management regulations and preserve the records in accordance with applicable laws and regulations.
- C. Without an RN's specific written authorization, a supervisor may not obtain information about the substance of an RN's involvement with a counseling program. Information obtained without the RN's written authorization from such counseling programs may not serve as the basis for disciplinary or adverse actions consistent with applicable law and regulation.

### **Section 3: Voluntary Participation and RN Responsibility**

Although the existence and functions of counseling and referral programs will be publicized to RNs, no RN will be required to participate or be penalized for merely declining referral to such programs.

### **Section 4: Disciplinary Action**

The EAP is not intended to shield the RN from disciplinary or a major adverse action. Depending on the circumstances, it may be appropriate to offer assistance to a RN to help

correct a performance and/or conduct problem as an alternative to discipline/major adverse action. However, EAP may be offered to a RN at the same time that a disciplinary or major adverse action is proposed.

### **Section 5: Excused Absence**

RNs undergoing counseling under the EAP may be excused without charge to leave for a brief period of time of less than one hour for each counseling session up to a maximum of eight total hours. The use of this excused absence is subject to supervisory approval.

### **Section 6: Leave Associated with EAP**

It is the policy of the Department to grant leave (e.g., sick, annual, or Leave Without Pay (LWOP)) for the purpose of treatment or rehabilitation for RNs under the EAP as would be granted for RNs with any other health problem.

### **Section 7: EAP Related Assignment Requests**

RNs undergoing rehabilitation that will not permit them to function temporarily in their assigned position, may request temporary assignment to another position including, but not limited to other departments, record reviews, post-op telephone calls and the possibility for telework if appropriate and consistent with the Department's telework policy. The request will be considered and approved by the supervisor consistent with valid operational needs, the individual RN's qualifications and rehabilitation needs.

## **ARTICLE 43: ORGANIZATIONAL PERFORMANCE IMPROVEMENT**

### **Section 1: General Commitment**

The Department and NNU recognize the importance of a strong commitment to a comprehensive organizational Performance Improvement (PI) program in the success in meeting the mission of the VA. The Department's PI program is governed in part by prevailing accreditation standards and VA Handbooks and Directives. The program emphasizes quality service to the Veteran, which is the cornerstone of the relationship between the Department and RNs. Pre-decisional involvement, as consistent with the Collaboration and Labor-Management Forums Article, is an important tool that may contribute to the success of the PI program.

### **Section 2: Committee Representation**

- A. Both parties agree that the commitment of the Department, NNU and RNs at every level is critical for success of the PI program.
- B. NNU will appoint a representative as a full member on the facility-level PI program committee(s) and other appropriate PI program committees, either local or national, currently in existence, newly developed or its successor. Minutes from these committees will be made available to NNU, upon request.
- C. NNU bargaining unit RNs and representatives will receive training appropriate to their PI committee, task or responsibility.



## **ARTICLE 44: RESEARCH**

### **Section 1: General**

- A. The Department and NNU mutually agree that research is for the advancement of patient care and/or nursing science.
- B. It is recognized that participation in research development, gathering data, data analysis/recommendations, or research utilization can enhance the RN's role/career development. The Department will encourage and support participation by RNs in VA-approved research projects, approved by the Institutional Review Board and/or Health Services Research and Development. However, this Article is subject to the provisions of 38 USC 7422.

### **Section 2: Procedures**

- A. When the Department enters into any research project that affects RNs working conditions, it will engage in pre-decisional involvement, as practicable, consistent with the Collaboration and Labor-Management Forums Article of this Contract. NNU will be given notice and an opportunity to bargain when the duty to bargain is triggered under the Statute.
- B. When a research project results in an innovation, changes in documentation, or in technology that impacts RNs throughout the system, the Department will engage in pre-decisional involvement, as practicable, at the appropriate level, consistent with the Collaboration and Labor-Management Forums Article of this Contract. NNU will be given notice and an opportunity to bargain when the duty to bargain is triggered under the Statute.
- C. RNs will be encouraged to develop their research knowledge and abilities. The Department, to the extent practical, will provide, either in person or electronically:
  - 1. Access to information on available training/educational programs that would enhance the RNs research knowledge;
  - 2. Access to information on available VA grants and research programs that may relate to their area of research interest; and,
  - 3. Notice of the grant opportunities once the local facility is informed.
- D. RNs' participation in research projects and surveys related to the research projects is voluntary and without fear of reprisal. Participation in research projects, including surveys related to the research project, is governed by law, government-wide regulations and Department policy, including but not limited to [VA Handbook 1058.01](#).
- E. Data analysis and recommendations from any local patient care/nurse-related research that affects working conditions will be provided to the NNU, upon request.
- F. RNs who apply for time-limited research positions will be advised of the limitations and potential consequences to employment before they accept the position in accordance with the Appointment Authority Changes Article of this Contract. RNs on time-limited

appointments may apply for permanent positions any time prior to the expiration of his/her appointment and will be considered as internal candidates for posted facility RN vacancies consistent with the Vacancy Announcements Article of this Contract.

## **UNION PROVISIONS**

### **ARTICLE 45: UNION RIGHTS AND REPRESENTATION**

#### **Section 1: NNU Rights**

- A. In all matters relating to personnel policies, practices, and other conditions of employment, NNU and the Department will abide by 5 USC Chapter 71, 38 USC 7422 and this Contract.
- B. The Department recognizes NNU as the exclusive representative of bargaining unit RNs. NNU and the Department recognize that a collaborative relationship between NNU and the Department is essential so that the organization works more efficiently and effectively and better serve Veterans' needs, RNs, NNU representatives and the Department.
- C. For matters relating to personnel policies, practices, other conditions of employment, grievances, contract enforcement, etc., the Department and NNU shall meet at mutually agreeable times, dates, and places that are reasonable and convenient. This does not apply to regular recurring committee or task force meetings on which NNU has a seat. These meetings should also be held on dates at times and places that are reasonably convenient.
- D. The Department will not restrain, coerce, discriminate against, or interfere with any NNU representatives/officials, or RN(s) in the exercise of their contractual or statutory rights.
- E. In accordance with [5 USC 7116\(a\)\(3\)](#), the Department will not sponsor, control, or otherwise assist any labor organization other than to furnish, upon request, customary and routine services and facilities if the services and facilities are also furnished on an impartial basis to other labor organizations having equivalent status.

#### **Section 2: NNU Representation**

- A. NNU will be provided reasonable advance notice and be given the opportunity to be present and to participate at any formal discussion between one or more representatives of the Department and one or more RNs in the bargaining unit or their representatives concerning any grievance, personnel policy or practice, or other general condition of employment.
- B. If there is to be more than one Department official involved in a counseling session meeting with a RN, NNU will be notified in advance and will be given the opportunity to be present and participate.
- C. NNU will also be allowed to be present and represent a RN at any examination of a RN in the unit by a representative of the Department in connection with any investigation if the RN reasonably believes that the examination may result in disciplinary/adverse action against the RN and the RN requests representation. Consistent with [5 USC 7114\(a\)\(2\)\(B\)](#), NNU will be allowed to be present and represent a RN at any examination of a RN in the unit by a representative of the Department in connection with an investigation if the RN reasonably believes that the examination may result in disciplinary/adverse action against the RN and the RN requests representation.

### **Section 3: Notification of Changes in Conditions of Employment**

- A. Consistent with the Mid-Term Bargaining Article of this Contract, the Department will forward a notification of all proposed changes for which there is a statutory bargaining obligation to the appropriate Union official. The Department will forward, along with the notice, all relevant information relied upon to propose the change(s) in conditions of employment, for the purpose of NNU exercising its full rights to bargain (for example if applicable to the situation, affected RN(s), floor plans, any studies done, etc.). All notifications shall be in writing or by electronic means to the appropriate NNU official. Participation in committees and other such groups does not constitute official notice to the union nor meet the obligations of this Article unless the parties agree otherwise.
- B. In accordance with Executive Order 13522, the Department will allow NNU to have pre-decisional involvement in all workplace matters to the fullest extent practicable without regard to whether those matters are negotiable subjects of bargaining in order to decrease the time spent in formal bargaining.
- C. NNU has the right to request a briefing and/or bargain in accordance with the Mid-Term Bargaining Article. Such briefings will be provided by Department appropriate officials who have expert knowledge of the subject at hand as determined by the Department.
- D. The Department agrees not to conduct formal discussions (meetings) regarding grievances or changes to any personnel policy or practice or other general condition of employment with RNs without giving NNU reasonable advance notice and an opportunity to attend.
- E. In an effort to be proactive, NNU may propose changes regarding conditions of employment or resolution of problems affecting the working conditions of the bargaining unit. The Department will meet its statutory obligation to bargain over NNU proposed changes.
- F. Upon request, NNU will be given a list of bargaining unit RNs. At the national level the report will be by facility and at the local level this list will include the time and leave unit of the RN.
- G. A report of gains and losses of RNs, will be provided to NNU upon request.

### **Section 4: Information**

- A. In accordance with [5 USC 7114\(b\)\(4\)](#), the Department agrees to provide NNU, upon request, and, to the extent not prohibited by law, with data that is normally maintained in the regular course of business, reasonably available, and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining and which does not constitute guidance, advice, counsel, or training provided for management officials or supervisors, relating to collective bargaining.
- B. Information will be provided within a reasonable period of time at no cost to NNU.
- C. In the event the request is denied, the written denial will identify the reason and title of the person denying the information.
- D. If the Department determines that the information or data requested is not reasonably available in accordance with 5 USC 7114(b)(4), NNU will be notified as soon as practicable.

- E. The Department agrees that if they have a concern regarding information or data request(s) they will promptly contact NNU to discuss and resolve the issues.

#### **Section 5: Notification of NNU and Department Officials**

- A. At the appropriate level, NNU will provide the Department with an annual updated list of the names, titles, room numbers and telephone numbers of all officials.
- B. The Department agrees to disseminate the list to all bargaining unit RNs within 30 days after its receipt. Further, the Department agrees to provide all new RN hires with a copy of the list when they enter on duty. This does not preclude NNU from providing RNs with the same information.

#### **Section 6: NNU-RN Communication**

- A. The Department will not alter or censor the content of any direct communications between NNU and RNs. However, VA facilities will not be available for posting or distribution by RNs of libelous or defamatory material directed at VA or NNU officials or programs.
- B. NNU has the right to distribute brochures and literature for use by the RNs.

#### **Section 7: Surveys and Questionnaires**

- A. Prior to collecting information from bargaining unit RNs through surveys and questionnaires regarding conditions of employment, the Department will give notification to NNU before distribution of the survey. Notification will generally include, but is not limited to, a copy of the survey, dates to be administered, notice of confidentiality and voluntary participation to the RN, purpose and use of the data obtained, and how NNU may obtain a copy of the results. Notification will be at the national level for national surveys and at the local level for local surveys. To the extent practicable, NNU will be notified when questionnaires and surveys from other agencies are distributed by the Department. Nothing in this section precludes NNU from the right to bargain over conditions of employment under the Statute.
- B. Participation in surveys will be voluntary, unless NNU and the Department agree to require participation. RNs will be assured that their responses will be confidential and their anonymity protected, unless NNU and the Department agree otherwise.
- C. RNs shall be afforded reasonable duty time and will be relieved from required duties to complete surveys and questionnaires.
- D. The results of surveys and questionnaires regarding conditions of employment will be shared with NNU. If a third party conducts a survey and the results are distributed to the Department, the results will be shared with NNU and the bargaining unit.

#### **Section 8: New RN Orientation**

- A. When there are new RNs, NNU will be afforded the opportunity to make a 60 minute presentation during RN orientation. When NNU meets with new RNs during non-duty time, the Department will not be present.
- B. The Department will provide NNU with notice of the date, time, and place of the orientation and a list of new RNs including projected work location. The scheduled starting time of the NNU presentation will be coordinated with the local NNU. Any NNU official(s) making the presentation will be allowed official time to make the presentation, if otherwise in a duty status.
- C. If a RN misses the scheduled NNU presentation/orientation, NNU will be responsible for coordinating with the Department to provide the RN with the information.
- D. NNU officers and/or representatives may introduce themselves to new RNs, including but not limited to, in break rooms, unused patient rooms, nursing stations and the cafeteria.

### **Section 9: Voluntary Programs**

The Department and NNU agree that RN participation in the Combined Federal Campaign, blood donor drives, bond campaigns and other worthy projects will be on a voluntary basis. This does not preclude publicizing such projects and encouraging RNs to contribute and/or participate.

### **Section 10: RN Exit Interviews**

The NNU local will be on the clearance check list in use at each facility for bargaining unit RNs who are leaving employment at the facility.

### **Section 11: Access to NNU Office**

If the Department authorizes any person access to the Union office for any reason (other than cleaning and safety inspection), including a Department official, the local NNU Director will be notified in writing of the reason for the access immediately or as soon as practical thereafter. If a NNU official is on station and available, he/she will be contacted and arrangements made to accompany the person authorized to access the NNU office. If a NNU official is not available, a responsible Department official or an officer from the Police Department will escort the authorized person into the NNU office and stand by until the reason for the access is completed.

## **ARTICLE 46: FACILITIES AND SERVICES FOR UNION USE**

### **Section 1: Space & Office Equipment**

- A. The Department recognizes the value of a constructive labor-management relationship and the need for the local NNU to have use of office space. Where space is not presently being provided, it will be provided upon request. The Department agrees to furnish office space to NNU appropriate for carrying out its representational duties in locations easily accessible to RNs and private citizens and of size, furnishings, and decor commensurate with other administrative offices within the facility. Office space shall be sufficiently private to ensure confidentiality to the maximum extent possible. The office(s) shall be of sufficient size for necessary storage of confidential materials.
- B. The Department will provide standard office equipment at no cost to NNU. Where current office equipment, space, etc., exceed the minimum listed below there will be no reduction. The parties agree that the use of such equipment is for representational activities consistent with 5 USC Chapter 71 (the Statute). As new technology becomes available, the updates shall be made available to NNU consistent with other administrative offices. Nothing in this Article precludes the local union from requesting additional space and office equipment. The request will not unreasonably be denied.
- C. The following is minimum standard office equipment:
  - 1. One locking file cabinet;
  - 2. One ergonomic desk with ergonomic office chair and adjustable key board tray/table for each office;
  - 3. Two ergonomic visitor chairs;
  - 4. One fax machine, with separate fax line;
  - 5. One scanner or 3-in-1 color printer, scanner, copier similar to what is currently in use in the facility;
  - 6. One telephone line with long-distance capabilities, speaker capabilities, caller ID and voicemail similar to what is currently in use in the facility. Each additional workstation provided will have a separate telephone line with long-distance capabilities, speaker capabilities and voice mail;
  - 7. One up-to-date computer for each workstation provided, with standard up-to-date computer software similar to Word, Excel, PowerPoint, etc. that is available at the local facility, as well as VA network access and electronic storage necessary for representational duties, including email, VA Intranet (for VA employees) and Internet;
  - 8. One photocopier in the NNU office equal to other administrative offices and access to high-volume production equipment, if available in the facility;
  - 9. One laser printer (color);

10. One Blackberry for the NNU Chair, up to eight National NNU Officers, and each local NNU Director if requested;
11. One laptop with wireless Internet capabilities and access for the NNU-VA Chair. This includes mobile docking station in lieu of a desktop computer if requested. NNU officers will be granted temporary use of a VA laptop with wireless Internet from the local facility on request and subject to local availability;
12. One thumb drive or mobile data storage device encrypted for VA use similar to what is currently in use in the facility;
13. One bookcase, one wall clock and one literature rack;
14. Ability to schedule conference rooms and access to conference space subject to local availability; and,
15. One office multi-purpose cross cutter paper shredder or access to VA secure shredder bins if used at that facility.

D. The following conditions will apply to the use of space and equipment:

1. Such use will not damage the space and equipment in question more than normal wear and tear;
2. The space and equipment will be subject to the facility's sanitation and safety inspection program. NNU will coordinate with Facilities Management or equivalent service for access to the office space for cleaning and safety inspection as needed. NNU offices will be on the facility painting and carpet replacement schedules or as needed;
3. If the space and/or equipment are required for immediate needs of the facility, the Department will give NNU a reasonable advance notice (normally 90 days) and bargain with NNU over alternative arrangements;
4. All VA computer equipment use will adhere to established policies/procedures governing computer security and ethics; and,
5. At the facility where the NNU Chair is located, a separate office with the equipment noted above in Section 1C will be provided. The other national NNU representatives will be given shareable space in the local NNU office, including a separate desk, chair, telephone line, computer, and locking file cabinet. Where feasible, such shareable space will be at least 120 square feet. The officers of NNU may request conference space in accordance with local procedures.

## **Section 2: Services**

- A. The services listed in this section are considered to be minimum levels. Where in local facilities more have been negotiated those will not be reduced without negotiation.
- B. The following services shall be provided to each local:



1. VA inter-office mail access and a mail stop code;
  2. Conference rooms made available at no cost when requested in advance, subject to availability;
  3. Facility audio/visual equipment made available at no cost, subject to availability;
  4. VANTS access and web/teleconferencing conferencing access similar to what is currently in use in the facility;
  5. If the facility utilizes reserved parking spaces for supervisory employees, the local facility will work with the local NNU to provide one parking space, in a clearly marked location, reserved for the use of the NNU Local. This request will not be unreasonably denied. The location will be based on patient care requirements and the current availability of such reserved locations. The local parties will discuss the possibility of additional reserved parking spaces;
  6. Signage for local NNU offices;
  7. Inclusion of NNU offices and NNU officers in all directories, as requested;
  8. Panic alarms will be available in the NNU offices; and,
  9. NNU, upon request, will be included on all local mail and distribution groups where bargaining unit RNs are assigned.
- C. The Department will provide at no cost to NNU routine office supplies.
- D. NNU local Directors and National NNU Officers will be integrated into each facility's security, safety and sanitation plan. NNU offices will be secured according to the medical center's key plan.
- E. Local NNU officials may use the facility telephone service and government long-distance service for handling representational duties and conducting labor-management relations. NNU will use government long-distance service in a reasonable, prudent, and cost-conscious manner. Additionally, such telephone service, including VANTS, will only be used for representational matters including communications with the Department.
- F. At each facility, division and CBOC where there are RNs covered by this Contract, the NNU will be provided at least one locked bulletin board and space on common-use bulletin board(s) on patient care areas where they exist. Additional bulletin boards and locations may be requested locally. The material posted must be clearly identified as that of NNU and must follow related VA regulations regarding bulletin board postings.
- G. NNU may use the internal mail/messenger system for regular representational communications consistent with the Statute. NNU shall have use of VA metered mail limited to representational matters consistent with postal regulations. It is agreed that the use of metered mail for mass mailings is inappropriate under this section.
- H. The Department will create local and national mail group(s) and drives for NNU upon request. NNU will provide the Department at least one designated NNU official for mail

group coordinator privileges for this group(s). NNU will be responsible for populating and maintaining the mail group. It is understood that electronic mail network access will be used for official labor-management communications within the NNU bargaining unit. The parties agree that the use of the electronic mail system will adhere to established policies/procedures governing computer security and ethics.

- I. When travel to another location within the jurisdiction of a NNU local is necessary for representational activities consistent with the provisions of this Contract, and the transportation is otherwise being provided to the location for official business, NNU will be allowed access to the transportation on a space-available basis. When travel is approved and a NNU representative uses a privately owned vehicle, travel reimbursement will be pursuant to applicable travel regulations.
- J. The Department agrees to provide to RNs a link to the NNU-VA Contract, MOUs, national grievances, and National NNU Officers on the LMR website (<http://www.va.gov/lmr/>). Additional information regarding NNU-VA is located at the NNU website ([NNU - VA](#)). If a local facility maintains an HR website, the parties will discuss the inclusion of NNU information on that website.

### **Section 3: Information and Reference Services**

- A. The Department will give NNU local and national representatives electronic access to pertinent sections of the United States Code, Code of Federal Regulations, VA Directives and Handbooks and other relevant publications.
- B. If the local library has copies of video or audio programs or similar communications vehicles, the local NNU and individual RNs may check them out for viewing, utilizing existing equipment available for that purpose. If education credit is offered for viewing and evaluating such programs, the Department will extend education credit to RNs who verify attendance and submit the required documentation.

### **Section 4: Access**

- A. When NNU officials and NNU staff visit other facilities for the purpose of representation activity, they will notify the Chief of Human Resources or designee prior to their visit. They will be provided identification as specified in local policy.
- B. NNU staff will have access to Union offices and non-work areas of VA facilities.
- C. In facilities without designated space for meals or break periods, the Department agrees to cooperate with local NNU officials, upon notice and request, to identify appropriate locations where RNs can spend these non-work periods.
- D. The Department will provide space for the purpose of distributing NNU literature. The space will be as agreed upon locally. Distribution of literature on official time will be permitted for representational purposes consistent with the Statute.
- E. The Department agrees to provide adequate facilities, with proper advance notice and written request, for membership drives at locations that will provide access to RNs during

break and lunch periods. Detailed arrangements will be made at the local level. At a minimum, NNU will be given the use of facilities at least equal to that provided to other organizations/vendors or Department sponsored functions. Membership drives are internal union business and are not an appropriate use of official or duty time.

## ARTICLE 47: OFFICIAL TIME

### **Section 1: Purpose**

- A. NNU and the Department recognize that good communication is essential for positive constructive relationships. Good communications facilitate and encourage amicable settlement of disputes between RNs and the Department involving conditions of employment.
1. RNs are vital members of a facility's health care team. As such, all RNs must be able to perform in their RN position and to meet the competencies for that RN position.
  2. Unless specified in this Article, no NNU representative can function as a full-time union representative and no representative can use more than 80% of any official time during the fiscal year. It is the goal that all RNs work at least 20% of their regularly scheduled work time. These amounts will be prorated for the period between the effective date of the Contract and the end of that fiscal year.
  3. It is recommended that NNU representatives spread out their use of official time hours over the course of the fiscal year. NNU representatives will work out official time usage with their supervisors to accommodate both union representational activities and Department assigned duties. The parties recognize that a mutually agreed upon schedule is the recommended method for scheduling official time. Scheduling of RN duties for the end of the fiscal year should be avoided unless it is best for the local facility.
  4. Upon the effective date of this Contract, any local NNU representatives receiving a 100% official time allocation will be grandfathered while they remain in that union position provided Section 3A grants sufficient time. The representative may voluntarily choose not to maintain a 100% official time allocation, which cannot be transferred. For those facilities that do not have enough official time to maintain a 100% official time allocation from Section 3A below may receive official time from national allocations in Section 2A below. If not, the individual will follow the official time requirements in this Article. A list of such individuals will be identified and confirmed by the Chair NNU-VA and VACO LMR. This clause does not waive any of the Department's rights under the Statute or [38 USC 7422](#).
  5. Upon the effective date of the Contract, any local NNU representative in a 100% representational capacity not maintaining the full time status will not be required to conform to Section 1A2 above for the first full year of the Contract. Rather, in this initial one year period, the NNU representative will actively engage in meeting any requirements to return to a RN position, which may include orientation, education and training, and to work with the appropriate Department supervisor to transition into the schedule.
- B. No NNU representative shall use official or duty time to conduct internal union business.

### **Section 2: NNU-VA National Officials**

- A. The Department shall grant a total of 3 FTEE (6240 hours per year) of Official Time to NNU for allocation to their National Officials to conduct national duties. The Chair NNU-VA may serve in a 100% official time capacity. NNU may determine the remaining allocations but such allocations are subject to the limitations described in Section 1 above. However, as grandfathered full time local representatives from Section 1A4 leave their positions, the Chair NNU-VA may then combine national official time from this section with the local time allocations in 3A. This will be done on increments of 2 to 1, allowing for the maximum of four 100% representatives. For example, if ten 100% local representatives are grandfathered, once two leave their positions, the Chair NNU-VA may combine national and local time for one individual, so long as it is not for an individual where a grandfathered representative currently exists. When no grandfathered individuals from Section 1A4 remain, the Chair NNU-VA would have the ability to assign national time to someone also receiving local official time for a maximum of four individuals, not more than one per facility, not including the home facility of the Chair NNU-VA.
- B. The Department will grant a total of 50% (1040 hours) official time for NNU national safety representative(s). This time / hours will be allocated by the NNU Chair and can be split among multiple representatives. The time may be used at any point in the fiscal year but does not carry over to the next fiscal year.
- C. NNU, at the national level, will have an additional 1500 hours of official time to designate to RNs for pre-decisional involvement and management created committees including National Partnership Council (NPC). This time will be allocated by the Chair-NNU by submitting a written request to VACO LMR, if the request did not come from LMR. The additional 1500 hours is on a yearly basis, at the beginning of the fiscal year, and does not carry over from year to year.
  - 1. VACO LMR will be advised of the pre-decisional involvement or management created committee related to the request. Requests will not be arbitrarily denied but the total time used by the NNU representative may not exceed the allocations in this Article. Once approved, VACO LMR will advise the local facility of the NNU representative being approved for official time. The NNU representative will work with their supervisor to coordinate the release. If release is not possible at the time requested, a mutually agreeable time will be established in a timely manner.
  - 2. Upon request, VACO LMR will provide to the Chair-NNU the balance of hours.
- D. Any national officer or designated national representative will coordinate a suitable arrangement with local management for the scheduling of their national official time.
- E. Official Time Support:
  - 1. When a local elected official is also a national official and is therefore occasionally unavailable to perform local NNU representational functions, it is expected that another local official may be needed to perform such local functions of the unavailable NNU official.
  - 2. Where it is necessary for a local elected official who is also a national official to delegate a portion of his or her local official time to an alternate:

- a. The alternate will be released to perform representational duties when adequate notice has been given (normally four weeks), direct patient care needs permitting. Emergency request(s) for delegation of time will be fully considered. Upon request, the reason for the denial will be communicated to NNU in writing.
- b. The alternate may need to delegate part or all of his/her local official time to another local official consistent with this Article.
- c. The alternate to whom the official time is delegated must also be delegated full authority to act and make decisions in the absence of the national official and fulfill the duties for which the official time was originally allocated.
- d. The process for the delegation of national official time will be coordinated with the appropriate Department official at the local level.

### **Section 3: Local NNU Officials**

A. Official time for Local NNU bargaining units will be as follows:

1. Local official allocations will be consistent with Section 1 above.
2. Each NNU Local is entitled to official time according to the number of RNs in the bargaining unit as follows:

Under 200 BUE	.65 FTEE
200-399 BUE	.75 FTEE
400-599 BUE	1.10 FTEE
600-799 BUE	1.45 FTEE
800-1000 BUE	1.80 FTEE

After 1000, for every additional 100 FTEE, that local would receive an increase of 0.1 FTEE (i.e. 1050 BUE would be at 1.80 FTEE and 1100 BUE would be 1.90 FTEE)

3. If a local unit is losing official time under these calculations, the reduction will occur over a step-down period as follows: during the first full fiscal year of the Contract no reduction will occur; during the second full fiscal year, the reduction will be at 50% of the loss, and during the third full fiscal year and following years, the official time allocation will be consistent with the amounts above.
4. The number of bargaining unit RNs represented by that Local Unit as of September 1<sup>st</sup> of each year will be used to determine the size of the bargaining unit. For the purposes of this section a year is defined as a fiscal year. The time allocated for the first year will be prorated based on the date of execution of this agreement. If this official time is not used, it does not carry over to the following fiscal year.
5. Annually, no later than September 7<sup>th</sup>, the Department will forward a report of the bargaining unit size by facility to the Chair NNU and a unit report to the local Director.
6. Consistent with Section 1, local official time under this section may be distributed by NNU to as many representatives as they wish but the total allocation may not exceed the

above amount. The local NNU Director will supply this information to the local facility no later than October 1.

- B. Unless specified in this Article, official time shall be granted in amounts specified by this Article for the purposes of all representational activities, including but not limited to:
1. Communicating about matters covered under this Contract, with RNs, NNU union officials, and Department officials, including pre-decisional involvement and labor-management forums;
  2. Preparing and investigating grievances, interviewing witnesses, preparing for arbitration, and meeting with NNU representatives in connection with representational activity;
  3. Preparing to represent an employee in a statutory appeal process, including but not limited to, replies to the courts and/or administrative agencies such as FMCS, FSIP, and/or FLRA;
  4. Preparing to and participation in mid-term negotiations;
  5. Preparing to participate in a FLRA investigation or hearing as a representative of the NNU;
  6. Formal discussions;
  7. Grievance meetings;
  8. Arbitration hearings;
  9. Oral and written replies to disciplinary and major adverse actions;
  10. Travel associated with a representational activity;
  11. Training hours in addition to the hours below.
- C. Exceptions to the Local Official Time Allocations:
1. Consistent with the Statute and this Contract, designated NNU representatives will be granted reasonable and necessary time to carry out the following functions:
    - a. Term agreement bargaining in accordance with 5 USC 7131(a) and this agreement; and,
    - b. Negotiating a Local Supplemental Contract
  2. NNU Members on the National Joint Training Committee in the Contract Training, Duration and Distribution Article will receive official time for attending national training committee meetings and providing joint training to the local units consistent with requirements outlined the Contract Training, Duration and Distribution Article. This official time will not be counted against any official time allocations in this Article.

3. Official time will be granted to attend facility and VISN level labor-management forums consistent with the Collaboration and Labor-Management Forums Article of this Contract. This official time will be in addition to the amounts granted in this Article.
4. For purposes of labor management training consistent with the Labor-Management Relations Training Article of this Contract, each NNU Local is entitled to additional official time according to the number of RNs in the bargaining unit as follows:
  - a. Under 250 RNs – 80 hours per fiscal year
  - b. 250 - 500 RNs – 160 hours per fiscal year
  - c. 501 or more RNs - 280 hours per fiscal year

The number of bargaining unit RNs represented by that Local as of September 1st of each year will be used to determine the size of the bargaining unit. For the purposes of this section a year is defined as a fiscal year. These amounts will be prorated for the period between the effective date of the Contract and the end of that fiscal year. If this training time is not used, it does not carry over and may not be used for the representational activities described above. This time is for all associated training hours including travel to and from the training location (if travel is appropriate).

5. The Department and NNU are responsible for managing and scheduling the use of allocated official time effectively. When there is a genuine need for additional official time, the Department may grant, upon request, additional official time for participation in committees and other requested management meetings/assignments. When granted, the parties will work out the amount of time actually needed and the union will demonstrate the amount of time necessary. The Department will track such requests, and when granted, the amount of official time used. This section is not intended to avoid using official time allocated in this Article.

#### **Section 4: Official Time Usage**

- A. The parties recognize that a mutually agreed upon schedule is the recommended method for scheduling official time. Although official time allocated in Section 3A can be used in a regularly scheduled fashion or as needed (i.e. bank time), the parties recognize that establishment of bank time will best serve to cover representational needs during the year. The use of fixed scheduling with no bank time does not address the unplanned or unexpected representational needs.
- B. NNU Representatives and local management may choose to schedule usage of official time on some regular basis, provided that the scheduling does not conflict with the terms of this Contract. NNU representatives will work out official time usage with their supervisors to accommodate both NNU representational activities and Department assigned RN duties.
- C. If official time is not scheduled on a regular basis, NNU representatives are required to request and arrange official time with the appropriate Department officials in advance for their usage of official time. This usage will be recorded. If a valid operational need of the Department would not permit the NNU representative to use the official time when



requested, another occasion will be determined, keeping in mind the interests of NNU and RNs as well as the needs of the Department. No undue delay should result from these efforts nor will either party be compromised in the exercise of their rights by such efforts. If scheduled and cancelled, the official time can be returned to the bank or NNU may make arrangements to transfer the official time and have a different representative perform the function.

1. When bank official time is requested, the supervisor will be advised of the general purpose of the request, how the NNU representative may be contacted and the estimated time of return. Requests will not be arbitrarily denied.
  2. Prior to canceling prescheduled official time, the Department will make reasonable efforts to provide coverage so as not to necessitate the need to cancel the official time. If it is necessary to cancel official time, the Department will provide a written explanation to NNU, upon request. If cancelled, the parties will work to timely reschedule cancelled official time and unused official time will be returned to the available bank allocation.
  3. The NNU representative will notify the appropriate Department official when he/she returns to duty.
  4. If the NNU representative will be delayed beyond the estimated time, he/she will notify the immediate supervisor to request additional needed time, which will not be arbitrarily denied. If granted, the supervisor will also be notified of the time of return.
- D. Additional specifics regarding local arrangements of official time may be negotiated locally. This includes but is not limited to scheduling of fixed official time, release to perform official time duties, the specific process and/or form for requesting and tracking official time, and the transfer of official time.
- E. Consistent with the RN Rights Article and the Facilities and Services for Union Use Article of this Contract, NNU representatives may visit work areas as part of their representational duties consistent with the Statute and this Contract. Patient privacy must be respected at all times and the representative will not cause any disruption to the work area.
- F. Leave usage, such as sick and annual leave, should not count against official time allocations.

### **Section 5: Travel**

- A. Official time is appropriate for travel when representational duties or scheduled meetings are required at another location.
- B. NNU officials on Department approved travel are entitled to travel and per diem when appropriate, consistent with the Federal Travel Regulations.

### **Section 6: Performance Evaluation**

The use of official time, in accordance with this Contract, will not adversely affect an RN's proficiency report.

**Section 7: Return to Staff RN Duty of Union Officials**

- A. Reassignment and/or return to a RN position will be consistent with 38 USC 7422.
- B. This section covers NNU representatives previously serving in a 100% official time capacity who are returning to a RN position. The RN can request to return to the same or similar position of responsibility that he/she previously occupied as a RN. The Department will make reasonable efforts to return the RN to a same or similar position, based upon the skills of the RN and valid operational needs of the Department. If no position is requested, the Department will place the RN in a position based upon the skills of the RN and the needs of the Department.
- C. Additionally, the RN can request to return to the same tour of duty that the RN served in. When requested, the Department will make reasonable efforts to return the RN to the same tour of duty, based on valid operational needs of the Department. If no tour of duty is requested, the Department will place the RN in a position based upon the skills of the RN and the needs of the Department.
- D. The Department will provide orientation, education and/or training consistent with the Professional Development and Education Article of this Contract.
- E. Issues arising from this section may be addressed by the Chair NNU-VA by discussion with VACO LMR.
- F. The NNU Official has the same right of any RN to apply and be selected for other position(s) for which they are qualified, consistent with this Contract.

## **ARTICLE 48: GRIEVANCE PROCEDURE**

### **Section 1: Definitions**

- A. A grievance under 5 USC 7103(a)(9) means any complaint by a RN concerning any matter relating to the employment of the RN; by NNU concerning any matter relating to employment of a RN; or by NNU or the Department concerning the effect or interpretation, or a claim of breach of this Contract; or any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.
- B. This Article shall not govern a grievance concerning:
  - 1. Exclusions listed in [5 USC 7121\(c\)](#):
    - a. Any claimed violation of subchapter III of Chapter 73 of Title 5 (relating to prohibited political activities);
    - b. Retirement, life insurance, or health insurance;
    - c. A suspension or removal under 5 USC 7532;
    - d. Any examination, certification, or appointment.
  - 2. The rating of the proficiency
  - 3. Decisions of the Nurse Professional Standards Board (including reconsiderations)
  - 4. Notices of proposed actions
  - 5. Separation of RNs on probationary and/or time-limited appointments
  - 6. Any disciplinary or major adverse action involving professional conduct or competence
  - 7. Any matter or question concerning or arising out of 38 USC 7422

### **Section 2: Election of Grievance Procedure**

- A. As dissatisfactions and disagreements arise occasionally among people in any work situation, the filing of a grievance shall not be construed as reflecting unfavorably on a RN's good standing, performance, loyalty, or desirability to the VA. The mere filing of a grievance will not reflect negatively on the Department or NNU.
- B. As provided for in 5 USC 7121 and 38 USC 7461, the following actions may be filed either under an applicable statutory procedure (i.e., the agency grievance procedure, unfair labor practice (ULP) or EEO procedures) or the negotiated grievance procedure on the same issue, but not both:

1. Disciplinary actions that do not involve professional conduct or competence (38 USC 7461(b)(2)), major adverse actions that do not involve professional conduct or competence (38 USC 7463), and other grievances, and/or
  2. Discrimination (5 USC 2302(b)(1)).
- C. Nothing in this Contract shall constitute a waiver of any further appeal or review rights permissible under 5 USC Chapter 71.
- D. RNs shall be deemed to have exercised the option referred to in this section when they timely initiate an action under the applicable statutory procedure or file a timely grievance in writing under the negotiated grievance procedure, whichever event occurs first. Discussions between a RN and an EEO Counselor at the informal stage would not preclude a RN from opting to select the negotiated grievance procedure if the grievance is otherwise timely. For purposes of an EEO action, the time limit for filing a grievance should be extended in writing if the additional time may help facilitate the resolution of the RN's complaint or contribute to a full and complete investigation of the facts.

### **Section 3: Jurisdiction**

- A. If either party considers a grievance nongrievable or nonarbitrable, the original grievance will be considered amended to include this issue. The two issues will be adjudicated separately. When the Secretary has determined an issue to be exempt from the grievance procedure under 38 USC 7422, an arbitrator has no jurisdiction over that issue. When a request for a 7422 decision has been made, the arbitration will be stayed pending the issuance of the decision.
- B. If Department managers and management staff believe that a matter may be excluded from the grievance procedure under 38 USC 7422, they should explain and discuss their rationale with NNU and provide information as appropriate. Only the Secretary, or designee, has the authority to decide whether an issue is excluded from the grievance procedure under 38 USC 7422. If the Department asserts that a matter is excluded from the grievance procedure, NNU will be afforded the opportunity to formally submit in writing NNU's position on the matter for the record to be considered by the Secretary or designee prior to making a decision on the matter pursuant to 38 USC 7422.

### **Section 4: Representation**

- A. The only representative a RN may have under this negotiated grievance procedure is a NNU representative approved in writing by NNU. A RN may pursue a grievance under the negotiated procedure without NNU representation, but NNU may elect to attend each grievance step. NNU will be provided notice when any grievance under the negotiated grievance procedure is filed, as well as given notice of each meeting when a RN chooses not to be represented.
- B. Reasonable time during work hours will be allowed for RNs to discuss, prepare for, and present grievances, including attendance at meetings with management officials concerning the grievances.

## **Section 5: Informal Resolutions**

- A. Most grievances arise from misunderstandings or disputes which can be settled promptly and satisfactorily on an informal basis, if the RN, NNU and the Department agree.
- B. The parties may use alternative dispute resolution to settle grievances.
- C. The parties agree that grievances will be settled at the lowest possible level.
- D. RNs are encouraged to informally discuss issues of concern to them with NNU and/or their supervisors at any time.
- E. RNs and/or NNU may request to talk with supervisors and other appropriate Department officials about items of concern without filing a formal grievance if they choose.

## **Section 6: Grievance Procedure**

- A. Any grievance must state, in detail, the basis for the grievance, including the specific contract provision, policy, handbook, directive or law, etc., allegedly violated by that action and the corrective action desired.
- B. When information is requested by NNU to assist in processing the grievance, the Department will provide information consistent with 5 USC 7114(b)(4) and to the extent not prohibited by law.
- C. When a RN or NNU file a local grievance, the following steps will be followed:
  - 1. **Step 1:** The RN and/or NNU shall present the grievance to the immediate or acting supervisor in writing within 30 calendar days of the date that the RN or NNU became aware or should have become aware of the act or occurrence or anytime if the act or occurrence is of a continuing nature. Situations caused by actions which were taken or occurred on one specific date are not considered continuing violations despite any continuing effects they may have. The supervisor or designee will meet with the RN and/or NNU, upon request, to attempt to resolve the grievance and fully understand the nature of the grievance. A written answer will be provided within 14 calendar days of receipt of the grievance. If the Department fails to respond within 14 days, NNU may advance the grievance to the next step.
  - 2. **Step 2:** If the grievance is not satisfactorily resolved at Step 1, it must be presented to the Associate Director for Patient Care Services (ADPCS), i.e., Chief Nurse Executive (CNE), or designee in writing, within 15 calendar days of the Step 1 supervisor's decision. The ADPCS, i.e., CNE, or designee will meet with the RN and/or NNU, upon request, to attempt to resolve the grievance and fully understand the nature of the grievance. A written answer will be provided within 10 calendar days of receipt of the grievance. If the Department fails to respond within 10 days, NNU may advance the grievance to the next step.
  - 3. **Step 3:** If the grievance is not satisfactorily resolved at Step 2, the RN or NNU shall submit the grievance to the Director, or designee, in writing, within 15 calendar days of

receipt of the Step 2 decision. The Director or designee will meet with the RN and/or NNU, to attempt to resolve the grievance and fully understand the nature of the grievance. A written answer will be provided within 10 calendar days of receipt of the grievance. If the Department fails to respond within 10 days, NNU may advance the grievance to the next step.

4. **Step 4:** If the grievance is not satisfactorily resolved in Step 3, the grievance may be referred to arbitration.

## **Section 7: Matters Related to the Grievance Procedure**

- A. At any step of the negotiated grievance procedure, when any management deciding official designates someone to act on his/her behalf, that designee will have the complete authority to render a decision at that step and will render the decision. The designee will never be someone who decided the issue at any previous step.
- B. The grievance may be resolved at any step in the procedure.
- C. Grievances should normally be resolved at the lowest level possible. However, a grievance may be more appropriately initiated at the second or third step of the procedure when:
  1. Disciplinary action is taken by a Service Chief or higher level;
  2. The supervisor at the lower level clearly has no authority to resolve the issue;
  3. NNU grieves an action of a management official other than a Step 1 supervisor; or
  4. The Department files a grievance against NNU.
- D. When a grievance is initiated at a higher step, the time limits of Step 1 will apply.
- E. Department-initiated grievances at the local level shall be filed with the NNU local union Director or designee and shall constitute Step 3 of the negotiated grievance procedure. Such grievance must be filed within 30 calendar days of the act or occurrence or when the Department became aware of, or should have become aware of, the act of occurrence. The time limits for the meeting and response will be 14 calendar days.

## **Section 8: Time Extensions**

Time limits at any step of the grievance procedure may be extended by mutual agreement in writing prior to the expiration of the time limit. Requests for an extension of time will not be unreasonably denied by either party.

## **Section 9: Multiple Grievances**

Multiple grievances over the same issue may be initiated as either a group grievance or as single grievances at any time during the time limits of Step 1. Grievances may be combined

and decided as a single grievance at the later steps of the grievance procedure by mutual consent.

#### **Section 10: Failure to Respond**

- A. Should the moving party fail to comply with the time limits in this Article, unless an extension has been granted, at any step set forth in this Contract, the grievance is dismissed.
- B. Should the responding party fail to comply with the time limits in this Article, unless an extension has been granted, the grievance may be advanced to the next step.

#### **Section 11: National-Level Grievances**

- A. A national-level grievance is a grievance that affects two or more facilities or is a matter that the facility Director does not have the authority to resolve.
- B. Grievances between the Department and NNU at the national level shall be filed by the aggrieved party as follows:
  - 1. Within 45 calendar days of the act or occurrence or within 45 days of the date the party became aware of or should have become aware of the act or occurrence or at any time if the act or occurrence is continuing, the aggrieved party may file a written grievance with the other party. Situations caused by actions which were taken or occurred on one specific date are not considered continuing violations despite any continuing effects they may have.
  - 2. Upon receipt of a grievance, the parties will meet (in person, telephonic, or by other remote teleconference) and communicate with each other in an attempt to resolve the grievance. A final written decision, including any position on grievability or arbitrability, must be rendered by the respondent within 45 days of receipt of the grievance. If a decision is not issued in 45 days or if the grieving party is dissatisfied with the decision, the grieving party may proceed to arbitration. The time limits may be extended by mutual agreement in writing prior to the expiration of the time limit.

## **ARTICLE 49: ARBITRATION**

### **Section 1: General**

- A. Only NNU or the Department may refer to arbitration any grievance that remains not satisfactorily resolved after the final step under the procedures of the Grievance Procedure Article.
- B. Questions of arbitrability or grievability which cannot be resolved by NNU and the Department shall be referred to arbitration for decision. The arbitration process shall be bifurcated where either party asserts that the issue(s) is non-arbitrable or non-grievable.
- C. Official notices as required by this article may be by email or other formal written communication. This is not meant to inhibit verbal communication in an effort to resolve the issues.

### **Section 2: Notice to Invoke Arbitration**

A notice to invoke arbitration shall be made in writing to the opposite party within 30 calendar days after receipt of the written decision rendered in the final step of the grievance procedure. Failure of the moving party to invoke arbitration within 30 calendar days will constitute termination of the grievance unless the parties mutually agree to allow the grievance to continue.

### **Section 3: Arbitration Procedure**

- A. Within 10 calendar days from the date of the notice to invoke arbitration, the moving party will request the Federal Mediation and Conciliation Service (FMCS) to provide a list of seven impartial persons to act as an Arbitrator. A copy may be requested by the other party if timeliness is in question. Failure of the moving party to request a panel from the FMCS will constitute termination of the grievance unless the parties mutually agree to allow the grievance to continue.
  - 1. By mutual agreement NNU and the Department may agree to use an Arbitrator outside of the FMCS list.
  - 2. If using the FMCS list, NNU and the Department will meet within 10 calendar days after receipt of such list to select an Arbitrator (this may be done by telephone). Failure of the moving party to agree to meet within this time frame will constitute termination of the grievance unless the parties mutually agree to allow the grievance to continue. Should the other party fail to meet within 10 days, the moving party may unilaterally select an Arbitrator. On the agreed upon date, the parties will alternatively strike one potential Arbitrator's name from the list of seven and repeat this procedure until one name remains. The remaining person will be the duly selected Arbitrator. The parties will choose lots to determine who strikes the first name.



3. Following the selection, the moving party will, within seven calendar days, notify the FMCS of the name of the Arbitrator selected. A copy of the notification will be served on the other party. Failure of the moving party to notify the FMCS within seven calendar days will constitute termination of the grievance unless the parties mutually agree to allow the grievance to continue.
  4. When the selected Arbitrator notifies NNU and the Department of his/her availability to conduct the hearing, NNU and the Department will confer within seven calendar days or at a mutually agreeable date, to reach agreement on the hearing date. The Arbitrator will be promptly notified of the date.
  5. The arbitration hearing date must be scheduled (but not necessarily held) within 90 days from the date the Arbitrator was selected or the grievance will be considered terminated. An exception to this time period will be made by mutual consent to extend the timeframes. Additionally, an exception will be made for inability on the part of the Arbitrator to provide a hearing date. Should the Department refuse to participate in scheduling the arbitration within the 90 day period, NNU may unilaterally schedule the arbitration hearing date. If a mutually agreeable date is not readily available for the selected Arbitrator, NNU and the Department may elect to use another Arbitrator.
  6. Within seven calendar days from the date the Arbitrator was selected the parties shall try to define the issue(s). If the parties fail to agree on the issue(s) for arbitration each party shall submit a proposed statement of the issue(s) no later than seven calendar days after this meeting and the Arbitrator shall determine the issue(s) to be heard seven days prior to the start of the arbitration hearing. The parties are encouraged to work with the Arbitrator to have the issue(s) framed before the actual hearing date. The Arbitrator's jurisdiction is limited to the issue(s) determined in this section.
- B. The procedures used to conduct an arbitration hearing shall be determined by the Arbitrator. All witnesses necessary for testifying at the arbitration will be on duty time if otherwise in a duty status. With at least six weeks advance notice from NNU, the Department will arrange necessary witnesses' schedules and place them on duty during the arbitration hearing whenever practical. A reasonable amount of official time pursuant to 5 USC 7131(d)(2) will be granted for participating witnesses. This includes reasonable preparation time for participating witnesses.
  - C. The Arbitrator's fees and expenses, including the panel request fees, and transcript fees shall be borne equally by NNU and the Department. If either party requests a transcript, that party will bear the entire cost of the transcript. Upon mutual cancellation of the arbitration (i.e., settlement), NNU and the Department shall bear equally any cancellation fee. If one party cancels the arbitration and a cancellation fee is required, that party will be responsible for the total fees for the Arbitrator.
  - D. For single station local grievances, the site normally will be the facility where the grievance exists. At the local's request, another site may be designated upon mutual agreement. If another site is used based on the local's request, the local will pay the cost of the site. For national grievances normally the hearing will be held in Washington, D.C. unless NNU and the Department mutually agree to another site.
  - E. The Arbitrator's decision shall be final and binding. However, either party may file an exception to the Arbitrator's award in accordance with applicable law and regulations. The

Arbitrator will be requested to render a decision within 45 days. Any dispute over the interpretation of an Arbitrator's award shall be returned to the Arbitrator for settlement, including remanded awards. The Arbitrator shall have no authority to alter, amend, add to or subtract from the contract. The Arbitrator shall be bound by and must comply with all terms of the contract.

- F. The Arbitrator has full authority to award appropriate remedies, including reasonable legal fees and costs to the extent authorized by applicable statutory and regulatory authorities.
- G. Nothing shall prevent the use of the Arbitrator for mediation if mutually agreed upon by NNU and the Department.
- H. Visitors and observers will be allowed to attend and observe arbitration proceedings if mutually agreed upon by NNU and the Department and the Arbitrator.
- I. NNU and the Department will pay 100 percent for the fees, travel, per diem and expenses for their representatives.
- J. The Department will pay for local travel expenses for participating witnesses consistent with the Federal Travel Regulation (FTR). For non-local witnesses, travel expenses will be paid by mutual consent.
- K. In national arbitration cases, the Department will pay travel and per diem for up to five participating witnesses consistent with the FTR. By mutual agreement, the Department may pay travel and per diem for additional witnesses participating in a national arbitration hearing.
- L. NNU and the Department will furnish names of any witnesses and representatives, their installation and work location, if not located at the hearing site, to the other party at least 10 workdays in advance of the arbitration. If witnesses are added to the list after the 10 day deadline, the other party will be informed in writing immediately. When witnesses are outside a 200-mile radius, NNU and the Department will attempt to obtain testimony without requiring witness travel.

## **ARTICLE 50: DUES DEDUCTION**

### **Section 1: Eligibility**

- A. Any bargaining unit RN may have dues deducted through payroll deductions. Such deductions will be discontinued when the RN leaves the unit of recognition, ceases to be a member in good standing of NNU, or submits a timely revocation form under the procedures of this Article.
- B. RNs that are placed in training assignments in the bargaining unit of 90 days or less shall remain as members of the unit of recognition and eligible for dues deduction.

### **Section 2: NNU Responsibilities**

- A. NNU agrees to inform the Department, in writing, of the following:
  - 1. The dues amount(s) or changes in the dues amounts;
  - 2. The names of the NNU officials responsible for certifying each RN's authorization form, the amount of dues to be withheld, and changes in allotments; and,
  - 3. The name and address of the payee to whom the remittance should be made.
- B. NNU agrees to promptly forward completed and certified form(s) to the appropriate Department office via facsimile or other secure appropriate manner, such as encrypted email.
- C. The local NNU Director or designee will notify the Department immediately of issues regarding dues deduction.

### **Section 3: Department Responsibilities**

- A. It is the responsibility of the Department to:
  - 1. Complete the processing of voluntary allotments of dues in accordance with this Article and in amounts certified by NNU within two weeks of receipt of a properly certified authorization form;
  - 2. Withhold RN dues on a bi-weekly basis;
  - 3. Transmit two copies of the remittance list, via email or hard copy, to the NNU national office and one other location as specified by NNU, as expeditiously as possible at the end of each pay period; and,
  - 4. Transmit a union dues deduction amount list to the local unit as expeditiously as possible at the end of each pay period via email or hard copy to include:

- a. The name of the RN member, the amount of dues withheld and the anniversary date of the effective date of the dues withholding; and,
  - b. Identification of active RNs for whom allotments have been temporarily stopped and identification of those which are a final deduction because of termination of dues deduction.
- B. Electronic transfer of funds will be authorized for the transmittal of NNU dues.

#### **Section 4: Procedures for Withholding**

- A. Bargaining unit members wishing to have his/her dues withheld by payroll deduction will submit his/her completed [SF-1187s](#) or the NNU Dues Deduction Form to NNU designated officials. A NNU official will certify the form and include the amount of dues to be withheld.
- B. The certified SF-1187 or the NNU Dues Deduction Form will be forwarded to the appropriate VA office for processing. Dues withholding will become effective at the beginning of the next pay period if received in the appropriate VA office at least three workdays prior to the beginning of that pay period.
- C. Questions concerning whether an RN is in the unit of recognition and eligible for payroll deduction of NNU dues will be resolved through consultations between the Human Resource Manager or designee and local NNU officials and/or through a unit clarification petition. In the event a clarification of unit petition is filed, the RN's dues will be withheld pending a decision on the petition.

#### **Section 5: Changes in Dues Amount**

- A. At any time there is a change in dues structure, the designated national NNU official will send a memorandum to the appropriate Department official noting the amount of the change.
- B. The new amount will be deducted starting the first pay period following receipt by the Fiscal Officer unless a later date is specified.
- C. The memorandum must be signed by one of the national NNU officials designated to certify dues withholding amounts.

#### **Section 6: Revocation**

- A. Consistent with 5 USC 7115(a), RNs may revoke his/her dues withholding only once a year, on the anniversary date of his/her original allotment, by submitting a timely SF-1188. The [SF-1188](#) is available on the VA web site.
- B. NNU will inform RNs that:

1. Dues withholding may be revoked by submitting a SF-1188 to the Department within a 21 calendar day period prior to the anniversary date of the RN's signature as indicated on the SF-1187.
  2. If a request for revocation is not submitted within the timeframe cited above, the authorization will continue for additional one year periods on each anniversary of the date a SF-1187 was signed.
  3. In order for the SF-1188 to be timely, it must be submitted to the Department between the anniversary date of the effective date of the dues withholding and 21 calendar days prior to the anniversary date.
- C. Upon request from a RN, the Department will process SF-1188s in accordance with the terms and conditions specified on SF-1187s and this Article. The Department will return SF-1188s or equivalent if not timely filed. The Department will forward to the designated NNU representative(s) copies of processed SF-1188s received directly from RNs.

### **Section 7: Continuation of Dues**

- A. When a RN has dues temporarily stopped, or is detailed/temporarily promoted out of the bargaining unit, NNU dues withholding will restart automatically when the RN returns to the bargaining unit, with reinstatement of the RN's original anniversary date.
- B. Anytime Department officials request the Fiscal Office in writing to discontinue a RN's dues withholdings because the RN has left the unit of recognition (i.e., promotion and reassignment), a copy of such request shall be provided to NNU. Where a dispute arises over whether or not the person has left the unit and eligible for payroll deduction of NNU questions will be resolved through consultations between the Human Resource Manager or designee and local NNU officials and/or through a unit clarification petition. In the event a clarification of unit petition is filed, the RN's dues will be withheld pending a decision on the petition.

### **Section 8: Costs**

All payroll deductions and transmittals will be made at no cost to NNU.

### **Section 9: New Position Determination**

If any RN who is on dues deduction is selected for a new, non-supervisory position and NNU and the Department do not agree on whether a position is in the bargaining unit, the RN will remain on dues deduction until the matter is resolved.

## **ARTICLE 51: MID-TERM BARGAINING**

### **Section 1: General**

- A. The purpose of this Article is to establish a complete and orderly process and ground rules to govern mid-term negotiations at the National, Intermediate and Local levels.
- B. The level at which bargaining occurs will be determined by the organizational level where the proposed change(s) is being initiated.
- C. The parties may agree to use an interest-based bargaining approach in mid-term negotiations.
- D. When NNU demands to bargain as a result of management-initiated changes in working conditions of bargaining unit RNs that triggers a duty to bargain under the Statute, the Department will bargain as appropriate at the level defined by this Article.
- E. Recognizing that the NNU Master Contract cannot cover all subjects, it is understood that mid-term agreements may include substantive bargaining on all subjects not covered in the NNU Master Contract.

### **Section 2: National Bargaining and Ground Rules**

- A. The Department will forward a notification of all proposed changes for which there is a statutory bargaining obligation to the Chair NNU-VA or designee along with copies of all relevant documents to explain the change. Service may be done electronically or by mail. The date of receipt for electronic notices will be three business days following the date of delivery receipt. To facilitate notice of proper service, the parties are encouraged to use the delivery receipt function of VA email. The date of receipt of notice sent by mail will be five calendar days from the date sent.
- B. Once the notice has been delivered pursuant to Section 2A, the following time limits will apply:
  - 1. NNU shall have 15 calendar days from the date of receipt of a notification described in Section 2A above to request a briefing and 30 calendar days from the date of receipt of the notification described in Section 2A above to request bargaining. If NNU has not requested bargaining within this time frame, the Department may implement the proposed change. This does not preclude the parties from discussion post-implementation.
  - 2. The Department will have seven calendar days from the briefing request described in Section 2B1 above to arrange the briefing, subject to the availability of appropriate officials needed to provide/receive the briefing or consultation.
  - 3. NNU will have 30 days from the receipt of the notice of proposed change or briefing if one was provided to forward a complete set of written proposals to the designated Department official authorized to negotiate. The proposals will address the substance or

impact of the change as appropriate and will not address unconnected matters unrelated to the proposed change.

4. Upon receipt of the written proposals, the parties will begin negotiations within 30 calendar days.
    - a. If NNU has not submitted written proposals within the time frame in Section 2B3, the Department may implement the proposed change. This does not preclude the parties from discussion post-implementation.
    - b. Within this 30 day period, the parties will initially attempt to reach agreement by negotiating by telephone or other virtual technology (for example V-Tel or Live Meeting). Telephone negotiations will normally be for up to two (2) hours per call, commencing at a mutually agreeable time and continuing for no more than two (2) calls unless mutually agreed upon by the NNU and VA. NNU and VA are unable to reach agreement through this effort, negotiations will proceed face-to-face. Such bargaining will ordinarily take place in the Washington, DC area. Upon request the Department will provide access to the appropriate equipment to enable the designated NNU representatives to participate in the negotiations.
  5. Face to face bargaining at the national level will not usually exceed five working days. The five workday period is to include necessary travel, preparation, and actual bargaining. This time period may include mediation. The parties will bargain in good faith to reach agreement as expeditiously as possible. The parties may agree to reasonable extensions of time for complex issues provided that the total time does not cause an unreasonable delay or unreasonably impede the Department from making the change(s) in a timely manner.
  6. Extensions or reductions of any time periods will be by mutual agreement.
- C. Each party may have up to six negotiators for telephone negotiations and up to five plus one NNU staff members if face to face negotiations are used. The number of negotiators may by mutual agreement be increased or decreased based on the complexities and/or number of issues to be negotiated. The parties will exchange the names of the bargaining team members for the specific issue(s) to be discussed prior to the beginning of bargaining. This does not preclude the attendance of experts by mutual consent of the parties.
  - D. Travel and per diem will be paid for four NNU bargaining team members by the Department pursuant to the Federal Travel Regulation for face to face negotiations. The number of NNU bargaining team members for whom travel and per diem will be paid may be changed by mutual agreement. Normally, the Department will furnish VA space and equipment for these negotiations.
  - E. Face to face bargaining sessions will be for eight and a half hour days at mutually agreeable times, which will include a break for lunch. However, the parties, by mutual agreement, may extend or shorten such bargaining sessions as necessary. The parties may agree to utilize Alternate Dispute Resolution mechanisms.
  - F. No official electronic recording or verbatim transcripts will be made during the negotiations. However, each party may make and keep its own notes and records. The notes may be

taken on a non-voice activated electronic device unless required by disability of a team member.

- G. Either party requesting a caucus will leave the bargaining room to caucus in a room provided by the Department. There is no limit on the number of caucuses which may be held but each party will make every effort to restrict the number and length of caucuses.
- H. Cell phones and other electronic devices will be placed on vibrate mode.
- I. The Chief negotiator for each party will initial each clause as tentatively agreed. There is no agreement until all proposals have been initialed or withdrawn.
- J. These ground rules do not preclude the development and use of more specific ground rules by mutual agreement and as needed by circumstances and complexity of the issues.
- K. NNU and the Department retain the right to modify, withdraw, or add to any interests, concerns, or proposals they may have discussed or exchanged earlier related to the proposed change.
- L. National memorandums of understanding will be available electronically. The Department will distribute copies of all MOU's to each local facility and local NNU.

### **Section 3: Intermediate Level Bargaining and Ground Rules**

Bargaining at the intermediate level will follow the procedures outlined in Section 2. The location for face to face negotiations will be mutually determined. The parties will make reasonable efforts to use bargaining team members from the geographic area of concern. Unless changed by mutual agreement, no more than three NNU VA negotiators will be utilized. Travel will be paid for up to three NNU negotiators. The Department will pay for one NNU negotiator not directly impacted by the change unless there is mutual agreement to increase the number. This participation will not delay the scheduling of the actual negotiations.

### **Section 4: Local Level Bargaining and Ground Rules**

- A. The Department will forward a notification of all proposed changes for which there is a statutory bargaining obligation to the NNU Local Director or designee along with copies of all relevant documents to explain the change. Service may be done electronically or by mail. The date of receipt for electronic notices will be three business days following the date of delivery receipt. To facilitate notice of proper service, the parties are encouraged to use the delivery receipt function of VA email. The date of receipt of notice sent by mail will be five calendar days from the date sent.
- B. Once notice is given to the NNU Local Director or designee pursuant to Section 4A, the local may either request a briefing or demand to bargain.
  - 1. If NNU chooses to request a briefing, it must do so within fifteen days of the receipt of the notice.



- a. The Department will have seven calendar days from the briefing request to arrange the briefing, subject to the availability of appropriate officials needed to provide/receive the briefing or consultation.
  - b. After the briefing, NNU will have ten days to demand to bargain and submit proposals to the Department.
  - c. Once proposals are received by the Department, the bargaining will begin within seven days.
  - d. Face to face bargaining will not usually exceed five working days. The five workday period is to include necessary travel, preparation, and actual bargaining. This time period may include mediation. The parties will bargain in good faith to reach agreement as expeditiously as possible.
  - e. The parties may agree to reasonable extensions of any of the above time frames provided that the total time does not cause an unreasonable delay or unreasonably impede the Department from making the change(s) in a timely manner.
  - f. If NNU has not requested bargaining within this time frame, the Department may implement the proposed change. This does not preclude the parties from discussion post-implementation. Every effort will be made by NNU to request the briefing and bargaining in the earliest time frame.
2. If NNU chooses to demand to bargain without requesting a briefing, they must submit a demand to bargain and a complete set of proposals within thirty calendar days.
    - a. Once proposals are received by the Department, the bargaining will begin within seven days.
    - b. Face to face bargaining will not usually exceed five working days. The five workday period is to include necessary travel, preparation, and actual bargaining. This time period may include mediation. The parties will bargain in good faith to reach agreement as expeditiously as possible.
    - c. The parties may agree to reasonable extensions of any of the above time frames provided that the total time does not cause an unreasonable delay or unreasonably impede the Department from making the change(s) in a timely manner.
    - d. If NNU has not requested bargaining within this time frame, the Department may implement the proposed change. This does not preclude the parties from discussion post-implementation. Every effort will be made by NNU to request the briefing and bargaining in the earliest time frame.
- C. Each party may have up to four negotiators. The number of negotiators may by mutual agreement be increased or decreased based on the complexities and/or number of issues to be negotiated. The parties will exchange the names of the bargaining team members for the specific issue(s) to be discussed prior to the beginning of bargaining. This does not preclude the attendance of experts by mutual consent of the parties.
  - D. The Department will furnish VA space and equipment for these negotiations.

- E. Face to face bargaining sessions will be for eight and a half hour days at mutually agreeable times, which will include a break for lunch. However, the parties, by mutual agreement, may extend or shorten such bargaining sessions as necessary. The parties may agree to utilize Alternate Dispute Resolution mechanisms.
- F. No official electronic recording or verbatim transcripts will be made during the negotiations. However, each party may make and keep its own notes and records. The notes may be taken on a non-voice activated electronic device unless required by disability of a team member.
- G. Either party requesting a caucus will leave the bargaining room to caucus in a room provided by the Department. There is no limit on the number of caucuses which may be held but each party will make every effort to restrict the number and length of caucuses.
- H. Cell phones and other electronic devices will be placed on vibrate mode.
- I. The Chief negotiator for each party will initial each clause as tentatively agreed. There is no agreement until all proposals have been initialed or withdrawn.
- J. These ground rules do not preclude the development and use of more specific ground rules by mutual agreement and as needed by circumstances and complexity of the issues.
- K. NNU and the Department retain the right to modify, withdraw, or add to any interests, concerns, or proposals they may have discussed or exchanged earlier related to the proposed change.
- L. Local memorandums of understanding will be available electronically.

## **ARTICLE 52: LOCAL SUPPLEMENTAL CONTRACTS, MEMORANDA OF UNDERSTANDING AND AGREEMENTS**

### **Section 1: Local Supplemental Contracts**

- A. Subject to paragraph B of this Section, contract provisions contained in local contracts in existence prior to the Contract will continue in effect insofar as they do not conflict with the Contract. For the purposes of this Article, a local provision is in conflict if it would: (a) alter the terms of the Contract or (b) interfere with or impair its implementation.
- B. Where the Contract in a specific article provides for local supplemental bargaining and there is a current local contract provision or MOU in place, the local provision will continue in effect unless or until changed through renegotiation. Subjects not addressed in the Contract, existing in local contract provisions or MOUs will continue unless or until changed through renegotiation.
- C. Recognizing that this Contract cannot cover all matters or provide definitive language for local adaptability on subjects addressed in this Contract, it is understood that local supplemental contracts may include substantive bargaining on all subjects not covered in this contract. The local parties may also bargain on matters covered by this Contract when specified in this Contract. Local supplemental contracts and MOUs cannot conflict with this Contract. For the purposes of this Article, a local provision is in conflict if it would: (a) alter the terms of the Contract or; (b) interfere with or impair its implementation. In this regard, benefits for RNs and/or NNU agreed to in this Contract are controlling over those in local supplemental contracts and MOUs unless otherwise authorized in this Contract.

### **Section 2: Procedures for Local Supplemental Contracts**

- A. NNU and the Department agree that negotiation of any local supplemental contracts will be postponed until NNU and the Department complete joint labor/management training related to the Master Contract or no sooner than 180 calendar days after the NNU Master Contract has been effectuated.
  - 1. Accordingly, after 180 calendar days or the completion of the joint training, whichever comes first, either party has the right to open negotiations or renegotiations for a local supplemental contract consistent with Section 1 above. The local supplemental contract may include a provision for re-opening the local contract once during the initial term of the National Master Contract.
  - 2. This Section does not preclude local bargaining of a MOU in accordance with the Mid-Term Bargaining Article.
- B. If within 30 days of receipt by VACO LMR the Department identifies any illegal provisions it will inform NNU and the local parties of the illegal provisions. The parties will meet to discuss the identified provisions to attempt to resolve the illegal provisions. This meeting may be via teleconference for minor issues or face to face depending on the complexity of the issues by mutual consent.

### **Section 3: Ground Rules for Negotiating Local Supplemental Contracts**

Ground rules for negotiating local supplements are an appropriate subject for local bargaining. Ground rules may include, among other things, physical location of bargaining, caucuses, subject matter experts, start date, official time, prep time, observers, the number of people on each team and administrative matters and materials.

## **ARTICLE 53: NURSE LOCALITY PAY SURVEY**

- A. VA policy prescribes both valid mechanisms for the collection of survey data and the order in which types of available survey data are applied to increase existing rates or establish new rates of pay for nurse schedules. A facility may utilize a local contractor provided survey, a national third party salary survey, or if salary survey data is not readily available, the facility may perform a Department conducted Nurse Locality Pay Survey, with survey team members appointed by the Medical Center Director (MCD).
- B. Should the MCD appoint a team to conduct a Nurse Locality Pay Survey, NNU will be notified and may recommend names for inclusion as team members. RN pay scales are determined by the Department and are not subject to collective bargaining and/or the negotiated grievance procedure. This does not preclude NNU from providing information and recommendations for RN pay scales. Upon request, NNU will be provided a copy of the data used to determine RN pay scales.
- C. If national data is used, the Department will discuss with NNU the data used in its review and provide a copy, upon request.
- D. NNU may recommend certain establishments within the geographic survey area to be contacted for Department conducted surveys.
- E. NNU shall have the right, if it believes circumstances in the geographical area warrant, to submit a request to the MCD to have a locality pay survey conducted. The MCD will give full consideration to this request prior to making his/her final determination. If a survey is not conducted, the MCD or designee will provide a written explanation of his/her decision, upon request.

## **ARTICLE 54: NNU REPRESENTATION ON COMMITTEES**

- A. It is understood that this Article does not extend to matters involving professional conduct or competence, peer review, or the establishment, determination, or adjustment of RN compensation.
- B. Participation on committees may eliminate the need for formal bargaining but is not a waiver of bargaining rights of either party. NNU representatives serving on committees will be on official time consistent with the Official Time Article of this Contract. Additionally, if the attendance of a NNU representative on committees is in a pre-decisional capacity, his/her role will be consistent with the Collaboration and Labor-Management Forums Article of this Contract.
- C. NNU may request to be represented on Department committees, initiatives and task force groups which impact working conditions of NNU bargaining unit RNs at the local, intermediate and national levels.
- D. Consistent with Section A above, if a local committee directly impacts nursing care delivery (i.e. Nurse/Pharmacy and Nurse/SPD), NNU may request representation which will not be unreasonably denied.
- E. Nothing in this Article is intended to alter current NNU participation and membership on committees, initiatives and task force groups.
- F. Upon determining that NNU participation is appropriate, the Department will invite a NNU representative to attend meetings that involve external stakeholders for matters that impact working conditions of RNs.
- G. No later than 90 days after the effective date of this Contract, the Department will provide to the local NNU a list of any known committees that impact working conditions of RNs. Subsequently, the Department will inform NNU when new committees which impact working conditions of NNU bargaining unit RNs are formed.

## **ARTICLE 55: AFFILIATIONS/JOINT VENTURES**

- A. The Department will honor NNU's rights as the exclusive representative regardless of any relationship between the Department and any affiliated body, agency, department, assignee or contractor.
- B. The Department agrees that officials of an affiliate/joint venture acting in a supervisory capacity over bargaining unit RNs shall be bound by applicable law, regulations, and the terms of this Contract and any applicable supplemental contracts in his/her supervisory relationships with bargaining unit RNs.

## **ARTICLE 56: CHANGE IN OWNERSHIP OR MERGER OF A VA FACILITY**

- A. Before the sale, transfer of ownership or merger of any VA facility or part thereof in which NNU represents RNs, the Department will give NNU written notice as far in advance as possible prior to the transaction. The term merger includes both a merger of a VA facility with a non-VA entity as well as a merger with another VA facility. The Department will bargain as appropriate if the sale, transfer of ownership or merger triggers a duty to bargain under the Statute.
- B. Upon sale, transfer of ownership or merger of a VA facility or part thereof, the Department will not oppose any action before the FLRA seeking to continue NNU's certification as the exclusive representative, if the unit would otherwise be considered an appropriate unit under the law.



## **ARTICLE 57: RESTRUCTURING, CONSOLIDATING, INTEGRATING OR CLOSING VA FACILITIES OR UNITS**

### **Section 1: General**

- A. The Department may consider restructuring, consolidating, integrating, share(ing) agreements or closing facilities/units.
- B. In the event that restructuring, consolidating, integrating or closing facilities/units is contemplated or proposed, NNU at the appropriate level(s) will be notified. To the extent practicable, the Department will notify NNU at the earliest possible time to allow for collaborative discussions consistent with the Collaboration and Labor-Management Forums Article.
- C. Notification of the closing or opening of a VHA facility shall be given to the NNU National Office.
- D. Where a duty to bargain is triggered by the Statute, the Department will bargain with NNU at the appropriate level, to the extent required by law, regarding restructuring, consolidating, integrating, or closing facilities/units.
- E. Conferring with affected RNs regarding restructuring, consolidating, integrating, or closing facilities/units is an appropriate use of official time.

### **Section 2: Reduction in Force (RIF)/Staff Adjustment Planning and Implementation**

- A. In the event that a staff adjustment is necessary in conjunction with a decision to restructure, consolidate, integrate or close any facility/unit, the Department will provide reasonable notice (normally 60 days) to NNU and to all RNs affected. In all cases, RNs will be given a minimum of 30 days advance notice. Once the 30-day notice has been given, NNU will be given a list of affected RNs. The notice will include the reason for the RIF/Staff Adjustment, anticipated scope of impact, time frames, and information concerning the availability of placement and other types of assistance.
- B. Functional statements must be used in determining Competitive Levels (CL) during the implementation of a RIF/Staff Adjustment, but do not form the sole basis for establishing CL. The functional statement must contain all pertinent information (i.e. principle duties, responsibilities and supervisory relationships) related to the position to ensure accurate job related documentation.
- C. In the event of a RIF/Staff Adjustment affecting RNs, the Department will act in accordance with law, government-wide rules or regulations and/or VA policy.
- D. If a RIF/Staff Adjustment is required, a written plan will be developed and provided to NNU.

### **Section 3: Work Location Movements (No Loss of RNs)**

- A. When a work location/unit is moved to another area within the facility without a change in the work location/unit mission or staffing, the Department will meet with NNU and the RNs who would be affected by the move to discuss the impact.
- B. Identification of RNs affected will be made to the NNU local prior to notification of the individual RNs. RNs will normally be given at least 30 days advance notice when a work location/unit is going to be closed and the RNs are reassigned. Impact and implementation will be locally negotiated when the obligation to bargain is triggered by the Statute.

#### **Section 4: Realignment of Positions**

- A. When the Department determines a need to realign positions secondary to changes in function or closing of a work location/unit, NNU will be notified, normally at least 60 days in advance. Where a duty to bargain is triggered by the Statute, the Department will bargain with NNU at the appropriate level, to the extent required by law.
- B. The Department has the responsibility to develop plans and procedures to accommodate the realignment of RNs. A RN will be notified, normally at least 30 days in advance, that his/her position is going to be realigned. NNU will be given the opportunity to comment and discuss its concerns regarding RN realignment.
- C. RNs who are realigned will receive appropriate training/orientation to the new work location/unit to which they are assigned consistent with the Professional Development and Education Article.
- D. If the Department decides to reestablish positions that were previously realigned, an affected RN may make a request to return to the work location/unit. The Department will give serious consideration to the request. When practical, procedures outlined in the Details, Floats and Temporary Assignment Article and the Seniority Article will be considered if these procedures do not conflict with any law, government-wide rule or regulations, or VA policy.

## **ARTICLE 58: CONTRACT TRAINING, DURATION AND DISTRIBUTION**

### **Section 1: Contract Duration**

#### **A. Effective Date**

1. This Contract is effective on the date of approval by the Agency Head for the Department of Veterans Affairs or designee. If the Agency Head does not approve or disapprove within the 30 day period of agency head review, this Contract shall take effect and be binding on the Department and NNU consistent with law and government wide regulation.
2. This Contract remains in effect for a period of three years.
3. This Contract will automatically renew itself for one year intervals, unless either party serves notice of its desire to amend or modify the Contract. The notice must be given no less than 60 days but no more than 120 days prior to the expiration date. If such notice is given and negotiations are not completed by the expiration date the Contract will be extended until the changes are negotiated and approved.

#### **B. Mid-term Reopener**

1. This Contract is subject to reopening by mutual consent of the parties. When new or revised laws or regulations of appropriate authority require changes to provisions of this Contract, those provisions may be reopened. Before reopening, the party wishing to reopen will submit to the other party an agenda stating the reasons for reopening and the changes that are desired.
2. The parties agree to meet to negotiate within 30 calendar days or as mutually agreed after proposals on the amendments or modifications are received from the moving party.

#### **C. Federal Mediation and Conciliation Service**

The parties will give notice to the other party and the [Federal Mediation and Conciliation Service \(FMCS\)](#) of the desire to amend, modify or terminate this Contract in accordance with the rules of the FMCS.

### **Section 2: Distribution of Contract**

- A. The VA will provide a copy of the Contract to all RNs on duty as of the date of this Contract. Copies will be provided on the work unit. Sufficient copies will be maintained by the Department at each local facility for use during the term of this Contract.
- B. Additionally, the Department will initially provide the National NNU with 250 copies of this Contract and each NNU Local 20 copies.
- C. This Contract will be made available on electronic media compatible with the Department's computer system, and will be available on a Department website within 60 days of

implementation. This copy shall be accessible via VACO LMR website at <http://www.va.gov/lmr/>.

### **Section 3: Contract Interpretation and Training**

- A. The parties will work together in an expeditious fashion to jointly develop Contract training.
- B. No later than 60 days after the effective date of the Contract as defined in Section 1A, the parties will schedule and hold a national joint training committee meeting. This national committee will be made up of six Department representatives and six NNU representatives. The national training committee's initial responsibility will be to:
  - 1. Develop joint training and materials on the Contract;
  - 2. Schedule additional meeting(s) if necessary; and
  - 3. Schedule and provide local facility training.
- C. At least 30 days prior to the first meeting the Chief Negotiators for the Contract will exchange the names of the committee members and select the location so that appropriate travel and schedule arrangements may be made. The Department will pay all travel and per diem costs for both parties in accordance with Federal law, rule and regulation. All NNU representatives will be on official time for the meetings as well as travel to and from the meetings in accordance with Federal law, rule and regulation.
- D. The Department will be responsible for:
  - 1. Arranging appropriate meeting space for the committee meeting;
  - 2. Paying travel and per diem for all national committee members in accordance with Federal law, rule and regulation.
- E. As soon as practical, local joint training will take place at each VA Medical Center that has a NNU Local. The training will be provided by at least one NNU appointed national trainer and at least one Department appointed trainer from the national training committee. The Department will be responsible for paying travel and per diem for the NNU national trainers. Copies of the Contract will be available at the local joint training.
- F. By mutual agreement, the local parties may have additional local training sessions. NNU representatives presenting the local joint training at their facility will be on official time.
- G. Once the local training sessions are complete the joint training committee will be dissolved.
- H. Any joint training in the Article does not preclude either party from conducting additional separate training or distribution of materials.
- I. It is the intent for NNU and the Department to complete all joint training within six months of approval of the Contract.

## **Appendix A**

The NNU ADO form is an internal union document and not a VA form. The NNU ADO form is not part of this negotiated agreement and is attached for informational purposes only. The form's inclusion as an appendix should not be construed as the Department's endorsement of the contents of the form.

This ADO form is available on the NNU Website.

[www.nationalnursesunited.org/affiliates/entry/veterans-affairs](http://www.nationalnursesunited.org/affiliates/entry/veterans-affairs)





## APPENDIX A

### ASSIGNMENT DESPITE OBJECTION



**PURPOSE:** The purpose of this form is to notify hospital supervision that you have been given an assignment which you believe is potentially unsafe for the patients and/or staff. This form will document the situation. The union may use it to address the problem.

**INSTRUCTIONS:** Please print clearly or use the computer to fill this form out. One or More RN's may complete/sign the form. Send one copy to the union via inter office mail, email, fax # \_\_\_\_\_ or drop at office, one copy to the supervisor or manager on duty and keep one.

**SECTION 1:** Before accepting the assignment and completing this form, you must give your Supervisor/Manager (not the Charge Nurse) notice of your objection to the assignment in writing. Please put the complete name and title of the person(s) making the assignment and receiving the objection. Please complete the response section with what was said or done as well as the date/time of the response. If you do not get a response note this and submit a copy of the completed form to the next level of administration as well.

In accordance with the my obligations as Registered Professional Nurse and a patient advocate, I am objecting to my work assignment on unit \_\_\_\_\_ for the \_\_\_\_\_ shift as a:

☐ Charge Nurse ☐ Staff Nurse ☐ Float Nurse ☐ Team Leader ☐ Other: \_\_\_\_\_

I have notified (Name) \_\_\_\_\_ (Management Position): ☐ Nurse Manager or ☐ Shift Supervisor that in my professional (Your Name) \_\_\_\_\_ nursing judgment I am unable to assure the delivery of safe or adequate nursing care: Date/Time: \_\_\_\_\_

**SECTION 2:** Please check all appropriate statements. I am objecting this assignment on the grounds that:

- ☐ Staff not trained or experienced in area assigned ☐ Staff not given adequate orientation to unit  
☐ Inadequate staff for acuity (short staffed) ☐ Unit staffed with excessive float staff  
☐ Unit staffed with unqualified personnel or inappropriate personnel (mix not correct RN/LPN/NA/Clerical/Support, etc)  
☐ New Patients transferred or admitted to the unit without adequate staff  
☐ The assignment posed a serious threat to health and safety of staff  
☐ The assignment posed a serious threat to health and safety of the patients  
☐ Staff involuntarily forced to work beyond scheduled tours (Mandatory OT)  
☐ Other (please explain): \_\_\_\_\_

**SECTION 3:** Complete to the best of your knowledge the patient census at the time of your problem. From your assessment, indicate for each acuity level, the number of patients on the unit that fit in to that category. If there are acuity factors not listed please specify.

Patient Census Start of shift	Patient Census END of shift	Unit Capacity	Admits	Discharges/Transfers

Factors Influencing Acuity: (check all that apply and indicate numbers if needed for clarification)

- ☐ On Ventilators ☐ Isolation Precautions ☐ < 4 hrs Post-op ☐ IV Drips  
☐ Frequent VS/Assessments ☐ Receiving Blood Products ☐ TPN/Chemo ☐ Resp.Tx  
☐ Complete Care ☐ Restrained ☐ High Risk Falls ☐ 1:1 Patients  
☐ Frequent Transport Duties ☐ Multiple Mini Bags ☐ Other (explain): \_\_\_\_\_

**SECTION 4:** Staffing Complete to the best of your knowledge

	RN	LPN	NA/HT	Clerk	Float Staff	Overtime Staff
# Start of Shift						
# End of Shift						
# Per Staffing Methodology for shift						

**Section 5:** Complete this section if you think the situation cannot be explained adequately in sections 2 & 3, or if you think additional information is relevant. Brief statement of problem: \_\_\_\_\_

I indicate my acceptance of the assignment despite objection; I will despite objection attempt to carry out the assignment to the best of my professional ability. It is not my intention to refuse to accept the assignment and thus raise questions of meeting my obligations to the patient or of my refusal to obey an order, if such were given. However, I hereby give notice to my employer of the above facts and indicate that for the reasons listed, full responsibility for the consequences of this assignment must rest with the employer. Copies of this form may be provided to any and all appropriate state and federal agencies.

RN Name and Title: \_\_\_\_\_ Date: \_\_\_\_\_

Response of Management official: \_\_\_\_\_

Name of Supervisor: \_\_\_\_\_

## Appendix B

For informational purposes only:

### Benner's Theory: From Novice to Expert

- **Stage 1: Novice**

Beginners have had no experience of the situations in which they are expected to perform. Novices are taught rules to help them perform. The rules are context-free and independent of specific cases; hence the rules tend to be applied universally. The rule-governed behavior typical of the novice is extremely limited and inflexible. As such, novices have no "life experience" in the application of rules. "Just tell me what I need to do and I'll do it."

- **Stage 2: Advanced Beginner**

Advanced beginners are those who can demonstrate marginally acceptable performance, those who have coped with enough real situations to note, or to have pointed out to them by a mentor, the recurring meaningful situational components. These components require prior experience in actual situations for recognition. Principles to guide actions begin to be formulated. The principles are based on experience.

- **Stage 3: Competent**

Competence, typified by the nurse who has been on the job in the same or similar situations two or three years, develops when the nurse begins to see his or her actions in terms of long-range goals or plans of which he or she is consciously aware. For the competent nurse, a plan establishes a perspective, and the plan is based on considerable conscious, abstract, analytic contemplation of the problem. The conscious, deliberate planning that is characteristic of this skill level helps achieve efficiency and organization. The competent nurse lacks the speed and flexibility of the proficient nurse but does have a feeling of mastery and the ability to cope with and manage the many contingencies of clinical nursing. The competent person does not yet have enough experience to recognize a situation in terms of an overall picture or in terms of which aspects are most salient, most important.

- **Stage 4: Proficient**

The proficient performer perceives situations as wholes rather than in terms of chopped up parts or aspects, and performance is guided by maxims. Proficient nurses understand a situation as a whole because they perceive its meaning in terms of long-term goals. The proficient nurse learns from experience what typical events to expect in a given situation and how plans need to be modified in response to these events. The proficient nurse can now recognize when the expected normal picture does not materialize. This holistic understanding improves the proficient nurse's decision making; it becomes less labored because the nurse now has a perspective on which of the many existing attributes and aspects in the present situation are the important ones. The proficient



nurse uses maxims as guides which reflect what would appear to the competent or novice performer as unintelligible nuances of the situation; they can mean one thing at one time and quite another thing later. Once one has a deep understanding of the situation overall, however, the maxim provides direction as to what must be taken into account. Maxims reflect nuances of the situation.

- **Stage 5: The Expert**

The expert performer no longer relies on an analytic principle (rule, guideline, and maxim) to connect her or his understanding of the situation to an appropriate action. The expert nurse, with an enormous background of experience, now has an intuitive grasp of each situation and zeroes in on the accurate region of the problem without wasteful consideration of a large range of unfruitful, alternative diagnoses and solutions. The expert operates from a deep understanding of the total situation. The chess master, for instance, when asked why he or she made a particularly masterful move, will just say: "Because it felt right; it looked good." The performer is no longer aware of features and rules; his/her performance becomes fluid and flexible and highly proficient. This is not to say that the expert never uses analytic tools. Highly skilled analytic ability is necessary for those situations with which the nurse has had no previous experience. Analytic tools are also necessary for those times when the expert gets a wrong grasp of the situation and then finds that events and behaviors are not occurring as expected when alternative perspectives are not available to the clinician, the only way out of a wrong grasp of the problem is by using analytic problem solving.

[Reference: Benner, P. (1984). From novice to expert: Excellence and power in clinical nursing practice. Menlo Park: Addison-Wesley, pp. 13-34. With Permission from the Author]