

## **ARTICLE 17. GRIEVANCE PROCEDURE**

### Section 1. Grievances Generally

An Association or nurse allegation that the application or interpretation of the specific provisions of this Agreement by the Hospital is in violation of the Agreement, may be submitted as a grievance in accordance with the procedures, time frames, and conditions of this Article. Grievances must be based on alleged contract violations, not exclusively Hospital policies or programs which are non-contractual in nature.

All time limits in this Article 17 may be extended by mutual agreement of the parties.

### Section 2. Grievances on Contract Interpretation

It is the intent of the parties that non-disciplinary concerns (for example, a pay issue, scheduling, contract interpretation issue, etc.) be adjusted informally by discussing the issue with the immediate Director/Unit Manager and/or Human Resources. The nurse may choose to have an Association representative present during this discussion. This meeting shall not be bypassed.

- A. If issues are not resolved in this informal meeting, the nurse may choose to file a formal grievance. The formal grievance on such non-disciplinary issues must be filed before fourteen (14) calendar days have elapsed from the time the nurse was aware, or reasonably should have been aware, of the concern.

### Section 3. Grievance Involving Corrective Action

- A. A nurse desiring to appeal a verbal (with written documentation) or written disciplinary action shall start at Step 1 of the grievance procedure.
- B. A nurse desiring to appeal a suspension or a discharge shall start at Step 2 of the grievance procedure.

- C. The grievance shall be presented to the Department Director/Nurse Manager and Director of Human Resources within seven (7) business days from the date the nurse became aware or reasonably should have been aware of the corrective action constituting the grievance.

Any grievance filed outside of time frames specified in Sections 2 and 3 herein shall be considered null and void. The other time limits contained herein may be extended by mutual written agreement, for example, email.

#### Section 4. Steps of the Grievance Procedure

##### **Step 1. FILING A FORMAL GRIEVANCE**

The nurse or Association shall reduce to writing the following:

- the nurse's understanding of the issue/dispute;
  - the specific provisions of the Agreement that have allegedly been violated;
  - the relief desired.
- A. The Department Director, or designee, shall meet with the grievant and/or Association Representative within a reasonable time. The Department Director shall give a written decision to the grievant within seven (7) business days after the meeting.
- B. If the nurse is appealing a disciplinary action that has been delivered by the nurse's director, the grievance shall start at Step 2.

##### **Step 2. APPEALING A GRIEVANCE**

If the grievance is not settled at Step 1 above, the nurse may appeal it by giving written notice of such appeal to the appropriate Vice President and the Director of Human Resources within seven (7) business days after receipt of the Department Director's written answer.

- A. The Vice President or designated representative shall meet to discuss the grievance with the nurse and Association representative at a reasonable time to be fixed by the Vice President or designated representative within seven (7) business days of receiving the nurse's written appeal.
  
- B. The Vice President or designated representative shall give her/his written answer to the grievance within seven (7) business days following the conclusion of the meeting.

### **Step 3. APPEAL OF A GRIEVANCE TO THE HOSPITAL PRESIDENT**

If the grievance is not settled in Step 2 above, the Association may appeal it by giving written notice to the Director of Human Resources of such appeal within seven (7) business days, after receipt of the Vice President's or her/his designated representative's written response, to the Hospital's President or her/his designated representative who shall meet to discuss the grievance with the aggrieved nurse and Association representative at a mutually agreeable time and location within seven (7) business days of receiving the nurse's written appeal from Step 2.

- A. The President or designated representative shall give a written answer to the grievance within seven (7) business days from the date the meeting was concluded.

### **Section 5. Grievance Procedure Agreement**

The parties agree they will follow the foregoing Grievance Procedures in accordance with the respective steps, time limits, and conditions contained therein. If, in any Step, the Hospital's representative fails to give a written response/answer within the time limit set forth, the grievance may be appealed to the next step at the expiration of such time limit.

- A. If the nurse or the Association fails to follow the foregoing grievance procedures in accordance with the steps, time limits and conditions contained therein, the

grievance shall be deemed null and void.

#### Section 6. Grievance Settlement and Retroactivity

The settlement of a grievance in any case shall not be made retroactive for a period exceeding the date the original grievance occurred.

- A. In disputes involving pay related matters, the maximum retroactive application shall be sixty (60) calendar days from when the nurse alleges a violation of the contract.

#### Section 7. Authority of Representatives

The parties understand and agree that their respective representatives, or designees, in the Steps of the Grievance Procedure have the authority to make binding settlements, consistent with the existing Association internal appeals procedures.

#### Section 8. Arbitration Rights

Only the Association may require arbitration of the Hospital.

#### Section 9

No nurse shall be paid by the Hospital for time spent in arbitration proceedings.

#### Section 10. Association's Right to Grievance Process

Nothing contained in the provision shall prohibit the Association from raising and processing grievances for alleged violations of this Agreement. Such grievances shall be initiated at Step 2 of this procedure.

- A. The Association reserves the right to file a grievance on behalf of a nurse or group of nurses with or without the nurse's signature, but affected nurses must participate in the grievance process.

## Section 11. Mediation

The parties may agree to FMCS grievance mediation to try to resolve any grievance dispute, including discharge and discipline grievances.

## **ARTICLE 18. ARBITRATION**

### Section 1

In the event the Association desires to submit the dispute to arbitration, it shall notify the Director of Human Resources in writing within ten (10) business days after receipt of the Hospital's written answer in Step 3 of the Grievance Procedure. The parties will attempt to select an impartial arbitrator within five (5) business days from the date the Association's notification to arbitrate has been received by the Director of Human Resources.

### Section 2

If the parties cannot agree upon the selection of an arbitrator through the method specified above, then, within ten (10) business days thereafter, upon written notice by the Association to the Director of Human Resources and to the Federal Mediation and Conciliation Service (FMCS), a panel of seven (7) arbitrators shall be requested. Thereafter, parties, by the "flip of a coin," shall determine who will strike a name first. The sole name remaining shall be appointed as the arbitrator. In discharge disputes, the parties will attempt to select an arbitrator who can hear the case promptly. Post-hearing briefs shall be due within thirty (30) calendar days of the close of hearing, and the Arbitrator's decision shall be due within thirty (30) calendar days from the submission of post-hearing briefs.

### Section 3

Each party shall bear the expense of its representatives, participants, witnesses and for the preparation and presentation of its own case. The fees and expenses of the Arbitrator, the hearing room, and any other expenses incidental to the arbitration hearing shall be borne equally by the parties. Transcription fees shall be shared only if both parties request a copy of same.

#### Section 4

No matter, other than a grievance, which is an alleged violation of a specific provision as written and expressed in this Agreement, can be reviewed on the merits by the Arbitrator.

#### Section 5

The Arbitrator shall have no authority to add to, subtract from, modify, change, or alter this Agreement, or any expressly written amendment or supplement thereto; or to extend its duration or to make any decision which would have the practical result of doing so without the express written consent of both parties. The Award of the Arbitrator so made shall be final and binding on the parties.

#### Section 6

An arbitrator shall not review more than one grievance on the same hearing date or series of hearing dates, except by mutual agreement between the parties.

#### Section 7

Pending the raising, processing, and settlement of the grievances and the Award of the Arbitrator, and during the term of this Agreement, the parties agree to abide by all of the provisions of Article 26, (No Strike/No Lockout) of this Agreement.

#### Section 8

The grievance and/or arbitration provisions of this Agreement shall not be available in

cases involving the interpretation, application, or violation of Article 26 of this Agreement, by the Association. The Hospital shall be free to seek appropriate relief for any alleged violation of Article 26 in the applicable court.

A. In the event the Hospital imposes discipline against any nurse for an alleged violation of Article 26, the Association shall be free to request arbitration of same.

1. An arbitrator will have the authority to consider whether the conduct of the nurse was in fact a violation of Article 26 and whether the penalty imposed is appropriate.

### Section 9

No facts or evidence of alleged consistent or inconsistent treatment of other employees in allegedly similar situations to a nurse who has been disciplined or discharged shall be requested in grievance procedures or considered relevant or admissible in arbitration proceedings, except evidence or facts involving bargaining unit nurses occurring in the three (3) year timeframe (thirty-six (36) months) prior to the discipline or discharge in question.

Both parties will disclose in advance of the arbitration hearing any alleged consistent or inconsistent discharge or discipline decisions which they will seek to introduce into evidence.

### Section 10

The Award of the Arbitrator shall be made no later than thirty (30) calendar days from the date of the close of the hearing or the receipt of any post-hearing briefs submitted by the parties unless otherwise agreed upon by the parties.