ARTICLE 5 - HOURS OF WORK

A. The basic workweek shall be forty (40) hours in a designated seven (7) consecutive day period commencing at 12:01 a.m. Sunday for day and evening shift nurses clinicians and at 12:01 a.m. Saturday, or the beginning of the night shift closest thereto, for night shift nurses clinicians. When agreed to by the nurse clinician and Home Health and Hospice, a work period of eighty (80) hours in fourteen (14) consecutive days may be adopted in conformity with the Fair Labor Standards Act and applicable state law.

B. The basic workday shall be eight (8) hours to be worked within eight and one-half (8 1/2) consecutive hours in a twenty-four (24) hour period, commencing at 12:01 a.m. or, for night shift employees, the beginning of the night shift closest thereto, including:

1. A lunch period of one-half (1/2) hour on the nurse's clinician's own time; and

2. One fifteen (15) minute rest period without loss of pay during each four (4) consecutive hours of work which, insofar as practicable, shall be near the middle of such work duration.

3. The parties acknowledge the legal requirements and the importance of rest and meal periods for nurses clinicians. The parties further acknowledge that the scheduling of regular rest periods may not be possible due to the nature and circumstances of work in a Home Health and Hospice (including emergent patient care needs, the safety and health of patients, availability of other nurses clinicians to provide relief, and intermittent and unpredictable patient census and needs). The parties therefore agree as follows:

(a) Scheduling of breaks is best resolved by unit-based decisions, where the affected nurses clinicians are involved in creative and flexible approaches to the scheduling of rest periods.
(b) Each nursing **clinical** unit has the flexibility to develop a process for scheduling nurses clinicians for the total amount of rest and meal periods set forth in paragraph B.1 and B.2 above, subject to the following:

i. The process must be approved by the Clinical Manager;

ii. The preferred approach is to relieve nurses clinicians for two 15-minute rest periods and one 30-minute meal period within an 8-hour shift. Nurses Clinicians may request, subject to management approval, the flexibility to combine rest and meal periods up to a combined 45-minute break (30+15) or two 15-minute breaks (15+15); and

iii. If a nurse clinician is not able to take a 30-minute uninterrupted meal period, the nurse clinician will be paid for such 30 minutes. The nurse clinician must inform their Clinical Manager if the nurse clinician anticipates they will be or actually are unable to take such 30-minute uninterrupted meal period.

(c) In the event nurses clinicians in a particular clinical unit or units have concerns about the implementation of this subparagraph B.3., the concern may be raised with the PNCC their Professional Care Committee, in addition to the remedies provided by the grievance procedure.

(d) There will be no retaliation for reporting or recording missed meals or breaks.

C. A nurse clinician and Home Health and Hospice may agree to a work schedule, other than those involving a basic workweek or basic workday. A nurse’s clinician’s request for such an alternative work schedule shall be approved unless Home Health
and Hospice demonstrates a legitimate operational need that prevents approval of the schedule. If such a request is denied, a written explanation will be provided. If either the clinician or Home Health and Hospice wishes to terminate such schedule agreement, the other will be given as much advance notice as is reasonably possible and PHHH and the clinician will work to best mitigate the impacts of that schedule change. The schedule agreement will not be terminated without mutual consent. The particular days of the week worked under a schedule agreement may be changed by PHHH where legitimate operational need is demonstrated. Such changes will first be accomplished by seeking volunteers to change days worked and then mandated in order of reverse seniority.

D. Overtime compensation shall be paid for non-exempt clinicians at one and one-half (1 1/2) times the nurse’s clinician’s regular straight time hourly rate of pay for all hours worked in excess of:

1. Forty (40) hours in each basic workweek, or

2. Eight (8) consecutive hours, or eight (8) hours in each basic workday, except that hours worked in a prior workday because of a change in shift beginning time shall not be treated as overtime hours (This subsection shall not be used as a basis for changing a nurse’s clinician’s scheduled starting time, without the nurse’s clinician’s consent), or

3. Consistent with the requirements of the Federal Wage and Hour Act Fair Labor Standards Act, when a work schedule of eighty (80) hours in fourteen (14) consecutive days has been adopted, or

4. Those agreed to when different work schedules are selected under C above, except that hours worked in excess of thirty-six (36) hours in each workweek shall be paid at the overtime rate for (a) a nurse clinician whose schedule consists exclusively of three (3) days each week, with each workday
consisting of a twelve (12)-hour shift, or (b) a night shift nurse clinician whose schedule consists exclusively of four (4) days each week, with each workday consisting of a nine (9)-hour shift, provided in either situation that during the workweek the nurse clinician works such number of days on the applicable shift.

E. There shall be no pyramiding of time-and-one-half premiums for overtime, holidays and standby/callback. In calculating such premiums, the multiplier used shall be the hourly compensation under Appendix A applicable to the hours worked for which such premiums are being paid.

F. A nurse clinician will be expected to obtain proper advance authorization, except when not possible, for work in excess of the nurse’s clinician’s basic workday or basic workweek. A nurse clinician who has attempted to call, text, or message their Clinical Manager (or a clearly articulated designee) to receive authorization for work in excess of their basic workday or basic workweek will have fulfilled their obligation to attempt to receive prior authorization. Excess work will be by mutual consent, except that a nurse clinician may be required to remain at work beyond a nurse’s clinician’s scheduled workday, subject to applicable limitations under state law or administrative rule. A nurse clinician who reasonably anticipates the need for work in excess of their basic workday or basic workweek and shall timely, per current protocol, contact their Clinical Manager to explore mitigation options which may include a reduction of the number of patient visits. If no mitigation option is available, it will be considered mandating a nurse clinician to work beyond their scheduled workday. No nurse clinician shall be required to work when the nurse clinician, in their or their Clinical Manager’s judgment, is unsafe to perform patient care duties.

G. All time spent performing work is to be done on paid time. There will be no retaliation for reporting or recording overtime hours worked.

H. Work schedules shall be prepared for monthly periods and will be posted by the 15th of the month before to the beginning of the scheduled period. Once posted, the
schedule will not be changed without the mutual consent of the affected nurse(s) clinician(s) and Home Health and Hospice, except as listed below.

1. At the time of initial posting, Home Health and Hospice will strive to schedule nurses to work no more than one weekend every four weeks and, in any event, will not schedule nurses to work more than one weekend every three weeks. The frequency of regularly scheduled weekend work will be set by clinical unit at no more than the frequency of such work as of December 31, 2022. PHHH may change the frequency of weekend work for clinical units with a weekend work requirement only after providing 60 days’ notice to the Union and bargaining the impact of such change.

Bereavement Counselors, Mental Health Nurses, Palliative Care Nurses, Wound Ostomy Nurses, Home Health Social Workers, Occupational Therapists, and Speech Language Pathologists do not have a weekend work requirement.

2. For Nurses, physical therapists, and Hospice Social Workers: the schedule of weekend work assignments for the following year will be posted by August 1st. Those Nurses and Hospice Social Workers who begin employment with Home Health and Hospice after the August 1st schedule posting will receive their assignment of weekend work within 30 days of beginning employment.

By request, schedules that include work on only one weekend day (i.e. only Saturdays or only Sundays) but accomplish the same number of shifts worked per designated period may be approved by mutual agreement.

For Physical Therapists: PHHH will continue the practice of allowing Physical Therapists, at their selection, to work their full work week on weeks that the Physical Therapist has scheduled weekend work. Physical Therapists will sign up
for their weekend shift in 6-month scheduling blocks to be filled at least 2 months before the beginning of the scheduling block. Additional weekend shifts may be filled on a voluntary basis. If necessary shifts cannot be filled by volunteers, Home Health and Hospice may assign remaining weekends using a system of rotation starting with the least recent date of mandated weekend work.

After the schedule is posted, a nurse clinician will not be required to work an unscheduled weekend, except in emergencies in which case the nurse clinician will be paid the incentive set forth in Appendix A, Section M.

3. After the schedule is posted, a nurse clinician may trade shifts with another nurse clinician who is qualified to perform the nurse’s clinician’s duties so long as the nurse clinician originally scheduled provides their Clinical Manager with written confirmation from the nurse clinician accepting the shift at least forty-eight hours prior to the shift. Nurse Clinicians must first receive written supervisory approval. Clinical Managers shall provide an explanation for disapproved trades.

4. After the schedule is posted, a nurse clinician may give a single shift to another nurse clinician who is qualified to perform the nurse’s clinician’s duties so long as the nurse clinician originally scheduled provides their Clinical Manager with written confirmation from the nurse clinician accepting the shift prior to the start of the shift and the nurse clinician accepting the shift will not be receiving premium pay of time and one-half or greater for working the shift. Nurses Clinicians must first obtain supervisory approval. Clinical Managers shall provide an explanation for disapproved trades.

I. Nurses Clinicians should notify Home Health and Hospice of any unexpected absence from work as far in advance as possible, but at least two and one-half (2½) hours before the start of the nurse’s clinician’s shift, unless the reason for absence cannot reasonably be known with this time period.
J. Home Health and Hospice will post a schedule indicating the shifts available for per diem nurses clinicians by the fifth of the month prior to the scheduled month. Each per diem/on call nurse will submit to the nurse's clinician's Clinical Manager and/or designee a list of the dates that the nurse clinician prefers to work, in order of such preference, by the tenth of the month. Home Health and Hospice will then assign shifts and post the schedule in accordance with this Article 5.

1. The parties acknowledge that Home Health and Hospice cannot always honor the preferences expressed by the per diem/on call nurses clinicians and that the nurses clinicians retain the obligations to work as outlined in Article 1.

2. When more than one per diem/on call nurse clinician wants to work the same shift, Home Health and Hospice will work to rotate who will be offered such shifts.

K. Nurses Clinicians who are scheduled to report for work and who are permitted to come to work without receiving prior notice that no work is available in their regular assignment shall be offered any available alternate assignment as outlined in section M, or the clinician may elect to take the day off, beyond the four guaranteed hours of pay, as PTO or without pay. When Home Health and Hospice is unable to utilize such nurse clinician and the reason for lack of work is within the control of Home Health and Hospice, the nurse clinician shall be paid an amount equivalent to four (4) hours, or one-half the scheduled hours of the shift canceled if that number is greater than four (4), times the straight- time hourly rate plus applicable shift differential; provided, however, that a nurse clinician who was scheduled to work less than four (4) hours on such day shall be paid the nurse's clinician's regularly scheduled number of hours of work for reporting and not working through no fault of the nurse clinician. The provisions of this section shall not apply if the lack of work is not within the control of Home Health and Hospice or if Home Health and Hospice makes a reasonable effort to notify the nurse clinician by telephone not to report for work at least two (2) hours before the nurse's.
clinician’s scheduled time to work. It shall be the responsibility of the nurse clinician to notify Home Health and Hospice of the nurse clinician’s current address and telephone number. Failure to do so shall preclude Home Health and Hospice from the notification requirements and the payment of the above minimum guarantee. If a nurse clinician is dismissed and is not notified before the start of the next shift that (s)he they would have otherwise worked, (s)he they shall receive four (4) hours’ pay in accordance with the provisions of this section.

L. Rotating shifts are defined as shifts that rotate among day, evening and night shift(s). Variable shifts are defined as shifts that may vary in start time by four (4) hours or less. Nurses Clinicians will not be regularly scheduled to work rotating shifts, except in emergencies or for the purpose of participation in an educational program. Nurses Clinicians may be hired to regularly work variable shifts. Candidates will be informed about the range of possible start times (not to exceed four (4) hours) during the hiring process. Any nurse clinician may voluntarily agree to be regularly scheduled to work variable shifts or start times outside of variable shift parameters. Such agreement will be in writing and signed by the nurse clinician. Home Health and Hospice may require any nurse clinician to work a variable shift or start times outside of variable shift parameters in an emergency or for the purpose of participating in an educational program. For the purpose of this section, self-scheduled start times are considered voluntary, however no nurse clinician shall be required to participate in self-scheduling.

M. Alternate Assignments: For purposes of this Section, “alternate assignment” means a partial or full patient assignment outside the clinician’s normally assigned Clinical Unit that is substantially distant from the clinician’s normally assigned geographic distant.

1. In the event that Home Health and Hospice determines that a qualified clinician or clinicians need(s) to be given an alternate assignment due to lack of coverage at another location, Home Health and Hospice will use the following process:
1. (a) Volunteers will first be solicited for the alternate assignment.

(b) Per diem clinicians will then be given the alternate assignment.

(c) Those clinicians holding “float” positions or not otherwise serving as case managers will be given the alternate assignment.

(d) If a clinician or clinicians are still needed to fill the alternate assignment, Home Health and Hospice will assign clinicians by a system of rotation. The system of rotation will be by reverse seniority of clinicians.

2. Any clinician who is given an alternate assignment will:

(a) be given proper orientation to the clinical unit and team, including a list of the names and contact phone number for the Clinical Manager, regular nurse case manager, scheduler and team;

(b) be added to the Microsoft Teams team channels for the duration of the alternate assignment;

(c) be given a patient load that is appropriate, with consideration given to the clinician’s travel time and the type of patients to be cared for (new admissions, etc.);

(d) be given an assignment that is as geographically contiguous as reasonably possible;

(e) be informed of the anticipated duration of the assignment; and
be returned to their regular assignment/territory at the conclusion of
the alternate assignment.

3. Any clinician who feels that an alternate assignment created an undue
hardship may raise such concern with the relevant Professional Care Committee,
or with the Task Force established by Article 21.

N. Variable Assignments: For the purposes of this paragraph N, a variable
assignment is defined as an assignment that can include at least two (2) of the
following: triage, field or referrals.

1. Home Health and Hospice will not schedule clinicians to work both in the
field and the office in the course of a daily shift, except by mutual consent. If
during the course of a shift staffing needs change, it may be necessary to change
a clinician’s work assignment to ensure the ability to meet urgent patient and
family care needs. Volunteers will first be sought. If there are no volunteers, a
change will be made to a clinician’s assignment using an equitable system of
rotation starting in reverse seniority.

2. A system of rotation will be used in order to avoid having clinicians work
variable assignments on consecutive days. In case of an emergency, if an
assignment needs to be changed the clinician will be notified at the beginning of
their shift and be given adequate travel time as needed.

3. In order to allow clinicians adequate rest between shifts while still allowing
them to schedule work on consecutive days, clinicians with variable start times
who also work variable assignments will have a minimum of eleven (11) hours
between the end of one shift and beginning of the next shift.

O. Low Census/Daily Reduction in Hours: In the event of an anticipated need for
clinicians not working all or part of one of their scheduled working days at the request of
Home Health and Hospice, clinicians without a full patient visit load for the day will first be informed of available alternate assignments for the impacted workday and given the opportunity to volunteer to take the alternate assignment as outlined in Section M.

Home Health and Hospice will not assign partial day low census/daily reduction in hours when a clinician has assigned work other than patient visits that can be performed for the remainder of their workday. When Home Health and Hospice requests that a clinician not work all or part of a scheduled workday, the following order for assigning time off shall be used:

1. Volunteers to take the time off shall be sought in the shift of the clinical unit affected. Home Health and Hospice and a regular clinician volunteer may agree that the clinician will take the time off ahead of a per diem clinician on the same shift and unit. For purposes of the preceding sentence, a “same shift and unit” exists where both the volunteer and the per diem/on call clinician on a shift of the same clinical unit have the same starting and ending times for that shift.

2. Per diem clinicians on the shift of the clinical unit affected will be assigned such time off using a system of rotation.

3. Regular clinicians eligible for any time-and-one-half or greater premium for working on the shift of the clinical unit affected will be assigned such time off using a system of rotation.

4. Regular clinicians working an extra shift on the shift of the clinical unit affected will be assigned such time off using a system of rotation.

5. The remaining regular clinicians on the shift of the clinical unit affected will be assigned such time off using a system of rotation.

The rotation system shall include volunteer time taken. Rotation shall be subject to temporary variation because of scheduled days off, absences, inability to contact the clinician whose turn in the rotation it is, or when Home Health and
Hospice cannot otherwise provide from among available and qualified clinicians for the remaining work required to be done. If the Association believes that such rotation during the monthly period covered by the preceding posted work schedule has resulted in inequitable distribution of such days not worked, it may ask to discuss this with Home Health and Hospice. Upon such a request from Association, Home Health and Hospice will meet with an Association committee to review the matter and consider other approaches. Regular clinicians shall not suffer the loss of any fringe benefits as a result of not working all or part of one of their scheduled working days under this section. Agency, Sharecare or cross trained clinicians will not be assigned to work on the shift of a clinical unit that a clinician is not working as scheduled because of being assigned time off under this section, except when the clinician is not working as a result of volunteering to take the time off.

P. Caseload: Home Health and Hospice will work collaboratively with clinicians when determining appropriate caseloads. PCC will develop and recommend criteria by which PHHH will determine appropriate caseloads and management of complex patients.

Caseloads will be prorated or adjusted for clinicians working less than a 1.0 full-time equivalent. Caseloads may be adjusted for patients located outside a clinician’s regular territory and other circumstances impacting the clinician’s workload and/or patient care.

Clinicians who are experiencing difficulty meeting patient care needs due to the acuity or complexity of the patients assigned, travel time, or required documentation, will inform their Clinical Manager. The Clinical Manager will work collaboratively with the clinician to adjust the clinician’s caseload appropriately. If the clinician is not satisfied with the resolution, they may bring the matter to their Professional Care Committee.

Q. Inclement weather: If inclement weather conditions prevent a clinician from safely traveling to make home visits during all or a portion of the clinician’s scheduled
workday, the inability of the clinician to perform such visits will not be considered an occurrence under the Employer’s attendance policy and any impact to a clinician’s productivity will not result in corrective action or negatively impact the clinician’s performance review.