

ARTICLE 7 – GRIEVANCE PROCEDURE

701 Definition

702 A grievance is defined as a dispute as to the interpretation, meaning or application of a specific provision of this Agreement.

703 Procedure

704 Grievances shall be processed in accordance with the procedure set forth below.

705 STEP 1

706 A Registered Nurse should make a reasonable effort to resolve the possible grievance informally in a discussion with her/his immediate supervisor. If a Registered Nurse is unable to resolve the possible grievance, the Association Representative (if requested by the Registered Nurse) and Registered Nurse will have a discussion with the immediate supervisor and this discussion may include the Chief Nursing Officer, a Human Resources representative, or their designees. However, prior to such discussion, the Registered Nurse and/or Association Representative must submit to his/her immediate supervisor the possible grievance in writing. The possible grievance must (1) allege the violation of a specific provision or provisions of this Agreement, and (2) set forth all factual grounds upon which the allegation is based. Within ten (10) calendar days after receipt of the Registered Nurse's written possible grievance, her/his immediate supervisor shall submit a written response. Within ten (10) calendar days after receipt of the supervisor's written response, the Registered Nurse and the Association Representative (if requested by the Registered Nurse) shall engage, in good faith, discussions with her/his immediate supervisor, and Registered Nurse will have a discussion with the immediate supervisor and this discussion may include the Chief Nursing Officer, a Human Resources representative, or their designees. If the possible grievance is resolved, the resolution shall be reduced to writing and signed by the Registered Nurse and Supervisor. This requirement must be satisfied before a written grievance is submitted at Step 2.

707 STEP 2

708 If the possible grievance cannot be resolved informally, a formal written grievance ~~it~~ shall be reduced to writing and submitted to the Facility's designated representative within ten fifteen ~~(1015)~~ calendar days after the completion of Step 1 in Section 706, above. ~~after the Registered Nurse had or should have had knowledge of the event which caused the grievance.~~ In any event, irrespective of the Registered Nurse's knowledge, the grievance must be presented in writing to the Facility's designated representative within thirty (30) calendar days after the event on which it is based. The written grievance must (1) allege the violation of a specific provision or provisions of this Agreement, and (2) set forth all factual grounds upon which the allegation is based. Within ten (10) calendar days after receipt of the written grievance, a meeting shall be held ~~with the Facility's designated representative(s)~~ to discuss the grievance. The grievant, the Association Representative (if requested by Registered Nurse) and the FacilityStaff Representative(s) may be present at the meeting. Within ten (10) calendar days after the meeting, the Facility's designated representative shall respond to the grievance in writing.

709 STEP 3

710 If the Facility's response in Step 2 is deemed unsatisfactory by the Association ~~not satisfactory~~, the Association Union ~~may~~ submit the grievance to arbitration by notifying the Facility in writing of its intent to do so. In order to be timely, the Association Union ~~'s~~ notice must be received by the

Facility within fourteen (14) calendar days after the ~~Association~~Union's receipt of the Facility's Step 2 response.

711 **Grievance Mediation**

712 If the Union submits the grievance to arbitration under Paragraph 710, either party may request a grievance mediation using the services of the Federal Mediation and Conciliation Service. Notice of intent to mediate the grievance shall be provided to the Facility or the Union within ten (10) calendar days of the Union's notification of its intent to arbitrate the grievance. ~~If requested, Grievance mediation is mandatory-voluntary, and either party may decline. If either party declines to mediate the grievance, or if~~ the mediation fails to satisfactorily resolve the grievance, the grievance ~~may~~shall be arbitrated.

713 **Arbitration**

714 The following procedure shall apply if a grievance is submitted to arbitration.

715 An impartial arbitrator shall be selected by mutual agreement from the following panel of arbitrators through alternate strikes of the panel by the parties: ~~Joseph Gentile, Mei-L. Bickner; Bonnie P. Castrey Mark Burstein;~~ R. Douglas Collins; Michael R. Rappaport; and Terri A. Tucker.

716 If the parties cannot reach agreement, the parties will select an arbitrator by alternately striking names from the list until one arbitrator remains. The selection of the arbitrator must be completed no later than thirty (30) calendar days from receipt by the Facility of the appeal to arbitration.

717 A hearing on the grievance shall be held at a time and place in Riverside County designated by the arbitrator, at which the Facility and the Union shall present their respective positions, evidence and arguments. The sole parties to the arbitration proceeding shall be the Facility and the Union. The arbitrator's decision shall be rendered in writing and shall be final and binding on the parties and on all affected bargaining unit Registered Nurses. It shall be issued not more than thirty (30) calendar days after the close of the hearing or the filing of briefs, whichever is later.

718 The arbitrator's authority is derived from this Agreement and her/his jurisdiction is limited to the interpretation and application thereof. She/~~h~~He shall not have authority to (a) amend or modify any provision of this Agreement; or (b) render an award on any grievance arising before the effective date, or after the termination date.

719 The fee and expenses of the arbitrator, the court reporter's appearance fee, and the cost of mutual facilities shall be borne equally by the Facility and the Union.

720 **Time Limits**

721 The time limits and other procedural requirements set forth in this article must be strictly adhered to unless mutually extended by the express agreement of the Union and the Facility. ~~Such agreement need not be in writing. If the Facility fails to respond to a grievance within the time limits set forth in this article, the grievance may be appealed immediately to the next step.~~ In the event of a failure by the grievant or the Union to adhere to any of such requirements, the grievance shall be resolved on the basis of the Facility's last response. In the event of a dispute over whether the grievant or the Union has failed to adhere to any of such requirements, the arbitrator shall make that determination.

ARTICLE 8 – CORRECTIVE ACTION AND DISCIPLINE

801 Corrective Action Process

802 Philosophy

803 The Corrective Action Process recognizes the value of all Registered Nurses and the significant investment each Registered Nurse represents, and is reflective of our commitment to retain Registered Nurses whenever possible. The focus of this process is to develop a collaborative approach to resolve performance or behavior issues. The Corrective Action Process is intended to be an open process that utilizes a problem solving approach to address issues and explore non-punitive alternatives to correct performance and/or behavioral concerns. It is the intent of the Facility to utilize the progressive process appropriate to the offense and the Registered Nurse's record of service.

804 Purpose

805 The Corrective Action Process is intended to explore positive ways to build Registered Nurse commitment, generate self-discipline and ensure individual responsibility and accountability for performance and behavior.

806 Process of Progressive Discipline. As part of the Corrective Action Process, the Facility will utilize progressive discipline, unless the Facility concludes that circumstances warrant more severe action. The Corrective Action Plan shall include the following:

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807 Level 1. Notice (verbally or in writing) from the Manager to the Registered Nurse to address the performance or behavioral issue. The focus of this notice or conversation should be to remind the Registered Nurse that he/she has a personal responsibility to meet reasonable standards of performance and behavior. Notice given verbally may be reduced to writing at the discretion of the Manager.

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808 Level 2. If the Registered Nurse's performance or behavioral issue(s) continue, the Manager and a Human Resources representative and/or designee will meet privately with the Registered Nurse and, if requested by the Registered Nurse, an Association representative, to revisit the issue so that the Registered Nurse meets reasonable standards of performance and behavior. The Manager will develop a Corrective Action Plan that will set forth the specific issues related to performance or behavior, establish expected performance or behavior; verify the Registered Nurse's commitment to the action plan; and a time frame in which the Registered Nurse is expected to meet performance or behavior standards established. The Corrective Action Plan will include notification to the Registered Nurse that failure to live up to performance or behavioral expectations will result in further corrective action being taken against the Registered Nurse, up to and including termination. The Registered Nurse will be asked to sign a Corrective Action Plan acknowledging its receipt and irrespective of whether the Registered Nurse signed the Corrective Action Plan, the Corrective Action Plan will be imposed. The Association will be asked to sign the Corrective Action Plan acknowledging receipt if in attendance at the meeting. The Corrective Action Plan shall be part of the formal corrective action process and shall be used for purposes of establishing progressive discipline.

~~807 Level 1 – Oral Reminder~~

~~808 This is the first level of the Corrective Action Process. At this level the Manager will meet privately with the Registered Nurse and, if requested by the Registered Nurse, an Association~~

representative, to clarify the performance or behavioral issue. If an Association representative is requested to attend the meeting, a Human Resources representative and/or designee shall also be present at the meeting. The Manager's primary role at this level in the Corrective Action Process is to gain the Registered Nurse's agreement to solve the problem. The focus of this conversation should be to remind the Registered Nurse that he/she has a personal responsibility to meet reasonable standards of performance and behavior. The Manager and Registered Nurse should use this opportunity to collaboratively problem solve the issue(s), clarify expectations and explore and agree on behavioral changes, including measures of achievement and timelines.

~~809~~ The Manager will prepare a written summary of the meeting to include: date, issue(s) discussed and agreements reached. A copy of the written summary will be given to the Registered Nurse and Association Representative (if any). The documentation is for information purposes only.

~~810~~ The Manager will meet again with the Registered Nurse and representative from the Association (if requested by the Registered Nurse) for purposes of assessing progress or moving the process forward if satisfactory progress has not been made.

~~811~~ **Level 2 – Individual Action Plan**

~~812~~ This is the second level of the Corrective Action Process and should be utilized if the Registered Nurse's performance or behavioral issues continue. The Manager and a Human Resources representative and/or designee will meet privately with the Registered Nurse and, if requested by the Registered Nurse, an Association representative, to revisit the issue and clarify the need for the Registered Nurse to meet reasonable standards of performance and behavior. In addition, the discussion will include: a review of the progress made by the Registered Nurse based on input at Level 1; the joint development of an action plan; and a time frame in which the Registered Nurse is expected to meet performance or behavior standards.

~~813~~ Together the Manager and the Registered Nurse will develop an action plan that will set forth the specific issues related to performance or behavior, establish expected performance or behavior; verify the Registered Nurse's commitment to the action plan; and establish a time frame for achievement of performance or behavior expectations. Based on agreements reached through consensus, the Manager will prepare a written memorandum, which summarizes the agreed upon Individual Action Plan. The Registered Nurse will be asked to sign the memorandum as an expression of commitment to the action plan. If the Registered Nurse does not sign the Individual Action Plan, the Registered Nurse will move to Level 3 of the Corrective Action Process. If a representative from the Association is present at the meeting, such representative will be asked to sign the memorandum as having been in attendance at the meeting. The Individual Action Plan cannot be used for purposes of establishing progressive discipline. The Manager will meet again with the Registered Nurse and a representative of the Association (if requested by the Registered Nurse) for purposes of assessing progress or moving the process forward if satisfactory progress has not been made.

~~809~~~~814~~ **Level 3 – Corrective Action Plan**

~~815~~ This is the third level of the Corrective Action Process and should be utilized if the Registered Nurse's performance or behavioral issues have continued. After having determined that prior actions have failed to produce the desired change(s), a meeting will be scheduled with the Chief Nursing Officer and/or designee, Human Resources representative and/or designee, the Registered Nurse and, if requested by the Registered Nurse, an Association representative, for purposes of discussion of continued performance or behavioral issues. During this meeting, the Registered Nurse will be issued a final written warning. In addition, if Facility deems it

~~appropriate, the Facility may also choose to suspend the Registered Nurse without pay. The Facility will document the meeting in a Performance Management Program Record of Counseling/Disciplinary Action, which will include the date, location, attendees and summary of discussion. If the Registered Nurse violates the terms of the Performance Management Program Record of Counseling/Disciplinary Action, the Facility may terminate the Registered Nurse. ~~or if the Registered Nurse refused to sign the Individual Action Plan. At Level 3, the Department Manager, a Human Resources representative and/or designee, the Registered Nurse and a representative of the Association (if requested by the Registered Nurse) will meet privately to revisit the Individual Action Plan, timelines and progress made under the Individual Action Plan.~~~~

~~816 The preferred outcome of this meeting is that the Department Manager and the Registered Nurse, through a collaborative process, will mutually agree upon a Corrective Action Plan. However, if the Registered Nurse refuses to acknowledge the issue or agreement cannot be reached on a Corrective Action Plan, the Department Manager will prepare the Corrective Action Plan which sets forth the agreements made, or parameters established, for correcting performance or behavioral issues including measures of achievement and reasonable timelines. The Corrective Action Plan will include notification to the Registered Nurse that failure to live up to performance or behavioral expectations will result in further corrective action being taken against the Registered Nurse, which may eventually lead to termination. The Registered Nurse will be asked to sign a Corrective Action Plan as an acknowledgement of his/her agreement to the plan and as an expression of commitment. The Association will be asked to sign the memorandum as having been in attendance at the meeting. The Corrective Action Plan is part of the formal corrective action process and may be used for purposes of establishing progressive discipline.~~

~~817 The Department Manager and a Human Resources representative and/or designee will meet with the Registered Nurse and a representative of the Association (if requested by the Registered Nurse) for purposes of assessing progress or moving the process forward if satisfactory progress has not been made. Actions taken by the Facility at Level 3 are subject to the grievance process.~~

~~818 The following will be considered in determining whether or not Level 3 should be repeated or the issue should be advanced to Level 4 — Decision Making: severity of the incident; frequency of the incident; date of the incident in comparison to the date of the Corrective Action Plan; previous overall performance; tenure of the Registered Nurse; mitigating circumstances; and commitment of the Registered Nurse to the overall Corrective Action Plan.~~

~~819 **Level 4 — Decision Making**~~

~~820 This is the fourth level of the Corrective Action Process, and should be utilized when the Registered Nurse has not complied with the Corrective Action Plan. After having determined that prior actions have failed to produce the desired changes, a meeting will be scheduled with the Chief Nursing Officer and/or designee, the Registered Nurse and, if requested by the Registered Nurse, an Association representative, for purposes of discussion of continued performance or behavioral issues. During this meeting, the Registered Nurse has the opportunity to choose to change his/her performance or behavior and remain with the organization, or voluntarily sever the employment relationship. The Facility will document the meeting in a Memorandum for the Record, which will include the date, location, attendees and summary of discussion.~~

~~821 If the Registered Nurse's decision is to change his/her performance or behavior and continue his/her employment, the Facility, Registered Nurse and a representative of the Association (if requested by the Registered Nurse) will meet to develop a Last Chance Agreement. The Last Chance Agreement will include a Corrective Action Plan that is designed to eliminate the gap~~

~~between actual and desired performance or behavior, and will also include measures of achievement and reasonable timelines. The Registered Nurse will be required to sign the Last Chance Agreement. The Association, if present, will be asked to sign the Last Chance Agreement as having been in attendance at the meeting. The Corrective Action Plan is part of the formal Corrective Action Process, and will be used for purposes of establishing progressive discipline.~~

~~822 The Chief Nursing Officer and/or designee will meet with the Registered Nurse and a representative of the Association (if requested by the Registered Nurse) for purposes of assessing progress or moving the process forward if satisfactory progress has not been made.~~

~~823 If the Registered Nurse does not participate in the development of a Corrective Action Plan which would be incorporated into the Last Chance Agreement, refuses to sign the Last Chance Agreement or does not voluntarily terminate, the Registered Nurse may be terminated.~~

~~824 Actions taken by the Facility at Level 4 are subject to the grievance process.~~

~~825 Level 5 – Termination~~

~~826 If the Registered Nurse violates the Last Chance Agreement, the Registered Nurse may be terminated.~~

827 Actions taken by the Facility at Level ~~3~~5 are subject to the grievance process.

828 Utilization of Documentation

829 ~~No disciplinary document (Level 3 or above) shall be utilized for any personnel decision beyond one (1) year of its issuance, except that the Facility may utilize any such disciplinary document to justify any disciplinary action to a court, administrative agency or arbitrator; however, no disciplinary document may be used in arbitration beyond two (2) years of its issuance.~~

830 Investigatory Suspensions

831 In situations where the Facility determines that removal of a Registered Nurse is warranted due to the nature of a reported incident or allegation, such Registered Nurse will be placed on paid or unpaid investigatory suspension, based on the nature of the incident. If paid during the suspension, pay will only be for regularly scheduled work shifts missed due to the suspension. When a Registered Nurse is placed on investigatory suspension, the Registered Nurse shall receive in writing the reason for the leave and the anticipated length of the leave – not to exceed three (3) weekdays (Monday through Friday), unless reasonably continued by the Facility to complete the investigation. At the conclusion of the investigatory suspension, and in those instances where the Registered Nurse is not terminated, the Facility will, based on the nature of the incident, determine where to place the Registered Nurse in the Corrective Action Process.

832 Acts of Gross Misconduct and/or Pattern of Performance and Behavioral Issues

833 Acts of gross misconduct and/or gross negligence and/or a pattern of performance or behavioral issues will subject the Registered Nurse to an accelerated level in the Corrective Action Process (e.g., Last Chance Agreement or Termination). Acts of gross misconduct and/or gross negligence include, but are not limited to: theft, drug diversion, and fighting.

834 Right to Discipline

835 Nothing herein shall be deemed to restrict the Facility's right to discipline, suspend or terminate a Registered Nurse for cause.

836 Disciplinary Notices, Rebuttal & Inspection of Personnel Files

Parkview Proposal April 2, 2014

837 There shall be one official personnel file for all bargaining unit employees and they shall have the right to inspect and read all documents in their file, and to be provided, on request, with copies of any document in their file they have signed.

838 Employees will receive copies of all disciplinary notice(s) placed in their personnel files and shall have the right to rebut in writing any disciplinary notice. Such rebuttals, other than grievances, shall be attached to the disciplinary notice and placed in the personnel file.

839 In any case where the Facility and the Union agree to revise personnel record material, the Facility shall, upon request, provide evidence of the revision.

~~840 The Facility shall expunge a Registered Nurse's official personnel file of all disciplinary notice(s) after five (5) years. The Facility shall, upon request, provide evidence of expunging a Registered Nurse's personnel file.~~

841 **Additional Representation Rights**

842 The following holding of the U.S. Supreme Court in NLRB v. Weingarten, Inc., shall apply to investigatory interviews conducted by the Facility that a Registered Nurse, upon his/her request, is entitled to have an Association Representative present during an investigatory interview in which the Registered Nurse is required to participate where the Registered Nurse reasonably believes that such investigation will result in disciplinary action. The right to the presence of an Association Representative (Staff Representative or Association Representative) is conditioned upon a requirement that the Association Representative be available for participation in such investigatory interview within twenty-four hours, excluding Saturday, Sunday, and Holidays, of the Registered Nurse's request for his or her presence.