

**AGREEMENT BETWEEN**  
**GUARDIAN ANGELS HEALTH & REHABILITATION CENTER**  
**AND THE**  
**AFSCME LOCAL 105**

**October 1, 2016-September 30, 2019**

This is an Agreement made and entered into the day and year hereinafter written by and between *GUARDIAN ANGELS HEALTH AND REHABILITATION CENTER* hereinafter referred to as the “Employer” and the AFSCME LOCAL 105, hereinafter referred to as “AFSCME” as follows:

### **AFFIRMATIVE ACTION STATEMENT**

All terms and provisions of the Employer’s Affirmative Action Plan required and approved by the State of Minnesota Department of Human Rights shall be incorporated into this Agreement by reference. All terms and conditions and interpretations thereof set forth in this Agreement shall conform with all local, State and Federal equal opportunity rules and regulations. AFSCME and the Employer agree that neither will discriminate against any employee on the basis of age, race, color, creed, handicap, sex, national origin, status with regard to public assistance, ancestry, sexual orientation, marital status, religion, union activity or inactivity, or any other protected class under federal, state, or local law.

### **SECTION 1 – SCOPE AND DEFINITIONS**

- 1.1 This contract shall apply and be limited to the Licensed Practical Nurses employed by the Employer. The Employer recognizes AFSCME as the exclusive collective bargaining representative of all Licensed Practical Nurses (hereinafter referred to as “nurses” or “employees”) employed by the Employer.
- 1.2 The term “nurse”, as used herein, shall mean “Licensed Practical Nurse”. The term “Licensed Practical Nurse” shall mean a person employed as such currently holding a license or permit from, recognized by, and in good standing with the Minnesota State Board of Examiners of Nurses as a Licensed Practical Nurse. The Employer and AFSCME agree that only persons so licensed or holding such a permit shall be recognized as Licensed Practical Nurses.
- 1.3 A full-time nurse is one regularly scheduled to work seventy two-hours during a two (2) week pay period.
- 1.4 A part-time nurse is one regularly scheduled to work less than seventy two hours during a two (2) week pay period.
- 1.5 A “second schedule” nurse is one not regularly scheduled to work, but if requested, works at least two (2) shifts per month and at least one of which must be a weekend shift. For the purpose of this provision, the weekend is defined to run from 11:00 p.m. Friday to 7:00 a.m. Monday.

### **SECTION 2 – HOURS**

- 2.1 The basic work period shall be seventy-two (72) hours to be worked during a period of two (2) weeks (fourteen (14) consecutive days). The regular work day will be eight (8) hours, scheduled within an eight and on-half (8 ½) hour period. If a nurse is required to work in excess of eighty (80) hours during said two (2) week period or in excess of eight (8) hours in any workday, or in excess of eight (8) consecutive hours, she will be paid at one and one-half (1 ½) times her regular rate of pay for all excess time so

worked. There shall be no pyramiding of over-time. It is understood that this is not intended to result in a decrease in hours, and it is understood that if a reduction in hours is necessary, this will be done in accordance with the provisions of Section 13.

All RN's whose main duties are similar to an LPN may work non-overtime hours prior to LPN's being called in for overtime. It is understood that LPN's shall be called first for overtime hours when available. Upon asking to review "call-in sheets" (either RN or LPN) the AFSCME steward shall be allowed to review such sheets. Regarding mandating situations, if it is a like position and LPN or an RN may be mandated to meet the needs of the home, recognizing that Article 2.7 mandating is applicable.

2.2 The general pattern of scheduling work will be as follows:

- A. It is understood that the positions to be posted by the Employer, as a general matter, shall become part of a "block system" of scheduling of full-time or part-time positions with part-time counterparts. The positions shall be filled on the basis of seniority. Once a position has been filled, this will entail an understanding that the nurse shall be scheduled to work a set number of hours per pay period, to correspond with whether or not that is a full or part-time position.
- B. Nurses will not be scheduled to work more than seven (7) consecutive days except by mutual agreement. Nurses will have every other weekend off. For the midnight shift, a weekend shall be defined as Friday and Saturday. The scheduled work week need not correspond to the calendar week, and the pattern of scheduling may be such that more or fewer than five (5) days of work are scheduled in one (1) week provided that not more than ten (10) days of work are scheduled in any two (2) work weeks.

In every December, there shall be a bidding for Licensed Practical Nurse positions within the facility. The bidding period for positions shall run for a two-week period beginning the first two weeks in December and every December thereafter. The intent of the bidding procedure in this section is to allow nurses the opportunity to make changes in units or shifts and not to replace the layoff procedure of Section 13. Management reserves the right to transfer employees to units based on need. All non-supervisory RN and non-supervisory LPN positions will be included in bidding process. LPN's will bid before RN's.

Before the schedule is posted, the Employer shall fill any available hours due to leave of absence, planned sick leave or temporary vacancies from the open shift sign-up sheet, allocating shifts to non-overtime employees prior to overtime, and then on the basis of seniority. Regularly scheduled staff will be offered hours ahead of second schedule staff. If an employee declines to pick up an available extra shift five consecutive times or calls in for a shift after they have picked it up, the seniority right to shifts for the balance of the month is forfeited. The open shift sheet may remain up on the board after the schedule is posted. Vacancies shall be posted and filled as per Section 24 of the contract. After the schedule is posted, extra hours available due to call-in, sick leave given on short notice or other staffing shortages shall be offered by allocating extra hours to non-overtime

employees prior to overtime and then on the basis of seniority. A second schedule nurse can sign up for available hours under this section.

Only in cases of extreme employee hardship, or to comply with the Americans with Disabilities Act, or other state, local or Federal law protecting employee civil rights, will the above pattern of scheduling be altered. In such cases, the Employer and AFSCME will meet and confer about any proposed deviation from the above scheduling pattern.

- C. Nurses shall not be required to work more than two (2) of three (3) shifts (days, afternoons, or nights) during a fourteen (14) day work period. This section shall not prohibit nurses from agreeing to work all three (3) shifts if they so desire.
  - D. There shall be at least eleven and one-half (11.5) hours between assigned shifts (days, afternoons, or nights) except on days prior to scheduled days off. Nurses will not be scheduled to work back to back shifts except in cases of emergency or unless it is mutually agreeable to both the nurse and the Employer.
  - E. Nurses shall be allowed fifteen (15) minutes relief in each four (4) hour period.
  - F. Completed work schedules will be posted covering a four (4) week period at least one (1) week in advance of the time covered by such schedule. Schedules may not be changed after posting except in cases of emergency or by mutual agreement. If schedules are altered and the nurse is not made aware of the change and reports on her regularly scheduled shift, she shall receive a minimum of four (4) hours pay. The original posted schedule shall be kept on file. The official, up-to-date schedule (after posting) shall be posted in the employee break room.
  - G. Exceptions to the general pattern of scheduling may be made by agreement between the Employer and the nurse concerned.
- 2.3 Full-time nurses required to work more than two (2) weekends in a four (4) week scheduled period will be paid time and on-half (1 ½) for each extra weekend day worked.
- 2.4 The Employer agrees that there will be no split shifts unless it is mutually agreeable to both the nurse and the Employer.
- 2.5 If any employee reports for work on her regular shift and is sent home for lack of work, or if an employee is asked to report and is then sent home, the employee shall receive a minimum of four (4) hours pay.
- 2.6 Licensed Practical Nurses shall not be involuntarily scheduled to work, or fill-in, in a nursing assistant position. Nothing herein shall be construed to abridge the LPN's duty to perform direct patient care as per job description and/or licensure requirements. Provided further, that any change in LPN duties and/or roles must comply with the provisions of Section 22.1 of this contract and the NLRA, as amended.

- 2.7 The Employer shall mandate only after all other attempts to fill available hours with employees are exhausted and when staffing ratios are determined to be at an emergency level. The following criteria will be used for mandating:

Mandating will be done making every attempt at balancing the staffing needs with the employee availability. The goal will be to mandate an additional four hours for employees already scheduled for 8 and to mandate for up to 8 hours for someone who is mandated on a nonscheduled day. We will make every effort to avoid mandating eight (8) hours for a total of sixteen (16) consecutive worked hours. However, if the night shift nurse is mandated eight (8) hours for a total of sixteen (16) consecutive worked hours, he/she will be given the next sixteen (16) hours as a break of time. If the employee is willing to forgo the break of sixteen (16) hours, he/she must make that clear to management.

Mandating will be done based on reverse seniority; (1) by mandating staff scheduled on the day of need from the previous shift to stay over; and/or by mandating the shift following the opening to come in early; (2) by mandating nonscheduled staff to report to work. Employees will not be subject to mandating under the following circumstances:

- No one shall be mandated more than two (2) occurrences per monthly schedule
- On preauthorized PLT, including normal days off surrounding PLT days
- On preauthorized leaves of absence, including FLMA, funeral and union
- On a temporary or modified duty program
- On a day that the employee has called in sick (prior to mandating)
- On their scheduled weekend off or a holiday
- If an employee is scheduled to work another job or must attend school

Every attempt will be made to accommodate daycare needs and prearranged outside appointments. If necessary, an employee will be permitted to leave for the appointment and return to work. Either lack of child care or adult care may be used as a reason to reject mandated hours four times per twelve months.

Refusals to comply with the mandating policy will count in the attendance tracking as an absence. All employees mandated will receive time and on-half (1 ½) for hours mandated.

### **SECTION 3 – SALARY**

- 3.1 Salary levels on an hourly basis shall be set forth in the attached Appendix "A".

- 3.2 Nurses working the evening shift shall be paid an additional thirty-five cents (\$.35) per hour. Nurses working the night shift shall be paid an additional eighty cents (\$.80) per hour.
- 3.3 Part-time and full-time employees will advance to the next step on the Salary Schedule upon completion of each 2080 hours of employment with the facility.

**SECTION 4 – HOLIDAYS**

- 4.1 The following days shall be considered as holidays under this Agreement:

NEW YEAR'S DAY	LABOR DAY
EASTER	THANKSGIVING DAY
MEMORIAL DAY	CHRISTMAS DAY
FOURTH OF JULY	

Any nurse who works on a holiday will be paid time and one-half (1 ½) his/her regular rate of pay for each hour worked on the holiday. Employees who do not work on the holiday shall be paid upon request, by using accrued PLT, or the employee may choose to receive no pay for the day. Employees who call in and do not work on the days considered holidays [under this Agreement the day before the holiday, the day of the holiday, or the day after the holiday] will forfeit holiday pay and the right to use PLT for those days.

**SECTION 5 – PERSONAL LEAVE TIME**

- 5.1 All employees earn personal leave time (PLT) for each hour they are paid. PLT may be used to take time off the work schedule with pay and either by planning in advance or to cover unanticipated absence.
- 5.2 Employees earn and accrue (PLT) based upon the following accrual rates:

500-2080 – hours accrues 2 hours PLT per 50 hours paid  
 2081-4160 – hours accrues 3 hours PLT per 50 hours paid  
 4161-8320 – hours accrues 4 hours PLT per 50 hours paid  
 8321-16640 – hours accrues 5 hours PLT per 50 hours paid  
 16641-20800 – hours accrues 6 hours PLT per 50 hours paid  
 20801 and up – hours accrues 6.4 hours PLT per 50 hours paid

An employee begins to earn PLT upon completion of 500 hours of service. PLT may be accumulated up to 350 hours. Any time in excess of 350 hours will be forfeited. A bonus of 12 hours will be given after the probationary 500 hours of service.

- 5.3 PLT is immediately available for use after accrual, subject to the scheduling requirements of this Section. Employees who are absent from work due to personal illness or illness of their child may opt to use PLT to replace work hours lost, or the employee may take the time without pay. Employees may plan time off and receive pay from their accrued PLT balance by submitting a request to the Employer in accordance with the current system for requesting time off.

In the event that not all requests may be accommodated, requests shall be granted on a first come – first served basis. Simultaneous requests shall be granted based upon seniority.

- 5.4 Between January 1<sup>st</sup> and January 30<sup>th</sup> of each calendar year, department heads will consult with all regular employees entitled to vacations (PLT) and from such consultation a working schedule for vacation (PLT) periods shall be established. In determining schedules, the wishes of the employees will be respected as to the time of taking vacations (PLT), insofar as the needs of the service will permit, it being understood that the rights of the senior employee will prevail in the selection of vacation time when agreement cannot be reached among the employees. Management shall post the PLT sign-up schedule two weeks prior to the beginning of the sign-up days. The schedule shall be posted on the LPN bulletin board in the break room and at all nursing stations. Vacation sign-up shall only be open for one week. The Employer will leave the confirmed vacation (PLT) schedule posted from January 30<sup>th</sup> through the remainder of each year. At the time the confirmed vacation schedule is posted, the Employer will give a copy to each AFSCME steward. Two (only one from the same shift) employees can be guaranteed PLT at the same time during the sign-up period. Two employees can be guaranteed PLT at the same time regardless of shift and a third nurse may take PLT if she finds her own replacement. Additional requests will be handled under Section 5.3.
- 5.5 Upon separation of employment and provided an employee gives two (2) weeks notice, an employee will be paid for all accrued and unused PLT at the employee's final rate of pay.
- 5.6 PLT shall be considered as time worked for the purposes of calculation of benefits and seniority, not overtime.
- 5.7 Other than in conjunction with taking a week of PLT, employees may take one (1) single weekend or weekend day off as scheduled PLT per calendar year. After three (3) years of employment, employees may take two (2) single weekends or weekend days (on separate weekends) as scheduled PLT per calendar year.
- 5.8 Employees who accrue PLT at the rate of three (3) or more hours per 50 hours paid shall be eligible to cash out a portion of their accrued and unused PLT. To be eligible for cash out, employees must have used a minimum of the average number of hours worked per week of PLT time off in the twelve (12) months preceding the cash-out request. Employees working forty (40) hours or more per pay period may request to have PLT deducted from PLT bank as long as it does not incur overtime.
- 5.9 An employee may receive his/her regular paycheck on either the Monday or the Friday before the regular Tuesday if the following conditions are met:

The employee will be on vacation and outside the City of Hibbing during the entire week (Monday/Friday of the regular Tuesday payday);

The employee has submitted a written request to the administrator no later than 3:30 P.M. on the Thursday before the regular Tuesday payday;

The paychecks have been printed, have been signed by the proper authority and are ready for distribution;

The employee is not participating in the automatic deposit of his/her paychecks.

## SECTION 6 – EMPLOYEE BENEFITS

### 6.1 Group Medical Plan

- Eligibility Requirements: To be eligible to participate in the benefits described below, an Employee must:
  - Be regularly scheduled and work 30 hours or more per week.
  - Enroll in an Employer-offered group High Deductible Health Plan (HDHP).
- Health Insurance Plan: Employer will:
  - Utilize a HDHP. (The \$ 3000 single deductible plans each meet the HDHP criteria.) See plan outline for details of each plan.
  - Pay 100% of the single HDHP \$ 3000 deductible plan premium, effective January 1, 2016.

### 6.2 Health Savings Account

- Employer-Sponsored Health Savings Account (HSA): Employer will:
  - Contribute \$ 150 per month to an HSA for eligible participants enrolled in an HDHP effective October 1st, 2015.
  - Employer will provide this HSA contribution for those participants who are actively employed for the full month.
  - Employees who are eligible to be enrolled in the SFHS HDHP Plan, but choose not to do so are eligible to receive a \$150.00 per month contribution to an HSA by providing proof of enrollment in an HSA compliant High Deductible Health Plan.

In the event of any inconsistency between the language of Article 6.01 and 6.02 and the language of the applicable HDHP, the language of the applicable HDHP shall prevail.

- 6.3 Eligible employees shall be covered by Guardian Angels of Hibbing Employees' Pension Plan (AFSCME Local 105), (hereinafter referred to as the "Plan") as it may be amended from time to time. All rights under the plan, including but not limited to eligibility, are determined by its terms. During the term of this agreement, no change which would reduce or diminish the benefits or privileges provided by the Plan may be made to the Plan without the consent of the Union. Currently the employer's contribution under the plan is 5% of an eligible employee's compensation as defined in the Plan.

#### 6.4 Voluntary Benefits

- The employer has adopted the St. Francis Health Services' Voluntary Benefit Plan. See benefit plan summaries for details.
- To be eligible to participate, an employee must regularly work 60 hours or more a pay period.
- The employee pays 100% of the premium of the benefit plan/s he/she elects.
- The employee cannot modify his/her annual elections unless a change in family status, as defined by the regulations, occurs.

#### 6.5 Tax Deferred Annuity

All employees are eligible to enroll into the voluntary 403(b) tax deferred annuity plan (TDA). See the Director of Human Resources for further details.

#### 6.6 Employee Assistance Program

Guardian Angels offers its' employees access to its' Employee Assistance Program (EAP). An EAP can support with education, dependent care and care giving, legal and financial, lifestyle, and access to consult with a professional counselor.

### SECTION 7 – LEAVE OF ABSENCE

#### 7.1 The following are recognized Leave of Absences:

- A. Family Medical Leave Act (FMLA)
  - 1. Both for Family (inclusive of parenting) and Medical.
- B. Personal Leave
- C. Bereavement Leave
- D. Jury Duty
- E. Training Leave
- F. Workers' Compensation

#### 7.2 Family Medical Leave Act (FMLA)

- A. Leave of absence beyond ten (10) working days, except in cases of personal illness of the nurse or critical illness in the family as defined below, shall not be considered as working time in determining length of service benefits. Length of service benefits will remain the same as at the time of the beginning of the leave of absence. When returning to work from a FMLA leave the employee shall be entitled to be restored to the same position and shift that the employee held when

the FMLA leave began, or to an equivalent position and shift with equivalent benefits, pay and other terms and conditions of employment. Employees who qualify for other leave programs, if any, in addition to FMLA (e.g. Workers' Compensation, parental leave) are required to use such leave concurrently with FMLA leave.

B. Qualification for FMLA:

1. An employee may first request and receive any or all of their accumulated PLT time.
2. Upon using all requested PLT time the employee would then move into the Family Medical Leave Act when incapable of working due to serious personal health condition, as certified by a licensed physician, as defined by FMLA of 1993. (The employee may choose whether or not to use PLT prior to requesting FMLA.)
3. "Eligibility" for unpaid family and medical leave is defined as an employee who has worked for the employer for at least 1250 hours in the twelve (12) month period immediately preceding the leave.
  - a. This leave of absence will be without pay for a maximum period of twelve (12) workweeks in any 12 month period. Guardian Angels has a rolling year policy that permits leave only if twelve weeks leave has not been used in the twelve (12) months before the request.
  - b. This leave may be extended one (1) month upon the employee's request and approval from Guardian Angels.
  - c. An employee may request personal leave after the above two options are used.
  - d. Any person who does not qualify for this leave may request personal leave.
4. This leave shall also be available if a health care provider verifies it is necessary to care for the employee's parent, spouse, son or daughter with a serious health problem as defined in the FMLA of 1993.
5. This leave shall also be available upon the birth/adoption or foster care placement of a child, and may begin before the actual birth or placement of the child.
6. This leave shall also be available for a covered family member's active duty or call to active duty in the Armed Forces or to care for an injured or ill service member, as defined under "The Support for Injured Service Members Act of 2007".

C. Requesting time off:

1. All FMLA time off shall be requested one (1) month in advance when possible. When not possible the employee shall make every effort to inform the employer as far as possible in advance given the circumstance.
2. All requests shall be made on a provided request form and when required will include certification from a licensed physician.

D. Reduce leave schedule or intermittent basis.

1. FMLA may be taken on a reduce leave schedule or intermittent basis if the health care provider certifies this is medically necessary.
  - a. In this case the employer may transfer the employee to a different job with equivalent pay and benefits that better accommodates the need for intermittent leave.
  - b. Reduce leave schedule example:  
If a full-time employee switches to half-days under a reduced leave schedule, on-half week of FMLA leave is used each week.
  - c. Intermittent example:  
If an employee who normally works five (5) day workweeks takes one (1) day off on FMLA leave, only one-fifth (1/5) of one (1) week of FMLA leave has been used.

7.3 Personal Leave

- A. Personal leave of absence of unpaid time off may be granted at the discretion of the administrator for compelling personal reasons.
- B. Personal leave may be granted for up to a sixty (60) day period.
  1. Extensions may be permitted by mutual agreement.
- C. Upon returning to work after a leave of absence, a nurse shall be given the first opportunity to return to her original position.

7.4 Bereavement Leave

- A. A leave of absence of three (3) days without loss of pay shall be granted to nurses in case of death in the family for the purpose of attending the funeral of:
  1. Parents
  2. Parents-in-law
  3. Brothers
  4. Sisters
  5. Sons
  6. Daughters
  7. Grandparents
  8. Grandchildren

- B. A leave of absence of two (2) days without loss of pay shall be granted to nurses in case of death in the family for the purpose of attending the funeral of:
  - 1. Brother-in-law
  - 2. Sister-in-law
- C. A leave of absence of up to four (4) days without loss of pay shall be granted to nurses in case of death of a Spouse.
- D. A leave of absence without pay of up to ninety (90) days shall be granted for death of the following immediate family members (of the nurse):
  - 1. Parents
  - 2. Brothers
  - 3. Sisters
  - 4. Sons
  - 5. Daughters
  - 6. Spouses
- E. In the event of the death of a relative not identified above, or a close friend, nurses shall be given a leave of absence to attend the funeral, without pay, of one (1) day, with at least one (1) day's notice of the funeral. Nurses shall be able to take this time off as unpaid, or at their option, utilize accrued PLT.
- F. Bereavement leave shall be taken in consecutive days with one (1) of the days being the date of the funeral/memorial service

#### 7.5 Jury Duty

- A. Nurses shall be granted a leave of absence with pay for jury duty up to two (2) weeks in each calendar year.
- B. Pay for jury duty will be based on a nurse's regular straight time rate less the amount received for jury duty.

#### 7.6 Training Leave

- A. Nurses required to attend in-service training programs at times when they are not scheduled to work will be compensated at the applicable rate of pay for all time spent in attendance at such meetings.

#### 7.7 Union Leave

A nurse elected by the union to represent their local shall be allowed to attend such meetings in accordance with the following schedule. Union leave shall be scheduled as part of the annual PLT sign up whenever possible.

<u>Meeting</u>	<u># Delegates</u>	<u>Days</u>
LPN	2	3
AFL-CIO	2	3
Council 65	2	2

## 7.8 Workers' Compensation

- A. It is the responsibility of the employee to inform their supervisor or, if not available, someone within management, of any accident that happens within the workplace.
- B. Upon notification to supervisor the employee will be given all the necessary forms required to be completed by employee.

## **SECTION 8 – TERMINATION OF EMPLOYMENT**

- 8.1 The Employer shall give a nurse two (2) weeks' notice for termination of employment or two (2) weeks pay in lieu thereof unless said termination is for gross misconduct. Any intentional conduct that jeopardizes patient health is gross misconduct. The nurse shall give the Employer two (2) weeks' notice for termination of employment or when requesting to reduce hours to a second schedule status. The two week notice requirement for moving to second schedule status may be waived by mutual agreement.
- 8.2 Nurses shall be suspended or discharged only for just cause. Written notification of such action shall be sent to AFSCME. Any grievance relating to suspension or discharge must be received by the Employer within ten (10) calendar days following the date of suspension or discharge.
- 8.3 Nurses shall be disciplined for just cause only. Notification to the employee shall be in the form of a form or letter spelling out the grounds for the discipline in reasonable detail and advising the employee of the right to file a grievance.
- 8.4 In connection with investigating interviews of an employee conducted by the Employer where the employee reasonable believes that such investigation could result in disciplinary action, the employee, upon his or her request, shall be entitled to have a representative of AFSCME present during the interview.
- 8.5 Discipline that is necessary will be corrective rather than punitive and will be based upon verbal warnings followed by written warnings prior to the implementation of any suspension or discharge. The above shall not apply in cases of gross misconduct, or other serious misconduct affecting resident care, co-workers or visitors.

## **SECTION 9 – PROBATIONARY PERIOD**

- 9.1 New nurses shall be on a probationary period status the first five hundred (500) hours of their employment. Nurses may be terminated with or without cause during the probationary period. Upon satisfactory completion of the five hundred (500) hour period, the nurse shall be granted seniority dating from the commencement of her current employment.

## **SECTION 10 – GRIEVANCE PROCEDURE**

- 10.1 Any dispute relating to the interpretation of or adherence to the terms and provisions of this Agreement shall be handled as follows:

STEP ONE – The nurse shall discuss the grievance with her immediate supervisor.

STEP TWO – If the grievance is not resolved in Step One, it shall be submitted in writing to the Employer, shall specify in detail the alleged violation of the Contract, and shall be received by the Employer's Administrator no later than ten (10) calendar days following the date of occurrence. Grievances relating to wages shall be timely if received by the Employer no later than fifteen (15) calendar days following the date of receipt of the check by the nurse. Within seven (7) calendar days following receipt of the grievance by the Employer, representatives of the Employer and AFSCME shall confer, either by telephone or by physically meeting in an attempt to resolve the grievance. Within seven (7) days of the conference between representatives of the Employer and AFSCME, the Employer will present a written answer to the grievance. The Employer will grant a necessary and reasonable amount of time off during working hours with pay to that representative who must necessarily be present for direct participation in investigating or adjusting a grievance. Grievances will be processed at the Employer.

STEP THREE – If the grievance is not resolved in Step Two, either party may refer the matter to arbitration. Any demand for arbitration shall be in writing and must be received by the other party within seven (7) calendar days following receipt of a written answer to the grievance. The Employer and AFSCME shall attempt to agree on a neutral arbitrator who shall hear and determine the dispute. If no agreement is reached, the arbitrator shall be selected from a list of five (5) neutral arbitrators to be submitted to the parties by the Federal Mediation and Conciliation Service. The parties shall each alternately strike one (1) name and the order of striking shall be determined by chance.

The parties agree that they may mutually request that the Federal Mediation and Conciliation Service mediate a grievance dispute prior to its submission to an arbitrator.

- 10.2 The authority of the arbitrator shall be limited to making an award relating to the interpretation of or adherence to the written provisions of this Agreement and the arbitrator shall have no authority to add to, subtract from, or modify in any manner the terms and provisions of this Agreement. The award of the arbitrator shall be confined to the issues raised in the written grievance and the arbitrator shall have no power to decide any other issues. The award of the arbitrator shall be final and binding upon AFSCME, Employer, and the nurses.
- 10.3 The award of the arbitrator shall be made within thirty (30) calendar days following the close of the hearing. The fees and expenses of the neutral arbitrator shall be divided equally between the Employer and AFSCME.
- 10.4 The time limitations set forth herein relating to the time for filing a grievance and the demand for arbitration shall be mandatory. Failure to follow said time limitations shall result in the grievance being permanently barred, waived, and forfeited and shall not

be submitted to arbitration. The time limitations provided herein may be extended by mutual written agreement of the parties.

- 10.5 AFSCME may file grievances on behalf of individual employees or groups of employees. Any such grievance shall be subject to all of the provisions of this Section 10 including the time limitations contained therein.

### **SECTION 11 – ATTENDANCE POLICY**

- 11.1 The purpose of an attendance policy attached as Appendix B to promote acceptable attendance by the employees. To this end, the Parties agree that the Labor/Management Committee will develop an Attendance Policy subject to the approval of the Negotiating Committee and ratification of the membership. The parties agree that Employer shall communicate with the AFSCME Local 105 in writing thirty (30) days in advance if it wishes to make changes to this Policy. The Policy, thereafter, shall become subject of negotiations. Should such negotiations result in impasse, the Parties agree to submit the issues at impasse to arbitration.

### **SECTION – NO STRIKES – NO LOCKOUTS**

- 12.1 There shall be no strikes or lockouts of any kind whatsoever during the term of this Agreement. The prohibition against strikes and lockouts shall be absolute.
- 12.2 No employee shall engage in any cessation or other concerted work stoppage.
- 12.3 If any nurse is disciplined or discharged for allegedly engaging in a strike in violation of this Section, he/she may proceed through the grievance procedure contained in this Agreement.

### **SECTION 13 – SENIORITY AND LAYOFF PROCEDURE**

- 13.1 Seniority is hereby defined as the length of continuous service after the most recent date of employment.
- 13.2 There shall be one seniority list for all employees based on employment as an LPN, including second schedule employees. Employees shall be placed on the seniority list in accordance with the most recent date of hire. In reducing the number of nurses, the Employer will lay off probationary nurses first followed by nurses with the least seniority first. Nurses shall be recalled in the reverse order of layoff.
- 13.3 Seniority for all purposes contemplated by this contract, including scheduling of days and shifts, shall apply only to members of this bargaining unit.

### **SECTION 14 – AFSCME SECURITY AND DUES DEDUCTION**

- 14.1 It shall be a condition of continued employment that all employees covered by this Agreement who are members in good standing of AFSCME on the effective date of this Agreement shall remain members in good standing of AFSCME for the duration of this Agreement.

- 14.2 Any employee who is not currently a member of AFSCME, shall, as a condition of continued employment, be required to become a member within thirty (30) days of the effective date of this Agreement.
- 14.3 All newly hired employees covered by this Agreement, shall, as a condition of continued employment, become members of AFSCME within thirty (30) days of their initial date of employment.
- 14.4 Any employee covered by this Agreement who fails to comply with the above provisions will have their employment with the Employer immediately terminated.
- 14.5 The Employer agrees to deduct from the salaries of nurses all dues and/or any other union approved deductions required by AFSCME to be a member in good standing of AFSCME in accordance with the standard form used by AFSCME, provided that said form shall be executed by the employee. The written authorization for AFSCME dues deduction shall remain in full force and effect unless revoked by the employee.
- 14.6 The dues shall be deducted in twelve (12) monthly installments.
- 14.7 AFSCME shall give written notification to the Employer of the amount of the dues that are to be deducted.
- 14.8 Dues deducted together with a list of names for whom the deductions were made shall be sent to the designated AFSCME office.
- 14.9 The Employer agrees to furnish to AFSCME a list of the names and addresses of all Licensed Practical Nurses employed by the Employer who are covered by this Agreement, within thirty (30) days of the effective date of this Agreement. Thereafter, the Employer agrees to furnish AFSCME a monthly list of new hires, terminations, and nurses on leaves of absence.

## **SECTION 15 – EDUCATIONAL DEVELOPMENT**

- 15.1 The Employer shall pay the nurse minimum reimbursement in the amount of 75% of tuition and required fees and books up to one hundred fifty dollars (\$150.00) per year for educational coursework at an accredited institution under the following circumstances:
  - A. The Director of Nursing must approve the proposed course or sequence of studies as having a reasonable relation to the nurse's employment.
  - B. The nurse must sign a certificate that she will continue to or return to work at the Employer for at least one (1) year after completion of the course or sequence of studies.
  - C. Payment shall be made upon satisfactory completion of each course for which reimbursement has been requested. Provided, nevertheless, that the nurse shall repay the Employer any reimbursement she has been paid hereunder to the

extent that she does not continue to make herself available to return to work at the Employer for at least one (1) year after completion of the course or sequence of studies.

#### **SECTION 16 – APPLICABLE LAW**

- 16.1 The parties recognize that this Agreement is subject to the Constitution and Laws of the United States and the State of Minnesota. To the extent that any provisions of this Agreement conflict with the provisions of any such law, it shall be modified by negotiations between the parties only to the extent necessary to comply with such laws.

#### **SECTION 17 – BULLETIN BOARD**

- 17.1 The Employer will provide bulletin board spaces for posting meeting notices and related materials.

#### **SECTION 18 – EVALUATION**

- 18.1 If the employer utilizes a system of employee evaluations, such evaluation shall be conducted at least annually. The nurse shall acknowledge such evaluation by signature to indicate it has been reviewed with the employee. The employee has the right to review and request photocopies in accordance with Minnesota Statutes chapter 181, his/her personnel record. Nurses shall be provided with a copy of the evaluation at the time it is reviewed with them.

#### **SECTION 19 – EMPLOYER RULES**

- 19.1 The Employer may establish rules that shall be posted or distributed to nurses and that shall not be inconsistent with the terms of this Agreement.

#### **SECTION 19A – DRUG AND ALCOHOL POLICY**

- 19A.1 It is the policy of Employer to maintain for its employees, residents and customers a work environment that is free from the effects of drug and alcohol abuse. With this goal and because of the serious drug and alcohol abuse problem in today's workplace, we have established the following policy:
- 19A.2 Prohibited Conduct: The Employer explicitly prohibits the use, possession, solicitation for or sale of narcotics or other illegal drugs, alcohol, or prescription medication without a prescription on company or customer premises or while performing an assignment.

The Employer explicitly prohibits being impaired or under the influence of legal or illegal drugs or alcohol off the company or customer premises that adversely affects the employee's work performance, his or her own or others' safety at the workplace, or the employer's reputation.

19A.3 Enforcement: The Employer reserves the right to enforce this policy through drug and alcohol testing, through the use of non-testing detection methods such as observation, or through a combination of testing and non-testing detection methods, at the Employer's discretion.

19A.4 Drug and Alcohol Testing: All applicants and employees are subject to Employer drug and alcohol testing.

Applicants: The Employer may request or require an applicant to undergo drug and alcohol testing after a conditional job offer has been made for a position requiring all applicants to undergo such testing.

Employees: The Employer may request or require its employees to undergo drug and alcohol testing as part of a routine physical examination given no more than once annually with two weeks' written notice.

The Employer may request or require its employees to undergo drug and alcohol testing on a random basis for those employees employed in safety sensitive positions in which an impairment caused by drug or alcohol usage would threaten the health or safety of any person.

The Employer may request or require its employees to undergo drug and alcohol testing if the Employer has a reasonable suspicion that an employee: (1) is under the influence of drugs or alcohol; (2) has violated the Employer's written work rules prohibiting the use, possession, sale or transfer of drugs or alcohol while the employee is working or while the employee is on the employer's or customer's premises or operating the employer's or customer's vehicle, machinery, or equipment; (3) has sustained a personal injury or has caused another employee to sustain a personal injury; (4) has caused a work-related accident or was operating or helping to operate machinery, equipment or other vehicles involved in a work-related accident.

The Employer may request or require its employees to undergo drug and alcohol testing where the employee has been referred to chemical dependency treatment or evaluation in which case a request for testing can be made without prior notice during the evaluation period and for two years thereafter.

Right To Refuse Testing And Consequences: An applicant or employee has the right to refuse to undergo Company drug and alcohol testing. Refusal shall subject an applicant to withdrawal of a conditional job offer, and an employee to discipline up to and including termination.

Test Results and Consequences:

Applicant: Upon receipt of a confirmatory test verifying a positive test result on an initial screening test, the Employer may withdraw a conditional offer made to an applicant.

Employee: Where the Employer chooses to base discipline on drug or alcohol test results, the employer may discipline an employee up to and including termination based on a positive test result on a confirmatory test, i.e., where the employee has tested positive for drug or alcohol use, provided the employee has on a prior occasion received a positive test result on a confirmatory test, i.e., has previously tested positive for drug or alcohol use.

Where the Employer chooses to base discipline on drug or alcohol test results, the Employer may not discharge an employee for whom a positive test result on a confirmatory test was the first such result but may order the employee to participate in a drug or alcohol counseling or rehabilitation program. An employee may be terminated upon that employee's refusal to participate, failure to successfully complete the program, or testing positive on a confirmatory test after completion of the program.

Explanations and Retests: In any test for evidence of drug or alcohol use, any positive test will be confirmed using a second test.

Applicants and Employees have the right to explain the positive test result on a confirmatory test. After receiving notice of a confirmed positive result, they have three working days to submit information to the employer to explain the positive test result.

Applicants and Employees have the right to request and pay for a confirmatory retest. After receiving notice of a confirmed, positive test, an applicant or employee has five working days to, in writing, request a confirmatory retest (at the employee's or applicant's expense) of the medical specimen tested, to be performed by either the original testing laboratory or another laboratory chosen by the employee or applicant meeting the requirements or applicable law. The Employer will take no adverse personnel action against an applicant or employee if a confirmatory retest does not confirm the original positive test result.

Confidentiality: All information obtained through drug and alcohol testing will be treated confidentially and disclosed only as allowed by Minnesota law.

## **SECTION 20 – MAINTENANCE OF BENEFITS**

- 20.1 Where wages, shift differentials, holiday, and similar economic benefits specifically provided for by this Agreement are lower than those now received by an individual nurse, the nurse shall not have such benefits reduced by the execution of the Agreement.

## **SECTION 21 – MANAGEMENT RIGHTS**

- 21.1 Except as specifically limited by the express written provisions of this Agreement, the management of the Employer and direction of the working forces shall be vested solely and exclusively in the Employer. This provision shall include, but is not limited to, the right to hire; to determine the quality and quantity of work performed; determine the number of employees to be employed; to lay-off employees; to assign

and delegate work; to enter into contracts for the furnishing and purchasing of supplies and services; to maintain and improve efficiency; to require observance to Employer rules, regulations, and other policies; to discipline or discharge employees for cause; to schedule work and to determine the number of hours to be worked; to determine the methods and equipment to be utilized and the type of service to be provided; to direct the working forces; to manage and administer the employer's operation; and to change, modify or discontinue existing methods of service and equipment to be used or provided. In addition, management shall have the right to determine methods of compliance with federal and state regulations affecting nursing homes as long as such methods are not inconsistent with the terms of this Agreement.

## **SECTION 22 – SUCCESSORS AND ASSIGNS**

22.1 *This Labor Agreement shall be binding upon the parties hereto and their successors and assigns for the Employer and the Union, but in no event shall the present Employer be liable for the actions of any successor Employer in recognizing or failing to recognize the terms of this collective bargaining agreement.*

## **SECTION 23 – JOB SECURITY**

23.1 Any proposed change in job description, responsibility, or function shall be conditioned exclusively by patient welfare and shall be communicated in writing thirty (30) days in advance to the AFSCME Local 105 and shall thereafter become the subject of negotiations. Should such negotiations result in impasse, the issues at impasse shall be submitted to arbitration in conjunction with applicable statutory provisions. After impasse is reached, nothing in this section shall prevent management's unilateral implementation of changes in job description, function or responsibilities pending any arbitration decision on the issue. The parties can mutually agree to participation in mediation prior to any arbitration arising under this section.

## **SECTION 24 – VACANCIES**

24.1 If a vacancy shall occur in the bargaining unit, such vacancy shall be posted on the bulletin board in the employee break room for five (5) working days (working days are considered to be Monday through Friday). Nurses interested in the vacancy shall submit an employee request form noting the same in the approved manner. The Employer shall fill the vacancy from nurses bidding to fill the vacancy on the basis of seniority. If more than one (1) nurse meets the bona fide qualification for the position, then the position shall be awarded on the basis of seniority. After the applicant has been selected, he or she shall be notified and shall be placed on the job no later than two (2) weeks from the date of notification. The Employer, during this two (2) week period, may temporarily fill the vacancy.

The successful bidder shall have a sixty (60) day trial period in which to demonstrate his/her ability to perform the job. If during such period, the employee cannot fulfill the duties of the position; or if the employee desires to return to his/her former position, he/she shall be returned to his/her former position and rate of pay without loss of

seniority rights. All employees who bid for a vacant position shall have an opportunity to be interviewed for the position. The Employer may contact employees who bid for a position and who have previously been interviewed for a similar position and indicate that the interviewer is familiar with the employee's qualifications and provide the employee with an opportunity to provide additional information, if the employee so desires.

#### **SECTION – GENDER**

- 25.1 Whenever any words are used in this Agreement in the feminine gender, they shall also be construed to include the masculine or neuter gender in all situations where they would so apply; whenever any words are used in the singular, they shall also be construed to include the plural in all situation where they would so apply, and wherever any words are used in the plural they shall also be construed to include the singular.

## SECTION 26 – DURATION AND RENEWAL

26.1 *This Agreement shall be in effect from and including October 1, 2016 and up to and including September 30, 2019. This Agreement shall automatically renew from year to year thereafter unless either party gives written notice to the other of the proposed termination or modification of this Agreement at least ninety (90) days prior to September 30, 2018, or prior to the end of any renewal year, as the case may be. Notwithstanding the foregoing, this Agreement may be reopened for negotiations by either party under the following conditions and limitations:*

- The Value-Based Reimbursement (VBR), Minn. Stat. sec. 256B.441, Laws of Minnesota 2015, chapter 71, article 6, sections 9, 11-35, and 41-44, is repealed in whole or in part, or is modified, in regard to the rate-setting procedures for Care Related Costs, Other Operating Costs, and External Fixed Costs; and,*
- The reopener negotiations are limited to the subjects of wages, health and welfare benefits, and health and welfare costs; and,*
- The party desiring reopener negotiations gives the other party at least forty-five (45) days' written notice of the reopener negotiations; and,*
- The reopener notice is given within a thirty (30) day time period beginning on the date the governor signs the repealer or modification legislation, or on the date the repealer or modification legislation becomes law without the governor's signature.*

IN WITNESS WHEREOF, the undersigned have caused this Agreement to become effective and duly be executed by their duly authorized representative:

**GUARDIAN ANGELS HEALTH & REHABILITATION CENTER**

BY: [Signature]  
Date: 10/11/16  
Scott Allen,  
Vice President, Finance & NH Operations  
St. Francis Health Services of Morris

BY: [Signature]  
Date: 10-06-2016  
Geoffrey Ryan, Regional Director  
St. Francis Health Services of Morris

BY: [Signature]  
Date: 10/11/16  
Scott Kessler, Administrator  
Guardian Angels Health and  
Rehabilitation Center

**AFSCME LOCAL 105**

BY: [Signature]  
Date: 9/28/16  
Tim Hoehal,  
Staff Rep  
AFSCME Local 65

BY: [Signature]  
Date: 11-9-16  
Jaime Fouet  
Union President

BY: [Signature]  
Date: 11-10-16  
Janelle Peterlin  
Union Vice President

BY: [Signature]  
Date: 12-9-16  
Kathy Smuk  
Union Secretary

BY: [Signature]  
Date: 11/9/16  
Margaret Melzer  
Union Treasurer

**APPENDIX A1**  
 AFSCME Local 105 / Guardian Angels Agreement  
 Effective October 1, 2015

Salary Levels on an hourly basis shall be as follows:

<u>Hours</u>	<u>10/1/2016 Rate of Pay</u>	<u>10/1/17 Rate of Pay</u>	<u>10/1/18 Rate of Pay</u>
0-2,080	\$16.03	\$16.51	\$17.00
2,081-4,160	\$16.35	\$16.84	\$17.35
4,161-6,240	\$16.66	\$17.16	\$17.67
6,241-8,320	\$17.00	\$17.51	\$18.04
8,321-10,400	\$17.27	\$17.79	\$18.32
10,401-12,480	\$17.58	\$18.11	\$18.65
12,481-14,560	\$17.90	\$18.44	\$18.99
14,561-16,640	\$18.21	\$18.76	\$19.32
16,641-18,720	\$18.51	\$19.07	\$19.64
18,721-20,800	\$18.84	\$19.41	\$19.99
20,801-24,960	\$19.14	\$19.72	\$20.31
24,961-31,200	\$19.77	\$20.37	\$20.98
31,201-41,599	\$20.39	\$21.01	\$21.64
41,600-52,199	\$20.95	\$21.58	\$22.23
52200 +	\$21.50	\$22.14	\$22.81

A thirty (\$30.00) dollar bonus will be paid to a nurse who fills a shift when called in on a day off, as long as the nurse works a full eight (8) hour shift.

## APPENDIX B ATTENDANCE POLICY

Employee absenteeism negatively affects the ability of the nursing facility to provide high quality care to residents/patients on a consistent basis. While absenteeism has many causes, it creates additional burdens for employees who do report to work, and increases the potential for hazardous situations in a facility with large numbers of ill or infirm residents/patients.

This policy includes not only absence from work, but late reporting for a scheduled shift, unauthorized extension of a meal or rest break period, leaving early, or improper use of other employer paid time. Corrective measures utilized by this program are designed to correct employee attendance by using the least severe penalty possible to remedy the problem, relying on more severe penalties in the event the matter is not resolved voluntarily by the employee. All notices will be recorded in the employee's personnel file.

A no fault attendance policy will treat all employees equally and will ensure that each employee is aware, at each step of the procedure, of the measures that must be taken to avoid further discipline. A "no-fault" policy looks at attendance patterns, not reasons for absences. Therefore, all absences are counted, no matter what the reason, unless they are an exception under Section VI of this Attendance Policy.

Any absenteeism notice imposed as a result of excessive absenteeism and/or tardiness is based on frequency of occurrences rather than actual number of days involved. The following rules shall apply:

### I. Tardiness/Early Leave

A tardy occurrence is defined as (1) being late for work for a period of more than seven (7) minutes from scheduled start time, but less than 50% of scheduled workday or (2) leaving work more than seven (7) minutes before scheduled stop time, but less than 50% of scheduled workday, without prior approval of a supervisor. The following correction measures will be applied:

- a. Upon four (4) tardy occurrences within a twelve (12) month period, a first notice will be issued.
- b. Upon five (5) tardy occurrences within a twelve (12) month period, a second notice will be issued.
- c. Upon seven (7) tardy occurrences within a twelve (12) month period, the employee will receive a final notice.
- d. Upon eight (8) tardy occurrences within a twelve (12) month period, the employee will receive a discharge warning.
- e. Upon nine (9) tardy occurrences in twelve (12) months, the employee will be discharged from employment.

## II. Absence

An absence is defined as missing more than 50% of the scheduled shift. The following corrective measures will apply:

- a. Upon four (4) absences within a twelve (12) month period, the employee will receive a first notice.
- b. Upon five (5) absences within a twelve (12) month period, the employee will receive a second notice.
- c. Upon seven (7) absences within a twelve (12) month period, the employee will receive a final notice.
- d. Upon eight (8) absences within a twelve (12) month period, the employee will receive a discharge warning.
- e. Upon nine (9) absences in twelve (12) months, the employee will be discharged from employment.

## III. "No Call/No Show"

The failure of an employee to report to work for the full shift without calling or without prior approval from the immediate supervisor, will be recorded as a "no call/no show". An employee with two no call/no shows will be discharged. The first no call/no show will be counted as an occurrence of absence and placed in the employee's file. The second no call/no show, no matter how much time passes since the first, will result in discharge. If there are extraordinary circumstances that prohibit an employee from contacting the facility, they will be given the opportunity of meeting with the administrator to provide an explanation. Only the administrator will have the authority to excuse a "no call/no show".

## IV. Recording Procedure

If you are going to be absent, you must notify your supervisor at least two (2) hours before your shift begins. If you are going to be tardy, you must notify your supervisor at least one hour before your shift begins.

An employee will be recorded upon initial late reporting as being "tardy". If 51% of the scheduled workday passes and the employee still has not reported, then his/her status will be converted to "absent". If at the end of the shift the employee has still not reported and the absence has not been approved by the immediate supervisor, then the employee will be converted to a "no call/no show" status. An employee will not be recorded in more than one absentee category per incident.

## V. Absence for Medical Condition

Any absence for a medical condition not covered by FMLA or preapproved Personal Leave of Absence will be recorded as one (1) absence occurrence regardless of the number of consecutive days missed for the same medical reason.

## VI. Policy Exceptions

Employees absent due to an approved FMLA leave of absence, a work-related injury, scheduled time off, personal leave time, jury duty, or bereavement leave will not be recorded as being absent for purposes of this policy. Employees prevented from reporting to work due to emergency weather conditions which affect the entire facility will not be considered to be absent or tardy if they telephone the facility and report their inability to come to work on time. The administrator will make the determination of when an emergency weather condition occurs. Every employee will be allowed two (2) emergency tardy situations that can be used at their discretion and will not count in the corrective measures progression.

## VII. Record Correction Procedure

If an employee goes six (6) consecutive months without an occurrence of tardy or absence, then the oldest tardiness or absence occurrence will be deleted. Each tardiness and absence occurrence will cease to be considered twelve (12) months after its occurrence.

## VIII. Weekends Call-Ins

If an employee calls in on their scheduled weekend, they will automatically be scheduled for the same shift on the next weekend as a makeup weekend. If the facility does not require the hours on the next weekend, the make-up obligation is waived.

## IX. Trading and Exchanging Shifts

All shift exchanges must be requested in advance per the department guidelines and preapproved by the department manager. A shift exchange cannot result in an employee being put into an overtime status. Second schedule staff and registered nurses, in that order, can be used for shift exchanges.

Even Exchanges: Equal exchanges of shifts between two employees in the same pay period. There will be no limit on even exchanges.

Uneven Exchanges: Exchanges of shift between two employees that result in a decrease of scheduled hours that pay period for one employee.

.8 – 1.0 FTE (64-80 hours per pay period) – two trades per month

.2 - .7 (16-56 hours per pay period) – one trade per month

A trade is defined as 1-3 consecutive days.

Vacation pay may be used for uneven trades.

Trade options will not be cumulative from month to month.

