

ESSENTIAL SERVICES AGREEMENT made this 8th day of September 2021,

Between

ALBERTA HEALTH SERVICES
(hereinafter referred to as the "Employer")

and

UNITED NURSES OF ALBERTA
(hereinafter referred to as the "Union")



1. PREAMBLE AND PURPOSE

- 1.01 The Employer acknowledges the right of its unionized Employees to withhold their labour and strike in accordance with the ESA and applicable law.
- 1.02 The Union acknowledges the right of the Employer to lockout its unionized Employees in accordance with the ESA and applicable law.
- 1.03 The Parties, in accordance with the *Alberta Labour Relations Code* (the "Code"), acknowledge the requirement of an Essential Services Agreement (ESA) to ensure the continued provision of essential services in the event of a strike or lockout. In recognition of this, the Parties agree as follows:

2. PARTIES

- 2.01 The Parties to this Agreement are Alberta Health Services ("the Employer") and United Nurses of Alberta ("the Union").

3. DEFINITION OF ESSENTIAL SERVICES

- 3.01 For the purposes of this Agreement, "essential services" are those services
 - (a) the interruption of which would endanger the life, personal safety or health of the public, or
 - (b) that are necessary to the maintenance and administration of the rule of law or public security.

4. GENERAL PRINCIPLES

- 4.01 Designated essential services workers shall only perform those services that are essential. However, if a service appears non-essential, but the absence of that service endangers the life, personal safety or health of the public, such a service shall be considered essential. (i.e.: the Parties recognize the concept of "indirectly essential.")

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5. STRIKE OR LOCKOUT NOTICES

- 5.01 The Parties agree that notice of the date, time and initial location(s) to commence a strike or lockout under Section 78 of the *Code* shall be at least seventy-two (72) hours.
- 5.02 Following the commencement of a strike or lockout, any changes must be served in writing on the other Party with at least seventy-two (72) hours' notice of the date, time and impacted location(s).

6. UMPIRES

- 6.01 The Parties agree to select Mr. Lyle Kanee, Q.C. as the lead umpire. The role of the lead umpire is to:
- (a) assist the Parties in concluding the ESA;
 - (b) settle the terms of the ESA in the event the parties cannot agree;
 - (c) rule on interpretation disputes of the ESA; and
 - (d) be available during a strike or lockout for a timely resolution of disputes.

The foregoing does not limit the utilization of the lead umpire to act as a deputy umpire in order to hear disputes outlined in 6.02.

- 6.02 The Parties agree to select Mark Asbell as the deputy umpire for Southern Alberta (Central Zone, Calgary Zone and South Zone) and Deborah Howes as the deputy umpire for Northern Alberta (North Zone and Edmonton Zone). The Parties may agree on additional deputy umpires. The role of the deputy umpire is to:
- (a) assist the Parties in reaching agreement on essential services staffing plans;
 - (b) settle the terms of the staffing plans in the event the Parties cannot agree,
 - (c) rule on application and implementation disputes of the ESA; and
 - (d) be available during a strike or lockout for a timely resolution of disputes.

Either Party may appeal to the lead umpire for a review of the deputy umpire's ruling within ten (10) calendar days of the deputy umpire making the award, on grounds that it is unreasonable.

7. PROCESS FOR NEGOTIATING STAFFING PLANS

- 7.01 The Parties agree to develop staffing plans that set out the classifications of Employees, and the total number of positions in each classification that will attend work or be placed "on-call" or "immediate standby" for each Unit, Area, Department, and Site. The Parties recognize these plans may depend on the nature of the strike or lockout (i.e.: full, partial or rotating) and the duration of the work stoppage.
- 7.02 Staffing plans are negotiated at a Local level; however, final signing authority rests with the respective Chief Zone Officer or Senior Operating Officer for the Employer and the UNA Steering Committee for the Union.

8. PROCESS FOR ASSIGNING CAPABLE AND QUALIFIED EMPLOYEES

- 8.01 Each Party shall appoint a site lead and communicate the name and contact information to the other Party. The purpose of the site lead is to have a responsible person for each Party to discuss and resolve staffing related issues that may arise.
- 8.02 Upon receipt of a strike or lockout notice, the Parties shall meet as often as necessary to review the staffing plans. Such discussions will occur at a Local level. The purpose of the review includes, but is not limited to, the following:
- (a) sharing of information to help coordinate the assignment of capable and qualified Employees required to perform the essential services;
 - (b) notification by the Employer to the Local on the number of capable and qualified Non-Union Exempt Employees (NUEEs) who are available to fill a position for a specific shift;
 - (c) confirmation by the Local to the Employer of which Employees are designated essential services workers and for which shifts they are assigned to work;
 - (d) notification by the Employer to the Local of any acuity level changes at the site and/or department;
 - (e) assessment of the staffing plans to determine whether the total number of essential services positions in each classification should be increased or decreased in order to perform the essential services.
- 8.03 The Employer shall utilize the services of its NUEEs, provided they are capable and qualified, to the fullest extent possible, recognizing this may exceed the NUEE's applicable hours of work. Where an issue arises with respect to the Employer's use or planned use of NUEEs, the Employer will provide detailed information to the Union upon request.
- 8.04 The Employer shall be responsible for assigning capable and qualified NUEEs and ensuring that those employees report for all shift requirements in accordance with the staffing plans. These NUEEs shall be counted towards the number of positions in each classification in accordance with the staffing plans. For example, if the Parties agree that three positions in a specific classification are essential for a specific shift, and there are two capable, qualified NUEEs, the Union shall be responsible for assigning one designated essential services worker.
- 8.05 If a NUEE is unable to report for their shift or on-call assignment during a strike or lockout, the Employer will have a designated process for the NUEE to follow in order to notify the Employer so that arrangements can be made for an alternative individual (NUEE or designated essential services worker) to be assigned to work the shift in question. The Employer will inform the Local of any such changes.

- 8.06 The Local shall be responsible for assigning capable and qualified designated essential services workers and ensuring that those Employees report for all shift requirements in accordance with the staffing plans. This includes having adequate capable and qualified Employees available to report to duty if required (i.e. on-call or readily available). The Local shall only assign an Employee to work a specific shift who normally works in the unit/area, department and program and has been oriented to the unit/area.
- 8.07 If an Employee is unable to report for their shift during a strike or lockout, the Local will have a designated process for the Employee to follow in order to notify the Local so that arrangements can be made for an alternative Employee to be assigned to work the shift in question. The Local will inform the Employer of any such changes.
- 8.08 In the event of a strike or lockout, the Employer shall provide suitable workspace on-site to the Union to perform its duties as outlined in this ESA; however, such workplace shall not be used as the Union strike headquarters or to manage the picket line. In the event that it is not possible to provide suitable on-site workspace, the Parties will procure space in proximity to the site and the cost shall be shared 50/50.
- 8.09 Union and Local representatives shall have access to AHS owned or leased workspace as necessary for the purpose of administering and monitoring the application of the ESA.
- 8.10 The Employer may require that the representative(s) be accompanied by an Employer official at all times.

9. TERMS & CONDITIONS OF EMPLOYEES

- 9.01 (a) The Employer agrees to maintain coverage for all Employees enrolled in Employee Benefits as per Article 21 of the Collective Agreement.
- (b) The Employer associated costs will be calculated as per Appendix C and will be billed to the Union no later than sixty (60) days following the conclusion of a strike or lockout.
- (c) Subject to 9.01(b), the Union shall submit payment no later than sixty (60) days following receipt of the invoice.
- 9.02 In the event of rotating strike or lockout, the Collective Agreement shall continue in full force and effect at all sites not on strike or lockout.
- 9.03 The Collective Agreement shall remain in full force and effect for Designated Essential Services Workers, with the exception of Article 7 (Hours of Work) [except Article 7.01 (b) – (d) and 7.06], Article 8.04 Overtime; Article 9 (On-call Duty/Call Back), Article 15 (Layoff and Recall) and Article 24 (No Strike or Lockout). Designated Essential Services Workers will be paid based on the Employee's classification and rate of pay in effect at the commencement of the strike or lockout.
- 9.04 The following on-call/immediate standby provisions apply to Designated Essential Services Workers:

- (a)(i) The words "on-call duty" shall be deemed to mean any period during which a Designated Essential Services Worker is assigned an on-call shift in a staffing plan as identified in 7.01 of this Agreement.
- (ii) The Employer shall pay \$4.50 per hour to a Designated Essential Services Worker who is assigned on-call duty.
- (iii) Subject to Article 8 (Overtime) of the Collective Agreement and s. 11 of the *Employment Standards Code Regulation*, for each occasion that a Designated Essential Services Worker is called back to work from on-call duty, they shall be paid for all hours worked at the basic rate of pay in addition to the payment received for being on-call.
- (b)(i) The words "immediate standby" shall be deemed to mean any period during which a Designated Essential Services Worker is assigned immediate standby in a staffing plan as identified in 7.01 of this Agreement.
- (ii) The Employer shall pay Designated Essential Services Workers assigned immediate standby 50% of their Basic Rate of Pay.
- (iii) Subject to Article 8 (Overtime) of the Collective Agreement and s. 11 of the *Employment Standards Code Regulation*, for each occasion that a Designated Essential Services Worker is called back to work from immediate standby, they shall be paid for all hours worked at the basic rate of pay.

9.05 No Employee shall be discriminated against or disciplined in any manner for taking part in a legal strike or lockout.

10. PROHIBITION ON REPLACEMENT WORKERS

10.01 During a strike or lockout at a site, the Employer shall not:

- (a) permit Employees in the bargaining unit on strike or lockout to work at that site unless they are a designated essential services worker;
- (b) increase the scope of work performed by volunteers or contracted out services at that site;
- (c) assign work that would normally be performed by an Employee in the bargaining unit that is on strike or lockout to other Employees at that site who are members of other bargaining units; or
- (d) hire additional persons at that site to perform work normally performed by an Employee in the bargaining unit that is on strike or lockout.

11. ADJUSTMENTS TO STAFFING PLANS

- 11.01 The Employer, the Union or the Local may request to adjust the agreed staffing levels at any time during the work stoppage. If there is a dispute under this section, it will be addressed in accordance with Section 12 of this Agreement.
- 11.02 (a) Where a situation arises that cannot be responded to safely by the limited number of essential services Employees available, the Employer will immediately contact the Local to advise of the number of additional designated essential services workers and the corresponding shift(s) that are required to appropriately respond to the situation. At the same time, the Employer shall provide the Local with a summary of the situation, with as much detail as is available.
- (b) The Local shall immediately comply with the request to ensure that the workers arrive without unreasonable delay and within any time limits as prescribed on the staffing plan.
- (c) Although the Local shall comply with the Employer's request, the Union has the right to appeal the Employer's decision to the Umpire. Such appeal shall be initiated and addressed in accordance with Section 12 of this Agreement.
- (d) Following the end of the situation, the total number of essential services Employees will return to the agreed upon essential services staffing numbers as indicated in the essential services staffing plan.

12. RESOLVING DISPUTES

- 12.01 In the event a dispute arises during the application or implementation of the ESA during a strike or lockout, the dispute will be referred to the Umpire identified in Section 6 of this Agreement for resolution.
- 12.02 Such disputes shall be initiated, in writing, to the Umpire, utilizing the form attached as Appendix B. The Umpire shall hear the dispute within 12 hours of the referral. The Umpire will render their decision as quickly as possible, but in no event longer than 24 hours after hearing the dispute unless the Parties agree otherwise.
- 12.03 If the dispute is not resolved by the Umpire to the satisfaction of either the Employer or the Union, the Parties may, together or separately, apply to the Commissioner for a review of the decision within ten (10) calendar days pursuant to section 95.7 of the Code.

13. INFORMATION SHARING

- 13.01 The Employer shall provide the Union relevant information including:
- (a) staffing for each Unit / Area, Department, and Site (e.g. normal hours of operation, schedule rotations, any history of closure or downsizing in the past 24 months (to the extent that this information is available), current staffing for direct nursing, auxiliary nursing care, paramedical professional and technical staff, whether or not Employees are normally replaced during absences);

- (b) list of all Employees including their contact information on file, classification, site(s) and status (actively working, LOA);
- (c) process for assigning NUEEs;
- (d) list of all NUEEs by site who are registered with CARNA and/or CRPNA;
- (e) list of all NUEEs by site who are capable and qualified to perform the work of an Employee on strike or lockout;
- (f) name(s) and contact information of the Employer representative(s) for each site responsible for:
 - i. assigning capable and qualified NUEEs;
 - ii. reviewing, discussing, and resolving staffing related issues with the Union counterpart;
 - iii. communicating with the Union counterpart to resolve picketing issues;
 - iv. discussing and resolving issues with the Union counterpart that are unrelated to staffing or picketing.
- (g) list of all Employees with restrictions (to the extent that this information is available).

The information in (a) shall be provided in advance of any local staffing plan discussions. The information in (b) and (c) shall be provided upon request.

The information in (d) – (f) shall be provided no later than 30 days after the appointment of a Mediator.

The information in (g) shall be provided no later than the commencement of the cooling-off period.

13.02 The Union shall provide the Employer all relevant information regarding, including, but not limited to:

- (a) names and contact information of the Union representatives who will require access to the Essential Services IT Application;
- (b) process for assigning designated essential services workers;
- (c) process for replacing designated essential services workers;
- (d) names and contact information of the Union representative(s) for each site responsible for:
 - i. assigning and contacting designated essential services workers;
 - ii. reviewing, discussing, and resolving staffing related issues with the Employer counterpart;
 - iii. managing the picket line and communicating with the Employer counterpart to resolve picketing issues;
 - iv. discussing and resolving issues with the Employer counterpart that are unrelated to staffing or picketing.

The information in (a) shall be provided in advance of any local staffing plan discussions. The information in (b) and (c) shall be provided upon request.

The information in (d) shall be provided no later than 30 days after the appointment of a Mediator.

14. COMMUNICATION

14.01 The Parties shall make all reasonable efforts to ensure the public is aware of the impact on services as a result of the strike or lockout.

14.02 The Parties agree to develop a joint communication to ensure both Parties understand their obligations in relation to the ESA. Such communication will include at least the following:

- (a) reporting for assigned shifts;
- (b) reporting to work on time and within the prescribed time limits when placed on-call;
- (c) completion of essential services when on duty;
- (d) protocol for calling in sick;
- (e) protocol for leaves of absence;
- (f) protocol for reporting to work when responding to emergencies and foreseeable changes to the essential services;
- (g) protocol for handling work place grievances;
- (h) protocol for discussing the strike or lockout while on site;
- (i) protocol for picketing.

The communication is to be finalized and distributed no later than the commencement of the cooling off period.

15. TERM OF THE ESSENTIAL SERVICES AGREEMENT

15.01 This ESA shall be in effect until the Parties have ratified a new Collective Agreement.

16. AMENDING THE ESSENTIAL SERVICES AGREEMENT

16.01 Any terms, including the terms of the staffing plans, may be amended by agreement of the Parties. In the event the Parties do not agree on an amendment, the lead umpire shall make a ruling. Either Party may apply to the Commissioner for a review of the lead umpire's ruling within ten (10) calendar days of the lead umpire making the award, on grounds that it is unreasonable.

This Essential Services Agreement has been executed by the Employer and Union by their respective duly authorized representatives.

ON BEHALF OF ALBERTA HEALTH
SERVICES

ON BEHALF OF THE UNITED NURSES
OF ALBERTA

Kimberley LeBlanc
Lead Negotiator, Labour Relations

David Harrigan
Director of Labour Relations

Date signed: September 10, 2021

Date signed: September 9, 2021