

MEMORANDUM OF UNDERSTANDING COVID-19 PANDEMIC 2020

This Memorandum of Understanding (“MOU”) is entered into between Mercy Hospital (“MHB”), Kenmore Mercy Hospital (“KMH”), Sisters of Charity Hospital, St. Joseph Campus (“SJC”), Mount St. Mary’s Hospital (“MSM”), hereinafter referred to as “the Employers”, and the Communications Workers of America, AFL-CIO (“CWA”), Service Employees International Union/1199 United Healthcare Workers East (“SEIU”), United Food and Commercial Workers (“UFCW”) and International Union of Operating Engineers (“IUOE”), hereinafter “the Unions”, collectively with the Employers referred to as “the Parties”.

WHEREAS, the Unions and the Employers are parties to various collective bargaining agreements (“the CBAs”) that cover wages, benefits and work conditions; and

WHEREAS, the Parties have acknowledged that the County, State and Nation have declared a State of Emergency due to the COVID-19 pandemic; and

WHEREAS, the Unions and the Employers need to focus significant efforts and resources on providing a safe work environment for employees and for the care and treatment of patients during this COVID-19 pandemic; and

WHEREAS, it is understood by the Parties that there is uncertainty for how long the arrangements made in this MOU will need to be in place. The Parties commit to remain in contact, have an open line of communication for the duration of this pandemic. The Employers further commit that any changes in wages, hours and work conditions will be negotiated with the Unions. In the event of a significant change in the volume of COVID-19 patients, the Parties shall bargain over the effects and revise this MOU. The Employers reserve the right to terminate this Agreement upon written notice to the Unions.

NOW THEREFORE, the Unions and Employers hereby agree as follows:

A. General Principles:

1. The Parties are committed to comply with the existing provisions of the CBAs other than as outlined below or as otherwise agreed to by the Parties. The Parties acknowledge that additional changes in terms and conditions of employment may be required in order to meet staffing/operational needs during the State of Emergency. The Employers agree to negotiate any such changes with the Unions. The Parties agree that they will not unreasonably deny or delay agreement on any such changes.
2. The parties agree that where an investigative interview of an employee by an Employer representative could lead to discipline for such employee, the employee is entitled to, and shall be offered Union representation during such interview. At any meeting between an employee and any representative(s) of an Employer at which discipline is to be administered, the employee is entitled to, and shall be offered Union representation. It is agreed to and understood by the Parties that any employee currently covered by a collective

bargaining agreement, will remain a member of that bargaining unit and the Union recognized for that unit, regardless of where the employee is working. If there is a need for a Union Representative, the representative will be from the employee's Union. It is understood that should immediate action be required and the employee's Union representative is not available, no discussions with the employee shall take place. If management believes this existing situation rises to the level of a serious offense, the employee shall be put on Paid Administrative Leave and an investigative meeting shall be scheduled at a later date.

Any employee who temporarily transfers to another Catholic Health site will continue to be represented by their originating union for any disciplinary matters.

3. Grievances:

- a. All pending grievances will be held in abeyance without prejudice to any party.
 - b. Contractual time limits for any new grievance will be temporarily waived.
 - c. Effective June 1, 2020, the Parties agree that meetings related to the Grievance Procedure language in each of the CBAs will resume. Once the backlog of grievances has been cleared, but no later than September 30, 2020, the Parties will return to the grievance process outlined in the CBAs, including adherence to all time limits.
4. There will be sufficient screeners at the employee entrances to allow employees to come to work in a timely fashion (i.e. 4 screeners at MHB, 2 screeners at KMH, 2 screeners at SJC, and 2 screeners at MSM) during peak hours. If it is not staffed appropriately, employees shall be granted five (5) additional minutes to TAC in. It is understood that this language will only apply for as long as screeners are required.

B. Staffing:

1. The scheduling of employees is a critical piece of the effectiveness of caring for the COVID-19 patients and the provision of staffing to provide such care. To that end, the Parties agree to form an Oversight Committee. The responsibilities of the Oversight Committee will include addressing all issues related to scheduling of employees at St. Joseph Campus (SJC), utilization of Personal Protective Equipment, as well as other issues that arise at that facility. The Oversight Committee will meet on a daily basis. The Parties further agree that a Crisis Control Team (CCT) will be formed to address issues of the most urgent nature on a real time basis (on call). The CCT will include one (1) representative of each Union at the site and one (1) Employer representative. The team members must be available twenty four (24) hours a day, seven (7) days a week for the purpose of resolving issues such as staffing realignment and must have decision making authority (operations) for the site.

2. Schedules will be completed within the timeframes and durations included in the CBAs. All approved PTO will be taken by employees as approved. New PTO requests will be made and approved based upon the requesting employee's CBA.

a. **SJC Staffing:**

- i. SJC remains committed to establishing a more consistent approach to scheduling with the goal of being able to have the majority of staffing being completed at the site. In order to achieve that goal, SJC is working on a process to have any RN who is either picking up shifts at SJC or filling a temporary position at SJC to be converted to a dual employment status.
- ii. For the purpose of establishing a staffing plan at the SJC site, the Employer will determine the number of beds, units and departments that will be open at the site. The Employer will then determine the staff, per shift, that will be needed to care for the functioning units/departments in the facility. The staffing plan will include an adequate number of Weekend only positions.
- iii. SJC will provide the Union with its current staffing grid. Any staffing grid changes or the creation of grids for new units will be provided to the Union at the Workload and Staffing Committee meeting or no later than seven (7) days prior to the proposed implementation date. The Union will be given the opportunity to discuss the change prior to implementation.
- iv. In order to meet its planned staffing needs, SJC will do the following:
 1. Continue to schedule existing qualified SJC RNs working in both critical care and med surg capacities;
 2. Offer existing per diem and part-time SJC RNs the opportunity to temporarily move to full-time positions;
 3. Post and fill currently vacant RN positions;
 4. Post and fill temporary SJC RN positions, including some weekend only positions;
 5. Continue to schedule qualified RNs from other Catholic Health hospitals who are willing to be Dual Status Employees; and
 6. Continue to supplement with agency RNs and/or the System COVID-19 Float.
- v. The Parties agree that until the SJC staffing plan can be fully implemented, SJC will continue its current processes for staffing.
- vi. SJC shall schedule appropriate staff in order for employees working the Red Zones to take breaks and lunches as follows:
 1. 8 hour shift employees: approximately every two (2) hours, including a lunch break at or around the mid-point of their shift.

2. 12 hour shift employees: approximately every three (3) hours including a lunch break at or around the mid-point of their shift.
- vii. SJC shall staff one (1) RN in addition to the Charge RN on each unit without an assignment in order to provide break coverage.
- viii. Employees who have medical issues which prevent them from working with COVID-19 patients or who cannot be fitted for an N95, shall utilize the following process:
 1. Employees shall provide documentation of their medical issue or inability to wear an N95 to IDM.
 2. Once validated, the employee will be referred to Human Resources to identify work at SJC or at other Catholic Health sites that the employee would be able to perform on a temporary basis (e.g. vacant positions, screening, open shifts at other sites).

3. Donning, Doffing, and Screening Work:

- a. Donning, Doffing and Screening is currently an assignment that is bargaining unit work. It is understood that if the Hospitals creates temporary positions, this shall continue to be bargaining unit work for the duration of the Pandemic.
- b. It is understood that non-bargaining unit employees may perform this work after all bargaining unit employees have been provided work up to their hours that do not create overtime.

C. Transfer of Peri-Operative Staff at Catholic Health Sites

In order to facilitate the resumption of elective surgeries within Catholic Health, employees may be asked on a voluntary basis to work at another site.

1. The Employers will determine the number of surgeons from the SJC who will operate at alternate sites, the number of surgeries to be performed per surgeon (including the approximate duration of the procedure) and the number of staff (RNs, surgical technologists, etc) that will be required to handle the increase in volume at the alternate site. Once the number of needed staff has been identified, staff from the SJC will be offered the option to temporarily be reassigned to the new site as outlined below:
 - a.) A list of SJC by job title (RN, Surgical Technologist), by department (Operating Room, Recovery Room, ASU, and GI) and in seniority order will be prepared.
 - b.) Employees will be offered the opportunity to be temporarily reassigned in seniority order by job title and department.
 - c.) If employees from SJC are not willing to be temporarily reassigned or if there is not an equal number of opportunities for all interested employees, they will have the following options:

- (1.) Bid on any existing vacancies at SJC including Med-Surg or ICU vacancies for which they will be trained. Training and Orientation shall be in accordance with the CBAs and associated MOUs;
- (2.) Apply for a vacant position at other Catholic Health hospitals; or
- (3.) Take a layoff. SJC will not contest unemployment for any employees who take a layoff and will notify the State that the layoff is due to lack of work. Employees who take a layoff will have recall rights as outlined in the CBA or as outlined in paragraph five (5) below.

4. The Employers will continue to maintain and enforce their policy concerning COVID-19 testing for patients related to the resumption of elective surgeries consistent with New York State Law or Executive Order.

5. Any changes in the hours of operation will be done in accordance with the CBA at each respective site, unless the Employer(s) and the Union(s) agree otherwise.

6. When a surgical schedule resumes at the St. Joseph Campus, all peri-op employees who worked at SJC at the time it was converted to a COVID-19 Hospital will be recalled to the position they held at that time of the conversion.

D. Pay Issues:

1. For employees who temporarily work at other sites:
 - a. Employees who are re-assigned to other sites will maintain all pay and benefits from their originating site. They shall also receive any travel pay above and beyond their normal commute.
 - b. Employees who bid on temporary positions at other sites will be red-circled at their rate of pay (in accordance with their CBA including all contractual raises) and will keep existing benefits. All other pay provisions for the site they are working at will be followed (differentials, overtime, etc.). They shall also receive any travel pay above and beyond their normal commute.
2. Hazard Pay for employees at SJC working in the Red Zones will take effect on Sunday, June 7, 2020 and will be paid as follows:
 - a. Med/Surg RNs will receive \$13.00 per hour;
 - b. Critical care RNs will receive \$15.00 per hour;
 - c. All other job titles will receive \$12.00 per hour.

Employees who spend less than half of their shift in the Red Zone shall receive hazard pay for half of their shift. Employees who spend at least half of their shift in the Red Zone shall receive hazard pay for their full shift.

3. Hazard Pay for all sites excluding SJC shall be paid in the amount of \$10 per hour differential will take effect on Sunday, June 7, 2020 as follows:
 - a. Employees who spend less than half of their shift providing care or ancillary care to COVID-19 patients or PUI shall receive hazard pay for half of their shift.
 - b. Employees who spend at least half of their shift providing care or ancillary care to COVID-19 patients or PUI shall receive hazard pay for their whole shift.
 - c. Employees assigned to swabbing in the tent shall be paid hazard pay for the duration of their shift.

The above shall cover inpatients, outpatients, and ED patients. It is understood that asymptomatic patients being screened are not considered PUI for purposes of this section. It is understood that if an asymptomatic patient's test comes back positive, employees who provide care or ancillary care shall receive Hazard Pay as per 3 a & b above. Each Emergency Department shall have a contact tracer document for COVID-19 known positives, PUIs, and patients who have had the COVID-19 swab.

E. Pay During Periods of Quarantine/Isolation Orders or Illness Due to COVID-19

The Employers shall provide the Union with advanced notice of any policy changes related to pay during periods of Quarantine/Isolation Orders or Illness due to COVID-19.

F. Health-Safety:

Personal Protective Equipment (PPE): It is the goal of the Parties to return to the use of Conventional Capacity Strategies is the use of caring for patients with COVID-19 at sites other than SJC. Conventional Capacity Strategies are defined as the ability to provide patient care without any change in the daily contemporary practices in caring for these patients. That includes following OSHA's Respiratory Protection Standard. Under the OSHA Standard employees would be entitled to one set of PPE per patient contact. The Employers will continue to purchase and store all appropriate PPE supplies, consistent with regulatory requirements, State or Federal laws that will handle a surge in COVID-19 patients. Once achieved the reserve of required PPE will be maintained.

If the Employer believes there is a need to resort to Contingency or Crisis use of PPE, the Unions will be notified and the parties will meet and discuss the issues. SJC will continue its current practices with respect to PPE. If SJC is planning to make any changes to its practices, it will discuss with the Unions.

The Employer will provide the Unions with the number of Union-represented employees that have been diagnosed with COVID-19, the unit/department the employee works in and the number of employees that work in that department. The Employer will provide access to Antibody testing for every employee that chooses to be tested and will share the results of that testing with the Unions upon receipt of authorization from the employee.

F. Duration:

This Agreement will expire on December 31, 2020.

Dated: June 6, 2020