



**BUPA CARE SERVICES (NZ) LIMITED AND NEW ZEALAND NURSES
ORGANISATION**

SENIOR NURSE COLLECTIVE

AGREEMENT

1 October 2021 – 30 September 2022



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1. PARTIES

This is a Collective Agreement between Bupa Care Services (NZ) Limited; and the New Zealand Nurses Organisation (Inc).

2. DURATION OF AGREEMENT

This Agreement commences on 1 October 2021 and expires on 30 September 2022.

3. COVERAGE

- 3.1. This Agreement is made pursuant to the *Employment Relations Act* 2000. The Agreement will cover all Bupa Care Home facilities and Employees who are in the positions below (as defined in c.7 Classification of Employees):
 - a. Unit Coordinator
 - b. Clinical Manager
- 3.2. Coverage of this Agreement is also extended to include all future Care Homes acquisitions by the Employer for those Employees not already covered by a collective agreement. The parties may wish to agree transition provisions for those members who are part of future acquisitions, depending on terms and conditions at those sites.
- 3.3. The Employer will ensure that new Employees who come within coverage of this agreement are provided with a copy of the Agreement. The Employer will:
 - i. advise new Employees of who the relevant union delegates are and
 - ii. provide their contact details and
 - iii. an introduction to the union delegates as part of the new Employees induction process.

4. NATURE OF AGREEMENT

- 4.1. This Agreement made pursuant to the *Employment Relations Act* 2000. The parties to this Agreement agree to the terms and conditions in this document.
- 4.2. The parties acknowledge a commitment to deal with each other in good faith in all aspects of the employment relationship. To uphold this ideal the parties agree to develop and maintain an employment relationship based upon common-sense, reasonable conduct, mutual trust and co-operation.
- 4.3. The parties note the Human Rights Commission report '**Caring Counts: Report of the Inquiry into the Aged Care Workforce**' and commit themselves to working together to progress the recommendations from that report.

5. VARIATIONS

- 5.1. The provisions of this Agreement can only be varied with the agreement of the Employer and Union parties, in writing and signed by the parties.

6. INTERPRETATION

- 6.1. In this Agreement, unless the context otherwise requires:

"Employee" means any person employed by Bupa Care Services

"Fortnight" refers to 14 days covering Sunday to Sunday (including any shift commenced before midnight on the final Sunday of the pay period).

"Illness" does not mean an accident or the effects of an accident.

"Night Shift" means a duty rostered in which part is worked between 11.00pm and 5.00am.

"Normal Rate" means the hourly rate of pay set out in Salary Schedule.

"Particulars of Employment" means the document signed by the Employer and the Employee setting out the individual terms of that Employee's employment.

"Personal Grievance" has the meaning given to it by Part 9 of the Employment Relations Act 2000.

"Rostered" means the pre-arranged shift, varied or fixed, notified 14 days in advance to an Employee to be worked on any given day.

"The Agreement" means this Collective Agreement, and any attachments hereto.

"The Employer" means Bupa Care Services NZ Limited.

"The Union" means New Zealand Nurses Organisation (Inc)

7. CLASSIFICATION OF EMPLOYEES

Definitions:

"Clinical Manager" means an employee who provides high level clinical leadership and support to clinical and care staff working in close partnership with the Care Home Manager.

"Unit Coordinator" means an employee who provides effective day to day coordination and supervision of clinical aspects of care provided to residents within a Unit.

8. OBLIGATIONS OF THE RELATIONSHIP

8.1. The Employer will:

- a. Act as a good Employer in all dealings with the Employee and the Employees representatives;
- b. Deal with the Employee and any representative of the Employee in good faith in all aspects of the employment relationship;
- c. Take all practicable steps to provide the Employee with a safe and healthy work environment.
- d. **Ngā Paerewa Health and Disability Services Standard:** On 28 February 2022 the updated Ngā Paerewa Health and Disability Services Standard **NZS 8134:2021** will come into effect. The Employer will monitor activity against this standard.

8.2. The Employee will:

- a. Comply with all reasonable and lawful instructions provided to them by the Employer;
- b. Perform their duties with all reasonable skill and diligence;
- c. Conduct their duties in the best interest of the Employer and the employment relationship;
- d. Deal with the Employer in good faith in all aspects of the employment relationship;
- e. Comply with all policies and procedures (including any Codes of Conduct or House Rules) implemented by the Employer from time to time;
- f. Take all practicable steps to perform the job in a way that is safe and healthy for themselves and their fellow Employees.
- g. Upon the termination of their employment for whatever reason, or at any other time if so requested by the Employer, immediately return to the Employer all information, material or property (including but not limited to computer disks, printouts, manuals, reports, letters, memos, plans, diagrams, security cards, keys, and laptop computers) either belonging to or the responsibility of the Employer and all copies of that material, which are in the Employee's possession or control.

8.3. The parties will ensure that regular consultation occurs when required pursuant to the *Employment Relations Act 2000*.

9. PLACE OF WORK

9.1. The parties agree that the Employee will perform their duties at the Care Home they are employed by. From time to time, the Employer may direct the

Employee, with the agreement of the Employer, at any other reasonable location.

10. RIGHT OF ENTRY

- 10.1. An authorised representative of the Union/s will be entitled to enter any of the Care Homes:
 - a. at reasonable times during any period when any Employee is employed to work; and
 - b. for the purposes related to the employment of Union members and/or the Union/s business.
- 10.2. The parties agree that they wish to have an effective and respectful relationship and will work together to ensure this is applied wherever possible.
- 10.3. To assist that process, union access rights and responsibilities will continue as per the *Employment Relations Act 2000*. The following will apply:
- 10.4. Authorised representatives of the Union/s party to this Agreement will be entitled to enter the Employer's Care Homes at reasonable times. Given the nature of the Employer's Care Homes, it is important that a high degree of security and safety is maintained in the Care Home at all times. It is also important that the Manager (or the Manager's designated representative) is aware of any person who might be visiting the Care Home at any given time.
- 10.5. Therefore, in order to maintain these standards, the representative will:
 - a. Wherever practicable, provide the relevant manager with advance notice of their visit.
 - b. Report to the person on duty at Reception upon entry and advise the Manager [or the Manager's designated representative] of his or her arrival. If the representative is unable, despite reasonable efforts, to find the Manager / designated representative, the representative will leave a written statement stating their and the union's name and the date, time and purpose of the entry.
 - c. State the purpose of entry and produce evidence of his/her identity and authority to represent the union concerned before proceeding further into the premises.
 - d. Collect a visitor's identification badge where available from reception and wear such badge at all times throughout the duration of the visit, and return said badge to the Receptionist when leaving the Care Home.
 - e. Enter in a reasonable way, have regard to normal business operations of the Employer.
 - f. Comply with existing reasonable requirements and procedures in regard to safety, health and security.

10.6. The following will inform clause 10.2:

- a. When exercising their access rights union representatives will at all times have regard for the need to respect the rights and privacy of residents and the operational needs of the site. This will include:
 - i. Respecting residents' bedrooms as being private.
 - ii. Not taking Employees off the floor or away from their normal work station without the consent and knowledge of the appropriate manager, such consent not to be unreasonably withheld.
 - iii. Where in accordance with the rights contained in the *Employment Relations Act 2000* it is necessary to meet with Employees or members on a collective basis this will be organised in advance with the appropriate manager.

11. UNION DELEGATES

- 11.1. The Employer will recognise the delegate(s) who are elected by the Employees and endorsed by the Union/s as the representatives of the Union/s.
- 11.2. Delegates will involve management at an early stage in the case of problems or disputes brought to the delegate's attention, which need to be resolved.
- 11.3. Any Union delegate will be allowed reasonable time to conduct Union-related business at the premises at which he or she is employed. However, the Employee has a responsibility to ensure that such time taken is not excessive and enables the Employer's operations to continue.

12. DEDUCTION OF UNION SUBSCRIPTIONS

- 12.1. Pursuant to section 55 of the *Employment Relations Act 2000*, the Employer will deduct union fees from the salary of Employees who are members of the union party to this Agreement and who have authorised such deductions in writing. The Employer will remit such deductions to the union with a list of Employees for whom deductions have been made.
- 12.2. Remittance will be at fortnightly intervals as per the Care Home payroll run.

13. EMPLOYMENT RELATIONS EDUCATION LEAVE

- 13.1. The Employer will grant paid employment relations education leave to eligible Employees based on the formulae set out in Part 7 of the *Employment Relations Act 2000*.
- 13.2. The parties agree that only union members are eligible to participate in employment relations education provided by their unions.

- 13.3. Calculation of the employment relations education leave entitlement per year is based on the number of FTE eligible Employees as at the start date of the collective i.e., *any union member who works 30 hours or more per week = 1 FTE, any union member Employee who works less than 30 hours per week = 0.5 FTE.*
- 13.4. As of the 31st March each year the Unions party to the Agreement will notify the Employer of the:
- a. Maximum number of employment relations education leave days; and
 - b. Details of the calculation.
- 13.5. Employees who have been allocated employment relations education leave by the Union will advise the Employer as soon as possible and not later than 14 days before the first day of such leave.
- 13.6. The Employer will not refuse an eligible Employee taking employment relations education leave unless taking the leave on the dates notified would unreasonably disturb the Employer's business.

14. EMPLOYEE MEETINGS

- 14.1. Pursuant to section 26 of the *Employment Relations Act 2000*, every union member employed by the Employer, will, in each calendar year be entitled to 2 union meetings of reasonable duration without loss of ordinary pay, provided that each of the following conditions is fulfilled:
- a. Fourteen days' notice of the date and time of any union meeting will be given;
 - b. Work will resume as soon as practicable after the finish of the meeting;
 - c. Only union members attending the meeting will be entitled to payment. The union will supply the Employer with a list of union members attending and will advise the Employer of the time the meeting finished;
 - d. In order to enable essential care and services to continue it may be necessary for some members to remain on site during the meeting in order to ensure that the residents' safety and care is maintained; and
 - e. 'Reasonable duration' means a meeting will last no longer than 2 hrs.

NOTE: The provisions contained in this clause are inclusive of and not in addition to the provisions of section 26 of the *Employment Relations Act 2000*.

15. TYPES OF EMPLOYMENT

- 15.1. Employees may be engaged as either full time, part time, casual or fixed term.
- 15.2. "Full time Employees" are employed to work (32) hours per week.

- 15.3. "Part time Employees" are employed to work less than (32) hours per week.
- 15.4. "Casual Employee" are engaged to work on an as needed, short term, irregular basis and are not entitled to any guaranteed minimum number of hours to be worked in any period. There is no obligation on the part of the casual employee to accept work offered.
- 15.5. A "Fixed term Employee" is an Employee who is engaged for a specified period of employment, e.g. *x months from y date to z date or for a specific event or for a specified project*. Fixed Term Employment Agreements will only be used to cover specific situations of a temporary nature such as:
- a. to fill a position where the incumbent is on leave (sabbatical, parental, etc.); and
 - b. where there is a project/task with funding for a specific duration.
- 15.6. An Employee engaged part time, fixed term or casual will be entitled to the same rights and benefits as a full time Employee, except as otherwise stated in this Agreement. Fixed term employment agreements will not be used to deny Employees security of employment.

16. DUTIES

- 16.1. The duties of the positions within the coverage of this Agreement are set out in the position description.
- 16.2. These duties may be modified or updated by the Employer from time to time following consultation.
- 16.3. The Employee agrees to perform all other reasonable duties and to comply with reasonable instructions issued by the Employer provided that the Employee will not be directed to work in an area or position outside of their skills, competencies or qualifications.

17. SALARY

- 17.1. The Employee will be paid at the agreed salary step (pro rata) which will not be less than the rates specified in this Agreement.
- 17.2. Remuneration will be paid fortnightly, direct credited into a bank account nominated by the Employee.
- 17.3. In the event that employees relieve as a Registered, they will be paid their normal rate of pay and any applicable penal rates or allowances for that shift.
- 17.4. Approval to relieve as a Registered Nurse outside of normal working hours must be obtained by Management prior to undertaking these duties.

Unit Co-ordinators

	1/10/2021 (hourly)	1/10/2021 (annual)
Step 1	\$39.96	\$83,120
Step 2	\$40.39	\$84,002
Step 3	\$40.81	\$84,885

Clinical Managers

	1/10/2021 (hourly)	1/10/2021 (annual)
Step 1	\$44.77	\$93,126
Step 2	\$45.32	\$94,272
Step 3	\$45.86	\$95,397

- 17.5. Progression will be by annual increments at anniversary date of starting in a role covered by this agreement, subject to satisfactory performance which will be assumed to be the case unless the employee is otherwise advised.
- 17.6. Appointment to the scale will be based on relevant years' of nursing experience e.g. a nurse with 1 years of relevant nursing experience will be appointed to step 2.

18. SALARY DEDUCTIONS

- 18.1. If an error (occasioned by the Employer or the Employee) occurs in the calculation of the wage of an Employee which results in underpayment of that Employee:
- a. the deficit will be paid to that Employee no later than two working days after the Employee brings the matter to the attention of the Employer; or,
 - b. where the underpayment is \$20.00 gross or less, by the next pay period, unless the Employee requests the payment to be remedied more urgently.
- 18.2. Deductions may be made from salary for work time lost through the Employee's sickness (other than as provided for in this Agreement), accident, default, leave without pay, or for any other debt or money owing to the Employer following consultation with the employee.
- 18.3. In the event of a payment of salary made in error to the Employee, the Employer and Employee will agree on reasonable repayments by deduction from salary, except upon termination where any remaining erroneous payment may be recovered in full from any monies owed by the Employer to the Employee.
- 18.4. Where agreement cannot be reached following discussion, the Employer may deduct the erroneous payment either in full or by way of installments provided 5 working days' notice is provided and that any single deduction will not exceed 5% of net pay.

- 18.5. Unless otherwise agreed (or if impracticable to do so) upon termination of employment, an Employee will be paid all entitlements on the day of departure, or within two office working days if the day of departure is in the weekend. This sub clause will not apply to Employees who resign without giving the appropriate notice or abandon their employment. Such Employees will be paid their final pay on the next pay day.
- 18.6. Where an Employee fails or refuses for any reason to return the Employer's property in his or her possession, the Employee agrees that a debt is owed to the Employer and agrees to work with the Employer to determine an appropriate residual value of any outstanding property, which will then be deducted from the Employee's final pay.

19. ON CALL

- 19.1. In the interests of healthy rostering practices, the parties agree that the allocation of on-call time should be spread as evenly as practicable amongst those required to participate in an on-call roster and must be authorised by the relevant Care Home Manager.
- 19.2. The responsibilities of the employee's role will require him/her to fulfil on call duties as and when requested. These on call duties will be shared among selected employees within the Care Home to ensure adequate cover is provided. A Covered Employee who is instructed to be on call during normal off-duty hours will be paid an on call allowance of \$2.25 per hour; except on Public Holidays when the rate will be \$2.75 per hour.
- 19.3. If an employee is required to return to work while on call, the time will be paid at an hourly rate of T1.25, for a minimum of two (2) hours. This will include travel time. For the avoidance of doubt this time will not attract any overtime or penal rates.
- 19.4. An employee who is required to be on call will be provided with access to a cell phone while they are on call.
- 19.5. For each phone call received during such periods of on call, an employee will receive \$8 per phone call received.

20. HIGHER DUTIES

- 20.1. A Higher Duties allowance will be paid to a Covered Employee who, at the request of the Employer is substantially performing the duties and carrying the responsibilities of a position higher than the Covered Employee's own.
- 20.2. Where a Covered Employee performs the duties of the higher position for a period of greater than two (2) weeks, the allowance payable will be an amount equivalent to 10% of the Covered Employee's hourly rate for those hours worked in the higher duties position.

21. PENAL RATES

OVERTIME OF PENAL	RATES
Midnight Friday-midnight Sunday	19% times the applicable hourly rate
Night Duty: the entire night rate will be payable for any rostered shift in which part of duty is worked between 11.00pm to 5.00am.	\$8 per shift
<i>The two allowances mentioned above are cumulative.</i>	

22. OVERTIME

- 22.1. A component of overtime is already part of the salary of employees covered by this Agreement. An additional Overtime penal is payable in the following circumstances:
- Where the overtime hours are at the direction of the employer; and
 - Where the overtime hours are approved in advance by the employer; and
 - Where the overtime hours are worked after 5pm; and
 - Where the additional hours are not part of the usual workload of the employee.
- 22.2. For clarity, each element of this clause must be met for the overtime penal to be payable.
- 22.3. Overtime penal hours are for unusual hours and particular circumstances that are not able to be managed via flexibility within the roles covered by this collective agreement, such as evening resident family conferences, or audit preparation.
- 22.4. Overtime is to be paid at the rate of T1.25 for each hour worked of approved overtime.

23. HOURS OF WORK

- 23.1. Each employee will be provided with a written copy of any additional individual terms of employment "particulars of employment" which:
- will not be inconsistent with the collective agreement;
 - the individual terms will state the employee's agreed hours not otherwise specified in the collective agreement; and

- c. any agreed variation to will be recorded and a copy provided to the employee.

23.2. The usual working hours for Employees are 8 hours per day, commencing in the morning, Monday-Friday.

23.3. Any variations to minimum guaranteed core hours will be agreed by both parties and confirmed in writing. Such agreement will not be unreasonably withheld by either party.

24. REST AND MEAL BREAKS

24.1. The Employee will be entitled to the following rest and meal breaks, if the Employee works:

- a. 2 hours or more but not more than 4 hours, the Employee is entitled to one paid 10-minute rest break;
- b. More than 4 hours but not more than 6 hours, the Employee is entitled to one paid 10-minute rest break and one unpaid 30-minute meal break;
- c. More than 6 hours but not more than 8 hours the Employee is entitled to two paid 10-minute rest breaks and one unpaid 30-minute meal break.

24.2. If more than an 8-hour period is worked, these requirements automatically extend to cover the additional hours on the same basis. The timing of rest and meal breaks will be as rostered to meet the operational needs of the business, but where reasonable and practicable will be spread evenly throughout the work period.

24.3. The exception to this provision is that if the Employee is on the "night" shift, (i.e. a shift in which part of duty is worked between 11pm to 5am) and is required by the Employer not to leave the premises and/or sleep during meal breaks the Employee will be entitled to a paid meal break of 30 minutes during the shift in place of the unpaid meal break specified above.

24.4. The Employer will provide tea, coffee, milk and sugar for rest and meal breaks with no charge to the Employees.

25. ANNUAL LEAVE

25.1. The Employee is entitled to four weeks annual leave on the completion of one year of continuous service from date of commencement, in accordance with the *Holidays Act 2003*.

25.2. Annual leave will be taken at a mutually agreed time, with consideration given to the operational requirements of the Employer's business and the Employee's circumstances.

- 25.3. In the absence of such agreement or to prevent accumulation, the Employer may require the Employee to take his or her annual holidays provided no less than 14 days' notice is given pursuant to the *Holidays Act 2003*.
- 25.4. The Employee is strongly encouraged to take annual leave in the year in which it accrues. Employees may carry over annual leave into the following year only with the Employer's express approval.
- 25.5. Pursuant to *Holidays Act 2003* the Employer may allow an Employee to take an agreed portion of the Employee's annual holiday entitlement in advance.
- 25.6. An Employee taking anticipated leave under Clause 25.5 and who leaves their employment prior to entitlement of annual holidays will repay on termination any excess monies paid above the entitlement.
- 25.7. The Employer agrees that a minimum of 4 weeks paid annual leave per 12 months of service is essential for the rest and recreation needs of all Employees.
- 25.8. The Employer will not accept requests to pay out 1 week of the 4 week annual leave entitlement from Employees unless the Employee establishes exceptional circumstances require them to have 1 week of their annual leave entitlement paid out. In every case no payment for a proposed leave sale will be made unless the requirements as to paying out annual leave have been met.

26. STATUTORY HOLIDAYS

- 26.1. Pursuant to the *Holidays Act 2003* Employees will be granted the following eleven days as holidays if the holidays fall on days that would otherwise be working days for the Employee:

New Year's Day	Second of January
Good Friday	Easter Monday
Sovereign's Birthday	Labour Day
Christmas Day	Boxing Day
Provincial Anniversary Day	Anzac Day
Waitangi Day	Matariki

- 26.2. Due to the need to maintain its service to residents, the Employer will be entitled to require Employees to work on a statutory holiday. The Employees agree to be available to work on any statutory holiday if requested.
- 26.3. Where such a day is worked, Employees will be paid at times one and a half their hourly rate for the time so worked.
- 26.4. Where the holiday would otherwise have been a working day for the Employee, the Employee will also receive an alternative paid holiday at a later date, the timing of which is to be determined by agreement between the Employer and the Employee or in the absence of agreement according to the *Holidays Act 2003*.

- 26.5. Should any Christmas, ANZAC, Waitangi and New Year holidays fall on Saturdays or Sundays in any particular year, such holidays will be observed in accordance with section 45 and section 45A of the *Holidays Act 2003*.

NOTE: This prescribes whether the holiday will be observed on the actual day, be it Saturday or Sunday, or transferred to the next Monday or Tuesday depending on whether the actual day is a normal working day for the Employee.

- 26.6. All other public holidays are celebrated on the day on which they fall.

27. PARENTAL LEAVE

- 27.1. The provisions of the *Parental Leave and Employment Protection Act 1987* and its subsequent amendments will apply to Employees covered by this Agreement.

28. BEREAVEMENT LEAVE

- 28.1. Employees are eligible for bereavement leave from commencement of employment. The entitlements are those outlined in the *Holidays Act 2003*.

- 28.2. All Employees will be entitled to three days' bereavement leave in the following circumstances:

- a. on the death of their spouse/partner, parent, step-parent, child, step child, brother, sister, grandparent, grandchild or spouse's parent;
- b. has a miscarriage or stillbirth
- c. another person has a miscarriage or stillbirth and the employee:
 - i. is the person's partner;
 - ii. is the person's former partner and would have been a biological parent of a child born as a result of the pregnancy;
 - iii. had agreed to be the primary carer of a child born as a result of the pregnancy (e.g. through a formal adoption or Whangai arrangement); or
 - iv. is the partner of a person who has agreed to be the primary carer of a child born as a result of the pregnancy.

- 28.3. One day's bereavement leave is available in other cases where the Employer accepts, in accordance with the *Holidays Act*, that the Employee has:

- a. suffered bereavement by close association between the Employee and the deceased person or,
- b. significant responsibility for all funeral arrangements or,
- c. cultural responsibilities in relation to the death.

29. SICK LEAVE

29.1. Casual staff are entitled to sick leave in accordance with section 63 1 (b) of the *Holidays Act 2003*. The below table outlines Employee sick leave entitlements:

New Employee	First 0 – 6 months of employment	2 days paid sick leave
New Employee	Month 6 – month 18 of employment, in addition to the 2 days sick leave entitlement for the first 0-6 months	10 days paid sick leave
Existing Employee	For each 12 month period from the 6 month anniversary date	10 days paid sick leave

29.2. Sick leave may be taken where an Employee is:

- a) sick or injured;
- b) if their spouse/partner is sick or injured; or
- c) if a dependent for whom they provide care is sick or injured.

29.3. The Employee may carry over unused sick leave of up to 25 days entitlement into the next period of entitlement.

29.4. In addition to the above entitlement, long serving employees (10 years+) will be able to carry an additional 5 days of unused sick leave into the next period of entitlement, as follows:

Number of years' service	Number of unused sick leave carried over
Below 10 years	Up to 25 days
10 – 15 years	Up to 30 days
15 – 20 years	Up to 35 days
20 – 25 years	Up to 40 days
25 years and over	Up to 45 days

** The above will come into operation as from the date of ratification of the Collective and be applied to individuals going forward at their next entitlement anniversary. For the sake of clarity, it is not envisaged that there will be any back allocation for those employees who already have 10 years + service.*

29.5. The Employee may make an application for up to 10 days discretionary leave per annum. This discretionary leave is available to enable staff to be absent from where their sick leave entitlement is exhausted.

29.6. A claim will be assessed on a case-by-case basis, and may be approved at Bupa's discretion and will be considered in the quickest time possible, taking into account the following:

- a. The Employee's length of service;

- b. The Employee's attendance record;
- c. The consequences of not providing the leave; and
- d. Any unusual and/or extenuating circumstances.

29.7. If requested, reasons for refusal will be provided in writing.

29.8. Where an Employee has used their sick leave entitlement they may use annual leave or lieu days, up to a maximum of 5 days per annum (collectively), to cover that sick leave.

29.9. In exceptional circumstances additional annual leave to cover sick leave may be approved upon request. This does not prevent the Employer from addressing concerns regarding short-term absences of sick leave as per clause 29.11 or where the employee is unable to perform the full duties of their position as per clause 40.

29.10. If an Employee wishes to take sick leave, he/she will give the Employer as much prior notice as practicable. Wherever practicable the Employee will provide a minimum of 4 hours' notice before the Employee is due to start work, of their absence on sick leave.

29.11. The Employer may require a medical certificate from the Employee where the sickness is for three or more consecutive calendar days' duration, whether working days or not.

29.12. Pursuant to the Holidays Act the Employer may require proof of sickness or injury within 3 consecutive calendar days if the Employer:

- a. has reasonable grounds to suspect that the sick leave being taken by the Employee is not genuine because none of the grounds in section 65(1) are met;
- b. informs the Employee, as early as possible after forming the suspicion that the sick leave being taken is not genuine, that the proof is required; and
- c. agrees to meet the Employee's reasonable expenses in obtaining the proof.

29.13. Where an Employee demonstrates a pattern of short-term absences of sick leave, the Employer may review that Employee's absences. Where the performance of the Employee in relation to sick leave is unsatisfactory, the Employer may require a medical certificate stating the justification for the absence.

29.14. Where a medical certificate is requested by the Employer in accordance with clauses 29.9, 29.10 or 29.11, the certificate must state that the Employee has been examined by the medical practitioner and is, in the doctor's opinion, unfit for work.

29.15. Pursuant to the *Holidays Act 2003* an Employee is not entitled to be paid any sick leave that has not been taken before the date on which his or her employment ends.

30. FAMILY AND DOMESTIC VIOLENCE LEAVE

- 30.1. The provisions of the Domestic Violence – Victims’ Protection Act and its subsequent amendments will apply to Employees covered by this Agreement.
- 30.2. In addition to the provisions of the Domestic Violence – Victims’ Protection Act, Employees covered by this Agreement are also entitled to the benefit of:
- a. Full-time and part-time employees: 20 days paid leave per annum
 - b. Casual employees: 20 paid days per annum for shifts they were scheduled to work
- 30.3. Bupa’s Family and Domestic Violence Leave does not accrue, and is not paid out on termination. Further information is set out in the Bupa Standard: It’s Ok to Take Leave, including definitions.

31. LONG SERVICE LEAVE

- 31.1. A Full Time Employee who works 32 hours or more per week, is covered by this Agreement, and who has worked continuous years of service as detailed below, will be entitled to long service leave:

10 years completed service	One off entitlement of an additional one weeks’ leave
15 years completed service	One off entitlement of an additional two weeks leave
20 years completed service	One off entitlement of an additional three weeks leave
25 years completed service	One off entitlement of an additional four

- 31.2. A Part Time Employee, who is covered by this Agreement, and who has worked continuous years of service as set out in sub-clause 31.1. will be entitled to long service leave on a pro rata basis.
- 31.3. All holidays taken under sub-clause 31.1 or 31.2 of this clause will be paid for at ordinary weekly pay or average weekly earnings as that term is defined in the *Holidays Act 2003* and will be taken at a time or times as agreed between the Employer and Employee concerned. For Part Time Employees this payment will be pro-rated.
- 31.4. Long Service Leave is to be taken in minimum blocks of 1 week.
- 31.5. Long Service leave entitlements should be taken before the Employee’s next Long Service Leave entitlement becomes due, as it will otherwise expire. It is therefore advisable for Employees to take Long Service Leave ahead of Annual Leave.
- 31.6. An Employee who has become entitled to long service leave and who then leaves his/her employment prior to the taking of the leave will be entitled to payment in lieu thereof.

32. CULTURAL LEAVE

- 32.1. Māori employees will be entitled to paid leave of up to 2 days per annum for the purpose of attending Māori Hui such as:
- a. Land court hearings concerning land issues of the staff members iwi
 - b. *Marae* working bees of an obligatory nature
 - c. *Hui Raupatu* (*Hui* regarding land claims)
 - d. *Hura kohatu* (unveiling)
 - e. *Iwi* committee elections.
- 32.2. No employee is entitled to more than paid leave of 2 days for Cultural Leave per annum.

33. JURY SERVICE

- 33.1. The parties to this Agreement agree that considering the nature of the business, should an Employee be called for jury service, both parties may agree to jointly make application to the Court for leave from jury service.
- 33.2. An Employee called for jury service will advise the Employer as soon as practicable so that options can be discussed.
- 33.3. However, if leave of the Court is not granted, the Employee will be granted paid jury service leave of up to a maximum of 5 days.
- 33.4. The Employee will return to work at any time they are not required by the Court.
- 33.5. Where an Employee receives payment from the Court for Jury Service duties, the Employee will pass the payment received for the first 5 days to the Employer. However, should the payment received exceed the amount that the Employee is paid by the Employer for that period of time, then the Employee may retain the difference.

34. HEALTH AND SAFETY

- 34.1. Both parties to this Agreement are committed to the safe operation of all plant and equipment on site, to safe working conditions and to the good health of all Employees. The parties will comply with the requirements of the *Health and Safety at Work Act 2015*.
- 34.2. The Employer and Employees will do everything they can to make and keep the working environment safe for residents, visitors and Employees.
- 34.3. Employees are expected to notify any damage or loss of equipment to the Employer immediately.
- 34.4. All work-related accidents, injuries, fatigue or stress symptoms are to be reported immediately to the Employer to allow the Employer to identify hazards and to take all practicable steps to eliminate, isolate or minimise any ongoing risks to residents, visitors and Employees.

35. ALTERNATIVE DUTIES

- 35.1. Where the Employee is, due to sickness or injury, unable to perform the duties of the position, the Employer in consultation with the Employee, and / or ACC where appropriate, may require the Employee to perform reasonable alternative duties.

36. UNIFORMS

- 36.1. Employees are required to adhere to the Bupa Care Services Dress Code. This clause is to be read in conjunction with the Dress Code Policy, outlining the required standards, which may be changed by the Employer from time to time as operational requirements dictate.

37. AMENITIES

- 37.1. The Employer will provide secure storage for Employees' personal belongings.
- 37.2. Where lockers are made available no Employee will be required to share a locker with another Employee working on the same shift unless mutually agreed.
- 37.3. The Employer may make a charge for keys lost by an Employee.
- 37.4. Secure storage so provided will be cleared by an Employee at the completion of the shift.
- 37.5. The Employees will comply with the Smoke Free Environments Act.

38. TERMINATION OF EMPLOYMENT

- 38.1. Except as provided in this clause, this Agreement may be terminated as by either party providing 4 weeks' notice.
- 38.2. Where the full notice is not given, payment equivalent to the unexpired period of notice will be paid or forfeited given the circumstances.
- 38.3. The Employer may terminate the Agreement without notice, in the case of substantiated serious misconduct.
- 38.4. The Employer may elect to pay the Employee salary in lieu of all or part of the notice period. Where this is done, this will not constitute dismissal.

39. SUSPENSION

- 39.1. In the event that the Employer wishes to investigate any alleged serious misconduct, it may, after discussing the proposal of suspension with the employee and considering their views, suspend the Employee on pay whilst the investigation is carried out.

40. ABANDONMENT OF EMPLOYMENT

40.1. Except in the case of casual Employees, where an Employee absents themselves from work for a continuous period of three consecutive working days:

- a. without the consent of the Employer;
- b. without proper notification to the Employer; and
- c. and without good cause

the Employee will be deemed to have terminated their employment without notice.

40.2. In the case of a casual Employee, the period of absence constituting abandonment will be one arranged work shift instead of three.

41. TERMINATION ON HEALTH GROUNDS

41.1. Where the Employer believes that the Employee is unable to perform the full duties of his/her position in an efficient manner, that will ensure the continued health, safety and wellbeing of the residents and Employees, by reason of mental or physical disability then the Employer may terminate employment on health grounds after a period of not less than six (6) weeks absence from work.

41.2. Before taking action under this clause the Employer will be entitled to require the Employee to undergo, at the Employer's expense, a medical examination by an appropriate registered medical practitioner nominated by the Employer.

41.3. The Employee agrees that the relevant results of such examination will be made available to the Employer and agrees that the medical practitioner is authorised to provide the information directly to the Employer, at the same time as providing information to the Employee.

41.4. If the Employer is unable to accommodate the Employee's disability after reasonable efforts, employment will be terminated with notice in accordance with Clause 38 of this Agreement.

41.5. In the case of casual Employees, a casual Employee who is unable to perform their duties safely or efficiently due to mental or physical disability will not be retained on a list of casual Employees or called in to work.

42. CONSULTATION

42.1. The parties to this agreement recognise that the Employer has the right to manage, organise and make final decisions on the operations and policies of their facilities.

42.2. The Employer recognises that the Parties to this agreement have a mutual interest in ensuring an effective and efficient workplace, that all Parties to this agreement have an important contribution to make to achieve this goal, and that employees should participate in the management of change through an effective consultation process.

- 42.3. The Employer will advise and consult any affected employees and their representatives where the Employer proposes change which may result in significant changes to either the structure, staffing levels or work practices.
- 42.4. The Employer will provide relevant information to enable the parties consulted to develop an informed response.
- 42.5. The Employer will allow an appropriate period of time relevant to the complexity of the matter consulted upon but no shorter than one working week, to enable the parties consulted to access the information and provide an informed response.
- 42.6. The employer will enter consultation with an open mind and give genuine consideration to the matters raised in any response made by the affected employees or their representatives. While there will an attempt to reach agreement, the final decision will be the responsibility of the Employer.

43. REDUNDANCY

- 43.1. In the event of redundancy, affected permanent Employees will be entitled to four weeks' notice of the termination of their employment and two (2) weeks salary for each completed year of service with the employer (and, if applicable, its predecessors) up to a maximum of three (3) months' salary.
- 43.2. The Employer may elect to pay in lieu of part or all of the notice period.
- 43.3. Casual and temporary Employees are entitled to the notice provided in clause 38 instead of the notice provided in this clause.
- 43.4. **Employee Protection Provision**

Where the Employer is contracting out, selling or transferring all or part of the business, including the part of the business where permanent Employees covered by this Agreement are employed, the following provisions will apply in addition to the provisions in clause 42.1, 43.2. and 43.3:

- a. The Employees and unions will be consulted about any proposal to sell all or part of the business or to contract out or transfer work before a final decision is made.
- b. If the Employer decides to proceed with the proposed restructure, it will negotiate with the new contractor/service provider with a view to endeavouring to have the new employer offer the affected permanent Employees employment on the same or similar terms and conditions and recognising service as continuous.
- c. The permanent Employees will be advised of timeframes for such negotiation, and for the acceptance of any offer of employment or of any application and interview process, as soon as possible.
- d. Affected permanent Employees are entitled to choose whether or not to accept employment with the contractor/service provider.

- e. In the event that the contractor/service provider offers a permanent Employee employment on terms of employment that are no less favourable than the Employee's terms of employment, no redundancy situation will arise, whether or not the Employee chooses to accept the offer of employment.
- f. In the event that the contractor/service provider is not prepared to offer a permanent Employee employment on terms of employment that are no less favourable than the Employee's terms of employment and/or without recognition of the Employee's service, the Employee will receive notice of termination as specified in sub clause 43.1 in addition to compensation under this clause.
- g. In the case of a casual or temporary Employee, the Employer will keep the casual or temporary Employee informed of developments and discuss with the potential new employer whether casual or temporary staff will be taken on by the potential new employer. A casual or temporary Employee is entitled to choose to accept or refuse employment with a potential new employer as is any other Employee.
- h. In the case of an Employee who falls into one of the "specified categories of Employees" Part 6A of the *Employment Relations Act 2000*, the provisions in Part 6A of the *Employment Relations Act 2000* will apply instead of the provisions in this sub-clause.

44. PROFESSIONAL DEVELOPMENT

- 44.1. The Employer will grant access to professional development of 32 hours per calendar year for permanent full-time and part-time employees. This leave is inclusive of all training requirements. Prior approval of the employer must be obtained.
- 44.2. Professional development leave will be granted at the ordinary rate and will not accumulate from one year to the next.
- 44.3. The Employer will pay the course fees of Bupa agreed training courses for all staff.
- 44.4. The employer acknowledges a commitment to supporting the continued safe practice of its workforce and to supporting opportunities for the development of knowledge and skills which will benefit the patient, organization effectiveness and workforce. The employer provides access to PDRP programmes for Unit Coordinators and Clinical Managers.
- 44.5. Any claim for expenses including course fees or course-related expenses must be approved in advance and will be considered on a case by case basis
- 44.6. Employees working on preparing a portfolio, obtaining or maintaining skill levels associated with the Professional Development and Recognition Programme for Senior Nurses are entitled to 2 days leave per annum in order to undertake research or study associated with meeting the PDRP requirements.

- 44.7. In recognition of the importance of increasing the number of nurses completing the senior nurse PDRP, an employee who reaches this level will receive a \$3,000 allowance per annum as long as the employee maintains that level of practice. All levels of practice allowances will be added to the base rate of pay and be payable on all hours worked.
- 44.8. All UCs and CMs will be able to progress within the pathway, with all UCs and CMs required to demonstrate competent level of practice. Achievement of proficient and expert levels is voluntary.

45. EDUCATION FUND

- 45.1. An Education Fund of \$10,000 will be funded by the Employer and will be available for union members only.
- 45.2. The fund will be available for education and activities which promote leadership, employee voice and matters of agreed common interest between the unions and Bupa.
- 45.3. Union members may make an application to the fund through the union. The process of application will be determined by the unions.
- 45.4. The successful applications will then be presented to the Bupa Care Services team (NZ), Operations Director; Clinical Service Improvement Director; and People Director for final sign-off.

46. CONFIDENTIALITY

- 46.1. As part of his / her normal duties, the Employees will have access to confidential information concerning the Employer.
- 46.2. This information may include, but is not limited to:
- a. business information
 - b. trade secrets
 - c. transaction details
 - d. business
 - e. Employee or client records
 - f. other confidential information relating to the Employer, Employees or clients
- 46.3. An Employee is not permitted to make improper use of, divulge or communicate confidential information to any person either during the term of this Agreement or at any time after the termination of this Agreement.
- 46.4. The Employer notes that in exceptional circumstances Employees may be permitted to disclose what would otherwise be confidential information e.g. where the law permits this – Protected Disclosure Act, Health & Safety in Employment Act, Health & Disability proceedings.

- 46.5. The parties to this Agreement agree that an Employee is best to seek advice from their Union, HR Consultant or other representative prior to making any such disclosure.

47. OTHER EMPLOYMENT

- 47.1. Employees will not engage in other employment which may interfere with their ability to carry out their duties or impinge on the proper performance of their duties and are encouraged to inform their manager when they engage in other employment which may interfere with their ability to carry out their duties or impinge on the proper performance of their duties.
- 47.2. For the purpose of ensuring a match between rosters and Employees' availability a permanent Employee will advise the Employer of any secondary employment.
- 47.3. Where the Employer has good cause to consider that the secondary employment is contributing to performance issues this will be managed as a disciplinary issue.

48. SOLICITATION OF RESIDENTS

- 48.1. During employment or within six months of termination of employment, Employees will not actively solicit residents to move to another Care Home.

49. INTELLECTUAL PROPERTY

- 49.1. Any material, data or information obtained or created by the Employer or its Employees in the course of their employment for the use of the Employer is the sole and exclusive intellectual property of the Employer.
- 49.2. Such intellectual property includes but is not limited to:
- a. policy manuals;
 - b. service manuals;
 - c. quality improvement systems; and
 - d. other documentation.
- 49.3. The Employees will not, except within the normal scope of their employment duties and with the express consent of the Employer:
- a. remove from the offices of the Employer any such intellectual property in any format including electronic storage, magnetic film, computer files;
 - b. or copy any such intellectual property in whatever format it may be represented or depicted; or

- c. act in any way which is inconsistent with or in conflict with the rights of the Employer, as owner of such intellectual property.

50. MEDIA AND PUBLIC RELATIONS

- 50.1. The Employees covered by this Agreement are not authorised to speak to the media on behalf of the Employer.
- 50.2. Aside from the Employee's obligation to represent the Employer diligently and appropriately in the course of his or her legitimate duties, the Employee must not represent or attempt to represent the Employer beyond this general capacity, unless expressly authorised by the Employer.

51. LICENCES AND QUALIFICATIONS

- 51.1. It is each Employee's responsibility to obtain and maintain all licenses and qualifying certificates that entitle him or her to legally practice his or her profession with the Employer.
- 51.2. Should an Employee lose any such qualification or license that is required to carry out any part of his or her designated duties, the Employer has the right to review the Employee's employment with the Employer.
- 51.3. The Employer will reimburse the cost of a practicing certificate as it comes due upon provision of the original invoice for registered nurses employed to work as such by the Employer and thus required to hold practicing certificates.
- 51.4. Casual Employees are not entitled to reimbursement of a practicing certificate.

52. ACCIDENT INSURANCE

- 52.1. An Employee must notify the Employer within one working day of lodging any claim with the Accident Compensation Corporation ("ACC"), unless this is not possible due to the Employee's injuries or the circumstances of the accident.
- 52.2. The Employee will provide the Employer with copies of all relevant forms, documentary evidence and medical certificates relating to the Employee's ACC claim, rehabilitation and continued eligibility for compensation. This information to be provided is in addition to what may be required elsewhere in this Agreement.

53. POLICE CHECKING

- 53.1. All Employees who work within Bupa Care Services in direct care roles, who are over eighteen years of age, are required to have a New Zealand Police screening check completed as part of the employment process.
- 53.2. Once employed, to meet the requirements of the *Vulnerable Children Act 2014* Regulations, in line with our contractual funding obligations, will undergo every three years once employed

54. SAVINGS CLAUSE

- 54.1. This Agreement recognises and continues any existing conditions that, an employee is entitled to under Schedule A and Schedule C of the Bupa Care Services (NZ) Limited Collective Agreement 1 July 2018-30 June 2019 (the MUCA).
- 54.2. Further, nothing in this Agreement will operate so as to reduce the existing wages of any union member covered under this Agreement.

55. RESOLUTION OF EMPLOYMENT PROBLEMS

- 55.1. In order for the employment relationship to be as successful as possible, it is important that the Employer and Employees deal effectively with any problems that may arise.
- 55.2. This procedure sets out information on how problems can be raised and worked through:

a) What is an employment relationship problem?

- i. It can be anything that harms or may harm the employment relationship, other than problems relating to negotiating the terms and conditions of employment.
- ii. A personal grievance (a claim of unjustifiable dismissal, unjustifiable disadvantage, discrimination, sexual or racial harassment or duress in relation to membership or non- membership of a union or Employee organisation).
- iii. A dispute (relating to the interpretation, application or operation of the employment Agreement).
- iv. Any other problem relating to or arising out of an Employee's employment relationship with the Employer except matters relating to the fixing of new terms and conditions of employment.

b) Clarify the problem

- i. If either the Employer or the Employee feels that there may be a problem in their employment relationship, the first step is to check the facts and make sure there really is a problem, and not simply a misunderstanding.
- ii. An Employee may want to discuss a situation with someone else to clarify whether a problem exists, but in doing so the Employee should take care to respect the privacy of other Employees and managers, and to protect confidential information belonging to the Employer. For example, the Employee could seek information from:
 - the Employee's delegate / union, a lawyer, a community law centre or an employment relations consultant.
 - friends and family
 - the Employment Mediation Services, a section of the Ministry of

Business, Innovation and Employment on 0800 800 863 or on its website at <https://www.employment.govt.nz/resolving-problems/pamphlets/fact-sheets> from the Ministry of Business, Innovation and Employment.

c) Discuss the problem

- i. If either the Employer or Employee believes that there is a problem, it should be raised as soon as possible.
- ii. This can be done in writing or orally provided the Employee feels comfortable doing so.
- iii. An Employee should ordinarily raise the problem with their direct manager. Otherwise the problem can be raised with another appropriate manager.
- iv. A meeting will usually then be arranged where the problem can be discussed. The Employee should feel free to bring a support person with them to the meeting if they wish.
- v. The Employer and Employee will then try to establish the facts of the problem and discuss possible solutions.

d) The next step

If the Employer and Employee are not able to resolve the problem by talking to each other, they each have a number of options:

- i. They can contact the Ministry of Business, Innovation and Employment, which can provide information and/or refer them to mediation.
- ii. They can take part in mediation provided by the Ministry of Business, Innovation and Employment (*or they can agree to get their own mediator, Mediation will normally be confidential*).
- iii. If they reach agreement, a mediator provided by the Ministry of Business, Innovation and Employment can sign the agreed settlement, which will be binding on the Employer and Employee.
- iv. They can both agree to have the mediator provided by the Ministry of Business, Innovation and Employment, decide their problem for them, in which case that decision will be binding on them. If mediation does not resolve the problem, either the Employer or the Employee can refer the problem to the Employment Relations Authority for investigation.
- v. The Authority can direct the Employer and Employee to mediation, or can investigate the problem and issue a determination.
- vi. If either the Employer or the Employee is not happy with the Authority's determination, they can refer the problem to the Employment Court (*The Court may also tell them to go back and have more mediation*).

- vii. In limited cases, there is a right to appeal a decision of the Employment Court to the Court of Appeal.

e) Personal Grievances

- i. If the problem is a personal grievance, then the Employee must raise it within 90 days of when the incidents that give rise to the grievance occur or come to the Employee's attention.
- ii. A personal grievance can only be raised outside this timeframe with the agreement of the Employer, or in exceptional circumstances.

55.3. Grievance rights

The parties agree that no Employee will be dismissed or disciplined without a reasonable opportunity to have their views considered. To that end no person will be dismissed without the knowledge of the Chief Operating Officer/Lead Nurse (NZ), or the Head of Human Resources or the Managing Director.

56. EMPLOYEES IN THE FIRST 90 DAYS OF EMPLOYMENT

- 56.1. Employees in the first 90 days of their employment are subject to a probation period.

DECLARATION

SIGNED BY

for:

L. M. Boyd

The New Zealand Nurses Organisation (Inc)

Date 21.1.22

SIGNED BY

for:

Glenn

Bupa Care Services (NZ) Limited as the Employer

Date 21/1/2022