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# TOTAL CARE HEALTH SERVICES

## COLLECTIVE AGREEMENT

2020-2022

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# Total Care Health Services Collective Agreement

## 1. Parties

In accordance with the Employment Relations Act 2000 this collective agreement ("CA") is made between:

Total Care Health (the "Employer")

The New Zealand Nurses Organisation (NZNO) (the "Union")

## 2. Coverage and Application

2.1 This agreement shall cover employees of Total Care Health Services who are members of the NZNO in the following positions:

Community Registered Nurse

Community Enrolled Nurse

Senior Nurse

Clinical Nurse Educator

Clinical Nurse Leader

2.2 The parties agree that any employee whose work is covered by the coverage clause of this agreement (clause 2.1 above) who is engaged by the employer, and is a NZNO member, shall be entitled to all benefits, and be bound by all of the obligations, under this agreement.

The employer shall follow the requirements of the Employment Relations Act 2000 with regard to new employees. The employer shall advise new employees that the employer is a party to the Total Care Health Services Collective Agreement, that they are able to join NZNO and be covered, and that there is a copy of the agreement available in the workplace.

Employees shall make every endeavour to notify the employer in a timely manner of their union membership.

2.3 Existing employees who are covered by the coverage clause of this collective agreement (clause 2.1) who become NZNO members during the term of the collective agreement shall, from the date of becoming a union member, be bound by all benefits and obligations relating to employees under this collective agreement subject to the restrictions set out in the Employment Relations Act 2000.

2.4 **Impact on Individual Employment Agreements:** Where an employee on an individual employment agreement elects to be bound by this collective agreement, their previous terms and conditions of employment shall no longer apply unless otherwise agreed between that employee and the employer, or as provided for in this collective agreement.

## 3. Term

This collective agreement shall come into force on the date of ratification and expires 14 August 2022.

## 4. Variation

This agreement may be varied by agreement between Total Care Health Services, the NZNO representing those employees directly affected by such variations. The process for variations to the collective agreement involves the party seeking the variation putting forward the proposed

variation, along with supporting information describing the reason for seeking the variation and any potential impact.

- 4.2 Such agreement will be in writing and signed by the parties. Any such variation will take effect as if it were incorporated into this agreement.

## 5. Definitions

**“Casual employee”** means an employee who has no set hours or days of work and who is normally asked to work as and when required. They are employed when there is an overflow of work or a permanent employee is absent. Each engagement undertaken by the casual employee is a stand alone employment arrangement and the employment shall be at an end at the completion of the work required. Nothing in this agreement, either express or implied, requires the employer to offer any employment to any employee, notwithstanding that the employee may be recognised on any list maintained by the employer to assist in obtaining staff.

**“Employer”** means the employer employing the particular employee.

**“Enrolled nurse”** has the same meaning as in the Health Practitioners’ Competence Assurance Act 2003 and its successors.

**“Full time employee”** means an employee who works on set days of the week or a set number of hours each week. A full time working week is 40 or 80 hours per fortnight.

**“Part-time employee”** means an employee who works on set days of the week or a set number of hours each week. The hours are less than 40 hours per week. The salary divisor for the hourly rate shall be 2080.

**“Registered nurse”** has the same meaning as in the Health Practitioners’ Competence Assurance Act 2003 and its successors.

**“On Call”** means an appropriately skilled nurse who is rostered for a specified period to attend clients for phone contact and/or attending clients in their homes outside normal hours of work. This person will be paid the on-call hourly rate and will be paid at T1.5 for the time worked.

**“Call out”** means an appropriately skilled nurse, who may or may not be on call, who is requested to attend a client by phone or in their home outside of normal rostered work and accepts this requested call out. This person will be paid T1.5 for the time worked.

## 6. Place of Work

- 6.1 The parties agree that the employee shall perform their duties in the community, and at any other reasonable location to which they may be directed from time to time by the employer.

## 7. Hours of Work

- 7.1 Hours of work will be a maximum of 80 hours per fortnight worked between 7.30am and 6pm on a rostered day of work, allowing for one half hour unpaid lunch break and two paid 10 minute tea breaks as per clause (8).
- 7.2 Rosters will normally be produced 4 weeks prior to commencement and will cover a 4 week period.

- 7.3 If the minimum agreed/guaranteed hours (inclusive of leave) have not been met within each rostered week, employees will be paid for their minimum guaranteed hours at their usual rate.
- 7.4 Each employee will have their minimum guaranteed hours rostered, as per their letter of appointment or any subsequent agreed and signed variation recorded in writing.
- 7.5 If an employee works over or under their guaranteed hours consecutively for 4 weeks minimum, this is subject for review with management and variation to guaranteed hours are to be adjusted accordingly.
- 7.6 If travel time to the first appointment exceeds 30 minutes, any time after that will be paid for at the employee's ordinary time rate of pay. However, if an employee must travel to and from another city, then all travel time from home to the other city's location, shall be paid at the employee's ordinary time rate of pay.
- 7.7 If the employer wants to cancel an employee's rostered shift, they shall give 24 hours' notice to the employee. If 24 hours' notice is not given, the employer will pay the employee at ordinary hourly rates for the shift that was cancelled.
- 7.8 The employer will send out the daily schedule for the next day by 6pm. Staff are to plan visits based on the schedule on receipt of the schedule. The employee will visit each client on the schedule on the day specified. Unless in cases of emergency and clients cannot be visited, the employee will contact their team leader to make other arrangements.
- 7.9 Employees will be paid for rostered days at the applicable daily rate for 8 hours.
- 7.10 Except by mutual agreement, every employee shall have two periods of at least 24 hours off duty each week, and except in the case of emergencies or by agreement, these shall be consecutive.
- 7.11 No employee shall be required to work more than seven days in a row. This does not include days attending training or professional development.
- 7.12 Employees may exchange shifts or duties by mutual agreement and with the prior approval of the employer. In this case, no additional payment (such as overtime rates) will apply.
- 7.13 Where the employer requires the employee to attend a nursing meeting or nurses education session, the time spent shall be paid at the employee's ordinary time rate of pay but shall not count as time worked for the purposes of calculation of any overtime entitlements. Alternatively the employer and employee may agree to paid time in lieu instead of payment.

## **8. Meal Breaks and Rest Periods**

- 8.1 Employees who work for less than two hours in a day are not entitled to breaks.
- 8.2 Employees who work for two hours or more are entitled to a paid 10 minute rest break.
- 8.3 Employees who work for four hours or more are additionally entitled to a half hour unpaid meal break.
- 8.4 Employees who work six hours or more in a day are entitled, within each working day, to two paid ten-minute rest breaks and an unpaid meal period of at least half an hour.
- 8.5 An employee who is unable to take a meal break shall be entitled to have a meal while on duty and this period shall be regarded as working time.

- 8.6 During the meal break or rest breaks specified above, free tea, coffee, milk and sugar shall be supplied by the employer when the break is taken on the employer's premises. This shall not apply when employees are working off site.
- 8.7 The employer shall ensure so far as practicable, given the employers operational requirements and resources, that appropriate facilities are to be provided in the workplace for an employee who wishes to breastfeed and that appropriate breaks are provided for this. Such breaks shall be unpaid unless otherwise agreed.

## 9. Rates of Remuneration

TCH supports the principle of pay parity for nurses and accepts that pay parity with the NZNO/DHB MECA represents an appropriate benchmark. The parties will continue to work towards achieving this goal.

### 9.1 Annual Rates of Pay

#### 9.1.1 Community Registered Nurse Scale

Step	Current Scale	Transition at 12 month anniversary from 5 Oct 2020	Year 2 - increase one step and merit introduced from 5 Oct 2021
8			82,957 M
7			78,993 M
6	72,945	75,132	77,443 M
5	70,820	72,945	72,945
4	63,740	65,652	65,652
3	60,328	62,138	62,138
2	56,788	58,491	58,491
1	52,460	54,034	54,034

Step	Current Scale	Transition at 12 month anniversary from 5 Oct 2020	Year 2 - increase one step and merit introduced from 5 Oct 2021
8			\$ 39.88
7			\$ 37.98
6	\$ 35.07	\$ 36.12	\$ 37.23
5	\$ 34.05	\$ 35.07	\$ 35.07

4	\$ 30.64	\$ 31.56	\$ 31.56
3	\$ 29.00	\$ 29.87	\$ 29.87
2	\$ 27.30	\$ 28.12	\$ 28.12
1	\$ 25.22	\$ 25.98	\$ 25.98

9.1.2 From 5 October 2020, nurses who have been on their current pay step for 12 months will translate to the community nursing scale at current step.

## 9.2 Community Enrolled Nurse Scale

### 9.2.1 Scales

Step	Current	Transition at 12 month anniversary from 5 Oct 2020	Year 2 - increase one step and merit introduced from 5 Oct 2021
4	55,385	57,047	57,903
3	53,772	55,385	56,216
2	49,838	51,333	52,103
1	47,215	48,632	49,361

Step	Transition at 12 month anniversary from 5 Oct 2020	Year 2 - increase one step and merit introduced from 5 Oct 2021
4	\$27.43	\$27.84
3	\$26.63	\$27.03
2	\$24.68	\$25.05
1	\$23.38	\$23.73

9.2.2 Merit scale will be developed in the first year of agreement for steps 6-8. This will be working party led by Juanita Stulich (Clinical Nurse Manager) in consultation and agreed with NZNO representative(s) and senior nurses.

9.2.3 From 5 October 2021, nurses who have been on their current pay step for 12 months, and have demonstrated satisfactory performance, will progress one step up on the community nursing scale up to a maximum of step 5 (non-merit).

## 9.2 Clinical Nurse Leaders Scale



9.2.1 During the term of this document, the Nurse Leader role will be scoped. No disadvantage to any of the current senior nursing roles will occur as result of the scoping exercise.

### 9.2.2 Scale

CNL		
Current	5/10/2020	5/10/2021
84,356	85,621	86,906

## 9.3 Overtime

9.3.1 Overtime is time worked in excess of 80 hours per fortnight. Time that the employee is absent from work due to sick leave, annual leave, bereavement, or other paid or unpaid leave, or due to attendance at professional development, is not counted as time worked for the purposes of calculation of overtime.

9.3.2 All overtime worked must be authorised by the employer prior to being undertaken.

9.3.3 Overtime shall be paid at one and one half times (T1.5) the hourly rate of pay.

9.3.4 (i) On a daily basis, should there be an arising issue of urgency that unexpectedly requires the employee to work a minimum of 30 minutes beyond a full time shift as defined under Clause 8, then this additional time will be paid at one and one half times (T1.5) the hourly rate of pay.

(ii) Time worked beyond a full time shift as defined under clause 8 but less than 30 minutes will be remunerated at T1 or time in lieu as agreed.

(iii) An employee working more than their usual hours of work on a weekly basis, but less than the fulltime ordinary hours as specified under Clause 8, is entitled to payment for the extra hours at their ordinary time rate (T1).

9.3.5 In lieu of payment for overtime the employer and employee may jointly agree for the employee to take equivalent (i.e. one hour overtime worked for one hour ordinary time off) paid time off work at a mutually convenient time.

## 9.4 Penal Rates

### 9.4.1 Weekend rate

Any employee who is required to work between midnight Friday and midnight Sunday will be paid at the rate of time and one quarter (TO.25) for that part of the shift which falls between these hours.

9.4.2 Overtime and weekend /public holiday rates shall not be paid in respect of the same hours, the higher rate will apply.

## 10. On call allowance

### 10.1 On Call

10.1.1 There are times when the employees covered by this agreement are required to be on call to provide cover so that primary health services are able to be provided. In the interests of healthy rostering practices, the parties agree that the allocation of on-call time shall be spread as evenly

as practicable amongst those required to participate in an on-call roster taking into account employer and employee needs.

10.1.2 On call hourly rates are \$6.00 per hour on weekday nights and \$9.00 per hour on a weekend or public holiday.

10.1.3 If an employee is on-call they must;

- Be available for work;
- Be sober and drug free;
- Have their cell phone, computer or pager switched on and with them;
- Have access to transport, and;
- Be in the area or within an agreed time period to commute in.

## **11. Travel Expenses**

11.1 Employees who are provided with a company vehicle must use this vehicle for work purposes (and not their personal vehicle) in accordance with the related company policy. Employees who are required to use their motor vehicles on employer business shall be reimbursed in accordance with the IRD mileage rates as promulgated from time to time. Any change to this rate shall be effective from the first pay period following the date of promulgation by the IRD.

## **12. Professional/Educational Development**

The employer and employee are committed to staff education and development. Employees will be actively encouraged to attend educational courses relevant to their professional/educational development and of benefit to the employer.

12.1 The employer shall grant professional/educational development leave of up to 20 hours per calendar year for full time employees (pro rated to no less than 8 hours per calendar year for part time employees). This leave is to enable employees to prepare a portfolio, complete qualifications, and to attend training relevant to their professional/educational development and relevant to the employer. Prior approval of the employer must be obtained. The approval of the employer shall not be unreasonably withheld.

12.2 An employee may take leave on pay to attend National Meetings or Seminars of Section Groups and/or Colleges of the NZNO. This leave may be charged against the professional/educational development leave as specified in subclause 12.1. Prior approval of the employer must be obtained. The approval of the employer shall not be unreasonably withheld.

12.3 All of the employee's normal working hours when absent from work for professional/educational development including travel time will be a claim against the hours as specified in subclause 12.1.

12.4 Any paid meetings to meet organisational and service requirements not otherwise addressed in this clause (including staff meetings and training not related to the employee's occupation) shall be in addition to the above provisions.

12.5 Professional/educational development leave will be granted at T1 rate and shall not accumulate from one year to the next.

- 12.6 Where an employer requires an employee to attend professional/educational development, whether the employee is scheduled to work or not for the time of the leave, the employee shall be granted paid leave as per sub clauses 12.1, 12.3 and 12.6.

### **13. Reimbursing Payments**

#### **13.1 Annual Practising Certificate**

Where an employee is required by law to hold an annual practising certificate, the employer shall fully refund the cost of the certificate, provided that:

13.1.1 It must be a statutory requirement that a current certificate be held for the performance of duties.

13.1.2 The employee must be engaged in duties for which the holding of a certificate is a requirement.

- 13.2 The Employer will only contribute to one APC unless there are operational requirements for an employee to maintain more than one APC.

### **14. Public Holidays**

#### **14.1 The following days shall be observed as public holidays:**

New Year's Day  
2 January  
Waitangi Day  
Good Friday  
Easter Monday  
ANZAC Day  
Sovereign's Birthday  
Labour Day  
Christmas Day  
Boxing Day  
Anniversary Day (as observed in the locality concerned).

- 14.2 In order to maintain services to clients, the employer may require an employee to work on a public holiday when the public holiday falls on a day which, but for it being a public holiday, would otherwise be a working day for the employee.

- 14.3 When employees work on a public holiday they will be paid at time and a half the ordinary time hourly rate of pay (T1.5) for each hour worked. The employee shall also be granted an alternative holiday, if the day would otherwise be a working day for the employee. Such alternative holiday shall be taken and paid as specified in the Holidays Act 2003.

- 14.4 An employee who is on call on a public holiday as provided above, but is not called in to work, shall be granted an alternative holiday. In the case of a public holiday which is recognised on either a weekend day or a week day depending on the days the employee works, refer to the Holidays Act to identify whether the day in question constitutes a public holiday for that employee. Only one day is recognised for each public holiday.

- 14.5 Part time employees – Where a part-time employee's days of work are fixed, the employee shall only be entitled to public holiday provisions if the day would otherwise be a working day for that employee. Where a part-time employee's days are not fixed, the employee shall be entitled to

public holiday provisions if they worked on the day of the week that the public holiday falls more than 40% of the time over the last three months. Payment will be relevant daily pay.

- 14.6 When a public holiday falls during a period of annual leave, sick leave on pay or special leave on pay, an employee is entitled to that holiday which is not debited against such leave.

## **15. Annual Leave**

- 15.1 The parties to this agreement support the principle that it is conducive to a healthy work life balance to take four weeks annual leave per year.
- 15.2 Employees, other than casuals, shall be entitled to 4 weeks annual leave, taken and paid in accordance with the Holidays Act 2003 and subject to the other provisions of this clause.
- 15.3 Casual employees shall be paid 8% of gross taxable earnings in lieu of annual leave to be added to the salary paid for each engagement.
- 15.4 Conditions
- 15.4.1 Annual leave may be granted in one or more periods. In accordance with the Holidays Act 2003, the employee shall be given the opportunity to take two weeks leave at one time.
- 15.4.2 Annual leave shall be taken to fit in with service/work requirements and the employee's need for rest and recreation.
- 15.4.3 When an employee ceases duty, wages shall be paid for accrued annual leave, and the last day of employment shall be the last day worked.
- 15.4.4 Part time employees shall be entitled to annual leave on a pro rata basis.
- 15.4.5 An employee may anticipate up to one year's annual leave entitlement at the discretion of the employer.

## **16. Sick Leave**

- 16.1 After three months continuous employment a full time employee shall be entitled to seven (7) working days paid sick leave for the subsequent twelve months of employment, and an additional seven (7) working days for each subsequent twelve month period. The entitlement shall be pro-rated for part time employees except that a part-time employee shall receive no fewer than seven (7) working days paid sick leave for the subsequent twelve months of employment and a minimum of seven (7) additional working days for each subsequent twelve month period.
- 16.2 A medical certificate may be required to support the employee's claim for sick leave. If a medical certificate is required for less than three days, then the employer shall meet the cost of that certificate.
- 16.3 The provisions of this clause are inclusive of the sick leave provisions of the Holidays Act 2003.
- 16.4 The employee can accumulate their sick leave entitlement up to a maximum of 30 days.

Any entitlement accrued prior to commencement of this agreement in excess of 30 days shall be retained but will not be increased until the balance falls below 30 days.

16.5 At the employer's discretion an employee may be granted anticipated sick leave. Any leave taken in advance and still remaining outside the entitlement will be paid to the employer. Where an employee's employment is terminated by either party prior to becoming entitled to anticipated sick leave the employer may deduct monies due from the final pay.

16.6 Sick leave may be utilised where the employee requires surgery or leave for health screening. Leave for this purpose may be taken in ¼ day blocks.

#### 16.7 Domestic Leave

The employer shall grant an employee leave on pay as a charge against sick leave entitlement when the employee must attend a sick dependent of the employee. This person would, in most cases, be the employee's child, spouse/partner or other dependent family member.

16.7.1 Approval is not to be given for absences during or in connection with the birth of an employee's child. Annual leave or parental leave should cover such a situation.

16.7.2 At the employer's discretion, an employee may be granted leave without pay, where the employee requires time away from work to look after a seriously ill member of the employee's family.

16.7.3 The production of a medical certificate or other evidence of illness may be required.

16.8 During periods of leave without pay, sick leave entitlements will not continue to accrue.

### 17. Bereavement Leave

17.1 An employee shall be entitled to a maximum of three days leave without loss of pay on each occasion of the death of the employee's spouse/partner, father, mother, brother, sister, child, grandparent, parents-in-law, grandchild, stepchildren, stepparents, stepsister, stepbrother.

17.2 An employee shall be entitled to one day's leave without loss of pay on each occasion of the death of any other person, providing that the employer accepts that the employee has suffered a bereavement, taking into account the relevant factors set out in section 69(3) of the Holidays Act 2003.

17.3 If bereavement occurs while an employee is absent on annual leave, sick leave on pay or any other special leave on pay, such leave may be interrupted and bereavement leave granted in terms of clause 17.1 above. This provision will not apply if the employee is on leave without pay.

17.4 In relation to tangihanga and clauses 17.1 and 17.2 above, the employer shall consider these provisions in a culturally appropriate manner. The granting of time off and for how long shall be at the discretion of the employer.

17.5 The employer agrees that on application, it may be appropriate, to grant leave without pay in order to accommodate various special bereavement needs not recognised in clauses 17.1 and 17.2 above.

17.6 The provisions of this clause are inclusive of the bereavement leave provisions of the Holidays Act 2003.

## **18. Parental Leave**

18.1 The provisions of the Parental Leave and Employment Protection Act 1987 will apply.

## **19. Jury Service/Witness Leave**

19.1 Employees called on for jury service are required to serve. Where the need is urgent, the employer may apply for postponement because of particular work needs, but this may be done only in exceptional circumstances.

19.2 An employee called for jury service shall advise the employer as soon as practicable.

19.3 Where the employee is required to serve on a jury and the option of making application for exemption is not exercised, the employee shall be granted paid jury service leave of up to a maximum of 5 days. Any additional days beyond the first 5 days leave can be taken as annual leave or leave without pay.

19.4 While the employee is receiving paid jury service leave, the employee upon receipt of payment from the court for jury service shall pass this payment onto the employer but may retain expenses. Where annual leave or leave without pay is granted, or where work attendance is not affected by the jury service, the employee may retain the juror's fees and expenses paid.

19.4.1 Where the employee is paid by the court via direct credit, the employee may provide evidence of the payment received for jury service to the employer so that the employer can deduct this amount from the employee's pay rather than the employee having to pay the employer.

19.4.2 If the employee fails to reimburse the employer the juror's fees received and fails to provide the evidence as to the court payment to authorise a deduction for the fees paid by the court, the employer shall be entitled to deduct the payment the employer made to the employee for the jury service attendance from wages due to the employee and the employee shall not be entitled to any payment from the employer for the time spent on jury service.

19.5 Any time during normal working hours when the employee is not required by the Court, the employee is to report back to work where this is reasonable and practicable.

19.6 Where an employee is required to be a witness in a matter arising out of their current employment, they shall be granted paid leave at the relevant daily pay. The employee is to pay any fee received to the employer but may retain expenses.

## **20. Leave without Pay**

20.1 Leave without pay may be taken by mutual agreement between the employee and employer.

## **21. NZNO Meetings**

2.1.1 Union members shall, in each calendar year, be entitled to at least two union meetings (each of a maximum of 2 hours duration) without loss of ordinary pay, provided that each of the following conditions is fulfilled:

21.1.1 At least 14 days' notice of the meetings shall be given.

21.1.2 Work shall resume as soon as practicable after the finish of the meeting. The employer shall not be obliged to pay any union member for a period greater than two hours in respect of any union meeting.

- 21.2 Only union members who actually attend a union meeting during their working hours shall be entitled to pay in respect of that meeting and to that end the union shall supply the employer with a list of members who attended and shall advise the employer of the time the meeting finished.
- 21.3 The union shall make such arrangements with the employer as may be necessary to ensure that the employer's business is maintained during any union meeting, including, where appropriate, an arrangement for sufficient union members to remain available during the meeting to enable the employer's operation to continue.

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.

## **22. NZNO Right of Entry**

- 22.1 The authorised union representative shall be entitled at all reasonable times to be upon the premises for purposes related to the employment of its members and/or the union's business.
- 22.2 A representative of a union exercising the right to enter a workplace must, at the time of the initial entry and, if requested by the employer or a representative of the employer or by a person in control of the workplace, at any time after entering the workplace,—
- 22.2.1 give the purpose of the entry; and
- 22.2.2 produce —
- (i) evidence of his or her identity; and
  - (ii) evidence of his or her authority to represent the union concerned.
- 22.3 If a representative of a union exercises the right to enter a workplace and is unable, despite reasonable efforts, to find the employer or a representative of the employer or the person in control of the workplace, the representative must leave in a prominent place in the workplace a written statement of—
- 22.3.1 the identity of the person who entered the premises; and
- 22.3.2 the union the person is a representative of; and
- 22.3.3 the date and time of entry; and
- 22.3.4 the purpose or purposes of the entry.
- 22.4 Nothing in clauses 22.1 to 22.3 allows an employer to unreasonably deny a representative of a union access to a workplace.
- 22.5 The provisions of the Employment Relations Act 2000 shall apply where any provision or entitlement is not provided for as above.

## **23. NZNO Delegates**

- 23.1 The employer shall recognise the delegate(s) who are elected by the employees and endorsed by the union as the representatives of the union.
- 23.2 Delegates shall endeavour to involve management at an early stage in the case of problems or disputes brought to the delegate's attention which need to be resolved.

23.3 It is recognised delegates have the ability to seek advice from NZNO prior to involving management.

## 24. Employment Relations Education Leave

24.1 The Employer shall grant leave on pay for employees' party to this collective agreement to attend courses authorised by NZNO to facilitate the employee's education and training as employee representatives in the workplace.

<b>FTE eligible employees as at 1 March each year</b>	<b>Maximum number of days of employment relations education leave that we are entitled to allocate as a union</b>
1 – 5	3
6 – 50	5
51 – 280	1 day for every 8 FTE eligible employees or part of that number
281 or more	35 days plus 5 days for every 100 FTE eligible employees or part of that number that exceeds 280

24.2 For the purposes of this clause, calculating the number of full-time equivalent eligible employees employed by an employer –

26.2.1 an eligible employee who normally works 30 hours or more during a week is to be counted as 1;

26.2.2 an eligible employee who normally works less than 30 hours during a week is to be counted as one-half.

24.3 The NZNO shall send a copy of the programme for the course and the name of employees attending at least 14 consecutive days prior to the course commencing.

24.4 The granting of such leave shall not be unreasonably withheld taking into account continuing service needs.

24.5 The provision of Part 7 of the Employment Relations Act 2000 shall apply where any provision or entitlement is not provided for, or is greater than specified above.

## 25. Kiwisaver

25.1 The provisions of the Kiwisaver Act 2006 and its amendments shall apply. These provisions can be found at [www.kiwisaver.govt.nz](http://www.kiwisaver.govt.nz).

## 26. Consultation and Management of Change

26.1 Management of Change

26.1.1 Consultation between the employer, its employees and the union is essential on substantive matters of mutual concern and interest. Effective communication between the parties will allow for:

(a) improved decision making

(b) greater cooperation between employer and employees; and

(c) a more harmonious, effective, efficient, safe and productive workplace.

The employer recognises the role of the employee's staff delegate and the NZNO in assisting in the positive management of change.



- 26.1.2 Prior to the commencement of any significant change to staffing, structure or work practices, the employer will identify and give reasonable notice to employees who may be affected and to the NZNO to allow them to participate in the consultative process so as to allow substantive input.
- 26.1.3 Where an employer receives an indication of potential significant changes, they undertake to advise staff and the NZNO as soon as practicable of the possibility of these changes.
- 26.1.4 Where changes are deemed commercially sensitive to the employer, NZNO and the employees involved in the management of such change, shall meet with the employer and endeavour to reach agreement on any necessary and appropriate confidentiality.
- 26.2 Consultation
- 26.2.1 Consultation involves the statement of a proposal not yet finally decided upon, listening to what others have to say, considering their responses and then deciding what will be done. Consultation clearly requires more than prior notification.
- 26.2.2 The requirement for consultation should not be treated perfunctorily or as a mere formality. The person(s) to be consulted must be given sufficient opportunity to express their view or to point to difficulties or problems.
- 26.2.3 If changes are proposed and such changes need to be preceded by consultation, the changes must not be made until after the necessary consultation has taken place. Both parties should keep open minds during consultation and be ready to change. Sufficiently precise information must be given to enable the person(s) being consulted to state a view, together with a reasonable opportunity to do so – either orally or in writing.
- 26.2.4 Consultation requires neither agreement nor consensus, but the parties accept that consensus is a desirable outcome.
- 26.2.5 The consultation process will give employees affected, or likely to be affected, by any significant change to staffing, structures or work practise, and the NZNO organiser/delegate, the opportunity to put forward their views on any proposals or options developed for change prior to any final decision being made.
- 26.2.6 The process will generally include, but not necessarily be confined to the following:
- (a) Management will meet with employees likely to be affected and the NZNO organiser/delegate to outline the possibility of change, looking at the current situation and the future, given the factors that could give rise for the change.
  - (b) Management will develop a plan or proposal specifying possible implications in relation to staffing changes.
  - (c) The plan or proposal will be circulated to employees likely to be affected and the NZNO organiser/delegate, with a request for feedback within a reasonable and specified timeframe. Alternative proposals or options should demonstrate that the objectives could be met. Management will meet with employees and the NZNO organiser/delegate for clarification of issues arising from the plan or proposal.

- (d) Once feedback has been considered, management will make the final decision, and work with the NZNO organiser/delegate to finalise the implementation plan.
- (e) It is agreed that consideration will be given and maintained in the employer's basic rights and obligations to operate the business in an efficient, business-like, safe and professional manner.

## **27. Redundancy**

- 27.1 For the purpose of this agreement, redundancy is defined as a condition in which the employer has staff surplus to requirements because of reorganisation or the closing down of all or part of the employer's operation.
- 27.2 The employer shall provide six weeks written notice of an impending redundancy to the affected employees and shall endeavour to redeploy affected employees.
- 27.3 During the period of notice, the employee shall be entitled to reasonable time off to attend interviews, seek alternative employment and to undertake counselling, by agreement with the employer, without loss of pay.
- 27.4 The employee made redundant shall be provided with a Certificate of Service stating that employment was terminated as a result of redundancy.
- 27.5 Except as otherwise provided in this clause, in the event that a permanent employee is declared redundant by the employer then the employee shall receive six weeks' notice of termination or shall be paid salary in lieu if six weeks' notice is not given. The employee shall be expected to work out their six weeks notice period unless mutually agreed otherwise to work less than the six weeks notice period.

## **28. Employee Protection Provision**

- 28.1 Where the employer is contracting out, selling or transferring all or part of the business, including the part of the business where the employee is employed, the following provisions will apply:
  - 28.1.1 The employer shall endeavour to consult the employee about any proposal to sell all or part of the business or to contract out or transfer work before a final decision is made.
  - 28.1.2 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 employee employment on the same or substantially similar terms and conditions including location, and recognising service as continuous. The employee will be advised of timeframes for such negotiation and/or for the acceptance of any offer of employment and/or of any application process, in a timely manner.
  - 28.1.3 The employee is entitled to choose whether or not to accept employment with the contractor/service provider. In the event that the contractor/service provider offers the employee employment in terms of 30.1.2 above, no redundancy situation will arise, and the employee will not be entitled to receive redundancy compensation or additional notice as specified in 29.5 above, whether or not the employee chooses to accept the offer of employment. The employee will be entitled to notice of termination with the employer as specified in this clause.
  - 28.1.4 In the event that the contractor/service provider is not prepared to offer the employee employment in terms of 30.1.2 above, the employee will be entitled to notice of

termination as specified in clause 30.1 and will remain entitled to the provisions of 29.5.

28.2 The provisions contained in this clause shall not apply where the employer is in receivership or in liquidation.

### **29. Confidentiality**

29.1 As part of their normal duties, the employees will have access to confidential information concerning the employer and clients. This information may include, but is not limited to, business information, trade secrets, transaction details, business, employee or client records, and other confidential information relating to the employer, employees or clients.

29.2 Under no circumstances will an employee make 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.

29.3 This shall not prevent registered health practitioners from making appropriate ethical/professional disclosures regarding individual patient clinical status and associated legal issues, in accordance with the provisions of the Privacy Act 1993. The registered health practitioner will notify the employer of such disclosures.

### **30. Policies and Procedures**

30.1 All employees covered by the Agreement shall comply with the employer's policies and procedures in force from time to time, to the extent that such policies and procedures are not inconsistent with the terms and conditions of this Agreement.

30.2 The employee will be consulted regarding any additions/amendments to those policies and procedures, where such additions/amendments have a material effect on employees' terms and conditions of employment.

### **31. Vulnerable Children's Act 2014**

31.1 Where employers are required under the Vulnerable Children's Act 2014 to safety check employees who will have contact with children, the parties agree that all employees covered by this agreement may be required to undergo such checks as prescribed by Regulation. This may include both vetting and screening processes. An employee who refuses to participate in the required safety checks or who does not pass such required screening may have their employment terminated.

### **32. Safe Staffing and Healthy Workplaces**

32.1 The Employer shall comply with the provisions of the Health and Safety at Work Act 2015 and subsequent amendments concerning safety, health and welfare matters. The parties to this agreement agree that employees should be adequately protected from any safety and health hazard arising in the workplace.

32.2 The employer and employees are committed to providing a safe and healthy work environment for its employees so that they can return home healthy and safe at the end of the day.

32.3 To achieve this we will:

32.3.1 model good practice in health, safety and wellbeing which must meet or exceed relevant legislation, codes of practices, standards and guidelines

- 32.3.2 create a culture where hazard identification, risk assessment and control is fundamental to the way we do our work
- 32.3.3 accurately report accidents, and near misses promptly, using every opportunity to learn how to prevent these in the future
- 32.3.4 acknowledge that whilst TCH has the ultimate accountability, managers and employees all have responsibility for health, safety and wellbeing
- 32.3.5 actively engage with the workforce and their representatives on health and safety issues, using good faith principles
- 32.3.6 foster a mature health and safety culture through communication, education and active participation of all managers, employees and others to enable individuals to use sound judgement to take responsibility for, and actively manage, their own health and safety risks
- 32.3.7 ensure employees are provided with appropriate personal protective equipment, where this is necessary
- 32.3.8 support the rehabilitation and safe and appropriate return to work of sick or injured employees
- 32.3.9 develop, maintain, monitor and rehearse procedures for dealing with all foreseeable types of emergencies TCH could be exposed to or required to respond to
- 32.3.10 regularly and systematically review the health and safety policies, procedures and guidelines for on-going improvement.
- 32.4 Employees also have a responsibility under the Act to observe all safety procedures to adopt healthy and safe work practices and to properly use the first aid equipment and supplies TCH provides.
- 32.5 Employees must advise the Employer of any medical condition (including stress related symptoms) which may impact on the employees' ability to perform the employees duties safely or effectively.

### **33. Whanau/Family Friendly Policies**

- 33.1 Employers and employees recognise the value of whanau/family and will endeavour to promote whanau/family friendly policies.

### **34. Family Violence**

- 34.1 Family violence may impact on an employee's attendance or performance at work. TCH will support staff experiencing family violence. This support includes:
  - 34.1.1 For those experiencing family violence, up to 10 days of paid leave in any calendar year to be used for medical appointments, legal proceedings and other activities related to family violence. This leave is in addition to existing leave entitlements and may be taken as consecutive or single days or as a fraction of a day and can be taken without prior approval.
  - 34.1.2 To support safety planning and avoidance of harassing contact, TCH will approve any reasonable request from an employee experiencing family violence for:
    - (i) changes to their span or pattern of working hours, location of work or duties;

- (ii) a change to their work telephone number or email address; and
  - (iii) any other appropriate measure including those available under existing provisions for flexible work arrangements.
- 34.2 An employee who supports a person experiencing family violence may take domestic leave to accompany them to court, to hospital, or to mind children.
- 34.3 All personal information concerning family violence will be kept confidential and will not be kept on the employee's personnel file without their agreement.
- 34.4 Proof of family violence may be requested and can be in the agreed form of a document from the Police, a health professional or a family violence support service.
- 34.5 Family violence means domestic violence as defined by s.3 of the Domestic Violence Act 1995.

### **35. Accidents and Injuries**

- 35.1 Where an employee is incapacitated as a result of an accident, and that employee is on earnings related compensation, and has an entitlement to sick leave, the employer agrees to supplement the employee's compensation by 20% of base salary during the period of incapacitation. This leave shall be taken as a charge against the employee's sick leave entitlement.

### **36. Uniforms and Protective Clothing**

- 36.1 Where an employer requires an employee to wear a uniform, it shall be provided free of charge, but shall remain the property of the employer. This sub clause does not apply in the event that the employee wears their own clothing within broad requirements such as wearing of certain colours.
- 36.2 Suitable protective clothing shall be provided at the employer's expense where the duty involves a risk of excessive soiling or damage to uniforms or personal clothing or a risk of injury to the employee.
- 36.3 Damage to clothing – An employee shall be reasonably compensated for damage to personal clothing worn on duty, or reimbursed dry cleaning charges for excessive soiling to personal clothing worn on duty, provided the damage or soiling did not occur as a result of the employee's negligence, or failure to wear the protective clothing provided. Each case shall be determined on its merits by the employer.

### **37. Payment of Wages**

- 37.1 Employees will be paid fortnightly by direct credit into the employee's bank account. Employees are required to submit an accurate weekly timesheet by 9.00am each Monday morning along with uploading the GPS report. Where it is agreed that there has been an underpayment of an employee's fortnightly pay, the employer will pay the underpayment within 3 working days.
- 37.2 The employees shall complete timesheets as required by the employer. Wherever practicable any disputed items shall not be changed without first referring it to the affected employee.
- 37.3 The employer shall endeavour to direct credit payment of wages into the employee's bank account during the banking day prior to a public holiday.

- 37.4 Where an employee has taken leave in advance of it becoming due, and the employee leaves before the entitlement has accrued, the employer will deduct the amount owing in excess of entitlement from the employee's final pay.
- 37.5 Deductions may be made from remuneration for any absence due to the default of the employee or for sickness in excess of paid sick leave entitlement or compensable accident. Any monies owed by the employee to the employer upon termination will be deducted from the employee's final pay.
- 37.6 In the event of an overpayment of remuneration the employer and employee shall agree on reasonable repayments by deduction from wages / salary, except upon termination where any remaining overpayment may be recovered in full from any monies owed by the employer to the employee.

### **38. Termination of Employment**

#### **38.1 Notice Period**

Either party may terminate the employment agreement with four weeks written notice following correct procedure, unless otherwise agreed between the employer and employee. Agreement for a shorter notice period will not be unreasonably withheld. When the agreed notice is not given, the unexpired notice shall be paid or forfeited by the party failing to give the agreed notice.

This shall not prevent the employer from summarily dismissing any employee without notice for serious misconduct.

#### **38.2 Abandonment of Employment**

An employee absent from work for three consecutive working days without notification to the employer or without appropriate authorisation from the employer will be considered by the employer as having terminated their employment without notice, unless the employee is able to show they were unable to fulfil their obligations under this section through no fault of their own. The employer will make all reasonable efforts to contact the employee during the three days period of absence.

### **39. Suspension**

- 39.1 If, at any time during employment, an allegation of serious misconduct is made against an employee where there is a risk to anyone or the investigation may be impeded, TCH may, following consultation with the employee, who has the ability to seek union or other representation, suspend them on ordinary pay from all or any normal duties while an investigation is carried out. Such a period will not normally exceed two weeks. During any such period of suspension the employee may not attend all or any TCH workplace, unless directed to do so by TCH.
- 39.2 In circumstances where the safety or wellbeing of the employee, client or one of their colleagues is compromised, and where representation cannot be arranged at short notice, the employee, following consultation with them, may be sent home on special paid leave until such representation can be arranged.
- 39.3 Following consultation with the employee and their representative the employee may be suspended as in (39.1) above.
- 39.4 The suspension does not imply guilt in regards to the allegation being investigated. It is purely to allow for the investigation of a serious allegation.

- 39.5 During the term of any suspension this agreement shall continue to apply and all rights, interests, and benefits conferred by it continue to accrue.

#### **40. Harassment Prevention**

- 40.1 The parties recognise that harassment in the workplace is totally unacceptable. It is the responsibility of the employee to familiarise themselves with the relevant policy on harassment and the responsibility of the employer to communicate the extent of this policy and make it accessible to all employees.
- 40.2 Harassment can take many forms, including sexual harassment, bullying, racial harassment, violence and other forms of intimidating behaviour.
- 40.3 Harassment complaints will be taken seriously and the employer undertakes to address these with sensitivity and impartiality.

#### **41. Resolution of Employment Relations Problems**

An “employment relationship problem” includes:

- (a) A personal grievance
- (b) A dispute
- (c) Any other problem relating to or arising out of the employment relationship but does not include any problem with negotiating new terms and conditions of employment.

Where an Employment Relationship Problem arises the parties will in the first instance seek to resolve it between the immediately affected parties. Further to this:

- (a) The employee is entitled to seek representation at any stage during the process. Help with an employment relations problem is available from within the work place (employee manager) or outside the workplace (Ministry of Business, Innovation and Employment 0800 20 90 20), or a union, an advocate or a lawyer.
- (b) If the matter is unresolved either party is entitled to seek mediation from the Ministry of Business, Innovation and Employment or refer the matter to the Employment Relations Authority. (Both mediation and investigation by the Authority are services available for the resolution of employment relationship problems.)

A “personal grievance” means a claim that an employee:

- (a) has been unjustifiably dismissed; or
- (b) has had his/her employment, or his/her conditions of employment, affected to his/her disadvantage by some unjustifiable action by the employer; or
- (c) has been discriminated against his/her employment; or
- (d) has been sexually harassed in his/her employment; or
- (e) has been racially harassed in his/her employment; or
- (f) has been subjected to duress in relation to union membership.

If the employment relationship problem is a personal grievance, the employee must raise the grievance with the employer within a period of 90 days beginning with the date on which the action alleged to amount to a personal grievance occurred or came to the notice of the employee, whichever is the latter.

Where any matter comes before the Authority for determination, the Authority must direct the matter to mediation in the first instance. Where mediation has failed or been deemed inappropriate in the circumstances, the Authority will then have the power to investigate the matter.

If the employment relationship problem relates to discrimination or sexual harassment, services available for the resolution of the problem include either application to the Authority for the resolution of this grievance or a complaint under the Human Rights Act 1993, but not both.

#### 42. Deduction of Union Fees

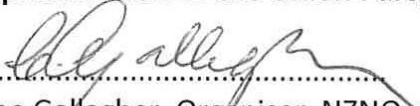
- 42.1 The Employer shall deduct employee NZNO fees from the wages/salaries of employees when authorised in writing by members, and shall remit such subscriptions to the NZNO at agreed intervals.

#### 43. No Pass On Provision

- 43.1 The employer agrees not to pass on automatically to non-NZNO current existing members, terms or conditions that are the same or substantially the same as those contained in this collective agreement.
- 43.2 This means that the employer and non-NZNO member current existing employees shall individually negotiate their terms and conditions of employment.

Signed this 23 day of November 2020

#### Authorised Representative of the Union Party:

  
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Christine Gallagher, Organiser, NZNO

#### Authorised Employer Representative:

  
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Grant Blackler, General Manager Commercial, Total Care Health Services