

## SETTLEMENT AGREEMENT

Between:

### Health Employers Association of British Columbia

(On behalf of its members covered by the NBA Provincial Collective Agreement)

“HEABC”

And:

### The British Columbia Nurses Union

(On behalf of the Nurses’ Bargaining Association)

“BCNU”

(collectively, the “Parties”)

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**WHEREAS** on or about November 22, 2018, during collective bargaining of the NBA Provincial Collective Agreement, HEABC delivered a letter to BCNU asserting that employers were not obligated to reschedule paid holidays where a nurse is offered an overtime shift on a day previously scheduled as a paid holiday with less than fourteen (14) days’ advance notice;

**WHEREAS** on or about January 7, 2019, BCNU delivered a letter to HEABC, in response to HEABC’s November 22, 2018 letter, taking issue with HEABC’s position that employers were not obligated to reschedule the paid holidays in such circumstances;

**WHEREAS** on or about July 31, 2020, BCNU provided formal notice to HEABC of an Industry Wide Application Dispute regarding, among other things, the failure of HEABC and member employers to reschedule a paid holiday where a nurse works an overtime shift on a day previously scheduled as a paid holiday with less than fourteen (14) days advance notice (the “**IWAD**”);

**WHEREAS** on or about March 31, 2021, HEABC provided a response to the IWAD and clarified that HEABC’s position was that a nurse who voluntarily accepted a shift on a day previously scheduled as a paid holiday with less than fourteen (14) days advance notice was covered by Article 27.05(C)(2) but not Article 39.04(D);

**WHEREAS** BCNU continues to dispute HEABC’s interpretation of the employer’s obligations with respect to the rescheduling of paid holidays in such circumstances;

**WHEREAS** the IWAD has proceeded to arbitration before Arbitrator John Hall;

**AND WHEREAS** the Parties have reached the following agreement in full and final settlement of all issues raised in the IWAD (the “**Agreement**”).

**NOW THEREFORE** the Parties agree to resolve the IWAD on the following terms.

1. **Continued Application of Arbitral Award:** The Parties confirm that this Agreement is not intended to change the application of *Health Employers Association of British Columbia -and- Nurses’ Bargaining Association*, [2002] BCCAAA No. 220 (Gordon).
2. **Applicable Rate of Pay for Hours Worked on Day Originally Scheduled as a Paid Holiday:** Regular nurses who voluntarily accept a shift on a day originally scheduled as a paid holiday without fourteen (14) calendar days advance notice are entitled, under Articles 39.04(D) and 27.05(C)(2), to be paid for all hours worked during the shift on what had originally been scheduled as a paid holiday at the rate of one and one-half (1.5) times the appropriate holiday rate of two (2) times or two and one-half (2.5) times (as reflected in Article 39.03(A)(1) and (2)), with the total combined rates of either three (3) or three and three-quarters (3.75) times.
3. **Article 39.04(D) Applies Where Nurse Voluntarily Accepts Shift:** Article 39.04(D) applies where a nurse voluntarily accepts an offer to work an additional shift on a day originally scheduled as a paid holiday without fourteen (14) calendar days advance notice.
4. **Go-Forward Approach to Rescheduling of Paid Holidays:** The Parties agree that, on a go-forward basis, a nurse’s entitlement to have their paid holidays rescheduled when they work a shift on a day originally scheduled as a paid holiday without fourteen (14) calendar days advance notice, including in the circumstances captured by paragraph 3, shall be subject to the following terms and conditions:
  - a. **“Rescheduling Cap” of Twenty-six (26) Rescheduling Events:** A nurse may reschedule up to twenty-six (26) scheduled paid holidays per calendar year (each a “rescheduling event”) in circumstances where they work a shift on the scheduled paid holiday without fourteen (14) calendar days advance notice. For clarity, the cap of twenty-six (26) rescheduling events applies in total to all of the scheduled paid holidays in a calendar year and not to each of the scheduled paid holidays listed under Article 39. A nurse may use more than one of the twenty-six (26) rescheduling events per calendar year on the same paid holiday if the nurse accepts a shift on the scheduled paid holiday multiple times.
  - b. **Circumstances Not Considered “Rescheduling Events” for Purposes of Rescheduling Cap:** For further clarity, each of the following circumstances shall not be considered a “rescheduling event” for purposes of the Rescheduling Cap:

- i. Where the paid holiday is rescheduled (whether voluntarily or otherwise) with fourteen (14) or more calendar days advanced notice (i.e. such that Article 39.04(D) and Article 27.05(C)(2) do not apply); or
    - ii. In the case of mandatory overtime on the scheduled paid holiday.
  - c. **Nurse May Request Confirmation of Number of Rescheduling Events:** Upon request from a nurse, the employer will provide confirmation of the number of rescheduling events the nurse has had in the current calendar year.
  - d. **Paid Holiday to be Paid Out in Lieu of Rescheduling:** Where the Rescheduling Cap has been reached, and a nurse works a shift on a subsequent scheduled paid holiday without fourteen (14) calendar days advance notice, instead of having their paid holiday rescheduled, the nurse will receive a day's pay at straight time. This payment in lieu of rescheduling the paid holiday will be in addition to the applicable payment for all hours worked on the day originally scheduled as a paid holiday as set out in para. 2 above.
5. The IWAD is hereby withdrawn as resolved and shall not be revived.
6. It is agreed that this is a compromise of a disputed claim and is not to be construed or considered as an admission of liability or wrongdoing on the part of any of the Parties.
7. The terms of this Agreement will not be utilized as evidence or relied on with respect to the interpretation or application of the Collective Agreement or as supporting documentation for any other purpose in any other proceedings.
8. The terms of this Agreement are contractual and not recital.
9. The terms of this Agreement are governed by the laws of British Columbia.
10. The Parties agree that Arbitrator John Hall will be seized of any matter or dispute concerning the implementation, interpretation or operation of this Agreement.

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11. This Agreement may be signed by original or by facsimile and executed in any number of counterparts, and each executed counterpart will be considered to be an original. All executed counterparts taken together will constitute one agreement.

**HEABC**

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Erin Cutler, General Counsel



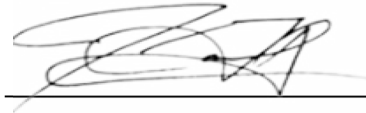
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Signature

\_\_\_\_\_  
May 22, 2024

Date

**BCNU**

\_\_\_\_\_  
Jim Gould, Interim Chief Executive Officer



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Signature

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May 17, 2024

Date