

LABOR AGREEMENT

By and Between

BENEDICTINE LIVING COMMUNITY OF DULUTH

And

**AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL
EMPLOYEES, MINNESOTA AFSCME COUNCIL 5**

January 1, 2021

Through

December 31, 2022

**BENEDICTINE LIVING COMMUNITY OF DULUTH AND
AMERICAN FEDERATION OF STATE, COUNTY AND
MUNICIPAL EMPLOYEES,
MINNESOTA AFSCME COUNCIL 5
2021-2022 LABOR AGREEMENT**

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**LABOR AGREEMENT 2021-2022
BENEDICTINE LIVING COMMUNITY DULUTH AND
AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES,
MINNESOTA AFSCME COUNCIL 5**

THIS AGREEMENT, made and entered into this 12/3/2020, by and between, Benedictine Living Community of Duluth, hereinafter referred to as the "Employer", and the AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, MINNESOTA AFSCME COUNCIL 5, of Duluth, Minnesota, representing employees in those classifications covered by this Agreement, hereinafter referred to as the "Union" agree to the following provisions covering wages, hours and working conditions during the period of this Agreement. This Agreement shall supersede and replace all previous agreements between the Employer, the Employees and the Union.

ARTICLE 1

PURPOSE

Section 1.1 Purpose. It is the intent and purpose of the parties hereto to set forth the basic agreement between them for the term of this Agreement, covering the rates of pay, wages, hours and other conditions of employment to be observed and kept by the parties. It is further intended to advance friendly relations between the Employer and the Employees.

ARTICLE 2

RECOGNITION

Section 2.1 Bargaining Unit. Employer recognizes Union as the exclusive bargaining representative for all full-time, regular part-time, and casual part-time (as defined in section 2.2) employees employed by the Employer at its Duluth, Minnesota facility, including nursing assistants, housekeeping and laundry employees, wellness coaches, adult day care assistants, maintenance employees, beauty shop employees, health unit coordinators, information desk clerks, resident assistants and LPN's; EXCLUDING RN's and other professional employees, business office clerical employees, confidential employees, managerial employees, kitchen/dietary employees, volunteers, Chaplains, casual employees, supervisors as defined in the Act. (N.L.R.B. Case No. 18-RC-15404).

The Employer or its representatives shall not enter into any agreements or bargain collectively or individually in any way which conflicts with the terms of this Agreement.

Section 2.2 Definitions.

- a. A regular full-time employee is defined as a person working in one of the classifications represented by Union who throughout a ninety (90) day period is regularly scheduled to work (60) hours or more per payroll period. (.75 - 1.0FTE)

- b. A regular part-time employee is defined as a person working in one of the classifications represented by Union who throughout a ninety (90) day period is regularly scheduled to work more than forty (40) hours per pay period up to (but not including) sixty (60) hours per payroll period. (.51-.74 FTE)
- c. A casual part-time employee is defined as a person working in one of the classifications represented by Union who throughout a ninety (90) day period is regularly scheduled to work forty (40) hours or less per payroll period but more than twenty-four (24) per payroll period. (.31-.50 FTE)
- d. A casual employee is defined as a person working in one of the classifications represented by Union who has established an employment relationship with the Employer but who is assigned to work on an intermittent or unpredictable basis or is regularly scheduled to work twenty-four (24) hours or less per payroll period. (0-.3 FTE)

ARTICLE 3

SENIORITY

Section 3.1 Department and Unit Seniority. Seniority shall be first by department, then based by unit-wide seniority. Every employee covered by the terms of this Agreement shall have seniority within employee's current department based upon the employee's first day of work within that department ("department seniority") and shall also have unit-wide seniority as determined from the date of employee's most recent date of hire as posted on the seniority list ("unit seniority"), unless such seniority is broken for reasons specified herein. Seniority shall apply only to layoffs, rehiring and filling of vacancies in jobs covered by the terms of this Agreement.

Section 3.2 Probation. Employees shall be probationary employees for the first ninety (90) days of employment and during such period may be discharged by the Employer without cause and without the same causing a breach of this contract or constituting a grievance hereunder. If the probationary period is interrupted by a leave of absence, disability or illness of more than five (5) days, a comparable amount of time shall be added to the probationary period. Upon successful completion of the probationary period, seniority shall be computed from the first day of the employee's employment.

It is understood and agreed by and between the parties that an employee covered by this agreement working in probationary status may be discharged at the sole discretion of the employer and shall not have the right to relief, pursuant to the grievance procedure contained herein.

Section 3.3 Loss of Seniority. An employee's seniority for any purpose shall be broken and terminated by:

- a. Voluntarily quitting employment.
- b. Discharge for cause.
- c. Failing within one (1) calendar week to report for work after layoff upon mailing of notice by

registered or certified mail with proof of delivery or notification of employee's failure to accept or pick up registered or certified mail. The Employer shall send such notice to the employee's last known address.

- d. Employment by any other employer during a leave of absence.
- e. Layoff which continues for more than six (6) months.
- f. Failure to apply for re-employment within the statutory limitation after other than dishonorable discharge from military service.
- g. Failure to return on the scheduled date of return from an approved leave of absence, unless at least 48 hours prior to the return date Employer is notified of employee's inability to return to work as scheduled for a legitimate reason acceptable to Employer.

Section 3.4 Seniority List. The Employer will on the 15th day of January, of each calendar year, prepare a seniority list of employees covered by this Agreement and post the same on a bulletin board in the Center. Such seniority list shall specify the unit seniority of each employee. Within fifteen (15) calendar days thereafter, the employees may file with the Employer any objection to such seniority ratings. If objection is made, the Union and Employer shall within twenty (20) calendar days of such posting, mutually determine whether any correction is necessary or appropriate. When so corrected or when no correction is required, such seniority rating shall be permanent and shall not be subject to change except as to new employees whose names are placed on subsequent seniority postings or result from departmental transfers.

Section 3.5 Layoff. In the event the Employer determines it is necessary to reduce the number of employees or hours of work within a given job classification, employees within such job classification shall be laid off or have their hours of work reduced in the inverse order of the length of time employed in such job classification. In such event, displaced senior employees within the department will be permitted to displace junior employees within the department based upon departmental seniority provided the senior employee has the training and ability to perform the work and skill, education and competence to perform the functions of the displaced junior employee. The Employer shall have the sole right to determine the job classification, department and shift in which the layoff is to occur. Any employee so displaced by layoff will be reassigned by the Employer to a position in a job title previously held by such displaced employee, provided such displaced employee based on unit-wide seniority is more senior to the employee currently occupying such position and further provided such employee is still qualified to perform the functions of such position. Recall from layoff shall be on the basis of departmental seniority of employees qualified to do the work available. If no laid-off employee from the department is available and qualified to perform the work, then the Employer shall fill the opening from employees outside the department on the basis of experience, ability, skill, education, competence and unit-wide seniority. When experience, ability, skill, education and competence are relatively equal, unit-wide seniority shall govern.

Section 3.6 Departments. The following departments within the bargaining unit are hereby established:

- a. Skilled Nursing Facility: Department shall include CNA/NAR, TMA, Health Unit Coordinators
- b. Home Care Nursing: Department shall include Resident Assistants
- c. LPNs
- d. Environmental Services: Department shall include Housekeepers, Laundry Aides and Maintenance employees
- e. Adult Day Services: Department shall include Adult Day Care Assistants
- f. Wellness: Department shall include Wellness Coaches and Assistants
- g. Beauty Shop: Department shall include Beauticians
- h. Information Desk: Department shall include Receptionist

Section 3.7 No Seniority. Casual employees, seasonal employees, volunteers and any persons employed on a temporary basis to fill in during vacation periods for regular employees or who are employed for short periods during any scheduled work week, shall not be entitled to the benefit of this Agreement.

Section 3.8 Vacancies. All vacancies within a department and job title shall be posted on the bulletin board in the break room for four (4) week days, excluding holidays. "Vacancies" shall include shifts which are anticipated to be available for a minimum of 6 months. Any employee may apply in writing on an Employer provided form during this four-day period. The Employer shall fill such a vacancy from employees on the basis of experience, (including, but not limited to work history and disciplinary, attendance, and punctuality records) ability, skill, education, competence and seniority. When experience, ability, skill, education and competence are relatively equal, seniority will govern. Vacancies will first be filled by lateral moves from within the department and thereafter from other employees. If no employee applies, or if such applicant is not qualified; then the employer may hire from outside. The Employer, during such four (4) day period, may assign temporarily any employee to such vacancy.

Section 3.9 Transfers. Any employee may temporarily be transferred, not to exceed a period of 6 months, from one position or department to another when vacancies or requirements of work as determined by management requires such transfers; provided, however, that an employee who is so transferred shall receive pay for the hours actually worked in the transferred position at the higher rate of pay for (a) the job to which she/he is transferred, or (b) the job from which she/he is transferred. No employee may be permanently transferred without such employee's consent. If the position continues for 6 months after the transfer, the position will be posted as provided in Section 3.8. The successful applicant's seniority in the department from which such employee transferred shall terminate, and such employee's seniority in the new department shall commence as of the date of transfer. The successful applicant shall, however, for the first thirty (30) days that she/he is employed in the new department be considered a temporary employee on probation in such department and during such thirty (30) day period at such employee's own request, such employee may be transferred to her/his original department or if such employee is not qualified, the Employer may re-transfer such employee to her/his original department, and if so re-transferred to the

employee's original department, such employee shall be restored with full seniority in such employee's former position in the old department.

Section 3.10 Dispute. If any dispute arises because of the interpretation of any provision of this Article, such dispute shall be determined by the provisions of the section on grievance procedure, provided, however, that no retroactive pay shall be awarded any grievant, who may be awarded a position with higher pay, unless the arbitrator shall determine that the Employer's decision was motivated by actual malice.

Section 3.11 Reasonable Accommodation. Notwithstanding the seniority and any other provisions herein, the Employer shall have the right in its discretion to make such reasonable accommodations for an employee as may be advisable or required under applicable rules, regulations or law.

Section 3.12 Creation of New or Different Shift. The parties agree that in the event BLC Duluth creates a new or different regular shift, the effected employees and Union shall be given at least a two (2) week notice of such change, absent an emergency, prior to its implementation. During the notice period prior to the implementation, the Center agrees to meet and discuss with the Union possible implications and alternatives to the new or different shift.

Section 3.13 Recruitment and Retention. For recruitment and retaining employees, the parties agree BLC Duluth may, in its discretion, from time-to-time institute or terminate, as the case may be, incentive programs upon advance notice to Local 3558, provided any incentive program made available to current employees will have application to both full-time and part-time employees within the classifications eligible for the program.

Section 3.14 Across-the-board Hours Reduction/Job Title. The parties have agreed that in the event BLC Duluth proposes to implement an across-the-board hour's reduction in a job title or classification, the effected employees and Union shall be given at least two (2) weeks' notice of such change, absent an emergency, prior to its implementation. During the notice period prior to the implementation, the Center agrees to meet and discuss with the Union possible implications and alternatives to the reduction-in-hours.

Section 3.15 Work Unit, when picking up additional shifts. Any employee who is a .8 FTE or greater and picks up a full shift is able to choose the work unit they want to work on and should not be pulled. Any employee who is a .6 FTE or greater and agrees to work a double shift is able to choose the work unit they want to work. All attempts will be made to keep employees on their scheduled work units.

ARTICLE 4

MANAGEMENT

Section 4.1 Management. The Employer and the Union specifically agree that, except as expressly limited by the specific provisions of this Agreement, the management, direction, control, supervision, method of operation, direction of the work force, and scheduling of the Employer's business, personnel, and plant are exclusively the functions of the Employer. Such management rights and responsibilities shall include, but not be limited to the following: the right to establish a revised work schedule; to determine the size and composition of its working force; to determine the number and type of equipment, material, products, and supplies to be used or operated; to discipline or discharge employees for just cause; to maintain or improve efficiency of employees; to determine assignments of work; to discontinue all or any part of its business operation; to expand, reduce, alter, combine, transfer, assign or cease any job, department or operation; to introduce new, different, or improved methods and procedures in its operation; to determine quality and quantity of work performed; to require observance of rules and regulations established by Employer for the operation of the Center; to determine the number of hours to be worked; to determine the materials, means and type of services provided; to discontinue jobs or positions for valid management or economic reasons, and to otherwise generally manage the establishment, except as expressly restricted by the provisions of this Agreement.

The Employer shall allow a union representative access to new employees following the new employee orientation process. Employer will introduce union steward to the union eligible employees. The union shall supply contacts of union representatives. The Employer will provide schedules of orientation to the contacts. Neither the union stewards nor employees will be compensated by BLC Duluth for this time.

ARTICLE 5

GRIEVANCE PROCEDURE

Section 5.1 Grievance. Any dispute or controversy involving the interpretation or application of any of the terms or provisions of this Agreement shall be submitted for settlement under the grievance procedure as herein provided:

Step 1. Any employee who believes that the Employer has violated any of the terms or conditions of this Agreement in relation to his/her employment shall be considered to have a grievance and such employee shall immediately and promptly present such grievance to the supervisor of his or her department. Such employee and supervisor shall attempt to resolve such grievance. No grievance will be considered by any supervisor or representative of the Employer unless it is brought to the attention of the department supervisor or representative of the Employer within seven (7) days (excluding weekends and holidays) of its alleged occurrence, except as hereinafter provided as to wages.

Step 2. In processing grievances from this step onward, they shall be in writing and the form for the grievance shall be approved both by the Employer and the Union. If an employee and department

supervisor cannot resolve the complaint within such seven (7) day period, the employee shall reduce the grievance to writing on a form to be supplied by the Employer or the Union. The grievance shall be so reduced to writing and submitted within fifteen (15) days (excluding weekends and holidays) after the occurrence of the alleged violation of this contract or grievance to the Human Resources Manager or the Employer's representative duly designated by the Human Resources Manager provided, however, that complaints or grievances as to the amount of money due and payable to any employee for wages, hours worked, vacation allowances and days off may be filed and furnished to the Human Resources Manager or to the Employer's representative duly designated to be in charge thereof within twenty (20) days after the first regular pay day following the occurrence of such alleged violation relating to such wages.

The representatives of the Employer and the Union shall immediately, after submission of such grievance in writing, by mutual negotiations, attempt to arrive at a satisfactory settlement thereof. After such grievance is reduced to and submitted in writing, the employee shall be represented by the business agent of the Union or such other person as may be designated by the Union to represent such employee, not exceeding, however, one (1) in number.

Step 3. If the parties are unable to resolve the grievance in Step 2, they may, by mutual agreement, take this matter to Federal Mediation and Conciliation Service. It shall be non-binding, unless the parties agree in advance to adhere to the decision of the mediator.

Step 4. If such grievance cannot be settled by the mediation in Step 3, the matter may be submitted to arbitration by either party. Such an appeal to arbitration shall be in writing and served on the other party. The party appealing to arbitration shall, within fifteen (15) calendar days after the delivery of written notice of the grievance, request the Federal Mediation and Conciliation Service to submit a list of seven (7) names from which a neutral arbitrator shall be selected. Within five (5) days (excluding weekends and holidays) after receipt of the panel of prospective arbitrators, authorized representatives of the Employer and the Union shall meet and select the neutral arbitrator. The selection of the neutral arbitrator shall be by the process of elimination, with the parties taking turns at striking names from the list of the seven (7) submitted, until one name remains, who shall serve as arbitrator. If the parties are unable to agree as to which party shall take the first turn at striking a name, it shall be decided by the flip of a coin. The decision of the arbitrator shall be made within forty-five (45) days after the conclusion of the hearing upon the grievance before such arbitrator. The decision or award of such arbitrator shall be final and binding upon the parties. The arbitrator shall not have jurisdiction to hear or try any case unless in strict compliance with the time limitations set out herein and such arbitrator shall have authority only to interpret and apply the provisions of this Agreement, but shall not have authority to add to, alter, amend or vary any of the provisions hereof in any way.

Section 5.2 Payment of Arbitration Expenses. The expenses and remuneration of the neutral arbitrator shall be borne by the parties equally; provided however, that each party shall be responsible for compensating its own representatives and witnesses.

Section 5.3 Time Limits/Waiver/Representation. Failure to give any required notice of any grievance within the time provided shall constitute a permanent waiver and bar of the grievance and the employee shall be forever foreclosed from raising any complaint or grievance in regard thereto. If a grievance is not presented within the time limits set forth, it shall be considered "waived". If a grievance is not appealed to the next step within the specified time limit or any agreed extension thereof, it shall be considered settled on the basis of the Employer's last answer. If the Employer does not answer a grievance or an appeal thereof within the specified time limits, the Union may elect to treat the grievance as denied at the step and immediately appeal the grievance to the next step.

The filing or pendency of any grievance shall in no way operate to impede, delay, or interfere with the right of the employer to take the action complained of, subject, however, to the final resolution of the grievance.

Every employee shall have the right to present his/her grievance to the employer free from interference, coercion, restraint, discrimination, or reprisal, and shall have the right to be represented at all stages thereof.

ARTICLE 6

NO STRIKE - NO LOCKOUT

Section 6.1 No Strike. During the term of this Agreement, the Union agrees on behalf of itself and each of its members that there shall be no authorized strike of any kind (economic, unfair labor practices or otherwise), and there shall be no boycott, picketing, work stoppage, slow down, or any other type of organized interference, coercive or otherwise, with the Employer's business. Participation in any strike, slow down, sit down, stoppage of work or other similar activity brought about either by action of the Union or by action of individuals or groups without Union authority shall be just cause for discharge by the Employer.

Section 6.2 Unauthorized Strike. In the event any violation of the previous paragraph occurs, the Union agrees as follows:

- a. The Union shall declare publicly that such action is unauthorized by the Union, if requested to do so by the Employer.
- b. The Union shall promptly order its members to return to work, notwithstanding the existence of a picket line, if requested to do so by the Employer.
- c. The Union shall not question the unqualified right of the Employer to discharge employees engaging in, participating in, or encouraging such action. It is understood that such action on the part of the Employer shall be final and binding upon the Union and its members, and shall in no case be construed as a violation by the Employer of any provision of this Agreement. However, an issue of fact as to whether or not any particular employee has engaged in, participated in or encouraged any such

violation may be subject to the grievance/arbitration procedure.

Section 6.3 No Lockout. There shall be no lockout by the Employer during the term of this Agreement.

ARTICLE 7

BENEFITS OF EMPLOYMENT AND OTHER WORKING CONDITIONS

Section 7.1 Paid Time Off Policy. The community provides paid time off (PTO) to compensate associates while they are away from work. PTO combines hours for vacation, sick, family emergencies, health and dental care, personal business, inclement weather, and other elective absences into one "bank."

Regularly scheduled full-time and part-time associates are eligible for PTO, and it is accrued immediately upon employment. PTO is then available for usage after successful completion of ninety (90) days of employment. PTO will accrue on all hours paid, up to eighty (80) hours per pay period. There shall be no accrual above the maximum allowable PTO balance. PTO will not accrue during unpaid leaves of absence.

PTO is accrued as illustrated in the table below:

<u>Length of Service</u>	<u>Accrual Rate</u>	<u>Annual Hours/ Max# of Days*</u>
0 - 1 year (0 - 23 months)	0.0539	112 hours/ 14 days
2 -4 years (24- 59 months)	0.0731	152 hours/ 19 days
5 - 11 years (60 - 143 months)	0.0924	192 hours/ 24 days
12 or more years (144+ months)	0.1154	240 hours/ 30 days

*Based on a full-time schedule of 80 hours per pay period or 2080 hours per year.

Carryover of PTO is permitted from one anniversary year to the next up to the balance maximum as specified in the above table. Upon accruing PTO to the maximum number of hours/days, future accruals will stop until the associate uses PTO and their PTO balances falls below the balance maximum.

In order to be paid for PTO, associates must request PTO as early as possible or before the deadline established by the department. In the event of illness or emergencies, the associate shall provide as much advanced notice as possible. Use of PTO hours must be approved in advance, except in the case of illness, injury, unforeseen need, or emergency. PTO will be used concurrently with state and federal unpaid FMLA.

Unless approved by management, no unpaid time off is authorized if PTO hours are available. For instance, in lieu of claiming PTO under normal conditions, associates cannot take unpaid time off from work; PTO hours must be used. PTO hours cannot be cashed in, unless it is under the PTO Cash Out provision. Any available hours are to be used to make up for missed scheduled shifts, and it cannot be pyramided with unpaid leaves to exceed the associate's normally scheduled hours.

Associates will be compensated for the number of PTO hours approved at their wage in effect at the time of

their absence from work. PTO hours on a holiday may not exceed the associate's actual hours worked or normally scheduled hours, whichever is applicable. PTO may be taken in increments of one-quarter (1/4) hour. For purposes of calculating overtime, PTO is considered time not worked. Therefore, it will not be included towards overtime calculations at the end of the pay period.

When associates move from a PTO-eligible status into an ineligible status, any remaining available balance will be paid out only after successful completion of scheduled shifts prior to the status change. When associates move from a PTO-ineligible status into an eligible status effective as of 7/1/2016 or later, accruals will be calculated based on the period(s) in which the associate was PTO-eligible. Calculating the accrual rate will credit prior Benedictine Health System employment history as long as the prior history with the organization is longer than the period they were termed from the organization. (I.e., associate worked for BHS 4 years and then left for 3 years. This individual would be eligible for prior work history credit.)

If the change to an ineligible status coincides with a change in pay, PTO payout will be compensated at the associate's wage in effect immediately prior to the status change.

For re-hires effective 7/1/2016 or later, length of service and accruals will be calculated based on prior Benedictine Health System employment history.

Upon employment separation, unused PTO may be paid out to the associate. PTO will not be granted to extend an associate's employment beyond his/her last day worked within Benedictine Health System.

Section 7.2 PTO Cash Out. The community offers a voluntary cash out option of earned PTO. To be eligible for a cash out, associates must have successfully completed 6 months of continuous service based on their most recent hire date.

Associates may request, once a quarter, up to forty (40) hours per quarter, for a total not to exceed eighty (80) hours during a calendar year. Associates must maintain a minimum of eighty (80) hours in their PTO account at the time of the cash out.

PTO cash out will be processed the first payroll of each calendar quarter and paid as a regular paycheck; no separate checks are allowed. All approved payouts are subject to applicable taxes and will be compensated at the associate's current base rate. To request PTO cash out, the associate must submit the PTO Cash Out Request Form.

Section 7.3 Holidays. For regular full-time employees the following seven (7) days shall be considered holidays, namely: New Year's Day, Easter Sunday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. For regular part-time employees the following four (4) days shall be considered holidays, namely: Easter Sunday, Independence Day, Thanksgiving Day and Christmas Day.

- a. Such holidays will be observed on the days designated by the Minnesota Statutes and employees will be paid for such holidays in accordance with the following paragraph for the days so specified by the Minnesota Statutes, except that Christmas shall be December 25 regardless of the day of

the week. The Christmas holiday will be extended effective December 24, 2007. This shift as it is scheduled now will be 2:00 p.m. to 10:00 p.m. or 3:00 p.m. to 11:00 p.m. depending if you work at Westwood or at BLC Duluth. New Year's Day shall be January 1 regardless of the day of the week, and Independence Day shall be July 4 regardless of the day of the week. Block scheduling shall be utilized in preparing work schedules for the above mentioned (seven) 7 holidays.

- b. Employer will pay a regular full-time employee (not scheduled to work and not working on the holiday or personal holiday) who has been continuously employed full-time for three (3) full months her or his regular straight-time rate of pay for the number of hours for which such employee is normally scheduled, not to exceed, however, eight (8) hours, or, in Employer's sole discretion if staffing and resident needs permit, schedule such employee off on another day at regular straight-time pay. Such payment shall constitute her/his ordinary holiday pay.
- c. Employer will pay a regular part-time employee (not scheduled to work and not working on the holiday) who has been continuously employed as a regular part-time employee for three (3) full months his or her regular straight-time rate of pay for the normal number of hours for which such employee is normally scheduled, not to exceed, however, eight (8) hours, but only in regard to the following holidays: Easter Sunday, Independence Day, Thanksgiving Day and Christmas Day.
- d. If any employee is scheduled for a normal week and is required to work on one of the seven (7) holidays identified above, Employer shall pay such employee time and one-half the employee's regular rate of pay for the hours which such employee actually works on such holiday.
- e. If a regular full-time employee is scheduled for a normal work week and is required to work on one of the designated seven (7) holidays, such employee will be given one (1) day off within a four (4) week period before or after the holiday and the pay for such compensatory day in lieu of a holiday shall be at the employee's regular straight-time rate of pay for the normal number of hours for which such employee was scheduled and worked on such holiday. While Employer shall endeavor in good faith to honor the employee's request as to the date of the substitute holiday, scheduling of the substitute holiday must conform to the needs of the Employer. An employee, who is scheduled to work on a holiday, but fails to do so, is not eligible for a compensatory day in lieu of the holiday. In the event an employee fails to work a scheduled holiday after having received a compensatory day in lieu of such holiday, the employee's vacation time and pay shall be reduced by a comparable amount to account for the inappropriately taken compensatory day.
- f. If a regular part-time employee is scheduled for a normal work week and is required to work on one of the designated four (4) holidays (i.e. Easter Sunday, Independence Day, Thanksgiving Day and Christmas Day), such employee will be given one (1) day off within a six (6) week period before or after the holiday and the pay for such compensatory day in lieu of a holiday shall be at the employee's regular straight-time rate of pay for the normal number of hours for which such employee was scheduled and worked on such holiday. While Employer shall endeavor in good faith to honor the employee's request as to the date of the substitute holiday, scheduling of the substitute holiday must conform to the needs of the Employer. An employee, who is scheduled to

work on a holiday, but fails to do so, is not eligible for a compensatory day in lieu of the holiday. In the event an employee fails to work a scheduled holiday after having received a compensatory day in lieu of such holiday, the employee's vacation time and pay shall be reduced by a comparable amount to account for the inappropriately taken compensatory day.

- g. If a holiday occurs during a regular full-time employees or regular part-time employee's vacation, such employee shall receive holiday pay and one (1) day will be added to such employee's vacation. If the holiday occurs when an otherwise eligible employee is on a leave of absence or off work due to injury, such employee shall not be entitled to any holiday pay.
- h. For purposes of this Section 7.3, a holiday shall commence with the start of the night shift (10:00 p.m.) the day preceding the actual holiday and terminate at the conclusion of the evening shift on the actual day of the holiday (e.g., the night shift starting at 10:00 p.m. on the third of July would be considered part of the Independence Day holiday, but the night shift commencing at 10:00 p.m. on the fourth of July would not).

Section 7.4 Health Insurance. Eligible employees may participate in the Employer's health insurance plan(s) then in effect, subject to waiting periods and the rules and requirements of the plan(s). Eligibility will be in accordance with terms of the plan(s). The Employer will make a premium contribution for eligible employees; the remainder shall be paid by the employee by means of payroll deduction. The amount of the Employer's contribution shall be the same as the contribution made for other eligible Benedictine Health Center employees. The Employer shall have the right to change the insurance carrier, plan(s), and premium contributions provided the changes apply to all of the Benedictine Health Center employees.

If, during the term of this Agreement, a health insurance plan is mandated by law applicable to Employer, the parties agree that this Agreement shall be automatically amended to provide all employees only with the nature and extent of insurance coverage mandated by such law. In the event a governmental authority makes available funds or other incentives earmarked exclusively for providing or improving health insurance benefits for health care workers, the parties agree to meet and confer to explore the implications and possible mutual advantages that may attain from participating in such governmental program.

Section 7.5 Bereavement Leave. Bereavement leave will be made available. Please consult the Employee Handbook for the policy.

Section 7.6 Other Leaves of Absence. Requests for leaves of absence without pay will be considered on a case-by-case basis. A request for a leave of absence must be submitted on the Employer's "Request for Leave of Absence" form. All requests for leaves of absence shall be subject to Employer's policies and to approval by the Administrator. To the extent required by and in accordance with applicable law, a leave of absence without pay shall be granted to an employee for the following reasons:

- a. **Medical Leave.** In case of a serious health condition of the employee or the employee's parent, spouse or child certified by a health provider as medically necessary.

- b. **Parenting Leave.** The birth of an employee's child or placement of an adopted or foster child or legal ward in the employee's home.
- c. **Military Leave.** Active duty in the regular or reserve military service.

Section 7.7 Life Insurance. Eligible employees shall be covered in the group life insurance plan of the Employer then in effect subject to the definitions, exclusions, rules and requirements of the plan. Eligibility will be in accordance with terms of the plan. The Employer shall provide at its cost a group term life insurance policy in the face amount equal to 1 x annual salary rounded to the next higher \$1,000, to a maximum of \$50,000. The Employer shall have the right to change the insurance carrier and plan provided the changes apply to all of the Benedictine Health Center employees.

Section 7.8 Rest/Meal Breaks. Rest periods are taken at times approved by the immediate supervisor. The "break" is intended to provide associates with an opportunity to relax and rejuvenate. Rest periods are neither cumulative nor are they to be substituted for early departure, late arrival, or extended meal times. If the "break" is not taken for any reason, the time is automatically fortified. Associates may take a 15-minute paid break for every four (4) hours worked. A 30-minute unpaid uninterrupted break is given to each associate who is working for six (6) or more consecutive hours. Associates who frequently skip their 30-minute break may be subject to corrective action, up to and including termination of employment.

Section 7.9 Pension. Employer will continue to provide a pension plan for eligible employees and to make contributions thereto, subject to the eligibility and other plan requirements. Upon notice to the Union and after consultation with the Union, Employer reserves the right to alter, amend, terminate or change the pension plan and administrator, provided, however, that during the term of this Agreement Employer shall contribute annually to a pension plan an amount equal to three and one-half percent (3.5%) of an eligible employee's gross pay. Eligible employees hired before July 1, 2016, may elect to remain with the 3.5% plan or they may elect to move to the BHS matching 401(k) plan beginning with the plan year starting July 1, 2016. Employees hired on or after July 1, 2016, will only be eligible for the BHS matching 401(K) plans.

Section 7.10 Short and Long-Term Disability Insurance. Short Term Disability (STD) coverage provides you with salary protection, should you become unable to work because of an accident or sickness and your claim is medically approved. The STD benefit is provided to full-time associates and is company paid; with no cost to you. STD is intended to cover a medically approved absence from work for up to 13 weeks. With this coverage STD benefits would begin after 10 calendar days when you are disabled due to an accident or sickness. The monthly benefit is 60% of weekly earnings for up to 13 weeks (which includes the 10-day waiting period). PTO must be used for the first 10 day waiting period. STD and Long-Term Disability (LTD) will be offered to union associates, according to benefit eligibility guidelines.

Section 7.11 Dental Insurance. Eligible employees may participate in the group dental insurance plan of the employer then effect, subject to the definitions, exclusions, deductibles and other terms of the group dental insurance plan. Eligibility will be in accordance with terms of the plan. The Employer shall have the right to change the insurance carrier and plan provided the changes apply to all of the BLC Duluth employees. Employees who receive single dental coverage through the Employer's benefits plan will pay the monthly single employee share. The Employer shall endeavor to make available family coverage for eligible full-time employees. The

employee share of the single/family coverage is to be paid by the employee by means of payroll deduction. Eligible part-time employees may purchase coverage at full cost through payroll deduction. More benefit information can be provided by if requested from Human Resources.

Section 7.12 Uniforms. In the event Employer requires an employee to wear a formal uniform as determined by the Employer, the Employer will provide a uniform allowance to employees once they have been employed at least 90 days; twice a year, on April 1st and October 1st of each calendar year. The allowance expires after 60 days. Half (1/2) the allowance may be used for shoes which meet the dress code policy. Uniform Allowances are as follows:

1. A regular full-time employee shall be provided a \$100 uniform allowance on April 1st and October 1st per calendar year.
2. A regular part-time and casual part-time employee shall be provided a \$50 uniform allowance on April 1st and \$100 allowance on October 1st.

Proper maintenance and laundry of uniforms shall be the responsibility of each employee. No uniform allowance will be made to an employee whose job does not require a formal uniform even though Employer may require such employee to wear a certain color, style or type of ordinary attire (suitable for wearing off the job) while on the job.

Section 7.13 Jury Duty Leave. Jury Duty leave will be made available according to the Benedictine Jury Duty Leave Policy. Please consult the Employee Handbook for the policy.

ARTICLE 8

HOURS, WAGES AND CLASSIFICATIONS

Section 8.1 Hours/Overtime. Eight (8) hours in any one day and eighty (80) hours in any one pay period shall constitute the normal work day and the normal two (2) week work period respectively. Any hours worked in excess of eight (8) per day or eighty (80) per pay period shall be considered overtime hours and compensated for at overtime pay (1½ times the regular rate of pay for the job). Overtime pay is calculated on actual hours worked and does not include time off on sick leave, vacation leave, paid holidays not worked, or any other leave of absence. Nothing contained herein is intended to nor shall it be construed as a guarantee of any minimum number of hours of work.

Section 8.2 Wages.

- a. The Starting Wages are specified in Appendix A.
- b. Longevity bonuses will be paid to associates of .4 FTE and above at each tenure milestone of continuous employment starting at 10 years. These bonuses will be paid on the pay period of the anniversary date. Bonuses of \$500.00 will be paid at 10 years of employment, \$750.00 will be paid at 15 and 20 years of employment. \$1,000 will be paid at 25, 30, 35, and 40 years of continuous

employment.

- c. A market adjustment will be applied to current wages for CNA's, RA's, and LPN's. Wages for associates in these classifications will be increased by \$.75 per hour. Associates in all other classifications will receive a market adjustment. \$.40 will be applied to current wages for those positions.
- d. A COLA adjustment of 2.75% will be applied in year one of the contract, payable starting the first full pay period of January 2021. A COLA adjustment of 2.50% will be applied in year two of the contract, payable starting the first full pay period of January 2022.

Section 8.3 Pyramiding. Overtime payments shall not be duplicated for the same hours worked under any provisions of this Contract and to the extent that hours are compensated for at overtime rates under one provision, they shall not be counted as hours worked in determining overtime for the same or any other provision. The same shall apply to all premium pay (except shift differential pursuant to Section 8.5) so that premium pay shall not be pyramided or duplicated for the same hours worked.

Section 8.4 Call-In. An employee called into work on an unscheduled basis after completing her/his regular shift and having returned home shall be provided a minimum of two (2) hours work at the appropriate rate of pay.

Section 8.5 Shift Differential. After ninety (90) days of continuous employment, an employee who is thereafter assigned to work a full shift which shifts commences at or after 2:00 p.m. but before 10:00 p.m. shall receive a shift premium of twenty cents (20¢) per hour worked on such shift. Any employee who has been continuously employed for ninety (90) days and thereafter is assigned to work a full shift which shift commences at or after 10:00 p.m. and terminates by 6:30 a.m. shall receive a shift premium of thirty cents (30¢) per hour worked on such shift.

Section 8.6 Unscheduled-Weekend Incentive Pay. An L.P.N. or nursing assistant who at the request of the Employer works on a weekend (10:00 p.m. Friday to 10:30 p.m. on Sunday) for which such employee was not scheduled to work shall be paid at one and one-half (1½) times her/his regular straight time hourly rate of pay for all hours worked on such shift. This unscheduled weekend incentive pay shall only apply to L.P.N.'s and nursing assistants who have or will have worked or have otherwise obtained a replacement who works their regularly scheduled weekend shifts during the pay period in which the unscheduled weekend shift is worked. This premium pay will not apply if the working of the extra weekend shift is at the request of the employee.

An Employee, other than an L.P.N. or Nursing Assistant, shall be paid at one and one-half (1½) times her/his regular straight time hourly rate of pay for all hours worked at the request of the Employer on a weekend for which she/he was not scheduled, provided such employee is scheduled to work two weekends in the month and has worked or will have worked or has otherwise obtained a replacement to work her/his regularly scheduled weekend shifts during the month in which the unscheduled extra weekend shift is

worked.

This unscheduled weekend incentive pay shall not apply:

- a. to hours worked on a third weekend in a month as a result of normal shift rotation;
- b. if the working of the extra weekend shift is at the request of the employee; or
- c. to an employee who accepts a position which requires working more than two weekends per month.

Except in the situations described in (a), (b) and (c) of the immediately preceding sentence, an employee shall not ordinarily be scheduled on a regular basis to work more than two (2) weekends in the same month. Unless the Employer agrees otherwise, the premium for working an extra unscheduled weekend shift shall be paid to the employee in the pay period that includes the last weekend of the month in which the extra weekend shift was worked.

Employees who are .8 FTE and above who are normally scheduled Monday through Friday and not scheduled for weekends who agree to pick up a weekend shift will receive the unscheduled weekend incentive pay.

Section 8.7 Trainer Differential. An employee shall receive a trainer premium of fifty cents (50¢) per hour for those hours actually spent training a new hire assigned to her/him during the orientation process. The employer may also designate certain employees in various job classifications to be official trainers. An official trainer (also referred to as Preceptors) will receive an additional premium of 50¢ per hour (i.e., total of \$1.00/hour) for each hour actually spent training an employee assigned to her/him for training.

Section 8.8 Outing Differential. Employees of the Adult Day Services/Activities Department who are required to accompany residents on off-premises activities shall receive a premium of \$.50 per hour for each hour actually worked off-premises on the outing.

Section 8.9 Multiple Work Assignments. An employee regularly assigned to work in more than one wage classification shall receive the designated rate of pay for each classification for the hours actually worked in that classification based upon the length-of-service increment step applicable to the classification in which the employee works most of the time.

Section 8.10 Trained Medication Assistant ("TMA") Differential. Effective January 1, 2004, a T.M.A. assigned to and who works on the floor as a Trained Medication Assistant shall receive a premium of \$1.10 per hour for all hours worked as a Trained Medication Assistant. Effective January 1, 2004, a T.M.A. assigned to and who works in Adult Day Services/Activities Department as a Trained Medication Assistant shall receive a premium of \$0.60 per hour for all hours worked as a Trained Medication Assistant.

Section 8.11 L.P.N. Charge Differential. An L.P.N. who is requested to work charge shall receive a premium of \$2.00 per hour for all hours worked in the assigned charge capacity. This would occur when an RN is not present.

Section 8.12 Lead Worker Differential. An employee designated by the Employer as lead will receive a minimum premium of \$.50 per hour for hours worked as a lead.

Section 8.13 Restorative Aide. The parties agree that the restorative assistant employed as of (date of ratification) will continue to receive the restorative aide premium of \$.50 per hour for hours worked as a restorative aide.

Section 8.14 Mandatory Overtime. The topic of mandatory overtime was discussed at length during our most recent and previous contract negotiations, but the parties were unable to agree upon specific contract language in regard to this issue. Rather than prolong the negotiation process further by continuing such discussion, the parties agreed to drop their respective proposals in this area with the specific understanding that by doing so, neither parties' position would be prejudiced in the event of a future dispute concerning mandatory overtime. In other words, we agreed that the resolution of this issue in this fashion is to have no precedential or evidentiary value. However, the parties did agree that in the event the Center is unable to meet State or Federal mandated staffing levels, an emergency would exist allowing for mandatory overtime.

Section 8.15 Over Requirement Staffing Days. To provide adequate staffing to meet resident needs. Whenever the number of employees scheduled is greater than necessary to meet resident care demands, surplus staff will be sent home.

Procedure:

1. The supervisor will assess staffing patterns; census and acuity level of residents to determine by job title, floor and shift needs for staffing. In the event of surplus staff, the Supervisor will first temporarily reassign employees who are qualified to work on another floor or area in the Center where the Supervisor determines there is a need for additional staff. Thereafter, the Supervisor will ask for volunteers to take the day off.
2. Volunteers to take the day off will be offered first to employees in an overtime status. If more than one employee on an overtime status volunteers to take the day off, it will be done on a rotating basis within that group. If no employees on an overtime status volunteer to take the day off, it will be done on a rotation system, with the understanding that full time or regular part time may use PTO. Casual part-time may take a day without pay.
3. If no one on the shift, floor and in the job title where surplus staffing exists volunteers to take the day off, such surplus staff will be sent home in the following order:
 - a. Casuals
 - b. Surplus staff receiving time and a half pay for the shift
 - c. Surplus staff in reverse order of seniority on a rotating basis

Section 8.16 Attendance Policy. The parties agree that after notice to and consultation with the Union, the Employer shall have the right to alter, amend, discontinue or change the Attendance Policy.

Section 8.17 COVID-19 Testing. Employees will be paid for fifteen (15) minutes to participate in COVID-19 testing if they are required to be tested on a day off.

ARTICLE 9

UNION SECURITY

Section 9.1 Union Membership. All employees covered by this Agreement who are or hereafter become members of the Union shall pay to the Union regular semi-monthly Union membership dues and any initiation fee uniformly assessed. No employee is required to be, become or remain a member of the Union as a condition of employment. Each employee has the right to freely join or decline to join the Union, and each Union member shall have the right to freely retain or discontinue his or her membership. No employee shall be discriminated against on account of her or his membership or non-membership in the Union. Any employee of the bargaining unit who is not a member of the Union shall pay to the Union a reduced maintenance of service fee equivalent to his or her proportionate share of Union expenditures that are necessary to support solely representational activities in dealing with the Employer on labor-management issues. This provision requiring the payment of dues or maintenance of service fee shall be effective upon successful completion of the probationary period.

Section 9.2 Continuation of Union Security. The provisions of this Article IX shall be in full force and effect during the entire term of this Agreement.

Section 9.3 Dues Withholding. Upon receipt by the Employer of a voluntary written assignment by an employee (in a form to be agreed upon in writing by the Employer and the Union), the Employer will deduct from the first pay of such employee each month thereafter during the existence of such assignment her/his periodic Union dues or maintenance of service fee, as the case may be, for the ensuing month and likewise an initiation fee, if any is owed by her/him; the Employer will promptly remit any and all amounts so deducted to the Union. The Union will periodically keep the Employer advised in writing of the respective amounts of the maintenance of service fees, dues and initiation fees which shall be so deducted.

Section 9.4 Indemnification. The Union agrees to defend, indemnify and hold Employer harmless against any and all claims, suits, orders or judgments brought or issued against the Employer as a result of any action taken at the written request of the Union pursuant to this Article.

Section 9.5 New Employee List. Within two weeks after the execution of this Agreement, the Employer shall provide the Union with the name and address of any employee hired subsequent to the date of the last list of new employees provided the Union. Thereafter, the Employer shall inform the Union on a monthly basis of the names and addresses of new employees.

Section 9.6 Time-Off/Union Conferences and Conventions. With advance notice in compliance with the Employer's scheduling/request procedure, a maximum of two (2) employees at the same time will be allowed unpaid time off to attend Union conferences and conventions provided each such employee obtains a replacement to work for her or him. No more than a cumulative total of seven (7) days off in a rolling 12-month period will be allowed pursuant to this Section 10.6. Employees may continue to use vacation days for attendance at Union conferences and conventions with proper notice to the Employer, in which event such vacation days shall not be counted toward the cumulative maximum seven (7) days off as provided above.

"Day on the Hill", Subject to employer approval, which shall not be unreasonably denied, the employer shall allow up to sixteen (16) *unpaid* hours per year time off for union member (s) to participate in an event to promote funding for nursing homes. The member (s) shall be selected by the Unions' Staff Representative assigned to the facility and the *employee shall request the time off as per his or her department policy.*

ARTICLE 10

MISCELLANEOUS

Section 10.1 Separability and Savings Clause. If any Article or Section of this Agreement or of any rider thereto shall be held invalid by operation of law or by any tribunal of competent jurisdiction or if compliance with or enforcement of any Article or Section should be restrained by such tribunal pending a final determination as to its validity, the remainder of this Contract and of any rider hereto, or the application of such Article or Section to persons or circumstances other than those as to which it has been held invalid or as to which compliance with or enforcement of has been restrained, shall not be affected thereby. If any Article or Section of this Agreement is held to be invalid by a tribunal of competent jurisdiction, the parties agree to meet and confer concerning the impact of such determination and to explore available alternatives.

Section 10.2 Complete Agreement. The parties agree that they have bargained wholly with respect to all proper subjects of collective bargaining and have settled all such matters as set forth in this Agreement. The Union agrees that the Employer shall not be obligated to bargain collectively with the Union during the term of this Agreement on any matter pertaining to rates of pay, wages, hours of employment, or other condition of employment and the Union hereby specifically waives any right which it might otherwise have to request or demand such bargaining. This Agreement, and any supplement attached hereto, embodies the complete and final understanding reached by the parties as to the wages, hours, and all other terms and conditions of employment. Notwithstanding the other provisions of this Section 11.2, in the event the Employer during the term of this Agreement creates a new position and job title within the bargaining unit, the Employer agrees to enter into negotiations with the Union solely for the purpose of establishing a wage rate for such new position and job title. Nothing contained herein shall prohibit the Employer and the Union during the term of this Agreement from discussing any matter by mutual agreement, provided however, any such discussions shall in no way obligate the Employer to negotiate such matter, or any other, and shall not restrict or prevent the Employer from proceeding as it deems appropriate.

Section 10.3 Non-discrimination. Both parties to this Agreement agree not to discriminate against any

employee because of race, color, creed, religion, national origin, sex, disability, age, marital status, sexual orientation, status with regard to public assistance, activities in a local commission dealing with discrimination issues, disabled veterans, veterans of the Vietnam era, or any other protected category as defined by statute.

Section 10.4 DHS Plan Approval. If at any time during the term of this Agreement the Center's Distribution Plans for Compensation Related and Equal Per Hour Pay Increase Adjustment Per Diems, or such other legislative schemes or procedures as may replace or modify such plans, is rejected, disapproved or discontinued by the Department of Human Services, the Center at its option may, upon advance written notice to the Union, reopen this contract as to wage and fringe benefits only, and the parties in that event agree to enter into good faith negotiations to establish a new agreement in regard to wage and fringe benefits. In the event the parties are unable to reach a new agreement within 60 days thereafter, the Center may immediately implement its final offer as to wage and fringe benefits.

Section 10.5 Bulletin Board. The Employer agrees to allow the Union to place a separate bulletin board in the same room in which the employee time clock is located on the second and third floors and Westwood, the exact placement of the bulletin boards to be as reasonably determined by the employer. The Union may continue to use the separate bulletin board currently located in the employees' locker rooms on the first floor. The dimensions of each bulletin board shall be subject to the reasonable approval of the Employer. The bulletin boards may be used only for the purpose of posting appropriate official Union meeting and event notices and a list of Union stewards.

Section 10.6 Labor Management Committee. A committee consisting of representatives of management and representatives of the employees covered by this Agreement shall be formed and convened on a regular basis to consider any issues of mutual interest. The Conference Committee shall have no power to modify the terms of this Agreement nor to adjust grievances.

ARTICLE 11

DURATION

Section 11.1 Except as otherwise specifically provided, this Agreement shall go into full force and effect from and after the 1st day of January, 2021 and shall continue in full force and effect until December 31, 2022 and thereafter from year to year unless either party hereto shall at least ninety (90) days prior to the termination of the contract, notify the other party in writing of its intention to reopen or terminate this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused their names to be subscribed by their duly authorized representatives the day and year first above written.

**BENEDICTINE LIVING
COMMUNITY OF DULUTH**

By: Barb Wessberg
Barb Wessberg
Executive Director

By: Karla J Mornson
Karla J Mornson
Labor and Employee Relations
Manager

**AMERICAN FEDERATION OF STATE,
COUNTY AND MUNICIPAL EMPLOYEES,
COUNCIL 5**

By: [Signature]
Director, Council 5

By: Murielle Sunde
President, Local 3558

By: [Signature]
Field Rep

LETTERS OF UNDERSTANDING

1. Policy on Picking-Up and Assigning of Extra Shifts (2-273) - The parties agreed to a new policy (2-273).

Appendix A

The step-progression grid (wage scale/Appendix A) will be deleted and no longer used. It will be replaced with the following starting wages:

Job Classification January 1, 2021 Starting Wage

Receptionist	\$12.50
Housekeeping/Laundry	\$13.00
Beautician	\$14.00
Maintenance Tech	\$16.00
Wellness Asst/Coach	\$13.00
ADS Assistant	\$13.00
HUC	\$15.50
LPN	\$22.00
Resident Assistant	\$14.00
CNA/NAR	\$15.60