IN THE MATTER OF AN ARBITRATION

BETWEEN

SCARBOROUGH HEALTH NETWORK
(“the Hospital” / “the Employer”)

- AND -

ONTARIO PUBLIC SERVICE EMPLOYEES UNION
(“the Union”)

CONCERNING AN INTEREST ARBITRATION UNDER THE HOSPITAL
LABOUR DISPUTES ARBITRATION ACT, RSO 1990, c H-14 (HLDA)

BOARD OF ARBITRATION
Christopher Albertyn – Sole Arbitrator

APPEARANCES

For the Union:
Michèle Dawson Haber, Senior Research Officer
Steve Nield, BPS Negotiations and Research Supervisor
Kingsley Kwok, President, Local 575
Wendy Alcorn, Vice-President, Local 575
Katerina Argyris, Steward, Local 575
Claire Osborne, Steward, Local 575
Wendy Lee, Steward, Local 575
Richard Masihlall, Steward, Local 575

For the Hospital:
Bob Bass, Bass Associates Professional Corporation
Mary-Claire Bass, Bass Associates Professional Corporation
Dennis Fong, Director, Human Resources and Organizational Development
Shirley Ward, Manager, Labour Relations
Petra Sheldrake, Director, Laboratory Services
Shelly Dorazio, Director, Pharmacy Services
Natalie Warrick, Manager, Allied Health
Martin Goldstein, Manager, Diagnostic Imaging
Susan Bull, Manager, Nutrition and Food Services
Barbara Rybski, Business Partner, Labour Relations
J.P. Ah-Nim, Business Partner, Labour Relations

Hearing held in TORONTO on October 16 and 17, 2019.
Award issued on October 23, 2019
AWARD

1. This is an interest arbitration under the *Hospital Labour Disputes Arbitration Act*, RSO 1990, c H-14 (“HLDAA” or “the Act”).

2. The Employer is a hospital in the City of Toronto.

3. This award arises from the merger of what were formerly the Birchmount and General sites of The Scarborough Hospital with the Centenary site of the Rouge Valley Health System. The merger of these hospital sites had the effect of combining, within the same paramedical bargaining unit, 252 formerly non-union employees, 44 former CUPE-represented employees, 366 employees represented by OPSEU Local 311 from the Centenary site, and 226 employees from the former Scarborough General Hospital, represented by OPSEU Local 575.

4. Pursuant to an application under the *Public Service Labour Relations Transition Act, 1997* (“PSLRTA”), the Union emerged as the bargaining agent for all of the paramedical employees of the newly structured Hospital.

5. The Union therefore now represents a bargaining unit of approximately 900 employees.

6. This award provides the first collective agreement for the parties, reconstituted as described.

7. In coming to the conclusions reached in this award, it has been necessary to take account of the distinct and, in instances, very different terms and conditions of employment that applied to the employees who are now to be treated alike within the same bargaining unit.
8. In most respects, particularly as regards wages, the formerly non-union employees were significantly better paid than the unionized employees. Their current wages are notably above and inconsistent with the provincial norms for their classifications. The former CUPE employees were covered by the Central CUPE and Participating Hospitals agreement. The Centenary site employees were in a bargaining unit that participated in OPSEU’s Central bargaining table and their rates and terms of employment are therefore wholly consistent with those in the provincial agreement. Those from the former Scarborough Hospital sites did not participate in the Central process and determined their terms and conditions of employment in local bargaining, though that bargaining typically followed the provincial norm. However, they were on the brink of negotiating a fresh collective agreement when the steps to merge the sites began. This meant that they have received no adjustment to their rates of pay since 2015. They have therefore been without any increase or improvement for over four years.

9. This award seeks, as much as can be done, to reconcile these very different circumstances and conditions that apply to the different groups of employees in the new bargaining unit in order to provide a common standard that will apply from now on.

**Term of the agreement**

10. The agreed term of the collective agreement is from May 9, 2018, when notice to bargain was given, to March 31, 2022. The parties have agreed to this term in order to make their collective agreement’s duration the same as that of the OPSEU – Participating Hospitals provincial, Central agreement.
Agreed upon items

11. The renewal agreement will consist of the items agreed by the parties themselves, which they have signed off on, which are incorporated into this award, and the items described below on which the parties made submissions to me.

General considerations

12. I have carefully reviewed and considered all of the submissions, and I have taken account of all of the relevant statutory and jurisprudential factors recommended to us by the parties, particularly, comparability, replication, total compensation and demonstrated need.

13. All Union and Employer proposals not specifically addressed below are dismissed. The wage increases awarded are, where applicable, retroactive to the dates specified. Unless a specific date is set for an item awarded, it will be effective from the date of the award.

14. There are three significant general issues in dispute between the parties, besides the specific disputes described below. The first concerns what is to be done regarding the formerly non-union group of employees who are paid well above the industry norm, and who have superior benefits. The second issue concerns the possible application of Bill 124, the *Protecting a Sustainable Public Sector for Future Generations Act, 2019*. Bill 124, introduced on June 5, 2019, which has not been legislated. The third issue concerns the extent of mobility that will apply to employees as between the different Hospital sites.
15. Typically, upon a hospital merger, the harmonization of like classifications goes to the higher rate: *The Niagara Health System and Service Employees International Union, Local 204, July 5, 2002* (Kaplan) at p. 2-4, *Participating Hospitals and Canadian Union of Public Employees*, March 4, 2011 (Petryshen), *Trillium Health Partners and CUPE*, December 9, 2015 (Kaplan); *Scarborough Health Network v Canadian Union of Public Employees, Local 5852*, 2019 CanLII 58078 (ON LA) (Gedalof).

16. The Union argues strenuously that I should follow that model in this case and set the formerly non-union employees’ wage rates as the rates applicable to all employees. The difficulty with this approach is that the former non-union rates are out of alignment with other unionized rates in the province. Wages for the paramedical classifications typically represented by OPSEU are bargained Centrally at a provincial table and are therefore consistent across the province. The provincial norm sets the standard for wages across the province for those hospitals that are not part of Central bargaining.

17. If the former non-union employees’ wage rates were to set the standard for the Hospital, the result would be to put the Hospital’s wages out of line with every other hospital in the province. That would run counter to the model for central bargaining, where terms and conditions are consistent across all the hospitals. So, while it may be appropriate to bring the wage rate to the higher in the event of a merger where there is no strong outside comparator like a provincial standard, that is not the case here. The correct standard for each classification that falls within the Union’s Central, provincial agreement is the provincial wage rate for that classification. That is the standard that must apply to the same classifications in the new Hospital paramedical bargaining unit.

18. It was also noted by the Hospital that non-union compensation has been
structured in part on the concept that not-for-cause termination is normative for non-union employment, unlike unionized staff which enjoy protection against such termination under their collective agreement.

19. Given this conclusion, what is to be done with the former non-union employees and classifications from bargaining units whose wages are above those of the provincial standard? As the Union submits, the affected employees should not suffer any disadvantage as a result of the amalgamation. They should not be worse off and should be able to retain their superior conditions for the duration of this collective agreement. I agree and therefore award that these employees are to retain their superior wage rates. Their wages will be red-circled on the grid until such time as the awarded wage grid matches and passes their own.

20. There is a second aspect to this first issue and that is the insured benefit program. Like their wages, the insured benefits of the former non-union employees are considerably superior to those of the other employees. The Union proposed that I award all members of the bargaining unit the insured benefits contained in the non-union program. The same principles apply to the non-union employees’ insured benefits as to their wages. The standard should be the provincial norm as contained in the Central hospitals’ agreement; and equally the non-union employees should not be disadvantaged. They should be entitled to retain their superior insured benefits for the duration of the collective agreement, and I so award. As to the differences in the various collective agreements for insured benefits, I award the insured benefit program in existence for the members of Local 311 at the Centenary site for all bargaining unit members apart from the former non-union, effective January 1, 2021.

21. Despite this ruling regarding the benefits continuation for the former non-union employees, these former non-union employees should be entitled to annual opportunities each January 1st, to opt into the new OPSEU 575 Benefit Plan, and I
so order. If they make that decision to opt-in to the new OPSEU 575 Benefit Plan, that decision is then irreversible.

Bill 124
22. The second general issue concerns the application of Bill 124. The Hospital argues strenuously that the provisions of the Bill should be applied and, therefore, that any annual improvement in wages must be restricted to the 1% limit imposed in Bill 124.

23. This issue has been addressed in other arbitral awards, among them Pine Meadow Nursing Home v United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial And Service Workers International Union, Local 343, 2019 CanLII 73982 (ON LA) (Steinberg); The Wexford Residence Inc. and CUPE, Local 3791-00 (unreported, award of August 15, 2019) (McNamee); and Casey House v Ontario Public Service Employees Union Local 501, 2019 CanLII 95329 (ON LA) (Albertyn). I quote the conclusions reached in Casey House, which apply equally to this case:

32. The following considerations favour the Union’s position. As the Union argues, Bill 124 may not become law. Or it may be amended so as to permit the outcome contained in this award. Or, if Bill 124 becomes law in its present or a substantially similar form, the Minister may determine that the award is in compliance with the legislation (given that it conforms with virtually every other hospital collective agreement in the province for the same period). If not, and if the Minister determines that the award is not in compliance with the legislation, the Union and the Employer would have an opportunity to make representations (particularly that, if their collective agreement were not exempted, the result would be that Casey House would stand virtually alone as one of the only hospitals in the province not to receive the normative increases for the relevant period, just because of the timing of the finalization of the collective agreement).
representations, either jointly or by the Union, would be made to seek exemption of the collective agreement from the statute, which the Ministry would have the power to grant under the current wording of Bill 124. If any of these events occurred, there would be no disruption of the application of the retroactivity or of the wage portions of the collective agreement and, consequently, there would be no need for the parties to return to us for further determination.

33. Weighing these consideration, given the approach taken in the two awards referred to above, given that Bill 124 is not law, given the possibilities set out above if Bill 124 becomes law, we have decided that the Union’s retroactivity provision must apply, not the Employer’s proposal, and we so direct.

24. The same conclusions apply in this case. As will be seen below, the normative increases under the provincial paramedical agreement are awarded, subject to red circling for a large portion of the bargaining unit, for the reasons explained above.

Mobility
25. A fundamental purpose for the government’s decision to integrate the three hospital sites was to bring about greater efficiency in the provision of health services for the community served by the Hospital. Such efficiency necessarily involves the reorganization of programs, rationalizing services, and consolidating units where greater efficiency will result.

26. The Employer argues that its mobility proposals are fundamental to achieving the type of reorganization it thinks it needs.

27. The countervailing interest is that of employees who have worked at their current work sites, in some cases, for a long time. They do not want to have their accustomed work experience fundamentally changed by being required to work in
different locations, on different sites, and would prefer to remain in the positions they bid into, often many years ago.

28. The Employer’s proposal on mobility gives it virtual *carte blanche* entitlement to relocate employees as it considers necessary in the best interests of its anticipated expectations of program reorganization. The Union’s proposal seeks to considerably restrict the ability of the Employer to move employees from their current workplaces.

29. The award below on the issue of mobility aims to address the Union’s concerns, while acknowledging the Employer’s right to make rational choices for more efficient delivery of services. When a program or work unit is rationalized, the Employer retains the management right to move affected employees to the areas where the new work unit resides. Of course, if downsizing results from such assignments, the layoff provisions elsewhere in the collective agreement would apply. The Employer is given full entitlement to reassign new employees across the sites and the other satellite work locations. So, for new hires after the date of the award, such employees’ expectation will be that they may be required to work in any area of the Hospital. For existing employees, the general labour relations principle of “senior choice, junior force” will apply. The details of the provision awarded are set out below at paragraph 46.

**Other Issues in Dispute**

30. A number of the other disputes concern what rate should apply to particular classifications.

*Anesthesia Assistant*

31. The Union proposed that the Centenary Respiratory Therapists working in
the Anesthesia Assistant role (Carolin Privitera and Amanda So) be brought up to the higher Local 575 Anesthesia Assistant wage rate (for the equivalent year). The Hospital was opposed.

32. I award the Union’s proposal. For clarity, the April 1, 2019 rate for Anesthesia Assistant will be the Local 575 2015 Anesthesia Assistant rate multiplied by the Central general wage increases for 2016 (1.4%), 2017 (1.4%), 2018 (1.4%) and 2019 (1.75%). The Centenary Respiratory Therapists working as Anesthesia Assistants will receive that rate, effective the date of the award.

33. Also, effective the date of the award, any Centenary Respiratory Therapist (e.g. Tracy Patricka) who backfills for an Anesthesia Assistant will receive the Anesthesia Assistant rate for the time spent in the backfill.

*Pharmacy Technician*

34. The wage rate for the Pharmacy Technician is in dispute between the Union and the Participating Hospitals at the Central table. That dispute is in the process of being resolved by Arbitrator Diane Gee in accordance with the Central grievance procedure. The Union requested that if Arbitrator Gee awards a higher wage rate for Pharmacy Technicians that such rate be applied retroactively to the Pharmacy Technician grid for this bargaining unit. The Hospital opposed this.

35. I award that should a new Central rate be awarded by Arbitrator Gee the grid will be adjusted in accordance with that award, retroactively to April 1, 2019.

*Histopathologist Technician*

36. The Union requested that when a Laboratory Technician backfills the Histopathologist Technician that they receive the Histopathologist rate for all hours spent in the backfill. The Hospital was opposed, arguing that the Responsibility Pay provision of Article 18 is more appropriate. I agree with the Hospital and so award.
Pathologist Assistant
37. The Union requested that the Pathologist Assistant be remunerated in accordance with the rate for Senior Registered Technologist and I so award, effective date of the award.

Mental Health Therapist
38. The Mental Health Therapist is a classification that requires a Masters’ degree and membership in a regulatory college. The duties of the position are similar to those of an MSW. I award the Union’s proposed adjustment to the same wage as MSW, effective date of the award.

Advanced Practice Physiotherapist
39. Both parties had proposals for this classification. The Union requested a differential of 12% higher than a Physiotherapist. I award the Hospital’s proposal, which is 6% above the Central Physiotherapist wage, effective date of the award.

Drug Utilization Evaluation Pharmacist
40. The Union requested that the DUE Pharmacist be remunerated in accordance with the rate for Senior Pharmacist and I so award, effective date of the award.

Child and Youth Worker
41. Most incumbents in this classification are at the Centenary location in the former Local 311. There is one non-union employee in the position. I award that the grid of the Centenary Child and Youth Worker be applied to all employees, effective date of the award.

Certified Pharmacy Assistant and Pharmacy Assistant
42. The Hospital proposed that this classification be categorized henceforth as equivalent to the Central Technician 2 as both positions are not regulated by the
College. This will entail a wage increase for the Pharmacy Assistant and the red-circling of the Certified Pharmacy Assistant and I so award, effective date of award.

*Drug Access Navigator*
43. The Hospital submitted that this position should be paid no higher than a Registered Pharmacy Technician as greater qualifications are not required. I agree with the Hospital and so award. The current incumbent will be red-circled until the Central Technician 3 wage catches up.

*Vocational Specialist*
44. I award the Hospital’s request for a title change to Case Manager II.

*Sheltered Workshop Coordinator*
45. The Union submits that this job title is no longer applicable to anyone in the bargaining unit. It requests that the two incumbents – Lorna Miller and Ravi Ananthan – be given job titles that reflect the jobs that they do. The Union states that Ms. Miller is a Residential Counselor and that Mr. Ananthan is a Recreational Therapist. The Hospital proposes to call both of these individuals Recreational Therapists. This appears to be an issue that could benefit from more discussion between the parties. I refer the matter of the re-titling of the current incumbents in the role of Sheltered Workshop Coordinator back to the parties and remain seized if they are unable to come to a resolution.

*Mobility*
46. The Mobility provision of the collective agreement will read as follows:

1. The parties recognize the following:

1.1. All employees are corporate Employees;
1.2. The Union recognizes that the Hospital wishes to develop clinical efficiencies, which will entail, among others:

1.2.1. the consolidation of programs at one or more sites;
1.2.2. the use of multi-site job postings;
1.2.3. the need for a skills’ mix of employees within a program to ensure adequate experience among the employees;
1.2.4. a float pool of employees to perform work at a site where their skills are most needed;
1.2.5. cross-site orientation of employees to be able to work in sites other than their home worksite.

2. The Hospital recognizes that some or many employees, particularly those with long service, are accustomed to working at one site and they would like to continue to do so.

3. The following provisions seek to balance these respective interests in the application of the terms set out herein.

4. All employees hired after the date of the award can be assigned to work at more than one site, subject to the terms of set out herein.

5. All postings after the date of the award are deemed to be multi-site postings, unless it is expressly limited to a particular site.

6. Each employee shall have a designated home worksite. Such home worksite will change if an employee transfers to another Hospital site under the job posting provisions or pursuant to a consolidation or reorganization, as described herein.

7. In the event of a program consolidation or reorganization resulting in employees from a particular program being permanently moved from their home worksite to a different home worksite, the following will apply:
7.1. The Union will be given not less than three months’ notice of such intended move and the Employer will hold itself available to consult with the Union as needed to review all aspects of the move and its impact upon the affected employees with the Union;

7.2. If the intended move results in fewer positions or in less hours for any employee, then the elimination of position and the layoff provisions of the collective agreement will apply with respect to such position or such loss of hours.

8. For employees hired after the date of the award, the Employer may assign or schedule an employee who does not regularly work in more than one worksite to multiple worksites.

9. For employees hired prior to the date of the award, the Employer may assign or schedule an employee who does not regularly work in more than one worksite, to perform the duties of their classification at another worksite, subject to the following:

9.1. It will first explore the utilization of casual employees;

9.2. It will then seek volunteers from regular part-time employees;

9.3. It will then seek volunteers from among the regular full-time employees;

9.4. If the genuine needs of a program are such that the Hospital requires more employees than can be obtained by the use of casual employees, part-time and full-time volunteers, it shall require the most junior qualified employee working in the program to perform the duties of their classification at another worksite;

9.5. Any employee, who elects or is required to perform the duties of their classification at another worksite from their designated home worksite, shall:
9.5.1. Be given as much notice as reasonably practicable, though not less than 24 hours, except for an emergency;
9.5.2. Be advised in the notice of the expected duration of their working at the other worksite;
9.5.3. Before being assigned or scheduled for the first time at a worksite other than their home worksite, be given a period of cross-site orientation at the site that is new to them, with due consideration to the employee’s previous educational background, so that during such cross-site orientation they may acquire the skills and/or knowledge of processes at the other site to comfortably perform their duties. This cross-site orientation will be during regular hours of work and will not result in any loss of pay.

9.6. Where an employee has commenced their shift and is requested by the Hospital to go to another worksite to perform the duties of their classification, the employee will not suffer any loss of earnings for time spent traveling to the other worksite. In addition, the Hospital will pay reimburse the employees for transportation costs of their own vehicle in accordance with the Hospital Transportation Policy.

9.7. An employee who pays for parking at their home site will not be required to pay for parking at the other site.

9.8. The application of this provision will be a standing item on the Labour Management Committee agenda.

9.9. Existing staff who are scheduled with cross-site appointments whether on a daily or weekly rotational basis will continue to be scheduled as such across the General and Birchmount Hospitals.

9.10. The above restrictions do not apply to emergency situations.
Wages

Wage Adjustment

47. The following wage adjustments apply:

   April 1, 2019* – the wage grid is attached
   April 1, 2020 – 1.75%
   April 1, 2021 – 1.75%

*Some employees in the bargaining unit, principally those members of the former Local 311, have already received a 2019 wage increase and such increases are reflected in the Schedule A. Schedule A is issued to the parties as a separate document with this award.

Except for red-circled employees addressed in Paragraphs 48 and 50 below, employees will be placed on the wage schedule in accordance with their years of service.

Red-Circling

48. As mentioned above, a number of classifications will be red-circled. Such red-circling will be mitigated by the placement on a step of the grid that results in an increase if below the maximum, regardless of the employee’s years of service. Anyone above the maximum rates will remain at the red-circled rate until such time as the wage grid catches up.

49. The following positions are red-circled until the grid outlined in Schedule “A” catches up:

   - Registered Respiratory Therapist
   - Echocardiographer
   - Ultrasound Technologist
- MRI Technologist
- Charge Ultrasound Technologist
- Charge MRI Technologist
- Charge Echogardiographer
- Charge Registered Respiratory Therapist
- Charge Mammographer RT
- Certified Pharmacy Assistant - Formerly Gen/Birch
- EEG Technologist
- Dietician
- Occupational therapist
- Pathologist Assistant – Formerly Gen/Birch
- Physiotherapist
- Pharmacist – Formerly Gen/Birch
- Pharmacy Technician and Pharmacy Technician III
- Social worker
- Speech pathologist
- Child Life Specialist
- Histopathology Technician
- Drug Access Navigator
- Advanced Practice Physiotherapist.
- DUE Pharmacist

*Red-Circling Step Placement*

50. Effective April 1, 2019, employees who are to be red-circled and who are below the maximum rate in the attached wage grid (*Schedule A*) will be placed on the next step on the wage grid that represents an increase.
Lump Sum and Retroactivity

51. The Hospital position on retroactivity was that no new wages take effect until April 1, 2019. The Union argued that notice to bargain was given on May 9, 2018 and that therefore retroactivity on the 2018 Central increase of 1.4% should apply from that date forward. Of particular concern was the former Scarborough Hospital Local 575 bargaining unit members who did not receive any increase since 2015. I award retroactivity as set out below for formerly non-union employees not affected by the red-circling and to former CUPE members who are behind Central wage rates. For the former 575 bargaining unit members I award a lump sum payment in lieu of the three years of retroactivity lost prior to April 1, 2019 to be paid by separate bank deposit as follows:

a. For an employee who has worked full-time for the Hospital since April 1, 2016 up to and including March 31, 2019 and continues to be an employee of the Hospital: a $3,000 one-time lump sum payment in lieu of retroactivity for the period prior to April 1, 2019.

b. For an employee who has worked less than full-time hours for the Hospital between April 1, 2016 up to and including March 31, 2019 and continues to be an employee of the Hospital: a pro-ration of the above amount based on actual hours worked relative to full-time hours.

c. For an employee who has worked full-time and was employed after April 1, 2016 up to and including March 31, 2019 and continues to be an employee of the Hospital: a pro-ration of the above amount based on actual hours worked relative to full-time hours.
d. For an employee who has worked less than full-time hours and was employed after April 1, 2016 up to and including March 31, 2019 and continues to be an employee of the hospital: a pro-ration of the above amount, based on actual hours worked relative to full time hours.

e. I remain seized to resolve any dispute between the parties on the implementation of the above payout.

*Classification to which retroactivity from May 9, 2018 applies*

52. The list of classifications which receive a retroactive wage increase of 1.4% to May 9, 2018 is the following:
   - Case Manager
   - Case Manager 1, Mobile Crisis
   - Case Manager, Crisis
   - Peer Support Worker (ACTT)
   - Pharmacy Student
   - Smoking Cessation Coordinator.

*Wage Grid May 9, 2018 to March 31, 2019 for former CUPE represented employees*

53. The following wage grid applies for the period May 9, 2018 to March 31, 2019, for the classifications: ECG Technician/Phlebotomist, Lab Assistant and Lab Technician:
Technician 3 – Non-Certified EEG/EMG/ENG/ECHO Technician, ECG Technician, Lab Assistant, Morgue Attendant/Technician, Pharmacy Technician/Assistant

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**Pregnancy and Parental Leave**

54. The Union requested the top-up to be set at 93%. The Employer argues that the top-up should be set at 84%, which is the standard in the OPSEU Central agreement. The basis for the Union’s position is that a majority of the bargaining unit currently enjoys a top-up greater than 84% and this superior condition should be maintained.

55. I am persuaded that the Central standard should apply so that there is the maximum conformity between the terms and conditions of employment within the Hospital as applies to paramedical employees across the province. I award 84% top-up. This change shall not be applied to anyone currently on leave as of the date of this award.

**Holidays**

56. The Hospital requests to substitute two float days for Easter Monday and Remembrance Day/Anniversary Day. In order to mitigate the cost increases in other areas of this award, I award that change. Accordingly, effective January 1, 2020, the following will be the designated holidays:
Two float days
New Year’s Day (January 1st)
Family Day
Good Friday
Victoria Day
Canada Day (July 1st)
Civic Holiday
Labour Day
Thanksgiving Day
Christmas Day (December 25th)
Boxing Day (December 26th).

**Overtime / Call Back Accumulation**

57. This was a contentious issue between the parties. The two predecessor collective agreements have quite different provisions. In order to bring consistency in the Hospital’s administration of this issue, the provision contained in the ONA collective agreement at the Hospital is awarded:

Where an employee has worked an accumulated approved hours for which they are entitled to be paid premium pay (other than hours related to working on paid holidays) such employee shall have the option of electing payment at the applicable premium rate or time off equivalent to the applicable premium rate (i.e. where the applicable rate is time-and-one-half, then time off shall be at time-and-one-half.) Such time off shall not accumulate in excess of 75 hours in a fiscal year and must be taken within 60 calendar days of accrual or be paid out at the rate of which the time was earned and at mutually agreeable time within the current fiscal year. Such time off is to be scheduled at a mutually agreeable time and is inclusive of weekends.
Article 17.07(b) – Consecutive Days Off

58. The following provision is awarded:

Regular days off shall normally be scheduled consecutively in groups of two (2) days off, unless such days off results in overtime payment.

Compensation – Article 31

59. Article 31.01 is to read as follows:

31.01 The occupational classifications covered by this agreement and the wage rates for each such classification are set out in Schedule "A". The increases are effective on the specified dates for all hours paid on those dates and all subsequent hours.

Retroactivity language

60. Article 33 – Retroactivity of Wages is to read as follows, conforming to the Central provision between OPSEU and Participating Hospitals:

33.01 Current employees on staff, from the date of either ratification of the settlement or interest arbitration award, will be paid retroactivity, within four (4) full pay periods, from the date of ratification of the settlement or date of interest arbitration award, on the basis of hours paid.

Retroactivity shall be paid by separate bank deposit on wage increases, including any payments based on the wage rate (for example, the percentage in lieu of benefits, vacation pay, and SUB).

The Hospital will contact former employees at their last known address on record with the hospital, within four (4) full pay periods from the date of ratification of settlement or date of interest arbitration award, to
advise them of their entitlement to retroactivity.

Former employees will have a period of four (4) full pay periods from the date of the notice to claim such retroactivity and, if they fail to make a claim within the four (4) full pay periods, their claim will be deemed to be abandoned.

**Duration of the collective agreement**

61. In accordance with the agreed term of the collective agreement, as mentioned above, the following is to be Article 34 – Duration and Renewal:

34.01 This Agreement shall continue in effect until the 31st day of March, 2022 and shall continue automatically thereafter for annual periods of one year each unless either party notifies the other in writing that it intends to amend or terminate this Agreement in accordance with the following:

**Short Tour Shifts Agreements**

62. The following Model Agreements under Article 29.02 with respect to Innovative Scheduling / Flexible Scheduling for Short Tour Shifts will apply: Laboratory and Social Workers. These Model Agreements are appended to this award, marked respectively, Appendix “A” and Appendix “B”.

**Letter of Understanding – Jitesh Parekh**

63. The parties agree that a Letter of Understanding or Article 29.02 Agreement is required to describe the hours of work of Jitesh Parekh. The parties have agreed to meet for this purpose to try to resolve their differences in order to conclude the LOU or Agreement. If they are unable to do so, I remain seized to resolve the issue on an expedited basis.
Seized

64. Although mention is made above of my being seized on specific issues, pursuant to s.9(2) of the Act, I remain seized of the interpretation and implementation of this award, including any dispute between the parties in the giving effect to the terms of this award in a collective agreement, until a collective agreement is in effect between the parties.

DATED at TORONTO on October 23, 2019.

_____________________
Christopher J. Albertyn
Sole Arbitrator
## Schedule "A": OPSEU Pay Scales
### Effective April 1, 2019

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Note - follow central award - retro to April 1, 2019

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### TECHNICIAN 1

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<td>TECHNICAL ASSISTANT</td>
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### OTHER/STAND ALONE

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Appendix “A”

MODEL AGREEMENT WITH RESPECT TO INNOVATIVE SCHEDULING/FLEXIBLE SCHEDULING – Short Tour Shifts (Laboratory)

MEMORANDUM OF AGREEMENT

Between: The Hospital -

And: The Ontario Public Service Employees Union
(And it’s Local 575)

This Model Agreement shall be part of the Collective Agreement between the parties herein and shall apply to the employees described in Article 1 of the Model Agreement.

Short Shifts described herein will not result in any loss of full-time positions.

Article 1 – Work Unit and Employees Covered

Positions are rotating part time laboratory technicians.

Article 2 – Hours of Work

General Hospital Site: Birchmount Hospital Site:

0600 – 1100 hrs 0600 – 1100 hrs
0700 - 1300 hrs
0800 – 1400 hrs
1500 – 1900 hrs

Article 3 – Agreed Variation from the Collective Agreement

Shifts less than seven and one half (7½) hours.

Article 4 – Rest Periods

4.01 Employees shall be entitled, subject to the exigencies of patient care, to relief periods during the shift on the basis of fifteen (15) minutes for each three and three-quarters (3.75) hours worked.

Article 5 – Meal Periods

5.01 As per the Employment Standards Act.

Scarborough Sites

The Union commits to extending this agreement to the Centenary site with the
description of shifts, number and names of the impacted employees to be resolved by the parties. If the parties are unable to reach agreement on a subsequent 29.02 agreement their dispute will be referred to Arbitrator Chris Albertyn for expedited resolution as an interest arbitrator.

**Term**

This Agreement shall continue in effect until terminated by either party.

Either party may, on written notice of 6 weeks to the other party, terminate this Agreement notwithstanding the above specified term.

**Names of employees affected**

**Birchmount Hospital – Laboratory**

**Times:**

0600-1100hrs

Barbara Osmulski
Davaa Bat Ayush
Jhuma Ghosh
Nigel Rasquinha
Shirley Shi
Kyle Santos
Stephanie Prodigalidad

**General Hospital – Laboratory**

**Times:**

0600-1100hrs
0700-1300hrs
0800-1400hrs
1500-1900hrs

Dinesh Thakker
Jessica Coemtzis
Effie Petrou
Michele Garabiles
Angelita Simon
Cassandra Nolan
Wendy Reyes
Talar Bozuk
Justine Austria
Jonathan Angeles
Diena Holmes
Kimberly Ong
Ragu Thedchanamoorthy
Amanda Halabi
It is understood and agreed that the Hospital can replace any existing employee on this list and in doing so will notify the union president. If the Hospital wishes to expand the number of employees on the list, the hospital will approach the Union to request such expansion in accordance with the preamble of 29.02. Such agreement will not be unreasonably withheld.

Dated this _____ day of ___________________ 20____.

For the Union

For the Hospital
Appendix “B”

MODEL AGREEMENT WITH RESPECT TO INNOVATIVE SCHEDULING/FLEXIBLE SCHEDULING – Short Tour Shifts (Social Workers)

MEMORANDUM OF AGREEMENT

Between: The Hospital –

And: The Ontario Public Service Employees Union
(And it’s Local 575)

This Model Agreement shall be part of the Collective Agreement between the parties herein and shall apply to the employees described in Article 1 of the Model Agreement.

Short Shifts described herein will not result in any loss of full-time positions.

Article 1 – Work Unit and Employees Covered

Social Workers who are part of a rotating group of casual staff.

Article 2 – Hours of Work

General and Birchmount Hospital Sites:

0700 – 1200hrs
0800 – 1300hrs
0900 – 1400hrs
1000 – 1500hrs

Article 3 – Agreed Variation from the Collective Agreement

Shifts less than seven and one half (7½) hours.

Article 4 – Rest Periods

4.01 Employees shall be entitled, subject to the exigencies of patient care, to relief periods during the shift on the basis of fifteen (15) minutes for each three and three-quarters (3.75) hours worked.

Article 5 – Meal Periods

5.01 As per the Employment Standards Act, 2000.
Scarborough Sites

The Union commits to extending this agreement to the Centenary site with the description of shifts, number and names of the impacted employees to be resolved by the parties. If the parties are unable to reach agreement on a subsequent 29.02 agreement their dispute will be referred to Arbitrator Chris Albertyn for expedited resolution as an interest arbitrator.

Term

This Agreement shall continue in effect until terminated be either party. Either party may, on written notice of 6 weeks to the other party, terminate this Agreement notwithstanding the above specified term.

Names of employees affected

Times:
Saturday & Sunday
0700 – 1200hrs
0800 – 1300hrs
0900 – 1400hrs
1000 – 1500hrs

Social Workers – General and Birchmount
Linda Behr
Victoria Goldson
Sajimon Joseph
Shelley Mattam
Susan Carty
Incumbent (vacancy – posted to be filled)

It is understood and agreed that the Hospital can replace any existing employee on this list and in doing so will notify the union president. If the Hospital wishes to expand the number of employees on the list, the hospital will approach the Union to request such expansion in accordance with the preamble of 29.02. Such agreement will not be unreasonably withheld.

Dated this _____ day of ___________________ 20____.

For the Union       For the Hospital