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**IDnum** 161    **Language** English    **Country** United States    **State** OR

**Union** AFSCME (American Federation of State, County and Municipal Employees) AFL-CIO

**Local** 3327

Occupations Represented
Physicians and surgeons

**Bargaining Agency** The Department of Administrative Services of the State of Oregon

**Agency industrial classification (NAICS):**

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**Full text contract begins on following page.**

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**2001-2003**

AGREEMENT

Between

THE DEPARTMENT OF ADMINISTRATIVE SERVICES OF  
THE STATE OF OREGON

And The

AMERICAN FEDERATION OF STATE,  
COUNTY AND MUNICIPAL EMPLOYEES  
LOCAL 3327

On Behalf Of

Physicians At

**THE MENTAL HEALTH & DEVELOPMENTAL  
DISABILITY SERVICES DIVISION**

## TABLE OF CONTENTS

<u>ARTICLE</u>	<u>Page</u>
TABLE OF CONTENTS.....	4
PREAMBLE .....	4
ARTICLE 1 - RECOGNITION .....	1
ARTICLE 2 - EFFECT OF LAW AND RULES .....	1
ARTICLE 3 - LEGISLATIVE ACTION .....	1
ARTICLE 4 - UNION SECURITY .....	1
ARTICLE 5 - MAINTENANCE OF STANDARDS .....	4
ARTICLE 6 - STRIKES AND LOCKOUTS .....	4
ARTICLE 7 - SAVINGS CLAUSE .....	4
ARTICLE 8 - MANAGEMENT'S RIGHTS .....	4
ARTICLE 9 - CONTRACTING OUT.....	5
ARTICLE 10 - EQUAL OPPORTUNITY .....	5
ARTICLE 11 - CLINICAL POLICY MATTERS.....	6
ARTICLE 12 - SALARIES .....	6
ARTICLE 13 - WORK SCHEDULES .....	7
ARTICLE 14 - MEDICAL OFFICER OF THE DAY/ON-CALL.....	8
ARTICLE 15 - BENEFITS.....	8
ARTICLE 16 - TRAVEL, MILEAGE AND MOVING EXPENSE REIMBURSEMENT .....	10
ARTICLE 18 - RECOUPMENT OF WAGE AND BENEFIT OVERPAYMENTS/ UNDERPAYMENTS .....	10
ARTICLE 19 - TRAINING AND EDUCATION .....	11
ARTICLE 20 - TRIAL SERVICE.....	12
ARTICLE 21 - DISCIPLINE AND DISCHARGE .....	12
ARTICLE 23 - PERSONNEL RECORDS .....	15
ARTICLE 24 - LAYOFF.....	16
ARTICLE 25 - POSTING .....	16
ARTICLE 26 - IMPLEMENTATION OF NEW CLASSES—APPEALS PROCESS.....	16
ARTICLE 27 - TERM OF AGREEMENT .....	18

**\*Added language is shown in bold type.**

## PREAMBLE

This Agreement is made and entered into by the State of Oregon, hereinafter referred to as the "Employer", acting by and through its Department of Administrative Services on behalf of the following Agency: the Mental Health and Developmental Disability Services Division and its component agencies: Eastern Oregon Training Center, Eastern Oregon Psychiatric Center, and Oregon State Hospital (including Portland and Salem campuses), and the American Federation of State, County, and Municipal Employees Local 3327, Council 75, hereinafter referred to as the "Union".

### ARTICLE 1 - RECOGNITION

The Employer recognized the Union as the exclusive bargaining agent and representative for all Physicians employed by the State of Oregon, Mental Health and Developmental Disability Services Division, whose primary responsibility is clinical care of patients; excluding all contract Physicians, supervisory and confidential employees as defined by ORS 243.650(6) and (14), and all Resident Physicians.

### ARTICLE 2 - EFFECT OF LAW AND RULES

This Agreement is subject to all applicable existing and future laws of the State of Oregon.

### ARTICLE 3 - LEGISLATIVE ACTION

Section 1. Provisions of this Agreement not requiring legislative funding or statutory changes before they can be put into effect shall be implemented on the effective date of this Agreement or the date otherwise specified in this Agreement. Necessary bills for implementation of the other provisions shall be submitted to the Legislative Assembly promptly upon the signing of this Agreement.

Section 2. Upon signing of this Agreement both parties will jointly recommend to the Legislative Assembly the passage of the funding and statutory changes necessary to implement this Agreement.

### ARTICLE 4 - UNION SECURITY

Section 1. Union Activities. Each Institution agrees to inform all new employees hired into positions included in the bargaining unit of the Union's exclusive representation status, and shall provide all present and future employees in the bargaining unit with a copy of the Agreement.

Section 2. Union Representation. The Union will notify each Institution's Personnel Director in writing of its representative of the Local, District Council 75, or International, American Federation of State, County and Municipal Employees, AFL-CIO.

Upon proper introduction and notice, the representative shall have reasonable access to the premises of the Institution during all working hours to conduct Union business. These representatives shall observe the security regulations of the Institution. Such visits are not to interfere with the normal flow of work.

Section 3. Unless otherwise provided in this Agreement, the internal business of the Union shall be conducted by the employees during non-duty time.

Section 4. Union Stewards.

a. The Union shall notify the Institution Personnel Director of the selection of stewards and their alternates.

b. Stewards may receive but not solicit grievances, and may discuss complaints and grievances of employees on the premises and time of the Institution, but only to such extent that it does not neglect, retard, or interfere with the work and duties of the stewards or with the work or duties of employees. Stewards shall be granted reasonable time off during regularly scheduled working hours without loss of pay or other benefits to investigate grievances upon notice to their immediate supervisor. If the permitted activities would interfere with either the steward's or the grievant's duties, the direct supervisor(s) shall, within the next working day, arrange a mutually satisfactory time for the requested activities. No more than one (1) steward shall be involved in the same grievance.

c. At the Union's request and subject to the operating requirements of the Institution, stewards for the Union shall be granted personal leave, accrued vacation leave, accrued compensatory time or leave of absence without pay to attend the Union's steward training session.

Section 5. Bulletin Boards. Each Institution agrees to furnish and maintain in each medical office a bulletin board in a convenient place to be used exclusively by the Union for the posting of official Union notices only. The Union shall keep the bulletin board neat and orderly. The Union agrees that it will not post material that is profane, obscene, or defamatory of the Agency or Employer or its representative or employees.

Section 6. Dues Deductions. Each Institution agrees to deduct monthly membership dues from the pay of those individuals who request such deductions in writing. The amount to be deducted shall be certified to each Institution Personnel Director by the treasurer of the Union, and the aggregate deductions shall be remitted monthly, together with an itemized statement, to the treasurer of the Union.

Section 7. Lists. Each Institution shall furnish to the Union, monthly, a list of names, classifications and home addresses of new employees in the bargaining unit and a listing of changes of address of bargaining unit employees who have submitted such notice to the Personnel Office. Each Institution shall furnish the Union with a monthly listing of employees who have terminated from the bargaining unit during the previous month.

Section 8. Use of Facilities. Upon request and approval of the Institution Personnel Director, the Union shall be allowed the use of the facilities of the Institution for meetings when such facilities are available and the meeting would not interfere with the business of the Institution.

Section 9. Fair Share.

a. On the first pay period of each month, the institution shall deduct from the wages of employees in the bargaining unit who are members of the Union, and who have requested such deductions pursuant to ORS 292.055, a sum equal to Union dues. This deduction shall begin on the first payroll period following such authorization and shall continue from month to month for the life of this Agreement.

b. Employees in the bargaining unit who are not members of the Union shall make payments-in-lieu-of-dues to the Union. Payments-in-lieu-of-dues shall be equivalent to regular Union dues. Effective the first of the month following the month in which this Agreement is executed and on each pay period thereafter, the institution will deduct from the wages of each bargaining unit employee who is not a Union member the payments-in-lieu-of-dues required by this Section. Similar deductions will be made in a similar manner from the wages of new bargaining unit employees who did not become members of the Union within thirty (30) days after the effective date of their employment. The Institution shall remit a payment of all said deductions to the Union by the twentieth (20th) of the month after the deductions are made. Said payments shall be accompanied by a listing of the names and Social Security numbers of all employees from whom deductions are made.

c. Dues and payments-in-lieu-of-dues for employees working less than twenty (20) hours per week will be on a prorated basis as outlined by Union policy.

d. During the life of this Agreement, the Union will notify the Agency periodically of individuals who have become members of the Union and to whom the Fair Share provisions of this Section will not thereafter apply.

e. Any employee who is a member of a church or religious body having bona fide religious tenets or teachings which prohibit association with a labor organization, or the payment of dues to it, shall pay an amount of money equivalent to regular Union dues to a non-religious charity, or to another charitable organization mutually agreed upon by the employee affected and the Union. The employee shall furnish written proof to the Institution that this has been done. Notwithstanding an employee's claim of exemption under this Section, the Institution shall deduct payments-in-lieu-of-dues from the employee's wages pursuant to this Section, until agreement has been reached between the employee and the Union.

f. The Union shall provide the Institution's Payroll Office with the Union application/authorization forms. Payroll clerks shall supply said applications to prospective members upon request, and shall process completed applications, forwarding a copy to the Union immediately upon receipt.

g. The Union agrees that it will indemnify, defend, and save the Employer and each Institution harmless from all suits, actions, proceedings, and claims against the Employer, the Institutions, or persons acting on behalf of the Employer or the Institutions for damages, compensation, reinstatement, or a combination thereof arising out of the Institutions' implementation of this Article.

Section 10.

At the Union's request and subject to the operating requirements of the Institution, Union officers shall be granted personal leave, accrued vacation leave, accrued compensatory time or

leave of absence without pay to attend Union conventions, training programs or official Union meetings.

#### ARTICLE 5 - MAINTENANCE OF STANDARDS

The Agency shall not issue any directives or written statements that have any effect on mandatory subjects of bargaining established by this Collective Bargaining Agreement unless such directives or statements have been agreed upon with the Union. Nothing in this Section is intended to inhibit the Agency from issuing directives and/or statements which interpret or effectuate a contractual obligation; however, a copy of such statements or directives shall be sent to the Union prior to distribution.

#### ARTICLE 6 - STRIKES AND LOCKOUTS

The Employer agrees that during the term of this Agreement, the Employer shall not cause or permit any lockout of employees from their work. In the event an employee is unable to perform his/her assigned duties because equipment or facilities are not available due to a strike, work stoppage, or slow down by any other employees, such inability to provide work shall not be deemed a lockout.

During the term of this Agreement, the Union shall neither cause nor counsel the members of bargaining units for which it has been certified, or for which recognition has been extended by the Employer, to strike, walk out, slow down or commit other acts of work stoppage.

Upon notification, confirmed in writing by the Employer or Agency to the Union that certain bargaining unit employees covered by this Agreement are engaging in strike activity in violation of this Article, the Union shall, upon receipt of a mailing list, advise such striking employees in writing, with a copy to the Employer and Agency, to return to work immediately. Such notification by the Union shall not constitute an admission that it has caused or counseled such strike activity. The notification to employees covered by this Agreement by the Union shall be made at the request of the Employer or Agency.

#### ARTICLE 7 - SAVINGS CLAUSE

Should any article, section or portion of the Agreement be held unlawful and/or unenforceable by a court or board of competent jurisdiction, such invalidation shall apply only to the specific article, section or portion directly specified. Upon the receipt of such a decision, the parties shall, upon demand, begin negotiations to replace this Agreement's invalidated article, section or portion.

#### ARTICLE 8 - MANAGEMENT'S RIGHTS

Except as may be specifically modified by the terms of this Agreement, the State retains all rights of management in the direction of its work force.

These rights of management shall include, but not be limited to, the right to:

1. Direct employees
2. Hire, promote, transfer, assign, and retain employees.
3. Suspend, discharge, or take other proper disciplinary action against employees.
4. Reassign employees.
5. Relieve employees from duty because of lack of work or other proper reasons.
6. Schedule work.
7. Determine methods, means, and personnel by which operations are to be conducted.

## ARTICLE 9 - CONTRACTING OUT

The Agency may determine to contract or sub-contract work, provided that, as to work which employees in the bargaining unit presently and regularly perform, the Agency agrees to negotiate the impact of the pending action. It is specifically understood that such negotiations are not required in emergency situations or where the impact is minimal and, therefore, not mandatory, however prior notification shall be provided to the Union.

Impact negotiations are also not required where the Agency utilizes contract or temporary employees to decrease work overload. In this event, any laid off employee shall be given the first opportunity to do such work provided that employee is qualified for the position (as in the layoff procedure). This includes the right to displace such contract or temporary person provided that the employee is qualified for the position (as in the layoff procedure).

## ARTICLE 10 - EQUAL OPPORTUNITY

Section 1. The Employer and the Union agree to continue their policies of not unlawfully discriminating against any employee because of race, color, religion, sex, national origin, age, mental or physical handicap, marital status, or political affiliation.

Section 2. Any and all complaints alleging any form of unlawful discrimination which are brought to the Union for processing will be submitted directly to the Assistant Administrator for Personnel Management, Mental Health and Developmental Disability Services Division. If the complaint is not satisfactorily resolved within thirty (30) calendar days of its submission at this level, the employee shall, if he/she chooses to proceed with the complaint, file the complaint with the Bureau of Labor and Industries or the Equal Employment Opportunity Commission (EEOC) for final resolution.

Discrimination complaints will not be subject to the grievance procedure contained in this Agreement unless the Bureau of Labor and Industries or other such body declines jurisdiction in the matter. If the Bureau of Labor and Industries or other such body declines jurisdiction, then the employee may file a written grievance within thirty (30) calendar days from the date jurisdiction was declined.

Section 3.



- a. The Employer and the Union agree to continue their policies of not discriminating against any employee because of sexual orientation.
- b. Sexual orientation discrimination complaints will be subject to the grievance procedure beginning at Step 2.

## ARTICLE 11 - CLINICAL POLICY MATTERS

Clinical staff physicians shall have responsibility and authority for policy in clinical matters in accordance with ORS 441.055. The parties agree issues involving physician caseload and other physician responsibilities as they relate to clinical care are appropriate subjects for the institution medical staff under this article. Management, in conjunction with that Institution's medical staff, shall establish reasonable caseloads on a program by program basis.

The parties agree to establish a mechanism to consider ways to reduce paperwork. Additionally, each staff may consider ways to redistribute caseloads which allows for the utilization of existing position authority as a "floater" for relief purposes.

In the event that an individual physician's caseload exceeds the established reasonable caseload, the Chief Medical Officer shall, at the physician's request, meet with that physician to establish reasonable priorities and/or performance expectations.

Physicians have the responsibility and authority to use professional judgement to determine the safety of treating a combative patient and defer treatment until sufficient staff are available to safely treat the patient.

## ARTICLE 12 - SALARIES

Section 1. The State shall continue to "pick up" a six percent (6%) average employee contribution to the Public Employees Retirement Fund for the employee members participating in the Public Employees Retirement System. Such State "pick up" or payment of employee member monthly contributions to the system shall continue for the life of the Agreement.

The full amount of required employee contributions "picked up" or paid by the State on behalf of employees pursuant to this Agreement shall be considered as "salary" within the meaning of ORS 238.005 (11) for the purpose of computing an employee member's "final average salary" within the meaning of ORS 238.005 (15) but shall not be considered as "salary" for the purposes of determining the amount of employee contributions required to be contributed pursuant to ORS 238.200. Such State "picked up" or paid employee contributions shall be considered to be employee contributions for the purposes of ORS 238.005 to 238.750.

If, by reason of a change in law, valid ballot measure, constitutional amendment, or a final, non-appealable judgement from a court of competent jurisdiction, the Employer must discontinue the 6% "pick up" of the employee's contributions to the PERS fund, the Employer shall increase by 6% the base salary rates for each classification in the salary schedule. This transition shall be done in a manner to assume continuous payment of either the 6% "pick up" or a 6% salary increase.

For the reasons indicated above, or by mutual agreement, should the State cease paying the 6% "pick up" and provide a salary increase for eligible bargaining unit employees during the term of the Agreement, bargaining unit employees' 6% contributions to their PERS accounts

shall be treated as "pre-tax" contributions pursuant to Internal Rev Revenue Code, Section 414(h)(2).

Section 2.

a. Effective **January 1, 2002**, the salary schedule will be adjusted upward by two percent (2%) to the following rates:

	1	2	3	4	5	6	7
SR 41	6,750	7,088	7,442	7,811	8,202	8,613	9,020

b. Effective **January 1, 2003**, implement a **five percent (5%)** selective salary adjustment as follows:

	1	2	3	4	5	6	7
SR 42	7,088	7,442	7,814	8,202	8,612	9,044	9,471

Implementation will be on a least cost basis.

c. Effective **February 1, 2003**, the salary scheduled will be adjusted upward by **three percent (3%)** to the following rates:

	1	2	3	4	5	6	7
SR 42	7,301	7,665	8,048	8,448	8,870	9,315	9,755

Section 3.

- a. Psychiatric duty differential will be \$10,000 per year.
- b. Board certified differential of 7.5% applies only one time per person.
- c. Board certification differential plus psychiatric differential pay will only be paid to board certified psychiatrists. Also, while the State will agree to pay Psychiatric duty differential to non-psychiatrists performing psychiatric duties, they will not be eligible for any Board certification differential unless the Hospital is also utilizing the expertise of the physician in the second area of certification.

Section 4. Bilingual Differential. When formally assigned in the employee's position description, an employee assigned to interpret to or from another language to English will receive a differential of four percent (4%) of base pay.

ARTICLE 13 - WORK SCHEDULES

If a physician works beyond the regular schedule to provide necessary client care, the physician may flex his/her work hours to be off an equivalent time later in the month. The physician shall notify his/her supervisor of the flexed schedule on the first day following the extended work day.

He/she shall get the supervisor's approval prior to taking the equivalent hours off. When approval is denied, the parties will mutually agree on an alternative time to be taken within the month.

## ARTICLE 14 - MEDICAL OFFICER OF THE DAY/ON-CALL

Section 1. Physicians assigned Medical Officer of the Day (MOD)/On-Call responsibility who are required to be on the premises shall be compensated at the straight time hourly rate for all such hours.

Section 2. Where the physician is not required to be on the premises, but is required to be available by telephone or electronic paging device at all times, there shall be one hour (1) of compensation for each three (3) hours on-call.

Section 3. Physicians on secondary call shall be compensated at the rate of one (1) hour compensation for each six (6) hours on-call.

Section 4. The form of compensation will be the employee's choice of compensatory time off or cash at the employee's appropriate rate, except that an employee shall not be allowed to accumulate more than eighty (80) hours of compensatory time.

Section 5. When a physician is assigned MOD/On-Call responsibility on a holiday, the rates in Sections 1, 2, and 3, shall be calculated at time and one-half (1-1/2). For the purpose of payment for assigned MOD/On-Call responsibility on the holidays listed below, a physician shall receive the rates in Article 14, Sections 1, 2, and 3 calculated at time and one-half (1-1/2):

New Years Day on January 1st  
Independence Day on July 4th  
Veterans' Day on November 11th  
Christmas Day on December 25th

Should the recognized legal holiday fall on a different day than those above, those physicians assigned MOD/On-Call for that day shall receive compensation at the straight time rates.

For those physicians not assigned MOD/On-Call the holiday shall be recognized as the legal holiday.

Section 6. Use of compensatory time off will be at the option of the employee insofar as practicable.

## ARTICLE 15 - BENEFITS

Section 1. An Employer contribution will be made for each eligible employee who has at least eighty (80) paid regular hours in the month.

The contribution for eligible participating part time employees with eighty (80) or more hours paid time for the month will be prorated based on the ratio of paid regular hours to full time hours to the nearest full percent.

Effective January 1, 2000 and for plan years beginning January 1, 2002 and 2003, the Employer shall make the following contributions in full for full-time employees who have at least eighty (80) paid regular hours in a month:

Employee	\$387.14
Employee and Spouse	\$520.12
Employee and Child(ren)	\$443.59
Employee and Family	\$531.97

**Section 2. Plan Year 2001.** The Employer contribution shall be sufficient to cover the Public Employees Benefit Board's (PEBB) prototype plans and basic dental coverage within each tier as designated by PEBB annually for the employee and family. An employee may choose not to participate in a prototype plan and may select a plan of greater or lesser premium cost. If the employee selects a plan of greater cost, there may be out of pocket monthly expense to the employee. If the employee selects a plan of lesser cost, the employee may receive cash back. The amount of any out of pocket or cash back cost will be determined by PEBB.

The Employer insurance contribution for plan year 2001 will be based on the composite of the PEBB prototype contribution tiers. The Employer contribution shall be sufficient to cover the PEBB prototype plans and basic dental coverage within each tier as designated by PEBB annually for the employee and family. An employee may choose not to participate in a prototype plan and may select a plan of greater or lesser premium cost. If the employee selects a plan of greater cost, there may be out of pocket monthly expense to the employee. If the employee selects a plan of lesser cost, the employee may receive cash back. The amount of any out of pocket or cash back cost will be determined by the PEBB.

**Section 3. Plan Year 2002.** For plan year January 1, 2002 through December 31, 2002, the dollar difference between the above Employer monthly contribution for each tier and the premium cost of the plan selected by the employee will be paid by the Employer as a subsidy so that there is no out of pocket previous cost to the eligible employee for health and dental insurance, regardless of tier or plan choice. These subsidies are based on a PEBB estimated composite rate of \$580.00 statewide.

**Section 4. Plan Year 2003.** For plan year beginning January 1, 2003 through December 31, 2003, the Employer will increase the subsidy paid during plan year 2002 to meet increases in premium costs for PEBB medical and dental plans for plan year 2003, but only up to a maximum amount comparable to an average statewide subsidy increase of \$85.00 per eligible employee.

Should the additional subsidy amount be insufficient funds to cover full premium costs, the PEBB, in its sole discretion, may decide to use the PEBB reserve funds to cover any additional subsidy beyond the \$85.00. If PEBB does not release sufficient reserves, the parties agree to delay implementation of the effective date of the February 1, 2003 salary increase by one month or as agreed to by the parties.

If spending the full \$85.00 subsidy is not necessary to provide coverage with no out of pocket health and dental premium costs to all eligible employees, the parties agree to early implementation of the February 1, 2003 salary increase as provided herein. For every \$15.00 reduction in the average subsidy expense, the February 1, 2003 salary implementation date shall be moved forward one month.

Section 5. All sick leave, vacation and holiday benefits shall be as provided by Department of Administrative Services rule for Management Service Employees (70.010.02, pages 1 & 2 dated 5-24-91, pages 3 & 4 dated 12-1-89; 70.010.01, dated 10-1-90; and 70.025.01, dated 3-15-90), copies of which will be provided by the Agency to each bargaining unit member.

Section 6. The existing practice of allowing hour for hour compensation time where an employee is assigned by the Employer to travel on off duty hours shall continue.

Section 7. Liability in Civil Suits. The Employer agrees that any employee who has civil action or proceeding brought against him/her for causes resulting from acting in his/her official capacity, duties, or employment in good faith and without malice, shall be given legal defense by the State of Oregon in accordance with applicable state statute. The Employer further agrees to provide written procedures which will outline the proper methods for requesting this legal defense.

#### ARTICLE 16 - TRAVEL, MILEAGE AND MOVING EXPENSE REIMBURSEMENT

Section 1. Travel and Mileage Allowance. Reimbursements and procedures will be in accordance with Oregon Accounting Manual, Policy No. 40.10.00PO, and its successors. Changes in this policy will be automatically incorporated into this contract article.

Section 2. Moving Expenses. Reimbursements and procedures will be in accordance with Department of Administrative Services, Human Resource Services Division Policy 40.055.10, and its successors. Changes in this policy will be automatically incorporated into this contract article.

#### ARTICLE 17 - PERSONAL LEAVE

At the completion of six (6) full calendar months of service, full-time employees shall be entitled to sixteen (16) hours of personal leave with pay for each fiscal year (July 1 through June 30). Part-time and seasonal employees shall be granted such leave at the completion of one thousand forty (1040) hours each fiscal year. Employees shall not accumulate more than sixteen (16) hours of personal leave nor is any unused leave compensable in any other manner. Such leave may be taken at times mutually agreeable to the Institution and the employee.

#### ARTICLE 18 - RECOUPMENT OF WAGE AND BENEFIT OVERPAYMENTS/ UNDERPAYMENTS

Section 1. Overpayments.

a. In the event that an employee receives wages or benefits from the Agency to which the employee is not entitled, regardless of whether the employee knew or should have known of the overpayment, the Agency shall notify the employee in writing of the overpayment which will include information supporting that an overpayment exists and the amount of wages and/or benefits to be repaid. For purposes of recovering overpayments by payroll deduction, the following shall apply:

1. The Agency may, at its discretion, use the payroll deduction process to correct any overpayment made within a maximum period of two (2) years before the notification.

2. Where this process is utilized, the employee and Agency shall meet and attempt to reach mutual agreement on a repayment schedule within thirty (30) calendar days following written notification.

3. If there is no mutual agreement at the end of the thirty (30) calendar day period, the Agency shall implement the repayment schedule stated in sub (4) below.

4. If the overpayment amount to be repaid is more than five percent (5%) of the employee's regular monthly base salary, the overpayment shall be recovered in monthly amounts not exceeding five percent (5%) of the employee's regular monthly base salary. If an overpayment is less than five percent (5%) of the employee's regular monthly base salary, the overpayment shall be recovered in a lump sum deduction from the employee's paycheck. If an employee leaves Agency service before the Agency fully recovers the overpayment, the remaining amount may be deducted from the employee's final check.

b. An employee who disagrees with the Agency's determination that an overpayment has been made to the employee may grieve the determination through the grievance procedure.

c. The Article does not waive the Agency's right to pursue other legal procedures and processes to recoup an overpayment made to an employee at any time.

#### Section 2. Underpayments.

a. In the event the employee does not receive the wages or benefits to which the record/documentation has for all times indicated the employer agreed the employee was entitled, the Agency shall notify the employee in writing of the underpayment. This notification will include information showing that an underpayment exists and the amount of wages and/or benefits to be repaid. The Agency shall correct any such underpayment made within a maximum period of two years before the notification.

b. This provision shall not apply to claims disputing eligibility for payments which result from this agreement. Employees claiming eligibility for such things as leadwork, work out of classification pay or reclassification must pursue those claims pursuant to the timelines elsewhere in this agreement.

### ARTICLE 19 - TRAINING AND EDUCATION

Section 1. The Mental Health and Developmental Disability Services Division recognizes the need and desirability of professional training for physicians. To that end, and subject to the availability of resources, the Mental Health and Developmental Disability Services Division agrees to subsidize training and educational opportunities which the physician and the Chief Medical Officer agree are appropriate.

Section 2. The Agency will normally respond to all requests for leaves within ten (10) working days. All requests for in-state subsidies will normally be responded to within ten (10) working days. Should a response not be available within the ten (10) day period, management will inform the employee of the status of the request. All requests for out-of-state leave shall be submitted to the Chief Medical Officer who will normally respond within ten (10) working days; if no response is available within that time frame, the Chief Medical Officer will inform the employee of the status of the request.

Section 3. Employees will be provided the opportunity to participate in annual training regarding (1) the Agency's Abuse Policy and its related procedures, and (2) the Institution's purpose and operation of the safety committee.

## ARTICLE 20 - TRIAL SERVICE

Section 1. All new employees appointed to a position, and those employees promoted, or reemployed after one (1) year in the same classification shall serve a trial service period of one (1) year except residents whose trial service shall extend through the duration of appointment in that classification.

Section 2. The supervisor shall evaluate the employee's work habits and ability to perform his/her duties satisfactorily within the trial service period. The Agency may remove an employee if, in the opinion of the Agency, the trial service indicates that such employee is unable or unwilling to perform his/her duties satisfactorily or that his/her work habits and dependability do not merit his/her continuance in the position. Such removals are not subject to appeal or the grievance procedure.

If such employee was previously a regular status employee in another position in the classified service immediately prior to his/her present appointment, he/she shall be reinstated to his/her former position unless charges are filed and he/she is discharged as provided in Article 21.

Section 3. An employee who is transferred to another position in the same class, or different class at the same or lower salary level in the Agency prior to completion of the trial service period, shall complete the trial service period in the latter position by adding the service in the former position.

Section 4. An employee who is on approved leave without pay shall have the trial service period extended by the number of days of the leave without pay.

## ARTICLE 21 - DISCIPLINE AND DISCHARGE

Section 1. The principles of progressive discipline shall be used except when the nature of the problem requires an immediate suspension, termination, reduction of pay, or demotion. A regular status employee may be suspended, reduced in pay, demoted, or dismissed only for just cause.

Section 2. Abuse Investigations. At the point an investigation establishes reasonable cause to believe that an individual employee may have been involved in an alleged abuse, that employee will be notified that he/she is the subject of an abuse investigation. The accused employee, upon notification that he or she is the subject of an investigation, shall be told all known detail of the alleged abuse, excluding the names of the alleged victim(s), accuser(s), and witness(es). The Agency will attempt to complete its investigation within the timelines established by its rule, but where it does not meet those timelines will inform the affected employee of the status of its

progress toward completion. Where an employee is exonerated of such an allegation, such exoneration will be provided to the employee in writing.

Section 3. A written predissmissal notice shall be given to a regular status employee against whom a charge is presented. Such notice shall include the known complaints, facts and charges, and a statement that the employee may be dismissed. The employee shall be afforded an opportunity to refute such charges or present mitigating circumstances to the Appointing Authority or his/her designee at a time and date set forth in the notice, unless a different time is requested by the employee and/or his Union representative and agreed to by the Agency. The employee shall be permitted to have an official representative present. The Appointing Authority may suspend the employee with pay or the employee may be allowed to continue work, as specified within the predissmissal notice.

Section 4. The dismissal of a regular status employee may be appealed by the Union to binding arbitration. The appeal must state the reasons for the appeal and be submitted to the Department of Administrative Services Labor Relations Unit in writing within ten (10) calendar days from the effective date of the dismissal. Such appeal shall be heard by the Arbitrator within fifteen (15) calendar days after its receipt, and the final decision and order of the Arbitrator shall be made within fifteen (15) calendar days following the close of the hearing.

Section 5. An employee reduced in pay, demoted, or suspended shall receive written notice of the discipline with the specific charges and facts supporting the discipline. The reduction of pay, demotion and/or suspension of a regular status employee may be appealed to Step 3 of the Grievance Procedure within ten (10) calendar days from the effective date of the action. If the appeal is not resolved at Step 3, the Union may appeal the action to the Department of Administrative Services Labor Relations Unit within fifteen (15) calendar days after receiving the response from the Agency. The Labor Relations Unit shall respond to the grievance within fifteen (15) calendar days. If the grievance is unresolved, the Union may submit the issue to arbitration within fifteen (15) calendar days after receiving the response from the Labor Relations Unit.

Section 6. Selection of an Arbitrator. The parties agree that an arbitrator chosen to resolve disputes pursuant to this article shall have special qualifications. Special qualifications means:

- a. An arbitrator who is referred by ERB or FMCS and who has a history of arbitrating disciplinary actions involving physicians; or
- b. A physician acceptable to both parties.

Section 7. The arbitrator's fees shall be paid by the losing party. Should the award be unclear regarding who is the losing party, the arbitrator will determine respective costs for each party and make this part of the award.

## ARTICLE 22 - GRIEVANCE PROCEDURE

Section 1. A grievance shall be any disagreement or dispute which arises concerning the application, meaning, or interpretation of this Agreement. The written grievance shall be filed using the procedure in Section 2.



## Section 2.

Step 1. Any employee, with notice to the Union, or the Union on the employee's behalf may file a grievance in writing with his/her immediate supervisor, with a copy to the Institution Personnel Director, within thirty (30) calendar days of the alleged action or the date the employee and the Union knew or should have known of the alleged action; however, appeals of discipline or discharge shall be pursuant to Article 21 - Discipline and Discharge. Grievances shall be submitted on the AFSCME Grievance Form. The immediate supervisor shall respond in writing to the grievance within fourteen (14) calendar days after receipt of the grievance to the employee, with a copy to the Union and the Personnel Director.

Step 2. If the grievance remains unresolved at Step 1, it may be appealed within fourteen (14) calendar days after the supervisor's response was due to the Superintendent. The Superintendent, or his/her designated representative, shall respond in writing to the employee, with copies to the Union and the Personnel Director, within fourteen (14) calendar days after receipt of the grievance. The Superintendent may submit the grievance to the medical staff committee for review and recommendations. Where this step is utilized, the Superintendent's response shall not be due until fourteen (14) days after the Superintendent's receipt of those recommendations.

Step 3. If the grievance remains unresolved at Step 2, it may be appealed to the Mental Health and Developmental Disability Services Division Administrator within fourteen (14) calendar days after the response was due at Step 2. The Administrator, or his/her designated representative, shall respond in writing within fourteen (14) days after receipt of the grievance.

Step 4. If the grievance remains unresolved at Step 3, the Union or the employee may appeal to the Department of Administrative Services Labor Relations unit within fourteen (14) calendar days following the receipt of the response at Step 3. The Department of Administrative Services shall respond within fourteen (14) calendar days after receipt of the grievance.

In the event the response from the Department of Administrative Services is acceptable to the Union, such response shall have the same force and effect as a decision or award of an Arbitrator, and shall be final and binding on all and they will abide thereby.

Section 3. Time limits may be extended by agreement of the parties confirmed in writing.

Section 4. The Union or the grievant shall not expand upon the original elements and substance of the written grievance. However, the Union or the employee may modify the articles cited as being violated and the remedy requested prior to Step 3 of the Grievance Procedure.

Section 5. Any grievance, having progressed through the steps as outlined in this Agreement and remaining unresolved following Department of Administrative Services response, may be submitted by the Union to arbitration for settlement. To be valid, a request for arbitration must be in writing and mailed or delivered to the Department of Administrative Services within fourteen (14) calendar days of the receipt of the response from the Department of Administrative Services.

Failure to file for arbitration within the specified fourteen (14) calendar day period shall constitute forfeiture of claim and the case shall be considered closed by all parties.

If the grievance is to be submitted to arbitration, a prearbitration meeting will be held. The meeting shall include both the Department of Administrative Services and the Agency meeting with the Union in an attempt to formulate a submission agreement to be forwarded to the Arbitrator.

Section 6. Selection of the Arbitrator. In the event that arbitration becomes necessary, the Union and the Employer shall, within thirty days of the request for arbitration, jointly request from the Oregon State Employment Relations Board the names of five (5) qualified Arbitrators. The parties will select an Arbitrator by alternately striking names, with the moving party striking first, from the Employment Relations Board list one (1) name at a time until one (1) name remains on the list. The name remaining on the list shall be accepted by the parties as the Arbitrator. The arbitration hearing shall commence within fifteen (15) days thereafter, unless otherwise mutually agreed by the parties.

Section 7. The parties agree that the decision or award of the Arbitrator shall be final and binding on each of the parties and that they will abide thereby. The Arbitrator shall have no authority to add to, subtract from or change any of the terms of this Agreement, to change an existing wage rate or establish a new wage rate.

Section 8. The Arbitrator's fee and expenses shall be paid by the losing party. If in the opinion of the Arbitrator, neither party can be considered the losing party, then such expenses shall be apportioned as in the Arbitrator's judgment is equitable. All other expenses shall be borne exclusively by the party requiring the service or item for which payment is to be made.

Section 9. Once a bargaining unit member files a grievance, the employee shall not be required to discuss the subject matter of the grievance without the presence of the Union representative if the employee elects to be represented by the Union.

Section 10. If a grievance involves similar issues at more than one Institution, i.e. if the grievance constitutes an Division-wide class grievance, then the grievance may be filed with the Mental Health and Developmental Disability Services Division Administrator as the initial step with copies to the Institution Personnel Directors. The Administrator, or his/her designated representative, shall respond in writing within fourteen (14) calendar days after receipt of the grievance. If the grievance remains unresolved at this step, the Union may appeal as described in Section 2, Step 4, above.

## ARTICLE 23 - PERSONNEL RECORDS

Section 1. An employee may, upon request, inspect the contents of his official Agency personnel files except for confidential reports from previous employers. No grievance material shall be kept in the personnel file. There shall be only one (1) personnel file kept for each employee.

Section 2. No information reflecting critically upon an employee shall be placed in the employee personnel file that does not bear the signature of the employee. The employee shall be required to sign such material to be placed in his personnel file provided the following disclaimer is attached:

"Employee's signature confirms only that the supervisor had discussed and given a copy of the material to the employee, and does not indicate agreement or disagreement."

If the employee is not available within a reasonable period of time or the employee refuses to sign the material, the Institution may place the material in the file provided a statement has been signed by two (2) management representatives and a copy of the document was mailed to the employee at his address of record and a copy to the Union.

Section 3. If the employee believes that any of the above material is incorrect or a misrepresentation of facts, he shall be entitled to prepare in writing his explanation or opinion regarding the prepared material or to file a written grievance. This shall be included as part of his personnel record until the material is removed.

#### ARTICLE 24 - LAYOFF

Should the institution find it necessary to reduce the number of physicians through layoff, the physician(s) with the lowest length of service will be affected, unless specialty requirements prevent this. The Union will be notified as soon as the Agency anticipates any reduction of physicians pursuant to this Article.

Service shall be determined by Mental Health and Developmental Disability Services Division service except in unrepresented positions at the Division level. Breaks in service of two years ends seniority unless the employee is on specified training leave, then the break can be for the duration of training. Effective December 1, 1992, unrepresented employees who enter the bargaining unit shall have their seniority determined as follows: if previously in the unit, prior bargaining unit service shall be restored, but time spent in unrepresented status shall not count.

Part-time employees earn pro-rata seniority credit.

Any bargaining unit physician laid-off at one facility shall be considered for any vacant bargaining unit position at the other facilities provided the physician is qualified for the position(s). Additionally, the Agency will meet with the affected physicians to discuss other job placement possibilities.

Recall will occur in reverse order of layoff unless special needs of the Agency prevent this. Recall eligibility will continue for two (2) years from date of layoff.

#### ARTICLE 25 - POSTING

Any position which becomes open in the bargaining unit shall be publicized in each Agency.

#### ARTICLE 26 - IMPLEMENTATION OF NEW CLASSES—APPEALS PROCESS

The appeals process is designed to allocate employees into new classes. Employees in positions allocated to a new classification, who dispute their placement within the new class, can appeal their placement using the following process:

Section 1.

a. An appeal may be filed by an individual employee or a steward or a Council Representative on behalf of the employee, to the Agency personnel office within 15 calendar days of written notification by the Agency of placement into the new class. Employees sharing the same or substantially similar position descriptions or employees the Agency agrees to treat as a group may file an appeal as a group. The initial filing should describe the individual or group, including the names of affected members, identify the proposed placement, and the placement believed to be correct by the affected employees. The appeal must include current, signed position descriptions. Because the old classifications are to be abolished, correct placement cannot be back to the prior classification.

The Agency shall conduct a review of the allocation using the following criteria:

1. The purpose of the job shall be determined by the statement of purpose and assigned duties of the position description and other relevant evidence of duties assigned by the Agency;

2. The concept of the proposed classification shall be determined by the general description and distinguishing features of its class specification; and

3. The overall duties, authority and responsibilities of the position shall be determined by the position description and other relevant evidence of duties assigned by the Agency. This decision shall be made within 30 calendar days of receipt of the appeal and provided to the affected employees in writing and with a summary of the classification analysis.

b. If denied, the Union may appeal the Agency's decision in writing to the Labor Relations Unit within 15 calendar days of receipt of the written denial. The appeals will be considered by the Employer designee (or an alternate) and the Union designee (or an alternate) who shall form the committee charged with the responsibility to consider appeals and make decisions which maintain the integrity of the classification system by correctly applying the classification specifications. Additionally, the committee may utilize two resource persons, one designated by each party, to provide technical expertise concerning a specific series. The committee will attempt to resolve the matter by jointly determining whether the current or proposed class more accurately depicts the overall assigned duties, authorities and responsibilities of the position using the criteria specified above.

In this process each of the designees may identify one alternate class that he/she determines most accurately depicts the purpose of the job and overall assigned duties. If an alternate class is identified, both the Union and Labor Relations Unit shall be notified. If the parties concur that shall end the allocation appeal. In the event the committee concludes that the proposed or alternate class is more appropriate, management retains the right to modify the work assignment on a timely basis to make it consistent with the Agency's allocation.

Appeals shall be decided in order of receipt by the Labor Relations Unit.

Decisions shall be rendered by the designees no later than 60 calendar days of receipt of the appeal by the committee.

c. The decision of the designees shall be binding on the parties. However, agencies may elect to remove/modify duties at any point during the process.

d. If the appeals committee cannot make a decision, the Union may request final and binding arbitration by a written notice to the Labor Relations Unit within the next forty-five (45) calendar day period. Each party may go forward with only one class. Each party may choose to take to arbitration either the current class, class appealed to, or an alternate class identified by a committee member. The arbitrator shall allow the decision of the Agency to stand unless he/she concludes that the proposed classification more accurately depicts the overall assigned duties, authority, and responsibilities of the position.

- e. Where a position is vacated after the filing of the initial appeal, the Union may continue the appeal process and such appeals will be reviewed by the committee only after the review of all filled positions appeals is completed and where the Agency indicates that no change in duties is anticipated prior to refilling the position.
- f. This process terminates upon completion of the allocation process.

#### ARTICLE 27 - TERM OF AGREEMENT

This Agreement shall be in full force and effect from the last date of signing of this Agreement, unless otherwise indicated in this Agreement, through June 30, 2003.

The date of signing shall occur within ten days of notification by the Union that the Agreement has been ratified.

Signed this 19th day of November, **2001**, at Salem, Oregon.

FOR THE STATE OF OREGON

FOR THE AMERICAN FEDERATION OF  
STATE, COUNTY & MUNICIPAL EMPLOYEES

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Mike Greenfield, Director  
Department of Administrative Services

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Tim Pfau  
AFSCME Council 75 Representative

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Dan Kennedy, Administrator  
Human Resource Services Division  
Department of Administrative Services

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Lorraine Skach, M.D.  
Local President 3327

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Janis B. Weeks, Sr. Labor Relations Mgr.  
HRSD - Labor Relations Unit  
Department of Administrative Services

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Beverly Brylski, M.D.  
Bargaining Team Member