

AGREEMENT

BETWEEN

WESLEY MANOR, INC.
FRANKFORT, INDIANA

AND

LOCAL NO. 531
COUNCIL 62, AMERICAN FEDERATION OF
STATE, COUNTY AND MUNICIPAL
EMPLOYEES, AFL-CIO

Effective Dates:

May 1, 2007 through April 30, 2009

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AGREEMENT

THIS AGREEMENT is made and entered into as of the 1st day of May, 2007, by and between Wesley Manor, Inc. Frankfort, Indiana (hereinafter called the "Employer" or "Manor"), and Local No. 531, Council 62, American Federation of State, County and municipal employees, AFL-CIO (hereinafter called the "Union") said Agreement to cover the employees as designated herein.

SECTION 1 PURPOSE

It is the general purpose of this Agreement to promote harmonious relations between the Employer and the Union; to establish an equitable and amicable procedure for the resolution of differences; and to establish the rates of pay and other terms and conditions of employment for employees as designated herein. The parties to this Agreement recognize the mutual responsibility imposed upon them and realize that to provide maximum opportunities for continued employment and satisfactory working conditions, safe working conditions and wages, the Employer must be in a strong market position with respect to the competition. Accordingly, the parties hereto accept responsibility for the above and for the assistance in the attainment of these objectives. To this end, the Union agrees to encourage its members in their efforts to assure a full day's work and to actively combat absenteeism and any other practices which could restrict and limit resident and health care. The parties to this Agreement will exercise their best efforts to improve resident and health care, eliminate waste, conserve materials and supplies, improve the quality of services performed to the residents, prevent accidents and strengthen good will between the Employer and the Union and the general public.

SECTION 2 RECOGNITION

2.1. The Employer recognizes the Union as the sole and exclusive collective bargaining agent with respect to wages, hours of employment and other terms and conditions of employment for all qualified medicine assistants (QMA's), nurses assistants, ward attendants, housekeepers, furniture movers, and laundry workers, dietary workers, and general mechanics, but excluding any job classification not listed above and excluding students.

SECTION 3 UNION SECURITY AND DUES CHECKOFF

3.1. Except as otherwise provided in this Section, all employees who on the effective date of this Agreement are members of the Union in good standing in accordance with its constitution and by-laws and all employees who become members after that date shall, as a condition of employment, maintain their membership in the Union in good standing during the duration of this Agreement. However, during the first thirty (30) calendar days of any contract

year, any employee may withdraw from the Union in writing and thereafter shall not be required to be members or maintain their membership as a condition of continued employment.

3.2. The Manor agrees that it will not exercise discrimination or coercion against any employee or group of employees who are members of the Union because of such membership. The Union shall not intimidate or coerce employees to join or support the Union.

3.3. The Employer agrees that it will deduct from the wages of employees who are members of the Union as provided in Section 3.1, an amount as established by the Union from each pay (26 per year) and remit to the Union monthly dues and initiation fees uniformly required of all Union members. Such deduction shall be made for all employees who voluntarily execute a written authorization for checkoff. The form of authorization for dues checkoff shall be in compliance with the provisions of the National Labor Relations Act.

3.4. The Union agrees to indemnify the Employer and hold it harmless against any and all suits, claims, demands, costs and liabilities for damages or penalties that may arise out of any action that may be taken by the Employer for the purpose of complying with the foregoing provisions of this Section.

SECTION 4 MANAGEMENT RIGHTS

4.1. Because of the humanitarian nature of the Employer in rendering of resident and health care services, it is agreed by the Union and Employer that the Employer shall have full authority in all incidental rights to manage, direct and control all functions and operations.

Accordingly, the Employer shall perform all the management functions which are inherently a part of management rights, including, but not limited to: the right to manage the business and operation of the Manor; to determine standards and methods of resident and patient care; to direct the working forces; to determine the schedules and hours of work and shifts, the duties and nature and place of work to be performed by employees, and the methods, procedures and equipment to be utilized by the employees in the performance of their work; to abolish, eliminate or consolidate any job classifications, operating units and departments; to make and enforce reasonable rules of sanitation and conduct, including policies on smoking, attendance and drug/alcohol testing, to discipline or discharge employees for just cause; and to utilize employees wherever and however necessary in cases of emergency or in the interest of resident or patient care or the efficient operation of the Employer; provided, however, that no such right shall be exercised or enforced in a manner contrary to or inconsistent with the provisions of this Agreement.

4.2. The Employer in the exercise of its rights shall observe the provisions of this Agreement and all management rights not specifically limited by the express language of this Agreement, or not otherwise provided for, are hereby retained by the Employer.

SECTION 5
NO STRIKES OR LOCKOUTS

5.1. The Union agrees to the essential nature of services provided by its members to the residents and patients at the Employer's. In recognition of this fact, the Union, its officers, members and employees agree that there shall be no work stoppages, interruptions, slowdowns, or strikes, at any time. In the event of unauthorized interruptions, the Union agrees that it shall join the Employer in requiring the employees to return to work immediately. In the event of a violation of this Section by the Union and/or the employees, the Employer may, in addition to other remedies, discipline such employees. Employees shall not be entitled to any benefits or wages whatsoever while they are engaged in a strike, work stoppage, or other interruption of work.

5.2. The Employer will not engage in a lockout during the terms of this Agreement.

SECTION 6
GRIEVANCE PROCEDURE

6.1. A grievance shall be any dispute concerning the interpretation or application of, or compliance with, any of the provisions of this Agreement as it relates to a particular employee or employees.

STEP 1--In the event any employee believes that he has a grievance, it shall first be discussed by the employee with his or her immediate supervisor or his/her designee and with the employee's Steward present should the employee so desire.

STEP 2--If no satisfactory adjustment is made at STEP 1, the employee shall record his grievance on a grievance form provided by the Steward. The grievance must be dated and signed by the grievant. The Steward and the employee will then make an appointment to settle the grievance with the Department Head or his/her designee as soon as possible. The Department Head or his/her designee shall advise the employee and the Steward, as the case may be, by the end of the fifth working day after submission the grievance as to the Employer's answer to the grievance.

STEP 3--If no satisfactory adjustment is agreed upon as provided in STEP 2, the matter shall be referred by the Union to the President of the Corporation and/or Vice President of Operations **and/or Administrator** as he may designate, who shall meet with the Steward, Union President or Vice President and the Business Agent of the Union and review the alleged grievance and give a decision within five (5) working days after the day of this meeting.

STEP 4--If no settlement of the grievance is reached in the foregoing Steps, the matter shall be submitted to arbitration if the Union shall so request in writing within ten (10) working days after the Employer's decision provided for in STEP 3. In such cases, the Union shall request the American Arbitration Association to submit the names of seven (7) disinterested persons qualified and willing to act as an impartial arbitrator and who are members of the American Academy of Arbitrators. The parties shall select an arbitrator in accordance with the procedures of the American Arbitration Association. The decision of the arbitrator shall be final and binding upon the parties.

6.2. Any grievance not presented within five (5) working days after the occurrence of the event out of which the grievance arose, or within five (5) working days of when the aggrieved employee knew or should have known of the occurrence of the event, shall not be entitled to consideration. Grievances must be appealed from one Step to the next within five (5) working days of the answer at the previous step. If the Manor fails to answer a grievance within a contractual time limit, the grievance shall automatically proceed to the next step. For purposes of this Section, workdays shall be Monday through Friday.

6.3. The fee of the arbitrator shall be borne equally by the Employer and the Union.

6.4. The arbitrator may interpret the Agreement and apply it to the particular case presented to him, but he shall, however, have no authority to add to, subtract from, or in any way modify the terms of this Agreement.

6.5. After making an appointment with the department head or supervisor involved with the grievance and upon obtaining approval of his supervisor, a Steward may leave his work to investigate and adjust grievances referred to him by any employee in his department. Reasonable efforts shall be made to schedule the appointment on a day that the grievant is working. Upon completing the investigation or adjustment of the grievance, the Steward shall report back to his supervisor. The Steward shall be paid for time spent during normal working hours handling grievances up to a maximum of two (2) hours per week and shall handle grievances on the Employer's premises only on his shift except during the absence of a Steward on another shift.

6.6. The Union shall designate one (1) Steward for Maintenance, Housekeeping and Laundry, one (1) Steward for the Dietary Department, and one (1) Steward per shift in the Health Center, one of whom shall be a QMA. The Union will supply a written list of the Stewards and any changes thereto.

6.7. The Employer agrees that, upon request, it will permit authorized representatives of Local No. 531, Council 62, American Federation of State, County and Municipal Employees, AFL-CIO to enter the premises during regular working hours for individual discussions with representatives of the Employer and with employees.

6.8. In cases of discharge, any grievance filed shall go directly to STEP 3.

6.9. When an employee is to be suspended or subject to termination, the employee's supervisor and/or another representative of the Manor shall meet with the employee to explain the action that is to be taken and the reasons for the action. Upon request, the employee shall be provided a Union representative during this meeting. Employees who are disciplined shall be given a copy of their disciplinary action at no charge. An employee shall not be terminated over the telephone.

6.10. An employee who has grieved any disciplinary action shall, upon making an appointment off duty at a mutually agreeable time, be allowed to review his or her personnel records concerning discipline, commendation, job evaluation and changes in job status. The employee may have his steward present if the employee so requests.

SECTION 7 SENIORITY

7.1. Defined. Subject to the provisions of Section 7.2 and 7.4, seniority shall be the length of the employee's continuous employment by the Manor since his hiring date.

7.2. Acquiring Seniority.

During the first ninety (90) calendar days of employment, new full-time employees [one hundred twenty (120) calendar days for new part-time employees] and employees rehired after a break in seniority under Section 7.3 shall be on probation, shall have no seniority and may be terminated during the probationary period without recourse to the grievance procedure. However, upon request the Union will be notified of the reasons for the probationary employee's termination and may request a meeting to discuss the situation. Upon completion of the probationary period, seniority of an employee shall be computed as of the date of hire.

7.3. Breaking of Seniority. Seniority shall be broken for the following reasons:

- (a) If an employee quits, resigns, or retires.
- (b) If an employee is discharged for just cause.
- (c) Absence from work because of a layoff for twelve (12) months.
- (d) Absence from work due to leave of absence beyond the length of any leave of absence granted under Section 14; except in the case of absence due to a temporary compensable injury on the job under workers' compensation in which case the employee shall remain on the seniority list until he or she is able to

return to their job or is declared to be permanently impaired and unable to perform their job.

(e) If an employee is absent for two (2) consecutively scheduled shifts without proper notification to the Employer, unless the employee is prevented from giving notice by causes beyond his control.

(f) If an employee fails to return to work from layoff within seven (7) consecutive calendar days from the date of receipt of notification.

7.4. Maintaining Seniority. An employee who completes the probationary period and who thereafter works continuously for the Employer either in or out of the bargaining unit, shall have his/her seniority based on the aggregate time for which he/she has been employed by the Employer upon retransfer to the bargaining unit; provided, however, this rule shall not apply to individuals who were originally hired outside of the bargaining unit, in whose case seniority shall date only from the date of original employment in the bargaining unit.

7.5. Layoff and Recall. In the event of a layoff of more than ten (10) consecutive workdays, employees within the classification where the reduction is to occur shall be given preference on the basis of skill and ability to perform the work in question, experience in the job classification at the Manor, and length of seniority. When skill and ability and experience are relatively equal, seniority shall govern.

An employee who is laid off shall have the right to displace the least senior employee on the seniority list in their department provided they have the skill and ability to perform that job. However, no employee shall be permitted to bump to a higher paying classification or to a higher employment status (for example part-time to full-time). If the laid off employee is lower in seniority than any other employee in the classification, they shall have the right to displace the least senior employee in the bargaining unit, provided they have the present skill and ability to perform the job.

Recall to available positions shall be made in reverse order based on the employee's status at the time of their layoff. For example, laid off full-time employees will be recalled in reverse order to available full-time positions and laid-off part-time employees will be recalled in reverse order to available part-time positions.

Determination of skill and ability shall be made by management.

7.6. Job Vacancies and New Jobs. Whenever the Manor determines there is a vacancy or a new job classification, the position which is vacant or established shall be posted throughout the facility for three (3) consecutive workdays (72 hours). For purposes of this Section 7.6, workdays are Monday through Friday.

(a) It shall be first offered to those non-probationary employees applying on the basis of seniority on all shifts in the classification where the vacancy or new job occurs.

(b) In the event it is not filled from the classification, it shall then be offered to those non-probationary employees who applied on the basis of skill and ability to perform the job in question, experience in the job classification and length of seniority. If skill and ability and experience are relatively equal, seniority shall govern.

(c) If there are no seniority employee bidders, the Manor may, at its option, offer the job to a probationary employee who bids on the posting. If a probationary employee is the successful bidder for a job on another shift, he will not be moved to that shift until the position he is vacating is filled.

(d) If the job is not filled by the above procedure, then the Employer has the option of training a present employee who wishes to qualify for the job or hiring a new employee.

(e) To avoid the chain bidding procedure, it is agreed only the first three (3) vacancies in the chain shall be filled by this procedure, after that vacancies shall be filled in accordance with paragraph (d).

(f) An employee who bids on an opening and is selected must remain in that position for a minimum of ninety (90) calendar days before he shall be permitted to bid on another posting. An exception to this rule is if the employee or the Manor can show for good cause that he cannot handle the position. In that case, the Union and Employer will meet jointly to decide what will happen.

7.7. Transfers. Any employee, regardless of his/her regular job assignment, may be assigned to other work temporarily. In such event, the employee shall be paid the rate of pay for the job temporarily transferred to unless the transfer is to a job for which the rate of pay is lower than his regular rate, in which case the employee shall continue to be paid his regular rate for the duration of the temporary job assignment. No temporary transfer shall exceed twenty (20) working days, **unless returning to the original job assignment is not approved by a physician.**

7.8. Seniority List. A seniority list will be prepared by the Employer showing the name, job classification, and seniority date of each employee. The first such list will be given to the Union within thirty (30) calendar days after the date of this Agreement. Thereafter, the seniority list will be revised to reflect changes that have occurred in the meantime and will be sent to the Union after the last payroll period in every quarter. The Employer will furnish the Union with periodic reports, at mutually agreeable times, of any changes in such list.

7.9. For purposes of this Agreement, classifications and departments are those shown on Exhibit A, "Wages."

