

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

SUBCHAPTER 140-90.1 HUMAN RESOURCE RULES AND REGULATIONS

Part 001	General Provisions	§ 140-90.1-420	Promotion, Lateral Transfer, Demotion
§ 140-90.1-001	Authority		
§ 140-90.1-005	Statement of Purpose		
§ 140-90.1-010	Application and Interpretation		
§ 140-90.1-015	Authority and Responsibilities of the Manager of the Human Resources Office		
§ 140-90.1-020	HR Committee		
§ 140-90.1-025	HR Office Records and Official Personnel Files		
Part 100	Types of Employment		
§ 140-90.1-101	Types of Employment		
Part 200	Recruitment		
§ 140-90.1-201	General Policy		
§ 140-90.1-205	Request for Recruitment		
§ 140-90.1-210	Types of Announcements		
§ 140-90.1-215	Announcement Deadline		
Part 300	Evaluation of Candidates		
§ 140-90.1-301	Types of Examination or Announcement		
§ 140-90.1-305	Minimum Qualifications for Applying		
§ 140-90.1-310	Filing of Applications		
§ 140-90.1-315	Disqualification of Applicants		
Part 400	Certification and Selection of Candidates		
§ 140-90.1-401	Certification of Candidates		
§ 140-90.1-405	Selection of New Employees		
§ 140-90.1-410	Acting Appointment		
§ 140-90.1-415	Reinstatement of Veterans – Re-Employment of Returning Veterans		
		§ 140-90.1-500	Part 500 Work Hours, Holidays, Leave, and Benefits
		§ 140-90.1-501	Work Hours
		§ 140-90.1-505	Recognized Holidays with Pay
		§ 140-90.1-510	Leave
		§ 140-90.1-515	Benefits
		§ 140-90.1-520	Overtime and Compensatory Time
		Part 600	Human Resources Policies
		§ 140-90.1-601	Informal Grievance Procedure
		§ 140-90.1-605	Annual Performance Evaluations
		§ 140-90.1-610	Disciplinary Actions
		§ 140-90.1-615	Separation
		§ 140-90.1-620	Policy of Non-Discrimination
		§ 140-90.1-625	Policy against Sexual Harassment
		§ 140-90.1-630	Policy on Use of CHCC Vehicles
		Part 700	Special Provisions
		§ 140-90.1-701	Outside and Dual Employment
		§ 140-90.1-705	Certification of Employment
		§ 140-90.1-710	Unlawful Acts Prohibited
		§ 140-90.1-715	Gifts and Gratuities
		§ 140-90.1-720	Nepotism – Employment of Relatives
		§ 140-90.1-725	Political Activity
		§ 140-90.1-730	Safety Programs
		§ 140-90.1-735	Conflict of Interest
		§ 140-90.1-740	Whistleblower’s Policy

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

Part 800	Drug & Alcohol Abuse	Responsibility	
Policy		§ 140-90.1-845	Confidentiality
§ 140-90.1-801	Basis for the Policy	§ 140-90.1-850	Violation of the
§ 140-90.1-805	Rules of a Drug-Free	Policy	
Workplace			
§ 140-90.1-810	Drug and Alcohol	Part 900	[Removed]
Testing			
§ 140-90.1-815	New Hires: Pre-	Appendix A	Employment Status
employment Testing		Acknowledgement Form	
§ 140-90.1-820	Notification of	Appendix B	College Equivalency Chart
Criminal Convictions		Appendix C	Table of Penalty Sanctions
§ 140-90.1-825	Searches	Appendix D	Conditions of Employment
§ 140-90.1-830	Employee Assistance	Form	
§ 140-90.1-835	Policy	Appendix E	Outside Employment Request
Communication		& Approval Form	
§ 140-90.1-840	General		

Subchapter Authority: 3 CMC §§ 2824(k)–(l) and 2829

Subchapter History: Amdts Adopted 39 Com. Reg. 40224 (Oct. 28, 2017); Amdts Proposed 39 Com. Reg. 39703 (June 28, 2017); Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

Commission Comment: The Commission numbered and renumbered sections and subsections throughout for conformity pursuant to 1 CMC § 3806(a). The Commission changed bullet point lists to subsection lists throughout pursuant to 1 CMC § 3806(g).

Part 001 - General Provisions

§ 140-90.1-001 Authority

Under the authority vested in the Chief Executive Officer pursuant to 3 CMC § 2824 (k), (l) and 3 CMC § 2829 the following rules and regulations are hereby promulgated.

Modified, 1 CMC § 3806(a), (g)

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-005 Statement of Purpose

The purpose of these rules is to implement 3 CMC § 2829(a) that requires the Corporation to develop, adopt, and administer a merit-based HR Office system that rewards productivity and service, provides management flexibility, and includes provisions for employees to appeal serious disciplinary action. The Corporation shall set forth the selection, promotion, performance evaluation, demotion, suspension, dismissal, and other disciplinary rules for employees of the Corporation by adoption of these regulations.

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

Modified, 1 CMC § 3806(g)

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-010 Application and Interpretation

These rules shall apply to all employees of the Commonwealth Healthcare Corporation (CHCC) except that they shall not apply to the Chief Executive Officer (CEO), the Chief Financial Officer (CFO), the Corporate Officers, the Hospital Administrator, the Legal Counsel, and the Medical Staff who are covered by the Medical Staff By-laws of the Corporation. If any section subsection, sentence, clause or phrase of these rules is found to be illegal, such findings shall not affect the validity of the remaining portions of these rules.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-015 Authority and Responsibilities of the Manager of the Human Resources Office

The Human Resources Manager (HRM) shall have overall authority and responsibility for the Human Resource administration for the Corporation. The HRM shall also:

- (a) Advise the Corporation on matters pertaining to the administration of HR Office and assist in ensuring that these rules and are observed by those concerned. In this capacity, the HRM has advisory responsibility in coordination and consultation with CHCC Legal Counsel for the enforcement of these rules.
- (b) Maintain or direct the maintenance of an up-to-date HR Office records system.
- (c) Prepare or direct the preparation of forms and reports as may be required by the Rules and Regulations.
- (d) Assist all Manager and Supervisors in the interpretation and application of employee relation matters.
- (e) Administer and maintain classification and compensation system.
- (f) Direct the recruitment, employment and promotion programs and promote equal employment opportunity in the Corporation.
- (g) Review and implement the HR organizational plans and modifications thereto as directed by the Chief Executive Officer.
- (h) Promote and develop programs improving employee effectiveness, such as training, health and safety, counseling, and productivity improvement programs.

- (i) Maintain a position control system based on the budget as approved for the Corporation.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-020 HR Committee

The HR Office Committee consists of members appointed by the Chief Executive Officer. The committee may review and make recommendations or modifications to these regulations.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-025 HR Office Records and Official Personnel Files

- (a) The HRM shall establish and maintain a separate OPF (Official Personnel Files) and medical information file for each employee.

- (b) Access to OPF or Medical Information Files.

(1) Employees shall have access to their own OPF during normal office hours. The employee's Manager or Supervisor, the CEO, the HRM, and the Legal Counsel may inspect the employee's OPF. Except as otherwise provided in this rule, an OPF shall be inspected by others only following presentation of written consent by the employee to whom that file pertains. A document contained in an HR Office or medical information file shall be confidential and protected from unauthorized or unwanted disclosure.

(2) Review of any OPF or medical information files shall be conducted in the presence of the HRM or assigned staff in the HR Office. No document shall be removed from a HR Office or medical information file without the prior written approval from the CEO after consultation with Legal Counsel. The HRM shall record for tracking purposes the person(s) who accessed the OPF or medical information file. The Legal Counsel of the Corporation shall review and authorize removal, copying, destruction, shredding or taking of OPF outside the premises of the Corporation or custodian of the record.

- (c) Use of HR OPF or Medical Information files. Employees shall have access to their OPF only upon 24 hours advanced request to the HRM.

(d) In keeping with the Corporation's policy and the CNMI Open Government Act (OGA) on record confidentiality and disclosures, the HRM may release employee information such as employee name, employment dates, and salary and position title and duty station in response to requests received from outside the corporation. Other information is considered confidential and will be released only upon written consent of the employee or by authorization of the CEO or authorized designee pursuant to the laws of the CNMI.

(e) Employees who may have access to employees' OPF records because of their administrative responsibilities shall be required to observe due care protecting against the unauthorized disclosure of documents or records contained in the OPF or medical information file. The employees in the HR Office shall observe and maintain the highest standard of confidentiality to avoid unwanted disclosure of personal and private information about employees.

Modified, 1 CMC § 3806(a), (g).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

Part 100 - Types of Employment

§ 140-90.1-101 Types of Employment

The type of employment is dependent upon the position that is being filled.

(a) Probationary Appointment – Probationary Appointment employees will be hired for a period of 90 days based on a selection process from a list of eligible applicants resulting from an open-competitive announcement to fill a full time employment position. Probationary employees receive annual and sick leave and are eligible for health and life insurance but cannot use any annual leave during the first 90 day period. Managers will be given the evaluation form at the time of hire. The Manager should try to provide periodic feedback so that the employee is aware of any deficiencies he or she needs to correct prior to the end of the 90 day period. The Manager must do the evaluation, provide it to the employee, and transmit it to the HRM one week prior to the end of the 90 day probationary period. An employee who receives all or primarily all “unsatisfactoriness” on the evaluative criteria should assume s/he will be separated from service, though the HRM needs to provide a letter that the employee either has or has not successfully passed his or her probationary period. The employee who has not received a letter about passing the probationary period should request one. That probationary period may be extended if the Supervisor and HRM document additional time is needed to evaluate whether the employee can perform the job adequately. Once the employee successfully completes the probationary period, s/he can only be terminated through the disciplinary process.

(b) Provisional Appointment – Provisional Appointment employees are hired on a 90 day period to fulfill an urgent need of the Corporation. This is usually done in order to allow time to obtain a full time permanent employee for the position. If the Corporation still needs the services of the provisional employee and the position has not yet permanently been filled, the Corporation may extend the provisional employee another 90 days but the employment of a provisional employee shall not exceed 180 days. Provisional employees receive annual and sick leave and are eligible for health and life insurance but cannot use any annual leave during the first 90 day period. If the employee is then converted to a full-time position, s/he still has to complete the 90 day probationary period. Please refer to Appendix A for Employment Status Acknowledgement Form.

(c) Full Time Employment – Full Time Employees will be hired on Permanent status when

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

the position is a continuous one and there is an FTE to fill it. An employee under this employment status must have satisfactorily completed a 90 day probationary period.

(d) Limited Term Appointment – Limited Term Appointment employees may be classified as a Federal Grant Employees who are hired to work on programs funded through federal grants. The terms of these employees shall be congruent with the budget cycle of the grant. Limited Term Appointment employees receive annual and sick leave and are eligible for health and life insurance but cannot use any annual leave during the first 90 day period.

(e) Temporary Appointment – Temporary Appointment employees are employees who are hired for less than one year. While their terms may be extended, there should be no expectation of and reliance upon an extension. Temporary employees do not receive annual or sick leave and are not eligible for health and life insurance or the 401(a) program.

(f) Employment Contract – Employment Contract employees shall be hired on a contractual basis. These shall be the following types of contract employees:

(1) Employment Contract employees shall be hired for a period of one to two years and are entitled to all the benefits of employment, including annual and sick leave, and are eligible for health and life insurance and the 401(a). Employees under this status are subjected to the Offer Letter of Employment from the Chief Executive Officer and the Conditions of Employment. Please refer to Appendix D for an updated Conditions of Employment Form.

(2) Locum tenens (temporary substitute) employees shall be hired, usually for the medical staff, for a period not to exceed one year. These employees do not receive annual or sick leave and are not eligible for health and life insurance or the 401(a) program.

(3) Part-time employees may be hired for one or two years and do not receive annual or sick leave and are not eligible for health and life insurance or the 401(a) program.

(4) No contract employee shall have an expectation of renewal.

Modified, 1 CMC § 3806(a)

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

Part 200 - Recruitment

§ 140-90.1-201 General Policy

(a) The HRM shall facilitate all employment recruitment. The Chief Executive Officer will approve the final selection prior to the position being offered to the applicant and ensure all appropriate HR procedures have been followed.

(b) Applicant selection shall be done without discrimination based on race, national origin, color, age, religious creed, sex, political affiliation, marital status, disability or other criteria prohibited by law. Position requirements that constitute bona fide occupational qualifications (BFOQs) will be allowed.

(c) Generally, position vacancies shall be filled from within the Corporation. This policy is

observed so that employees and the public will regard service to the Corporation as a career, whereby efficiency and ability will be recognized, and employee turnover will be minimized.

(d) Qualified applicants with disabilities and veterans are encouraged to apply for positions in the Corporation.

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-205 Request for Recruitment

The Managers or Supervisors shall notify the HRM as far in advance as possible of the need to fill a vacated or new position. Upon receipt of request, the HRM shall approve the method for filling the position as set forth in this section. It is the responsibility of the Manager or Supervisor to ensure that funding in the position is available through the certification of the Fiscal/Budget Officer.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-210 Types of Announcements

(a) Contents and distribution. When a position vacancy occurs, the HRM shall circulate a recruitment announcement. The announcement shall specify the FLSA coverage, title, duties and the minimum qualifications required, the open and closing date on which applications will be accepted, the type of examination and other pertinent information and requirements.

(b) Recruitment announcement shall be circulated only within the Corporation for at least five working days. If no qualified applicants apply, then HRM may advertise publicly in the CNMI for at least 10 working days. Hard to fill positions may be open until filled.

(c) The HRM, in consultation with the Managers or Supervisors, shall issue a recruitment announcement in accordance with the following procedures:

(1) Corporation announcement. When an examination is restricted to employees within the Corporation, the examination will be announced on a Corporation wide basis only. Recruitment announcements will be published for at least five working days.

(2) Open-competitive announcement. Open-competitive announcements will be published for at least 10 working days. Applications may be received from any persons who wish to apply.

(3) Continuous announcement. Open examinations may be announced on a continuing basis at the discretion of the HRM, without a designated closing date for receipt of application, when it is anticipated that the designated 10 working days for publishing an open competitive announcement may not be adequate for generating qualified applicants. Continuous open-competitive announcement issued under this rule will indicate that the period for application will be “open until filled” or “open until further notice”. When an appropriate number of qualified applications have been received or upon request by the requisitioning division, a notice closing

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

the announcement shall be published providing an additional five working days period for final receipt of applications. Applications received after the five working days notice deadline will not be considered for the examination announcement concerned. This procedure must be completed for each vacancy requirement for which it is considered necessary to extend the period for application.

(4) All applications must be received by the HR Office on or before the closing date of the announcement:

Human Resource Office
Commonwealth Healthcare Corporation
P. O. Box 500409
Saipan, MP 96950 USA

Modified, 1 CMC § 3806(a), (g).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-215 Announcement Deadline

Deadline for receipt of applications by the HRM for any examination announcement will be at the close of business on the announced closing date. If the closing date should fall on a day when the CHCC Offices are closed for business, then applications will be accepted on the following business day. Applications received after that time shall not be considered.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

Part 300 - Evaluation of Candidates

§ 140-90.1-301 Types of Examination or Announcement

- (a) Open-competitive. Open-competitive examinations shall be open to all applicants.
- (b) Corporation. Corporation examinations shall be open only to employees of the Corporation.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-305 Minimum Qualifications for Applying

- (a) Minimum Qualifications Requirement. Only applicants who meet the advertised minimum qualifications will be considered for the position.
- (b) Equivalency. Please refer to Appendix B for full discussion of College Equivalency. For

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

positions requiring a High School Diploma: The equivalency for positions requiring a High School Diploma is a General Education Diploma (GED), an Adult Basic Education Diploma (ABE), or an Advanced Development Certificate (ADI), all of which are currently or have previously been offered by the Northern Marianas College (NMC) and/or the CNMI Public School System (PSS).

(c) Without Equivalency. Candidates who do not meet the minimum qualifications of the position or its equivalency will not be entertained. If the pool of applicants does not contain an individual who meets the qualifications or the Corporation does not want to fill the position with an applicant who does meet the qualifications, for good reason, such as a recent violent felony or a termination for cause by another employer, the position may be re-announced.

(d) Minimum Age for Employment; Registration for Selective Service. The minimum age for employment within the Corporation shall be in accordance with the minimum age prescribed by Federal law. In accordance with Federal law, all male applicants between the age of 18 up to 25 must register with the U.S. Selective Service in order to have gainful employment with the Corporation. A copy of the Selection Service Registration Card must be provided and will be placed in employee file.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-310 Filing of Applications

(a) Applications shall be filed with the HRM or Human Resource Office on or prior to the closing date specified in the announcement and shall constitute an integral part of every examination. The HRM may require information as to education, training and experience of the applicant and such other information as he or she may deem pertinent and may require any applicant to submit documented proof of any license, certificate, degree or other qualification claimed or required, and may refuse credit for such qualifications in the absence of proof.

(b) Character. Evaluation shall be practical and shall relate to the duties and responsibilities of the position for which the applicant is being considered and shall measure the relative capacity and fitness of applicants to perform the duties of the class of positions to which they seek to be appointed or promoted. The evaluation used to determine the fitness and relative ability of the applicant shall consist of one or more of the following:

- (1) An evaluation of education, training and experience as shown on the application or by other information submitted;
- (2) An interview designed to determine general suitability for the position; and / or
- (3) Any other appropriate measure of suitability.

(c) Ranking Education and Experience. When the ranking of education and experience forms a part or all of the examination, the HRM shall determine a procedure for the evaluation of the education and experience qualifications of the applicants. The formula used in appraisal shall consider the quality of the education and experience.

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

Modified, 1 CMC § 3806(a), (f).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-315 Disqualification of Applicants

(a) The HRM may refuse to examine an applicant, or after examination may refuse to place his or her name on an eligible list, or may remove his or her name from an eligible list, or may refuse to certify any person on an eligible list who:

- (1) Has failed to submit a complete and accurate application or failed to submit within the prescribed time limit;
- (2) Is found to lack any of the minimum qualifications in the recruitment announcement or examination for the position;
- (3) Has applied for corporation announcement, but whose last performance evaluation was below average;
- (4) Has received any disciplinary action (other than an oral reprimand, warning, or counseling) from the Corporation within a 12-month period preceding application and it has not been rescinded;
- (5) Is found to have been convicted for violation of the narcotics law of the CNMI or federal government within the past two years. Conviction includes guilty pleas. The applicant shall comply with the Corporation's Drug Free Work Place policy concerning post employment offer drug testing;
- (6) Has been convicted of any crime involving violence or dishonesty within the last two years, if such disqualification does not violate federal, or CNMI laws;
- (7) Has withheld information of material fact or made a false statement of material fact in regard to the application for employment;
- (8) Has ever been dismissed from the Corporation or from other employer for disciplinary reasons or resigned in lieu of termination;
- (9) Has used or attempted to use bribery to secure an advantage in the examination or appointment;
- (10) Has directly or indirectly obtained information regarding examinations to which the applicant is not entitled; or
- (11) Is disqualified under other sections of these rules.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

Part 400 - Certification and Selection of Candidates

§ 140-90.1-401 Certification of Candidates

Upon receipt of request for certification, the HRM may certify to the Manager or Supervisor the names of all candidates included in the highest five rankings (if more than five applied) pursuant to an examination and the names of those candidates whose employment may assist the

Corporation to reach its affirmative action goals and timetables. Upon request by the Manager or Supervisor, the HRM may certify additional candidates. If more than one vacancy occurs in the same class of positions, the HRM may certify the name of five additional candidates for each additional vacancy. If the Manager or Supervisor, for good cause, rejects all names submitted, the HRM may prepare and submit a second list of candidates for consideration. If there are no other certified candidates and all efforts are being exhausted; then position will be re-announced. The Manager or Supervisor must submit in writing justification for the rejection of all names submitted in the list of candidates.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-405 Selection of New Employees

The Manager or Supervisor shall select a candidate for hire and forward it to the HRM. At the same time, the Manager or Supervisor must indicate the reason for non-selection of the other names listed on the certification list and forward it to the HRM for his or her appointment action. No offers of employment, transfer or promotion either oral or written, will be made by anyone but the CEO or authorized designee.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-410 Acting Appointment

(a) An acting appointment is made when an employee may be required to serve temporarily and accept responsibilities for work in a vacant higher level position which, the Chief Executive Officer has determined cannot be left vacant for any but the shortest period of time. This type of appointment gives the acting appointed employee no advantage in competition for regular filling of this position. However, time in acting appointment may be counted toward experience for the class of position concerned.

(b) All acting appointments require the written approval of the Chief Executive Officer. Any employee who is acting for a period in excess of 90 days will receive acting pay effective the 91st day in acting capacity. If the employee does not meet the minimum qualifications of the position for which he/she is in acting capacity, the acting pay will be at least 10% more than the employee was earning immediately prior to accepting the acting role but not more than the pay level for the position the employee is filling.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-415 Reinstatement of Veterans – Re-Employment of Returning Veterans

Return from military leave. A Corporation employee who returns from military duty shall be re-employed in accordance with the (United States Code Title 50, War and National Defense Military Selective Service Act of 1967, Section 459, Separation from Service (a), (b), (c), (f) and (g) Uniformed Services Employment and Reemployment Rights Act 38 U.S.C. 4301-4333. The employee is entitled to re-instatement into the position the employee had when the employee left on military duty, or into one as nearly alike as possible or comparable position with similar pay and seniority.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-420 Promotion, Lateral Transfer, Demotion

(a) Promotion. Promotions shall be made on the basis of qualifications. A promotion is the filling of a vacancy, which has been announced within the Corporation for a period of five working days, by the advancement of an employee from a position having a lower salary or pay level. Vacancies shall be filled by promotion whenever practicable and in the best interest of the Corporation. Promotions shall be based upon merit and shall be made in accordance with the procedures established in these rules. Major factors in determining promotions are:

- (1) Performance evaluation report;
- (2) Education, experience and training;
- (3) Length of service;
- (4) Police Clearance; and/or
- (5) Must have no disciplinary action.

(b) Lateral Transfer. Lateral transfers shall be made based on the needs of the Corporation. Whenever possible, the desires of the employee will be taken into account, but if the position the employee is currently filling is no longer needed, the employee must either accept the lateral transfer or resign.

(c) Demotion. The movement of an employee to a position in a lower class is a demotion. For this purpose a lower class means a class having a pay band lower than the pay level of the position in which the individual is employed. An employee will not be demoted to a lower class without being given (1) a written notice and (2) an opportunity to improve his/her performance.

(1) Reasons

(i) For lack of work or for cause. An employee may be demoted for lack of work in his or her class, or for cause.

(ii) Employee request. If, for personal or other reasons, an employee requests in writing that he or she be assigned to a vacant position in a lower class, the Manager or Supervisor for that vacant position may make such a demotion with prior approval of the CEO in writing. The employee must meet the minimum qualifications for the position. In such cases, the demotion will be deemed to have been made on a voluntary basis.

(2) From the Exempt Status to Non-Exempt Status. An Exempt employee who requests demotion, may be placed in a vacant Non-exempt position at the same or a lower level position

than the one previously held, with the approval of the Manager or Supervisor of the vacant position and the CEO. Such a demotion shall be allowed only if the employee is qualified to hold the position. The HRM may require evidence of the applicant's qualifications for the new position.

Modified, 1 CMC § 3806(a), (g).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

Part 500 - Work Hours, Holidays, Leave, and Benefits

§ 140-90.1-501 Work Hours

(a) Regular Hours of Work.

(1) Regular working hours of the Corporation employees shall consist of a five-day week, eight hours a day, 40 hours per workweek from 7:30 am to 4:30 pm. The standard workweek shall consist of the period from midnight Sunday to the following midnight Sunday.

(2) The CHCC is a 24-hour operation. In the departments that operate outside of normal business hours, the Manager of the Department together with the Hospital Administrator shall make a schedule for the employees who work hours other than the standard work week. Please refer to the Time Clock / Biometric Timekeeping Policy, Policy No. 1095 for the hours of all units operating outside of the standard work week.

(b) Evening and Night Shift Differential.

(1) Evening and night work will result in additional compensation through a differential of ten percent or fifteen percent of base salary rate. The evening differential of 10% will be paid for all work from 4:31 pm to 11:59 pm. The night differential of 15% will be paid for all work from 12:00 pm to 7:00 am.

Control Criteria: To be eligible to receive payment of the evening or night work differential, the following criteria must be met:

(i) Payment will be made for actual hours worked that fall between 4:30 pm and 7:30 am.

(ii) The above is restricted to include only those regularly scheduled work hours within the specified time period that constitute all or part of the employee's regular hours of duty.

(2) Non-payment of Evening and Night Work Differential. Payment of evening and night work differential will not be made when:

(i) An employee whose regular hours of duty include scheduled hours during the period of 4:30 pm to 7:30 am is absent and does not actually perform for the hours involved.

(ii) An employee required to perform work during the hours of 4:30 pm to 7:30 am is not part of the employee's regular scheduled hours of night work duty; or an employee who is paid for remaining on call to duty in excess of the normal forty hour work week shall not be eligible for payment of night work differential for any work performed while on call.

(c) On Call: Employees who are required to remain on-call outside of their regular working hours shall maintain a fit to report for duty status while on call and shall be paid a premium of one-dollar and fifty cents per hour they are scheduled to be on call, provided that:

(1) Employees shall be compensated for hours actually worked instead of receiving an on-

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

call premium for all hours in which they are required to be at a prescribed workplace; and

(2) Hours of on-call duty must be for a regularly scheduled period of time in excess of the regular forty hour workweek. On call schedules must be submitted to payroll before the beginning of the work week involved; and

(3) There is a bona fide reason for the employee to be on call.

(d) Time and Attendance Record. All CHCC employees shall sign the biometric Time and Attendance Record. The respective Department Managers/Supervisor shall review and approve Time and Attendance Records. The CHCC pay periods shall be identical with those of the CNMI Government. Executive, managerial, professional and exempt employees are expected to work the regular hours of employment but need not time-in or time-out.

(e) Payment of Salary. All CHCC employees shall be paid within two weeks after end of every pay period.

(f) Temporary Schedule. Temporary shifting of employee's working hours to meet routine needs may be done as necessary and if approved by the Manager or Supervisor. Changes in temporary schedule for more than one-week duration require at least one week's advance notice to employees except in emergency situations, or when the employees waive the need for notice. HR must file the duty station change form in employees OPF.

(g) Lunch Period. For most positions, lunch shall be one hour unpaid time, usually from 11:30 am to 12:30 pm. Deviation from the standard lunch time requires the approval of the employee's Supervisor or Manager. Where shift work precludes a lunch break for an exempt position, employee shall be paid for all time on that shift. If employee is on a shift schedule, lunch or dinner break should be complied accordingly based on existing policy.

(h) Rest Periods. Employees are entitled to rest periods of fifteen minutes during the first four (4) hours of work and another fifteen minutes during the second four hours of work. The responsibility for scheduling break periods rests with the immediate supervisor. The 30 minutes allotted for break time may not be used to lengthen lunch hours or shorten working days. Rest periods shall not be used to cover late arrivals nor may they be accumulated for scheduled time-off.

(i) Changes of Permanent Schedule. All long-term changes to the established work schedules shall be provided to the employees affected at least one week's notice prior to the change, if possible, except in emergency situations or when the employees waive the need for notice. HR must file the duty station change form in employees OPF.

Modified, 1 CMC § 3806(a), (e), (g).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-505 Recognized Holidays with Pay

(a) Holidays with Pay. The following days will be recognized as holidays with pay for all

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

employees. These holidays are subject to change pursuant to Executive Order of the CNMI Governor or by statute.

New Year's Day (January 1)
Martin Luther's King, Jr. Day (3rd Monday in January)
President's Day (3rd Monday of February)
Covenant Day (3rd Friday in March)
Good Friday (as designated by the Catholic Church calendar)
Memorial Day (last Monday in May)
Independence Day (July 4)
Labor Day (September 4)
Commonwealth Cultural Day (2nd Monday in October)
Citizenship Day (November 4)
Veteran's Day (November 11)
Thanksgiving Day (last Thursday in November)
Constitution Day (December 8)
Christmas Day (December 25)

(b) **Holiday Falling on Saturday or Sunday.** When a recognized holiday falls on a Saturday, the preceding Friday shall be recognized as the holiday. When a recognized holiday falls on a Sunday, the Monday following shall be recognized as the holiday.

(c) **Computation of Holiday Pay**

(1) Employees shall receive their regular straight time rate of pay for recognized holidays if they do not work.

(2) Employees who are not managers but who work on the holiday shall receive 1.0 pay for the holiday hours worked. Managers who work on a holiday shall receive a compensatory day off.

(3) Holiday during annual, or sick leave. A recognized holiday occurring during the employee's annual or sick leave shall not be counted as a day of annual or sick leave.

(d) **Forfeiture of Holiday Pay.** Employees shall forfeit their right to payment for any holiday if they are on leave without pay (LWOP) or absent without leave authorization (AWOL) for the entire shift on the last regular work day preceding such holiday or on the next regular work day following such holiday.

(e) **Pay for Employees who Work on a Holiday.** Employees who perform work on a holiday will be compensated straight time pay in addition to the holiday pay. Overtime rate will be applied for hours worked beyond the 40-regular work hours. A work hour is defined as actual hours of performance. Holiday hours are not counted as regular work hours.

Modified, 1 CMC § 3806(a), (f).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-510 Leave

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

(a) Policy. Employees will be responsible to submit leave applications prior to the leave being taken or immediately upon return to work. Failure by the employee to submit leave applications will result in AWOL. For circumstances that are beyond the control of the employee, AWOL may be amended. The AWOL assessed may only be amended on the following payroll. Amendments will not be allowed on the second pay period following the AWOL assessment.

(b) Annual Leave Accrual

(1) Employees shall accrue leave at the following rates:

- (i) Four hours a pay period if the employee has zero to less than three years of service;
- (ii) Six hours a pay period if the employee has at least three but less than six years of service;
- (iii) Eight hours a pay period if the employee has six or more years of service or is a board certified medical provider.

(2) The above rates of accrual shall not be accumulated if the employee was not on full pay status for the pay period. Pay status shall not include LWOP and AWOL absences.

(3) When an Employee May Accrue Annual Leave. Leave accrues during the period of time an employee is on paid leave. Such additional accrual shall be canceled if the employee fails to resume duty on completion of his or her authorized leave. Leave does not accrue during periods of LWOP and AWOL.

(i) Approval to Use Annual Leave. Employees may request and supervisors may approve any amount of accrued annual leave at the time they desire that will not be detrimental to the Corporation operations. In general, annual leave in excess of 24 hours should be approved 1 week in advance by the Supervisor or Manager. A denial by the Supervisor or Manager may be appealed to the Hospital Administrator or Division Director. If an employee needs to take annual leave for an emergency, he or she should inform the supervisor or manager as soon as is practicable. The more serious the emergency, the more leeway the supervisor or manager should give in consideration of the request. The Manager or Supervisor should be cognizant of the leave balances of his or her subordinates and encourage them to space their leave with respect to the colleagues who need to cover for them. If two employees who cannot both be gone at the same time want to take leave at the same time, the supervisor or manager should encourage them to work it out amicably. If they are both adamant that they need to go at the same time, the leave shall be awarded to the employee with seniority to the Corporation.

(ii) Annual Leave Accrual Limits. Accrued and unused leave may be carried from one year to the next for the purpose of accumulating an annual leave account or reserve; however, on January 1st of any year an employee may not have more than 360 hours leave on his or her leave account. Any annual leave hours in excess of 360 on January 1st of each year will be converted to sick leave.

(iii) Transfer of Annual Leave. The Corporation will not accept any transfer of annual leave for a new employee. If an employee is separating, the Corporation will transfer any accrued leave to any agency willing to accept it. It is incumbent upon the employee who is separating to determine if the receiving agency will accept the leave transfer. Otherwise, the leave will be paid out in accordance with the Annual Leave at Date of Separation section below.

(4) Annual Leave Conversion and Payment

(i) Conversion of Excess Annual Leave to Sick Leave. Any annual leave in excess of 360 hours on January 1st of each year shall be converted to the employee's sick leave account.

(ii) Annual Leave at Date of Separation. Upon separation of employment for any reason,

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

employees shall be entitled to payment of their unused annual leave balance. Such payment shall be made at the rate of 100% of the current value of the employee's leave balance based upon his or her factored hourly rate at time of separation, but in no event, will anything over 360 hours be paid. In addition, any annual leave accrued that needs to be paid out after separation will be paid out in bi-weekly payments. There will be no lump sum payouts of annual leave unless the employee has less than 80 hours of accrued annual leave.

(c) Sick Leave

(1) Purpose. Accumulation of sick leave is allowed primarily for the purpose of providing an employee with an economic cushion to be used in the event of an illness or lengthy absence for legitimate medical reason. In addition, in accordance with PL 15-69, as repealed in part by PL 15-115, an employee may use sick leave to care for a sick spouse or child. In this case, "sick" means a serious or life threatening illness. HR approval is required to use sick leave in this way. A doctor's certification will be required.

(2) Transfer-In of Sick Leave from other CNMI Government Agencies. The CHCC will accept up to 500 hours of sick leave from other CNMI Government agencies.

(3) Sick Leave Accrual and Accumulation. Sick leave is accrued separately, like annual leave, on a regular basis. Sick leave is accumulated through conversion of excess hours of annual leave to sick leave as of January 1 of each year and the employee earns sick leave at the rate of four hours for each biweekly pay period in which the employee is in full pay status for the entire pay period.

(4) Use of Sick Leave

(i) An employee eligible for sick leave with pay may use such sick leave for absence due to illness, injury, and exposure to contagious disease. Doctor or dental appointments shall be included as cause for sick leave, for the number of hours or duration of the appointment and reasonable travel time thereto and from.

(ii) An employee who is absent from work shall inform his or her immediate supervisor of the fact and reason, and failure to do so within a reasonable time may be cause for disciplinary action. Notification in this context shall mean notification no later than an hour after the accident, emergency or injury, or advance notice if medical and/or dental appointment is being sought. Unit policies shall supercede this section.

(iii) Sick leave may not be allowed unless an employee notifies the supervisor of illness within the period of time established within that unit. Sick leave is a privilege, which is granted to provide time-off to an employee with a doctor's appointment or an illness or injury.

(iv) Doctor's certificate. The Corporation requires a medical certificate or additional documentation from a practicing physician as proof of sickness after 24 consecutive hours of absence from work due to Sick Leave, or more often, at the written request of the HRM, should the employee's record indicate habitual requests for Sick Leave approval. Sick Leave shall be granted subject to approval of the Supervisor or Manager. In cases of habitual Sick Leave, the Chief Executive Officer may require all future Sick Leave to be reviewed for approval or disapproval by Human Resources. Disallowed sick leave shall be charged as AWOL.

(v) Falsification of Doctor's certification will result in Disciplinary Action, and may lead to termination with cause.

(vi) For employees with serious medical conditions resulting in prolonged illness or disability as documented by his/her physician, unpaid sick leave may be requested under the Family Medical Leave Act (FMLA).

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

(d) Work Related Injury Leave

(1) Any employee who is injured in the course of performing his or her duties and who receives Worker's Compensation benefits due to that injury, shall be eligible for unpaid injury leave as provided in this section. If an employee fails to return to work within one year after the date of original injury, the Chief Executive Officer may terminate that employee.

(2) While an employee is on work related injury leave, and the employee was enrolled with the Department of Finance (DOF) Group Health Insurance program at the time of the work related injury, those benefits shall be continued in the manner prescribed by DOF or IAC for the Group Life Insurance. An employee injured on the job will be provided Administrative Leave if a doctor certifies the employee is unable to work due to the injury sustained on the job.

(3) The Corporation's responsibilities under this rule shall terminate upon the occurrence of any of the following:

(i) As of the date on which the employee is declared by a physician to be permanently disabled or on which the Settlement Fund effectuates the disability retirement or regular retirement pension benefits to the employee;

(ii) As of the date on which the employee returns to work with an unrestricted medical release or on which he or she first engages in any occupation for wage or profit; or

(iii) At the end of the one year following the date of the original injury.

(4) An employee shall be eligible for work related injury leave only upon satisfaction of the following conditions:

(i) The employee shall make a complete report of the injury to the Department of Commerce, Worker's Compensation Commission (WCC) through the HRM or authorized designee.

(ii) The employee shall cooperate with the HRM or his/her designee to prepare and submit all forms and information related to the employee that the HRM may request;

(iii) The employee shall cooperate fully with the investigator(s) of the Worker's Compensation Commission handling the claim investigation as required by law; and

(iv) The employee has exhausted all sick leave and annual leave before receiving disability benefits from the Settlement Fund, if eligible.

(5) Return to Work. Employees returning to work within the time allowed shall be re-employed in their position, or another position in the same class or similar class with the same pay level and rate consistent with these rules. If an employee is incapable of performing his or her former duties as a result of an illness or work related injury, the Corporation may offer a position to which he or she can perform the essential function, if available. The Corporation is under no obligation to re-employ an employee who does not return within the time allowed.

(e) Administrative Leave. An absence from duty administratively, without loss of pay and without charge to accrued leave, is administrative leave. The CEO, or his/her authorized designee, has the responsibility for approving administrative leave requests. Administrative leave is permissible under the following circumstances:

(1) Administrative leave is absence authorized under emergency conditions beyond the control of management, e.g., typhoons, or for participation in civic activities of interest to the government, or employment connected examinations, or for such reasons as the Governor may determine (such as a shortened work day on Christmas Eve).

(2) Administrative leaves related to disciplinary actions. Managers may place an employee

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

in non-working status with pay indefinitely for purposes of an investigation or for up to three work days pending preparation of an appeal of termination.

(3) Administrative leave may be granted to employees serving on government boards and commissions, provided such employees do not receive compensation from the boards and commissions.

(f) Court Leave.

(1) Employees call for jury duty for the local or federal courts shall be treated as being on approved leave without loss of longevity, leave or pay. Service in court or administrative adjudication proceedings when subpoenaed as a witness on behalf of the Corporation or CNMI government needs shall be treated the same as jury duty. If the employee is subpoenaed on behalf of a private person or corporation, the employee shall apply for annual leave and such request shall be submitted to the Manager or Supervisor in advance. Fees paid by the court, other than those for an employee's appearance at anytime outside the employee's regularly scheduled shift, for travel and subsistence allowance, shall be treated in accordance with Corporation's policy.

(2) An employee shall provide his or her supervisor or manager with a copy of a notice of call for jury duty immediately upon receipt by the employee. When excused or released from jury duty for the day, the employee shall return to work without delay, taking into account the reasonable travel time to arrive at the work site.

(3) An employee may keep his compensation for being a juror or if called as a witness if the court provides it but the employee must apply for annual leave if accepting compensation from the court.

(g) Military Leave.

(1) Any employee who is involuntarily enlisted, drafted or is called into active service in the armed service of the United States shall be granted military service leave in accordance with this Section and applicable Federal Law. Upon discharge from such service, the employee shall be re-employed with such seniority, status and pay as would have been attained if employment had continued with the Corporation without interruption, provided that the employee's absence has not voluntarily exceeded two years and application for re-employment was made within 30 days of release from active military service.

(2) In accordance with local and federal laws, any employee who enlists or is called to federal active duty, territorial active military service or training duty as a Reserve of the Armed Forces or a member of the National Guard will be granted up to 120 hours of unpaid military leave for the period of active duty upon presentation to Human Resources of Orders into service. This leave shall be granted solely for the purpose of and will continue only for the time stated in the Orders into service and that said employee is actually performing said military service.

(3) Any employee who is a veteran of a branch of the United States Armed Services will be excused from work duties without loss of pay for the time necessary, not to exceed four hours in any one day, to participate as an active pall bearer or as a member of a firing squad or honor guard in a funeral ceremony for a member of the Armed Forces of the United States whose remains final interment is in the Commonwealth.

(h) Compassionate Leave. Each employee shall be eligible for five working days of leave for funeral or death of a member of his or her immediate family. Immediate family includes

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

grandparents; siblings, including natural, step or adopted; parents, including stepparents, mother and father in-law; children, including natural, step or adopted; spouses. Such leave shall not be deducted from the employee's leave account. The compassionate leave shall be taken within 18 calendar days after the death of the immediate family member. The employee shall certify the purpose of the compassionate leave request.

(i) **Leave Without Pay.** The Managers or Supervisors or his/her designee shall be the approving authority for Leave without Pay for less than 80 hours. The CEO needs to approve any LWOP in excess of 80 hours. It is the responsibility of the employee to apply for leave without pay. If LWOP is not authorized, it is characterized on the employee's payroll as Absent without Leave (AWOL). If an employee believes s/he has been adjudged AWOL improperly, s/he needs to clear that issue with her supervisor or manager (with appeal to the Department Head) within the next pay period after having received the AWOL. Leave and benefits shall not accrue during leave without pay except as provided in this section. The employer-employee relationship is maintained during a period of leave without pay, but the Corporation shall pay no other compensation.

(j) **Family and Medical Leave Act of 1993.**

(1) **General Provision.** The Family and Medical Leave Act (FMLA) requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for certain family and medical reasons. Employees are eligible if they have worked for their employer for at least one year, and for 1,250 hours over the previous 12 months, and if there are at least 50 employees within 75 miles. The FMLA permits employees to take leave on an intermittent basis or to work a reduced schedule under certain circumstances.

(2) **Reasons for Taking Leave.** Unpaid leave must be granted for any of the following reasons:

- (i) To care for the employee's child after birth, or placement for adoption or foster care;
- (ii) To care for the employee's spouse, son or daughter, or parent who has a serious health condition; or
- (iii) For a serious health condition that makes the employee unable to perform the employee's job.

(3) **Advance Notice and Medical Certification.** The employee may be required to provide advance leave notice and medical certification. Taking of leave may be denied if requirements are not met. The employee ordinarily must provide 30 days advance notice when the leave is "foreseeable." A request for FMLA form must be completed and submitted to the HRM. An employer may require medical certification to support a request for leave because of a serious health condition, and may require second or third opinions (at the employer's expense) and a fitness for duty report to return to work.

(4) **Job Benefits and Protection.** For the duration of FMLA leave, the employer must maintain the employee's health coverage under the "group health plan." Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms. The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

(k) **Unauthorized Absence or Absent Without Leave (AWOL).** Absence without Leave is defined as leave without approval and may subject the employee to discipline. For purposes of

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

this section, AWOL will be evaluated per calendar year. Previous years' AWOL will not apply to subsequent years for disciplinary purposes. Such leave is unpaid.

(1) Discipline may be as follows:

(i) Employees who accrue AWOL hour(s) during any one pay period shall be issued a reprimand.

(ii) Employees who accrue an additional hour(s) after reprimand in any following pay period shall receive a five day suspension without pay.

(iii) Employees who accrue an additional hour(s) after a five day suspension shall be terminated.

(iv) Employees who accrue 80 hours of AWOL in one year shall be terminated.

(2) Abandonment of Position. Any employee AWOL for a consecutive total of 10 working days shall be deemed to have resigned without notice by abandonment of position. Employees will be responsible to submit leave applications prior to the leave being taken or immediately upon return to work. Failure by the employee to submit leave applications may result in AWOL. For circumstances that are beyond the control of the employee, AWOL may be amended. The AWOL assessed may only be amended on the following payroll. Amendments will not be allowed on the second pay period following the AWOL assessment.

(l) Maternity and Paternity Leave.

(1) Maternity Leave. Maternity leave on account of childbirth shall be granted a female employee for 15 workdays beginning from the date of delivery or confinement for childbirth and extending to reasonable postpartum period for the care of the newly born child. After using the 15 days of paid leave, the employee may use accrued sick and annual leave balances, or request to be placed on leave without pay up to 12 weeks under FMLA.

(2) Paternity Leave. Paternity leave is a leave of absence from work for male employees whose spouse is pregnant. Paternity leave shall be for a period of five consecutive workdays. Paternity leave shall commence from the date of birth or spouse confinement for childbirth. If childbirth falls on a holiday or weekend, the paternity leave will commence on the next workday.

(m) Advanced Leave. An employee may apply for advanced sick or annual leave. The allowable amount is up to one-half of what the employee would accrue in one year or to the end of the grant or contract period, whichever is less. All requests will be reviewed by HR Office and approved by the Chief Executive Officer.

(n) Sick Leave Bank

(1) Donation. CHCC hereby establishes a Sick Leave Bank. Employees may donate annual leave either to a designated employee or to the Sick Leave Bank in general. Employees may donate as much annual leave as they want to the Bank but no more than 160 hours to any specific employee.

(2) Use. Employees must be approved by the HRM to use the Sick Leave Bank. In order to be eligible, employees must have a serious or life threatening illness or accident that precludes the employee from working. The employee must have exhausted all other leave, including advanced leave, prior to using the Sick Leave Bank. Employees using either designated time or general Sick Leave Bank time may use no more than 160 hours total during the course of their employment.

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

Modified, 1 CMC § 3806(a), (e)–(g).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-515 Benefits

(a) Insurance Benefits. Employees who are scheduled to work at least 40 hours each week may participate in insurance and medical benefit programs made available and in the manner provided under the Life and Health Insurance Programs (GLHIP) administered through the Department of Finance. Such benefits shall continue to be in effect during absences due to paid leave, up to three (3) months of family and medical leave, and approved leave without pay when the employee pays the insurance premium.

(b) Retirement Benefits.

(1) Employees currently grandfathered in to the NMI Settlement Fund will be able to retire consistent with the NMISF regulations.

(2) Full time employees not part of the NMISF will be allowed to participate in the CNMI's 401(a) plan to the same extent as employees of the central government.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-520 Overtime and Compensatory Time

(a) Purpose. The purpose of this section is to provide managers and supervisors with guidance related to the administration of overtime and compensatory time and ensure compliance with the Fair Labor Standards Act (FLSA) and the applicable Commonwealth law and regulations.

(b) Scope. Compliance with this policy is the responsibility of all CHCC managers, supervisors, and employees.

(c) Coverage. This policy includes, but is not limited to, all regular full-time and part-time non-exempt employees (regardless of source of funding) who occupy positions determined to be eligible for overtime and compensatory time.

(d) Definitions.

(1) Compensatory Time. An alternative method of overtime payment for hours worked over 40 for non-exempt employees. It is management's discretion whether to provide overtime pay or compensatory time off based upon fiscal availability and operational needs of the work unit and an employee agreeing to such an alternative method of compensation.

(2) Exempt Employees. A regular or temporary employee deemed to be exempt from the overtime provisions of the FLSA. Exempt status is determined by CHCC using the test set forth in the FLSA. 29 C.F.R. §§ 541.100–541.402; See also Exempt or Non-Exempt Guideline & FLSA Checklist. While exempt employees are generally not eligible for overtime, CHCC, in

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

exceptional circumstances, may pay additional compensation for exempt employees.

(3) Non-Exempt Employees under the Fair Labor Standards Act (FLSA). The Fair Labor Standards Act (FLSA) of 1938 is a federal law that requires employers to pay non-exempt employees time and a half for all hours in excess of 40 hours worked per work week.

(4) Hours Not Worked. Hours not actually worked mean those hours not worked, regardless of whether they were with or without pay.

(5) Hours Worked. Hours actually worked during a Workweek. This includes all time an employee spends on duty in the course and scope of his/her job, whether on CHCC's premises or at another prescribed place of work. Also included is any time the employee is permitted to work in addition to his/her regular schedule.

(6) Overtime Hours. Hours Worked in excess of 40 hours in a Workweek are paid at the rate of time and a half for non-exempt employees.

(7) Straight Time Rate. An employee's hourly base rate of pay exclusive of additional types of pay (e.g., overtime, shift differential, unit based differential).

(8) Workweek. The standard workweek begins at 12:00:01 am Sunday morning and ends at 11:59:59 pm Saturday night. Operating units, however, may establish a different workweek based on the needs of the unit.

(e) Policy.

(1) Non-exempt (hourly paid) employees who work more than 40 hours during a workweek will be:

(i) Paid at the overtime rate of one and one half times their regular rate of pay, or

(ii) Granted compensatory time off at the rate of one and one half times the number of hours worked over 40 in a workweek provided the employee signs the Compensatory Time Agreement (CTA).

(2) The CHCC departments, divisions, offices, sections and units may choose to allow non-exempt, hourly paid employees to accrue and use compensatory time off in lieu of pay for overtime hours worked subject to the approval of the CEO, HRM, or authorized designee. The business needs of the departments will dictate the use of compensatory time.

(3) To provide this form of compensation, the appropriate supervisor or manager must arrive at an agreement or understanding with an employee that compensatory time will be granted instead of cash compensation. The CTA must be signed prior to the performance of work, and must be entered into voluntarily by the employee. Additionally, a record of the compensatory time must be kept together with an explanation justifying the need to perform work outside the regular work time.

(4) Compensatory time is subject to the following provisions:

(i) Compensatory time must be credited to the employee at the rate of time and one half times all hours worked over 40 hours in a workweek.

(ii) Accrued compensatory time may not exceed 240 hours.

(iii) When an employee has reached the maximum accrual of 240 hours compensatory time, all additional overtime hours worked must be paid at the overtime rate of one and one half times the employee's regular rate of pay.

(iv) Time off must be scheduled only for overtime which is actually worked and documented on employee time records.

(5) Compensatory time may be accrued only for overtime which is actually worked and documented on employee time records.

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

(6) The establishment of and changes in employee work schedules are the responsibility of the Supervisors and Managers and the Hospital Administrator.

(7) Non-exempt employees should not work overtime without the prior knowledge and approval of the appropriate supervisors and/or managers. Hourly paid employees should not start working before the beginning of their scheduled time and should not work beyond the ending of their scheduled time without management's prior approval. Similarly, hourly paid employees must not work during their lunch break. Also, hourly paid employees should not be allowed to continue to work at their work stations while having lunch or during established lunch break.

(8) It is important for supervisors and/or managers to monitor overtime and compensatory time violations. If employees fail to adhere to overtime and compensatory time guidelines, disciplinary action should be taken. However, all overtime worked must be compensated, regardless of whether or not it was approved.

(9) Neither employees nor the CHCC may waive their rights or obligations under the FLSA or agree to accept less or pay less than the required overtime rate.

(10) Specific questions regarding completion of time records for non-exempt employees should be directed to the HR Payroll Unit.

(f) Overtime.

(1) Eligibility Determination. The Human Resources (HR) office is responsible for determining the FLSA status of all positions.

(2) Prior Approval. An employee may work overtime only at the request and prior approval of the employee's manager or supervisor. An employee will be paid for all hours worked, but is subject to disciplinary action if s/he works overtime without prior authorization.

(3) Scheduling

(i) Each manager has the responsibility for scheduling overtime that meets the operational needs of the department.

(ii) All employees are expected to work overtime when requested by their manager or supervisor. Managers will make every effort to assign such overtime on a volunteer basis. However, when no volunteers are available, employees will be scheduled for as needed.

(iii) Refusal to work overtime could be considered as failure to report to work as scheduled and may result in disciplinary action, up to and including termination.

(4) Tracking.

(i) Managers have the responsibility for monitoring Overtime Hours Worked by employees reporting to him/her.

(ii) Managers will follow appropriate payroll procedures for documenting Overtime Hours.

(5) Calculation of Pay.

(i) Overtime Hours are calculated only on the basis of hours actually worked.

(ii) Hours paid but Hours Not Worked, such as holidays, Paid Time Off (PTO), annual leave, sick leave, administrative leave and Family and Medical Leave, funeral leave, jury duty, inclement weather, and military leave are not considered as time worked when computing overtime.

(6) Non-Exempt Employees. Non-Exempt Employees are eligible for overtime and are paid in the following manner:

(i) Straight time for all Hours Worked up to and including 40 hours in a Workweek;

(ii) Time and one-half for all Hours Worked in excess of 40 hours in a Workweek; and

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

(iii) For all Hours Worked, but are subject to disciplinary action if they repeatedly work overtime without prior authorization.

(7) Exempt Employees.

(i) Generally, Exempt Employees are NOT eligible for overtime and are expected to work hours scheduled plus any additional hours required to fulfill their responsibilities in a professional manner.

(ii) In exceptional circumstances, management may approve certain Exempt positions for recognition of overtime at a rate of 1.0 of regular rate. This may result in the payment of overtime in the following manner:

(A) As straight time or

(B) As 1.0 of regular rate.

(C) As the accumulation of compensatory time.

(iii) Exempt Employees on the time and attendance system may utilize an alternate work period. Employees will receive overtime recognition for Hours Worked in excess of 80 hours in a 14-day period.

(8) Exemption Status and Changes in Time Schedule. Exempt Employees who change their work schedule or reduce their standard Hours Worked may cause their exemption status to change to Non-Exempt if their weekly salary no longer meets the minimum salary requirements for Exempt Employees, as defined by the FLSA.

(9) Improper Pay Deductions. The CHCC will not make salary deductions that are prohibited under the FLSA. Employees with specific paycheck questions should speak with their manager or the Payroll Supervisor for clarification. If, after speaking with his/her manager or Payroll, an employee still believes an improper pay deduction was made, he/she may go to HR for resolution of the improper pay deduction(s).

(g) Procedure.

(1) Eligibility Determination - Non-Exempt and Exempt Employees.

(i) Non-Exempt Employees. The CHCC's non-exempt employees may receive, in lieu of overtime compensation, compensatory time off at a rate not less than one and one-half hours for each hour of employment for which overtime compensation is required by this policy provided that:

(A) The employee signs a statement agreeing to compensatory time in lieu of overtime; and

(B) The maximum authorized accumulation of compensatory time is 240 hours per year. When an employee has accumulated twenty hours of compensatory time off in a month, the employee must take a compensatory time off for any hours over twenty per month; and

(C) An employee's request to use compensatory time off must be granted within a reasonable time unless the respective supervisor or authorized designee determines that time off will "unduly disrupt" the department's operations; and

(D) Accrued balances of compensatory time off at the termination of employment must be paid at the average basic pay of the employee over the last three years of employment or the final basic pay, whichever is higher.

(ii) Exempt Employees. All requests for designation of exempt positions as eligible for Compensatory Time must be approved in advance by the CEO or his/her authorized designee on a case by case basis. In no event will a department implement Compensatory Time for positions without formal approval. Employees in eligible positions must also maintain sufficient hours of work to meet the FLSA salary provisions.

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

(2) Guidelines.

(i) The manager must give advance approval for any time worked that will be eligible for Compensatory Time and is responsible for approving the Compensatory Time reported on the time sheet.

(ii) The maximum number of Compensatory Time hours that may be accrued by eligible employees cannot exceed 240 hours per year.

(iii) An employee's request to use compensatory time off must be granted within a reasonable time unless the respective supervisor or authorized designee determines that time off will "unduly disrupt" the department's operations;

(iv) All compensatory time earned by exempt employees in any workweek must be taken during the two-month period following the end of the workweek during which the compensatory time was earned. Compensatory time accrued is subject to an accrual limitation of 40 hours. Employees cannot accrue compensatory hours in excess of 40 in a two-month period.

(3) Compensatory Hours. The number of compensatory hours accumulated in a workweek is determined in the same manner as are overtime hours.

(4) Usage.

(i) Compensatory Time may only be taken as straight hours.

(ii) An eligible employee may not receive both pay and Compensatory Time for the same hours worked.

(5) Recording. Compensatory hours are maintained using the time and attendance system.

(6) Payout. Unused Compensatory Time is not paid out upon termination of employment, transfer to a job not eligible for Compensatory Time, or conversion of a position to non-exempt due to a change in time status.

Modified, 1 CMC § 3806(a), (g).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

Part 600 - Human Resources Policies

§ 140-90.1-601 Informal Grievance Procedure

An employee of the Corporation may submit a grievance regarding any matter involving the interpretation, application, or alleged violation of any HR Rule or Regulation or any other matter concerning general conditions of employment. The aggrieved employee shall first discuss the grievance with the immediate supervisor in an attempt to resolve the issue. If the issue cannot be resolved with the immediate supervisor or manager, the employee should contact the Human Resources Manager. The HR Manager will attempt to satisfactorily resolve the grievance. If the matter has been addressed by the HR Manager, the employee shall not seek contravention of that decision by the CHCC Governing Body.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-605 Annual Performance Evaluations

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

(a) It is the policy of the Commonwealth Healthcare Corporation (CHCC) to utilize a performance evaluation program to maximize employee's overall job performance and development of staff through the periodic review of their progress through results oriented performance evaluations.

(b) Purpose.

(1) To establish a Performance Evaluation process for employees that will serve as a formal communication tool between the CHCC employees and their supervisors concerning job expectations and employee performance of those expectations.

(2) To periodically record essential information concerning the performance level and strengths/weaknesses of an employee in relation to career development, including potential for advancement and suitability for other jobs and training.

(3) To assist management in making thorough, objective and factual evaluations of the performance of employees under his/her supervision.

(4) To assist management in achieving maximum utilization of all human resources, to motivate each employee to seek ways to improve performance where needed, and to enhance overall employee relations.

The CHCC believes that performance evaluations provides managers, supervisors and employees, the opportunity to discuss job tasks, identify developmental needs, encourage and recognize strengths, discuss positive and purposeful approaches to meeting goals. All full and part time employees will receive a performance evaluation annually. If an employee is transferred or promoted, an evaluation will be given within 90 days after the transfer or promotion. All newly hired employees will receive a performance evaluation prior to the end of their 90-day introductory period. In summary, the objective of the performance evaluation is to:

- (i) Evaluate and improve job performance in terms of meeting goals and job responsibilities
- (ii) Facilitate mutual feed-back and communication between the employee and the supervisor
- (iii) Identify areas where improvement may be needed to determine if coaching or training is needed
- (iv) Ensure position descriptions are accurate
- (v) Provide a basis for salary recommendations and compensate for merit or promotional increases

(c) Frequency and Reporting.

(1) Annual Review: Supervisors will meet with and formally review the job performance of each employee in coordination, and prior to, the new fiscal year, annually.

(2) End of Probation Period: A performance evaluation report will be completed by management for all new employees at the conclusion of the ninety-day probation period.

(3) End of Provisional Period: A performance evaluation report by management will be completed for all new employees at the conclusion of the ninety-day probation period.

(4) "Other" Reviews: "Other" reviews may occur at the discretion of the supervisor to review outstanding or unsatisfactory performance. This is to be indicated by checking the block designated as "Other" and any related and appropriate supporting comments in the "Comments" section of the evaluation form. Additional performance factors may be added in the Supervisor's/Appraiser's Comments section of the evaluation form.

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

(d) **Human Resources' Responsibility.** The Office of Human Resources (HR) will provide a systematic procedure to ensure that a viable performance evaluation program is on-going. HR will monitor the performance evaluation procedure to insure consistency in application throughout the departments, divisions, and offices. The original copy of all completed performance evaluation forms will be submitted to HR office for career development, professional development/training and review purposes within five working days from the date of the completed evaluation.

(e) **Supervisor's Responsibility.** It is the responsibility of the supervisor to ensure that the performance of each staff employee is reviewed and recorded in accordance with the prescribed procedure, a minimum of one time per year, or at the employee's anniversary date.

(f) **Discussion with Employee.** All sections in the Performance Evaluation form have a specific employee development purpose and must be completed by filling in applicable numerical rating on the blank spaces provided.

(1) Provide careful objective thought on the individual's performance for the period being evaluated, NOT previous performance, future predictions, or areas not related to job content.

(2) Place special emphasis on the employee's current performance in meeting his/her objectives of the existing fiscal year.

(3) Supervisor should establish a date that is acceptable to the employee that will permit an uninterrupted time for discussion of the evaluation.

(4) Inform the employee well in advance and suggest that he/she prepare for discussion of the evaluation with questions on topics which he/she wishes to be discussed, with a focus on the employee's career objectives. The "Comments" section is designed to be completed in a constructive coaching manner for discussion with the employee.

(5) Encourage open and free discussion during the discussion of the evaluation to maximize beneficial results of the evaluation/evaluation.

(g) **Completion of Form and Transmission to HR Office.** All completed performance evaluation forms will be prepared by the employee's immediate supervisor to insure an accurate evaluation of the employee. It should be reviewed by the appraiser's immediate supervisor prior to any discussion with the affected employee. Differences of opinion on the employee's evaluation should be discussed and resolved if possible. The formal evaluation discussion is not to occur with the affected employee until the department manager or his/her designee has reviewed the completed evaluation report. In addition to rating several individual areas of performance, the supervisor must assign an overall numerical performance rating of the performance factors, which reflect CHCC's core values. The appraising supervisor shall complete Sections A through J on the evaluation form. Following all reviews and signatures, the completed Performance Evaluation form will become a permanent part of the employee's official HR file. Completed forms shall be submitted to HR within five working days from the date of completion the performance evaluation form.

(h) **Performance Rating Levels.** Under the Employee Performance Evaluation form, the five levels of performance with corresponding numerical rating scores used are:

(1) **Exceptional –** Consistently exceeds all requirements of the job. Outstanding performance is clearly obvious to all. Unique, exceptional accomplishments that are obviously very far above

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

what is required and which relatively few employees would be expected to achieve. The numerical rating score for this level is Five.

(2) Superior – Frequently exceeds job requirements and is highly motivated. Takes initiative and demonstrates creativity and produces a quality work product. Accomplishments clearly surpass what is required. The numerical rating score for this level is Four.

(3) Satisfactory – All aspects of performance are fully acceptable within position essential requirements and supervisor's requirements. Most qualified incumbents should be able to attain this level. The numerical rating score for this level is Three.

(4) Marginal – Does not meet minimum expectations of the job on a consistent basis. The incumbent should improve performance and move up in the range of satisfactory performance or out of the position in a relatively short period of time. At this level, there is an obvious need for improvement. The numerical rating score for this level is Two.

(5) Unsatisfactory – Performs job below expectations of supervisor and does not fulfill minimum job requirements. Incumbent should achieve at least marginal level of performance immediately or be moved out of the position. The numerical rating score for this level is One.

(i) Performance Factors Explanations.

(1) Job Knowledge. Measures the employee's understanding of the complete scope and related functions of the job. Knowledge of one's specialized and technical field of work.

(2) Quality of Work Performed. Addresses how well knowledge is applied to generate work outputs and to what degree quality of performance contributes to obtaining expected results with thoroughness and accuracy.

(3) Quantity/Productivity. The degree to which the employee produces the acceptable amount of satisfactory work and consistency of output generated compared to reasonable expectations.

(4) Initiative. The extent to which the employee effectively and enthusiastically performs and carries out responsibilities independently.

(5) Reliability. The degree to which the employee can be relied upon to do the job and to meet work deadlines with minimal or no supervision.

(6) Teamwork and Collaboration. The extent to which to employee cooperates or works together with other employees for common goals and purpose.

(7) Work Habits. The manner in which an employee conducts himself or herself in the working environment.

(8) Communications. Measures the employee's ability to convey ideas and information effectively and courteously to others.

(9) Customer Service. The employee's ability to demonstrate a positive attitude and displays high levels of professionalism.

(10) Attendance. The extent to which the employee can be depended upon to be available for work and to fulfill position responsibilities.

(j) Things to Avoid in Performance Evaluations.

(1) The "Halo" Effect. The "Halo" effect occurs when one factor influences ratings on all factors. Examples: An employee's work is of good quality; therefore, other ratings (such as those on promptness or work quantity) are higher than normal. Another employee is frequently absent, with the result that the ratings on other factors are usually low.

(2) The "Cluster" Tendency. The tendency to consider everyone in the work group as above

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

average, average, or below average. Some raters are considered "tough" because they normally "cluster" their people at a low level. Others are too lenient. "Clustering" overall ratings usually indicates that the rater has not sufficiently discriminated between high and low levels of performance.

(3) Length of Service Bias. There is a tendency to allow the period of an individual's employment to influence the rating. Normally, performance levels should be higher as an individual gains training and experience, but this is not always the case.

(4) Personality Conflicts. Avoid judgments made purely on the basis of personality traits. Effective, efficient employees do not necessarily agree with everything a supervisor believes in or states.

Modified, 1 CMC § 3806(a), (g).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

Commission Comment: The Commission changed "carry" to "carries" in (i)(4) pursuant to 1 CMC § 3806(g).

§ 140-90.1-610 Disciplinary Actions

(a) General Policy. The Corporation expects its employees to maintain standards of conduct and behavior appropriate to its mission of service to the public. All documentation for disciplinary actions issued by the Manager or Supervisor must be provided to the HRM and employee file. The Administrator/Division/Section heads initiate disciplinary actions through the HRM. The Chief Executive Officer shall issue written disciplinary actions after review by Legal Counsel including suspension, transfer, demotion, or dismissal. The Division Managers may take immediate action to remove an employee from duty only in circumstances involving immediate danger to the health or, safety of Corporation employees or the public. Examples of unacceptable conduct or performance that may result in corrective actions up to and including dismissal include, but are not limited to the following:

- (1) Any violations of HIPAA;
- (2) Habitual attendance problems such as not showing up for work and not calling or using approved leave or habitual tardiness that is more than de minimis;
- (3) Repeated violations of CMS regulations or a single violation if the conduct is egregious;
- (4) Violation of a written policy, procedure or regulation, which was known or should have been known to the employee; including safety rules and policies as well as all other policies set out in the Manual;
- (5) Inefficiency, inadequacy or unsatisfactory work performance after notice and opportunity to correct performance;
- (6) Insubordination, or disruptive behavior; including the violation of an oral or written directive(s) which was known or reasonably should have been known to the employee;
- (7) Any breach of duty or trust to the Corporation;
- (8) Use of obscene or abusive language;
- (9) Falsification of employment application;
- (10) Falsification of certification of providers;
- (11) Harassment of other employees or the public, or violation of Corporation's sexual harassment policy;

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

- (12) Leaving the work site during working hours without permission from supervisory officials;
- (13) Theft, conversion, or unauthorized removal of corporation's property, or the use of Corporation property without authorization;
- (14) Fighting and/or acts of violence; or threats of violence constituting assault;
- (15) Abuse or destruction of CHCC property;
- (16) Possession of weapons, explosives;
- (17) Sleeping on duty;
- (18) Unauthorized use of vehicles, equipment;
- (19) Punch another's time card/alter time records;
- (20) Misuse mail, phones, computer system, internet access;
- (21) Ethics Code Violation;
- (22) Conviction or arrest for a crime involving violence, dishonesty or drug use or trafficking or any other crime which casts doubt on the employee's suitability for work. Absence from the job without approval or notification to Manager or Supervisor due to arrest and incarceration will be considered an unapproved absence or absence without leave (AWOL);
- (23) Substance abuse on the job; or violation of the Employee's Drug and Alcohol Abuse Policy; reporting to work when impaired by or under the influence of alcohol or controlled substance;
- (24) Other conduct or failure of performance which the management of the Corporation reasonably recognizes as justification for serious discipline, including dismissal; or
- (25) Unauthorized removal of property of CHCC or stealing government property while on duty.

Please refer to Appendix C for Table of Penalty Sanctions.

(b) Forms of Corrective Action. Progressive corrective action shall be followed when practicable. However, when the severity of the inappropriate conduct warrants and it is in the best interest of the Corporation, the Chief Executive Officer may impose any of the following forms of corrective action.

(1) Verbal Reprimand or Warning or Counseling. This type of corrective action is usually the first step in identifying and correcting failure to perform or misconduct and may be carried out by a Manager or Supervisor or office supervisor. A written reprimand may also be given by the Manager or Supervisor or office supervisor, however, all other forms of corrective action require action by the Chief Executive Officer. A reprimand or warning and/or oral counseling should be a private conference between an employee and supervisor whereby the problem can be worked out in a constructive manner. The supervisor or manager will advise the employee of the problem, such as misconduct or failure to perform to expectation and present a solution to correct the problem. The supervisor or manager will offer guidance and assistance in an effort to prevent the problem from occurring again. The supervisor or manager will also point out future corrective action that might be taken should the problem continue. Supervisors or managers will document the nature of the problem and retain a record of the problem and the action taken. Such documentation will remain with the supervisor unless it is needed as justification for taking further corrective or other problems.

(2) Written Reprimand. A written reprimand is an official notice to the employee of a failure of performance or misconduct. The nature of the breach and all related facts are documented and

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

placed in the employee's official HR Office file (OPF) by the Manager or Supervisor or office supervisor. A copy shall be given to the employee. Unless circumstances do not permit the supervisor and employee shall meet to discuss the problem before issuance of the reprimand to allow the employee an opportunity to respond.

(3) Immediate Suspension Without Pay.

(i) Employees shall be immediately suspended, upon verbal notice, when the nature of the breach of discipline or misconduct makes it imprudent or hazardous for a supervisor to allow an employee to remain on the job. Supervisors or managers shall immediately, before taking any immediate suspension action, shall unless circumstances do not permit, advise the Chief Executive Officer to discuss the nature of the discipline problem and the suspension. An immediate suspension is without pay. In any event, the immediate suspension shall be followed up with a written notice to the employee within five (5) working days in accordance with the notice requirement under these rules. If more time is required to provide the employee written detail/support about the suspension, the employee will be notified. A copy of the notice of immediate suspension shall be placed in the OPF. An immediate suspension may be followed by additional corrective action based on the same incident.

(ii) An employee under a suspension shall not receive pay including holiday or other unearned pay. Other benefits shall not be affected during the period of suspension. Lost pay shall be restored to the employee only upon determination that the employee is not at fault or the successful appeal of the suspension.

(4) Regular Suspension. An employee may be suspended without pay for a repeated offense or a serious failure of performance or misconduct. A regular suspension generally will not exceed 20 working days. When legal issues prevent the closure of a case pertaining to an employee's performance or action, the suspension may be longer than 20 working days. The employee shall be given the opportunity to respond to the allegations of misconduct or failure of performance prior to suspension. Subsequently, if the suspension is warranted, the employee shall be notified in writing in accordance with the provision of these rules and a copy shall be placed in the OPF. An employee under a suspension shall not receive pay including holiday or other unearned pay. Other benefits shall not be affected during the period of suspension. Lost pay shall be restored to the employee only upon successful appeal of the suspension. An employee charged with a criminal offense may be suspended without pay if the offense arises in connection with the employee's job responsibilities or is an offense which in the Corporation's opinion, would affect continued job performance or bring discredit to the Corporation.

(5) Demotion. The Chief Executive Officer may demote an employee for misconduct, failure of performance, or other reason as set out in Section 1 of this rule. A disciplinary demotion shall result in a reassignment of the employee to a position in a lower classification at a lower pay band.

(6) Dismissal. Employment may be terminated when previous corrective actions have failed to bring about correction or when serious misconduct or failure to perform occurs. The employee shall be given notice of the decision to terminate employment. The dismissal will take effect only in accordance with the procedures in these rules.

(c) Corrective Action Reporting.

(1) Action Notice for Written Reprimands. All reprimands shall be documented on a corrective action report form. A record of the date, time and subject of a written reprimand shall be maintained in the official HR employee file. The employee shall be given an opportunity to

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

review the report with his or her Manager or Supervisor. If the employee disagrees with the facts or conclusions contained in the report, he or she shall be permitted to submit, within ten (10) workdays after receiving the report a statement of disagreement. The statement shall clearly and concisely set forth the employee's reasons for disagreeing with the report. One copy of the employee's statement shall be appended to the report and shall become a part of it. If the employee has no comment or has not responded within the required time frame, the report shall be forwarded to the HRM. Upon completion of the approvals section of the disciplinary action report form, one copy shall be forwarded to the HRM for filing of the record to the official HR Office file of the employee.

(2) The Manager or Supervisor will, if appropriate, complete periodic reviews of the employee's progress in correcting the cause of the original discipline. Such reports shall be made a part of the employee's official HR Office file.

(d) Corrective Action Procedure and Appeals

(1) A suspension without pay, demotion, or dismissal, shall be accomplished and reviewed only in accordance with the procedures stated in this section.

(2) The process of discipline begins with the immediate supervisor reporting misconduct or failure of performance with concurrence to the Section Head and HR Manager.

(3) Before the Chief Executive Officer issues a notice to terminate employment, demote with a reduction in pay, or suspend without pay an employee, the Chief Executive Officer shall require HRM or designee to investigate the basis for the proposed corrective action. The investigation shall include an interview of the employee with Legal Counsel unless the employee has made him or herself unavailable. The employee shall be invited to submit a response in writing after the interview and it shall be included in the record of the matter. The findings and recommendations for action shall be prepared by HRM, or designee, and reviewed by Legal Counsel. In deciding what type of disciplinary action should be taken, the following shall be considered:

(i) Seriousness of the breach of discipline, misconduct, or failure of performance.

(ii) The circumstances surrounding the incident.

(iii) The past service record of the employee. The conduct should be considered within the context of the employee's total record. If the employee's record includes past misconduct, the action taken will ordinarily be more severe.

(iv) The HRM will consult with the Legal Counsel concerning action to be taken.

(4) The HRM shall issue a notice of action for all warnings and counseling.

(5) The HRM, with the endorsement of the CEO and Legal Counsel, based on the investigation, any follow-up after receiving the HRM report and after review of the proposed action by Legal Counsel, shall issue all notices of suspension or termination. The notice shall state any and all factual findings and reasons for the corrective action completely and concisely.

Modified, 1 CMC § 3806(a), (g).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

Commission Comment: The Commission changed "supervisor" to "office supervisor" in (b)(1) pursuant to 1 CMC § 3806(g).

§ 140-90.1-615 Separation

An employee may be separated from employment with the CHCC by resignation, retirement, involuntary termination, or lay off.

(a) Resignation.

(1) A permanent employee shall submit a written resignation at least 30 calendar days notice prior to the effective date of separation to the Chief Executive Officer. The period of notice may be reduced or waived by the Chief Executive Officer.

(2) A contract or federal grants employee must give 60 calendar day notice prior to the effective date of separation to the Chief Executive Officer. The period of notice may be reduced or waived by the Chief Executive Officer.

(3) Withdrawal of Resignation. An employee may withdraw his or her resignation only with the written approval of the Chief Executive Officer. Approval shall be obtained before the effective date stated in the resignation.

(4) Failure to give adequate notice. Failure to give adequate notice of resignation shall be considered separation not in “good standing” and shall preclude consideration for future employment with the Corporation.

(5) Effective Date of Separation. The effective date of separation shall be at the close of business on the last day on which the employee works or uses approved leave.

(b) Retirement. Employees retiring from the Corporation are required to provide a written notice the same as if they were resigning. This advance time is needed so that retirement benefits can begin as soon as possible following date of retirement and to allow management to plan for the departure of the retiring employee. Employees should submit a letter indicating the date of retirement to the Chief Executive Officer accompanied by a letter from the Northern Mariana Island Settlement Fund indicating eligibility for retirement.

(c) Austerity/Reduction in Hours. If the need arises for austerity, employees may have their hours reduced. The Notice shall be given 30 days in advance of the beginning of the austerity. The CEO may exclude certain positions from the austerity. His or her decisions to exclude or not to exclude positions for austerity are not grievable.

(d) No Lump sum Payment upon Separation.

(1) In general and in most cases other than termination, Employees will not be paid out for unused annual leave. Employees are expected to be aware of their leave balances and to plan appropriately to exhaust their annual leave prior to their separation date. If an employee has leave s/he is not able to use due to short staffing or some other emergent condition, the employee shall seek the approval of the Supervisor or Manager and the Chief Executive Officer to get approval to have those funds paid out.

(2) Moneys the employee owes the Corporation shall be deducted from the final paycheck. Deductions from accrued leave pay may be made for the replacement value or fair market value of the Corporation’s property not returned by the employee on or before the effective date of separation

(3) Final paycheck for separation on account of death of employee shall include final wages or salary and other payments the corporation owes the employee, e.g., reimbursable travel

advances and other similar payments made by the employee on behalf of the Corporation.

(4) Final paycheck shall be paid only to the beneficiary designated in writing filed by the employee before death or to the employee's estate. Commonwealth law does not recognize common-law spouses. If no beneficiary has been designated final payment should be made to surviving legal spouse; if no legal spouse, to surviving children, or guardian of any minor children in equal shares; otherwise to father and/or mother in equal shares; if parents are not living, then to brothers and sisters in equal shares; if no surviving next of kin, payment should be made to the Corporation as escheat.

(e) Medical Separation. An employee who is unable to return to work or has been determined by a licensed physician or medical professional as unable to perform the essential duties of the job, in accordance with federal and CNMI laws and CHCC policies (sick leave, annual leave, and FMLA leave) shall be separated from employment.

Modified, 1 CMC § 3806(a), (g).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-620 Policy of Non-Discrimination

(a) It is the policy of the Corporation to recruit, employ, train, retain, compensate, promote, and make decisions regarding all other conditions of employment on the basis of an individual's qualification and ability to perform in his or her respective position without regard to race, disability, color, religion, national origin, sex, pregnancy related condition, status as a disabled veteran or veteran of the Vietnam era, or age, except where age or sex are essential, bona fide occupational requirements. Neither discrimination nor harassment will be permitted in the Corporation.

(b) Each Manager, Director, Administrator and Supervisory official, who exercises management functions by virtue of their delegated authority within the Corporation, shares the responsibility for the implementation of this policy. This includes initiating or supporting programs and practices designed to develop understanding, acceptance, commitment and compliance with all legal requirements and changes in the law or its interpretation.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-625 Policy against Sexual Harassment

(a) Prohibition Against Sexual Harassment. It is the policy of the Commonwealth Healthcare Corporation (CHCC) that all our employees shall enjoy a work environment free from sexual harassment and all forms of discrimination.

(b) What is Sexual Harassment. Sexual harassment is unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature which creates an intimidating, hostile or offensive work environment which impacts on an employee's work

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

performance. Conduct of a sexual nature includes: offensive sexual flirtation, verbal sexual harassment, direct or indirect pressure for sexual activity, degrading comments about a person or that person's appearance, physical assault and battery, the display of sexually explicit or suggestive objects or abusive contact.

(c) Sexual Harassment is Illegal. Sexual harassment is illegal, under Title VII of the Civil Rights Act of 1964, as amended and as implemented by 29 C.F.R. § 1604.11 and is prohibited.

(d) Policy Against Sexual Harassment.

(1) Sexual harassment is specifically prohibited and will not be tolerated, regardless of whether the offensive conduct is committed by supervisors, managers, non-supervisors (co-workers) or non-employees (consultants, contractors, general public).

(2) All employees are encouraged to report any violation of this policy. Management cannot address sexual harassment in the work place until incidents of sexual harassment are reported. Employees will not be retaliated against for making truthful statements about alleged harassment.

(3) No employee will be denied or receive employment opportunities and/or benefits because of a sexual relationship of a co-worker or supervisor. No employee or non-employee shall imply to an employee or applicant for employment, that conduct of a sexual nature will have an effect on that person's employment, assignment, advancement or any other condition of employment.

(4) Supervisors, by law, are responsible for the acts of sexual harassment in the work place when they know or should have known of the prohibited conduct.

(5) Each division manager is required to distribute this policy to every employee and post this policy in an accessible location.

(6) All supervisors will be provided training on conducting an investigation and resolving cases of harassment.

(e) Sanctions Against Sexual Harassment. The CHCC will take immediate and appropriate action for acts which violate this policy against sexual harassment. Such actions will include, if warranted, suspension without pay and/or termination.

(f) Reporting Procedure.

(1) Report all sexual harassment to the division manager, unless he or she is the harasser, and/or Legal Advisor for Human Resources. You may make a verbal report first and if you need assistance, he or she will help you prepare the written report of the incident(s). The written report must contain the following information:

(i) The identity of the aggrieved employee and the organization in which the employee works;

(ii) The details of the grievance;

(iii) The corrective action desired; and

(iv) The name of the employee's representative, if any.

(2)(i) The management will examine the grievance, conduct an investigation, discuss it with the grievant or representative and the alleged harasser, and render a decision, in writing, within 14 calendar days after receiving the grievance.

(ii) If management is not successful in settling the grievance to the employee's satisfaction within 14 days after it is presented to the employer in writing, the employee shall, within 15

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

calendar days after receiving written notification of the decision, submit a grievance to the HR Office Committee through the HRM.

(g) Equal Employment Opportunity Commission. If your grievance is not acted upon to your satisfaction, you may file a complaint with the Equal Employment Opportunity Commission (EEOC). The EEOC in Hawaii is located at 300 Ala Moana Blvd., Room 7123A, Box 50082, Honolulu, Hawaii, 96850, or call (808) 541-3120. The EEOC in San Francisco, California is located at 901 Market Street, Suite 500, San Francisco, California, 94103, or call (415) 356-5100.

Modified, 1 CMC § 3806(a), (g).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-630 Policy on Use of CHCC Vehicles

(a) Introduction. The Commonwealth Healthcare Corporation (CHCC) requires all employees who drive a CHCC vehicle to obtain a CNMI Government Driver's License. The CHCC requests employees who drive on behalf of the Corporation to operate vehicles safely for the protection of the public. In addition, the CHCC reminds its employees who drive to operate vehicles responsibly and maintain the vehicles so that they are available to the CHCC work force and costs of maintenance, repair and replacement are kept to a minimum.

(b) Driver Responsibilities.

(1) Documents Driver Must Carry When Driving:

(i) Valid CNMI Driver's License

(ii) Current Government Driver's License

(iii) Current Vehicle Registration

(iv) Authorization to Drive After Regular Working Hours if driver is assigned to drive after 4:30pm Monday-Friday or on Saturday, Sunday or holidays.

(2) Driver's Responsibility for Condition of Vehicle.

(i) Driver is responsible for ensuring that the vehicle is fueled and that the proper fuel is put into the vehicle.

(ii) Driver is responsible for inspecting the vehicle daily to identify and correct or report obvious problems including oil level, tire inflation, signal, head and taillights, wipers.

(iii) Driver is responsible for reporting any damage to the vehicle immediately to the supervisor.

(iv) Driver is responsible for operating the vehicle properly, so that the condition of the vehicle is not diminished as a result of improper operation.

(3) Safety Rules Drivers Must Know And Follow:

(i) All CNMI driving laws;

(ii) Laws regarding vehicle safety;

(iii) Law regarding restrictions on use of government vehicles.

(c) Prohibitions.

(1) No CHCC employee driving a CHCC vehicle shall drive any non-CHCC person in the

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

CHCC vehicle unless that person is a federal employee working with the CNMI employee or the passenger is integrally involved in a presentation or conference with the CHCC employee.

- (2) No CHCC employee shall drive his or her spouse or child in a CHCC vehicle.
- (3) No CHCC employee shall take a vehicle home unless he or she is authorized by the CEO to use the vehicle on a 24 hour basis. That approval must be in writing in accordance with the CNMI Government Vehicle law.
- (4) No CHCC employee shall drive a CHCC vehicle while intoxicated from alcohol or under the influence of illegal drugs.
- (5) Any violations of these prohibitions are grounds for immediate termination.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

Part 700 - Special Provisions

§ 140-90.1-701 Outside and Dual Employment

(a) No employee shall engage in any employment other than that assigned by the Corporation whether public, private or self-employment, during scheduled work hours, nor outside scheduled work hours if such employment conflicts with the Corporation's interests or adversely affects the employee's availability or productivity.

(b) Any employee who wants to engage in outside employment with a company that may engage in business dealings with the Corporation directly or indirectly shall request approval from the Chief Executive Officer in writing. The Chief Executive Officer shall decide for or against the outside employment request according to the concept of conflict of interest under the CNMI Laws.

(c) No employee may hold two positions within the central CNMI government or any agency thereof or its autonomous corporations.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-705 Certification of Employment

No disbursing or certifying officer or cognizant authority of the Corporation shall make, approve or take any part in committing the Corporation or approving on behalf of the Corporation any payment for personal services to any person holding a position in the corporation unless the HRM has certified that the person named therein has been appointed and employed in accordance with the provisions of the classification and compensation plan of the HR Office rules and regulations.

Modified, 1 CMC § 3806(a).

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-710 Unlawful Acts Prohibited

(a) No person shall willfully or corruptly make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment held or made, or in any manner commit or attempt to commit any fraud preventing the impartial execution of the HR Office rules and regulations.

(b) No person seeking appointment to, or promotion in, the non-exempt service shall either directly or indirectly give, promise, render or pay any money, service or other valuable thing to any person for, or on account of, or in connection with his or her test, appointment, proposed appointment, promotion or proposed promotion.

(c) No employee, examiner, or other person shall defeat, deceive or obstruct any person in his or her right to examinations, eligibility certification or appointment under these rules, or furnish to any person any special or secret information for the purpose of affecting the rights of prospects or any person with respect to employment in the non-exempt service.

(d) Discrimination against any person in recruitment, examination, appointment, training, promotion, retention, discipline or any other aspects of HR Office administration because of race, color of skin, creed, sex, religion, national origin or ancestry, age and disability except where physical requirements constitute a bona fide occupational qualifications necessary to proper and efficient administration, is prohibited.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-715 Gifts and Gratuities

The Corporation shall adopt the CNMI Government's Government Ethics Code relating to gifts and gratuities. It is the responsibility of each Corporation employee to remain free from indebtedness or favors which could tend to create a conflict of interest on the part of such employee. If employee does not have any authority in the business transaction between the CHCC and the vendor, employee is not conflicted.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-720 Nepotism – Employment of Relatives

Relatives of employees of the Corporation may be employed by the CHCC in accordance with

the following provision: Relatives may be employed within the same division or department, provided there is not a direct reporting relationship between relatives who are immediate family. Immediate family includes grandparents; siblings, including natural, step or adopted; parents, including stepparents, mother and father in-law; children, including natural, step or adopted; spouses. Conflicts may be resolved in a reorganization of reporting relationships at the discretion of the Chief Executive Officer, or the Board should the Chief Executive Officer recuse himself.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-725 Political Activity

The Corporation shall adopt the CNMI Government's Government Ethics Code relating to political activity.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-730 Safety Programs

All employees are responsible for following all federal and CNMI occupational safety and health regulations and all CMS and other federal regulations applicable to hospitals.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-735 Conflict of Interest

(a) A conflict of interest exists when an employee's loyalties become divided between the Corporation's interests and those of another, such as a competitor, supplier, colleague, associate or customer. Employees are expected to devote their best efforts and attention to the performance of their jobs. Employees are also expected to use good judgment, to adhere to high ethical standards, and to avoid situations that create an actual or potential conflict between the employee's personal interests and the interests of the Corporation. Employees must refrain from taking part in, or exerting influence over, any transactions in which their own interests may conflict with the best interests of the Corporation. Management reserves the right to determine when an employee's activities represent a conflict with the Corporation's interests and to take whatever action is necessary to resolve a conflict of interest, including discharge of an employee. If determined to be a conflict of interest, employee must be given a written warning that such activity is a conflict of interest. The list below provides examples of some activities that would reflect negatively on an employee's ability to perform job duties and responsibilities in an ethical manner:

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

- (1) Accepting substantial personal gifts or excessive entertainment from competitors, customers, suppliers, colleagues, associates or potential suppliers;
- (2) Working for a competitor, supplier, colleague, associate or customer while simultaneously employed by this Company;
- (3) Engaging in competition with the Company;
- (4) Having a direct or indirect financial interest in the business of a competitor, customer, supplier or associate, except that ownership of less than 2% of the publicly traded stock of a corporation will not be considered a conflict of interest;
- (5) Using Corporation assets or labor for personal use;
- (6) Borrowing money from competitors, suppliers, customers, associates or potential suppliers other than recognized loan institutions (i.e., banks); or
- (7) Misusing one's position in the Corporation for personal gain to the detriment of the Corporation.

(b) Employees who are uncertain whether a transaction, activity or relationship may create a conflict of interest should discuss the situation with their supervisor for feedback without detriment to their employment.

Modified, 1 CMC § 3806(a), (g).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-740 Whistleblower's Policy

(a) Reprisal Prohibited. No CHCC employee or Board Member shall engage in reprisal against an employee for disclosing a violation or suspected violation of a CNMI or federal law, or a regulation promulgated by CHCC pursuant to CNMI law.

(b) Application. An employee who reports, or who is known by any person in a management or supervisory position to have indicated to report, such violation or suspected violations shall be protected by this rule, unless the employee knew the report was false. This protection shall extend to employees who participate, or who have indicated an intent to participate, in an investigation, hearing or inquiry conducted by a public body, and to employees who participate, or who were known by management or supervisor to have indicated an intent to participate in a court proceeding.

(c) Forms of Reprisal. Reprisal includes such actions as discharge, threats of discipline, or arbitrary and capricious changes in the conditions of employment.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

Part 800 - Drug & Alcohol Abuse Policy

§ 140-90.1-801 Basis for the Policy

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

The Commonwealth Healthcare Corporation (CHCC) is committed to protecting the safety, health and well-being of its employees and of all people who come into contact with its workplace(s) and property and/or use its services. Drugs and alcohol pose a direct and significant threat to our goal. An employee who uses drugs and alcohol and then goes to work at CHCC puts his or her life in danger and threatens the lives of co-workers and of the public. Drugs and alcohol do not allow us to reach our full potential. Drug and alcohol abuse prohibits us from having a safe and efficient workplace.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-805 Rules of a Drug-Free Workplace

(a) Application. This policy applies equally and without exception to all Commonwealth Healthcare Corporation HR Office no matter what position or employment status, including all management employees, contract employees and part-time employees.

(b) Prohibitions.

(1) The Commonwealth Healthcare Corporation prohibits the use, possession, sale, conveyance, distribution or manufacture of illegal drugs, intoxicants or controlled substance in any amount or manner while engaged in work or work-related activities or in any pay status. In addition, the Commonwealth Healthcare Corporation strictly prohibits the abuse of prescription drugs.

(2) Drugs and alcohol are strictly prohibited from CHCC vehicles.

(3) Employees may not accept from anyone (an employee, boss, customer, friend, relative, etc.) any drugs or alcohol, or money to purchase illegal drugs during working hours or while the employee is operating or riding in a CHCC vehicle.

(4) Employees who are on “stand by” are prohibited from drugs or alcohol usage. Do not come to work under the influence of drugs or alcohol.

(5) Refusing to submit to drug testing as provided for in this policy is a violation of work rules. Refusal to submit means the employee:

(i) Makes a verbal declination after being given a clear and specific order to submit to urine and/or breath testing.

(ii) Fails to provide adequate breath for testing or does not produce a urine specimen without valid medical explanation after he or she has received notice of the requirement to be tested.

(iii) Engages in conduct that clearly obstructs the collection process.

(6) Refusing to submit to treatment, or to meet the requirements of the treatment program, is a violation of this policy.

(7) An employee adversely affected in his or her use of any legally obtained drugs (prescription or non-prescription drugs) cannot be allowed to perform a safety sensitive job (as described in Section III, A, 1). Prior to commencing work, each employee must report immediately to his or her supervisor/manager the use of any prescription drug which may affect performance or that contains a cautionary label regarding the operation of equipment or vehicles.

(c) Consequences of Conduct in Violation of Policy. The Corporation recognizes the need to offer treatment to employees with substance abuse problems. However, CHCC will not accept employee conduct that interferes with the Corporation's goal of having a drug and alcohol free workplace. Therefore any employee who:

- (1) Refuses to submit to a drug or alcohol test authorized by this policy,
- (2) Refuses to participate in, meet program requirements and complete a CHCC approved drug or alcohol treatment program, or
- (3) Uses a prohibited substance (verified by a "positive" drug or alcohol test) after having been referred previously to an approved drug or alcohol program because of a positive drug or alcohol test or an admission of substance abuse will be terminated under the applicable HR Office procedures.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-810 Drug and Alcohol Testing

(a) The Commonwealth Healthcare Corporation asserts its legal right and prerogative to test employees for substance abuse. Employees may be asked to submit to medical examination and/or to submit urine and/or breath to be tested for drugs or alcohol.

(b) Basis for Testing. To ensure the safety of both CHCC's employees and the public, employees will be required to undergo drug and/or alcohol testing under the following circumstances:

- (1) Employees who perform a safety-sensitive function or whose work exposes others to risk will be tested when hired and randomly thereafter. Safety-sensitive function means performing work involving hazardous tasks directly affecting the safety of others.
- (2) For the purposes of this policy listed on Attachment A are included but not limited to those designated as safety-sensitive.
- (3) Any employee may be tested for cause following an accident.
- (4) All employees will be subject to drug/alcohol testing if there is reasonable suspicion to believe the employee may be under the influence of some drug or alcohol. Reasonable suspicion for drug/alcohol testing means specific, articulated observations concerning the appearance, behavior, speech or body odors of the employee. In other words, a reasonable suspicion decision consists of specific facts, circumstances, physical evidence, physical signs and symptoms or a pattern of performance and/or behavior that would cause a trained supervisor to reasonably conclude an employee may have engaged in on the job drug or drug/substance including alcohol.

(c) Referral. An employee who tests positive for any prohibited substance will be referred to treatment. Referral to treatment will be confidential with the exception of those management HR Office necessary for the implementation of this policy. Refusal to accept treatment, or a second positive test are grounds for adverse employment action. Employees are allowed the opportunity for rehabilitation under the following conditions.

- (1) Voluntary self-referrals by the employee, prior to any type of incident or accident/incident or notification of random testing.

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

(2) Management intervention/referral prior to any incident or accident/incident. Employees who are referred as part of a supervisory performance counseling or intervention based on admitted substance abuse problems are assured of confidentiality. Only those in the chain of responsibility may be aware of a referral/treatment request.

(3) Positive test referrals If any employee tests positive for the presence of alcohol or prohibited drugs, they shall be referred to a substance abuse professional for assessment and will be required to fulfill specified steps of treatment before being considered ready for evaluation for return to duty to any position at CHCC.

(d) Return to Duty. An employee, either referred by CHCC or self-referred, having previously tested positive for drugs or alcohol or voluntarily acknowledged being under the influence of drugs at any time or alcohol while on duty, will not be allowed to return to work until the employee:

(1) Successfully completes a program of treatment; and

(2) Tests negative for covered substances and is evaluated and released for duty by a substance abuse professional or a doctor; or

(3) Is released by a substance abuse professional (if the referred was alcohol related).

(e) Any employee, returning to duty after drug or alcohol treatment, may be subject to unannounced drug or alcohol tests for up to 60 months after returning to work.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-815 New Hires: Pre-employment Testing

All new hires are required to submit to a pre-employment drug test. No employee will be placed on duty until testing is performed. Failure to pass this drug test shall result in denial of employment.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-820 Notification of Criminal Convictions

Any employee convicted of a violation of a criminal drug statute must notify the Commonwealth Healthcare Corporation in writing within five calendar days for the conviction.

Modified, 1 CMC § 3806(a), (g).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-825 Searches

When the Commonwealth Healthcare Corporation has reasonable suspicion that an employee has illegal drugs or alcohol on CHCC premises or in a CHCC vehicle, CHCC may conduct an inspection at any time, including during breaks and lunch period while the employee is on the Corporation's premises or property, or while conducting Corporate business. The search areas may include at the employee's work area and CHCC vehicle, his or her locker, desk, work station, vehicles, or any other CHCC property he or she uses, or has access to available for inspection. Entry on to Corporate premises constitutes implied consent to reasonable search and inspection. An employee who refuses to consent to a reasonable search or inspection when requested by the Commonwealth Healthcare Corporation violates Corporate policy and is subject to adverse employment action.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-830 Employee Assistance

The Corporation makes available to all employees a confidential rehabilitation program through the Commonwealth Health Center's Substance Abuse/Addiction Treatment Program. This program is available at low cost to employees and their departments, and includes initial assessment, referral and counseling. The Substance Abuse/Addiction Treatment Program includes family support, counseling and reinforcement, all of which can be critical to the successful rehabilitation of a substance abuser. Any subsequent treatment, after referral from the Substance Abuse/Addiction Treatment Program to an outside treatment provider, may be covered under the employee's health coverage. The costs of continuing or long-term rehabilitation services, whether covered by the employee's medical plan or not, are the ultimate responsibility of the employee.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-835 Policy Communication

All current employees will receive a copy of this policy and any amendments which they will acknowledge receipt of by signature. In addition, the policy will be posted in all work places where employees are covered by this policy. All new employees will be given a copy of this policy as part of new employees' orientation on or before their first day of employment. New employees will acknowledge they have read the policy and such acknowledgement will be noted by signature in employee HR Office file. The person designated to answer questions for covered employees about the drug and alcohol regulations is the CHCC Legal Advisor.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29,

2016).

§ 140-90.1-840 General Responsibility

Substance abuse prevention is everyone’s responsibility. The Commonwealth Healthcare Corporation expects all of its employees to recognize and accept this responsibility, and to do their part to assure that, working together, we can achieve and maintain a drug-free working environment for all Commonwealth Healthcare Corporation employees.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-845 Confidentiality

The result of drug tests, the facts or referrals to treatment and employees’ voluntary statements concerning drug use are strictly confidential. Information shall be limited to the Chief Executive Officer, the HRM, and the Corporation Legal Counsel and confidential. Such information is to be used only provided in this Policy. Any disclosure of confidential information received under the terms of this policy by any CHCC employee shall be grounds for disciplinary action, up to and including termination of employment.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

§ 140-90.1-850 Violation of the Policy

Violation of this policy shall result in adverse employment action up to and including dismissal and referral for criminal prosecution.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

Part 900 - [Removed]

History: Amdts Adopted 39 Com. Reg. 40224 (Oct. 28, 2017); Amdts Proposed 39 Com. Reg. 39703 (June 28, 2017); Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

**Appendix A
Employment Status Acknowledgement Form**

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION



Commonwealth Healthcare Corporation

Commonwealth of the Northern Mariana Islands

1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950



EMPLOYMENT STATUS ACKNOWLEDGEMENT FORM

The Commonwealth Healthcare Corporation has selected me _____ to fill the vacant position of _____ under ninety (90) days Provisional Appointment to pursuant to Section C(3), Selection, of the CHCC Employment Policy Manual. I understand as a Provisional Appointee, I am subjected and must conform to the following terms and conditions:

1. I must complete and submit an updated Application for Employment form and required supporting document to the Human Resource Office prior to the closing date of the announcement.
2. I understand my employment with the Commonwealth Healthcare Corporation is a temporary one and may be subject to termination or separation, with or without cause, and with notice, at any time.
3. I understand that I must still compete with other interested applicants applying for the announced position.
4. I understand that my continuing employment with the Commonwealth Healthcare Corporation is contingent upon the certification of my qualifications, the job interview results, and that my performance **MUST** be maintained as satisfactory during this appointment.
5. I understand that the department/unit may terminate my employment should they find other candidates more qualified and better suited for the vacant position other than myself; and,
6. I understand that upon proper separation from employment, I have no appeal rights in relation to this appointment.

I have read and agreed to the forgoing terms and condition and I hereby affixed my signature to acknowledge my understanding of my employment status.

Provisional Appointee

Date

Manager, Human Resources
Rev. #2 04/08/16

Date

CHCC HUMAN RESOURCES RULES AND REGULATIONS, ATTACHMENT A

P.O. Box 500409 CK, Saipan, MP 96950
Telephone: (670) 236-8204 FAX: (670) 236-8756

COMMONWEALTH REGISTER VOLUME 38 NUMBER 11 NOVEMBER 29, 2016 PAGE 039022

**Appendix B
College Equivalency Chart**

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION



Commonwealth Healthcare Corporation
Commonwealth of the Northern Mariana Islands
1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950



Human Resources

For explanation on how the applicants are evaluated, refer to the following qualification factors below:

1. EDUCATION

Education is a qualification factor used to determine the level and kinds of education achieved by an applicant. It is a necessary qualification requirement needed in order to perform the job successfully. The knowledge possessed determines how qualified the applicant is in relation to the position applied for.

a.) Level of Education

Consider the number of undergraduate and/ or graduate semester/ quarter hours achieved or the level of degree completed by the applicant. Applicants will be rated higher for having a higher level of education achieved.

b.) Kinds of Education

Consider the kinds of undergraduate and/ or graduate subjects/ courses completed by the applicant. If the applicant is a degree holder, determine the type of degree earned. Applicants will be rated higher for possessing related subjects/ courses.

Whenever an applicant applies for a vacant position and the position has an MQR of an equivalent combination of education and work experience, a conversion must then be made on the qualifications to determine the equivalency level between the number of undergraduate semester hours versus the month(s) and year(s) of work experience possessed.

For Example: If an applicant is a high school graduate and is applying for a position having an equivalent combination MQR of an AA degree in Accounting plus two (2) years of accounting related work then the applicant must possess any of the following equivalent combination to qualify. Refer to the Conversion Chart on the next page.

CHCC HUMAN RESOURCES RULES AND REGULATIONS, ATTACHMENT B

COMMONWEALTH REGISTER VOLUME 38 NUMBER 11 NOVEMBER 29, 2016 PAGE 039023

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

CONVERSION CHART (Work Experience for Education)		
MQR of Vacant Position	Education Level of Applicant (ELA)	Equivalent Combination Required
A.A. + 2 years of Accounting Related Work.	High School Graduate + 0 USH	ELA + 4 yrs. 3 mos. of related. Work Experience
	High School Graduate + 15 USH	ELA + 3 yrs. 10 mos. of related. Work Experience
	High School Graduate + 30 USH	ELA + 3 yrs. 2 mos. of related. Work Experience
	High School Graduate + 45 USH	ELA + 2 yrs. 6 mos. of related. Work Experience

To convert any other equivalent combination of education for related work experience and vice versa, refer to the Conversion below.

CONVERSION CHART (Work Experience for Education)	
Level of Education [Undergraduate Semester Hours]	Length of Related Work Experience [Year(s) – Month(s)]
1 – 4	0 – 0
5 – 8	0 – 2
9 – 12	0 – 4
13 – 16	0 – 6
17 – 20	0 – 8
21 – 24	0 – 10
25 – 28	1 – 0
29 – 32	1 – 2
33 – 36	1 – 4
37 – 40	1 – 6
41 – 44	1 – 8
45 – 48	1 – 10
49 – 52	2 – 0
53 – 60	2 – 2
A.A. / A.S. Degree	2 – 3
61 – 64	2 – 4
65 – 68	2 – 6
69 – 72	2 – 8
73 – 76	2 – 10
77 – 80	3 – 0
81 – 84	3 – 2
85 – 88	3 – 4
89 – 92	3 – 6
93 – 96	3 – 8

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

97 – 100	3 – 10
101 – 104	4 – 0
105 – 108	4 – 2
109 – 112	4 – 4
113 – 120	4 – 6
B.A. / B.S. Degree	4 – 7

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

**Appendix C
Table of Penalty Sanctions**

TABLE OF DISCIPLINARY ACTIONS

Key: Recommended Disciplinary Actions

- V** = Verbal Reprimand or Warning or Counseling
- W** = Written Reprimand
- I** = Immediate Suspension without pay
- R** = Regular suspension
- D** = Demotion
- T** = Termination

TYPE OF OFFENSE	Disciplinary Actions					
	1 st	2 nd	3 rd	4 th	5 th	6 th
1. Abuse or destruction of CHCC property	V	W	R	T		
2. Any breach of duty or trust to the Corporation	V	I	T			
3. Any violations of HIPAA	V	W	R	T		
4. Conviction or arrest for a crime involving violence, dishonesty or drug use or trafficking or any other crime which casts doubt on the employee's suitability for work. Absence from the job without approval or notification to Division Head due to arrest and incarceration will be considered an unapproved absence or absence without leave (AWOL)	T					
5. Ethics Code Violation	V	W	I	T		
6. Falsification of employment application	T					
7. Fighting and/or acts of violence; or threats of violence constituting assault	T					
8. Habitual attendance problems such as not showing up for work and not calling or using approved leave or habitual tardiness that is more than <i>de minimis</i>	V	W	I	T		
9. Harassment of other employees or the public, or violation of Corporation's sexual harassment policy	W	T				
10. Inefficiency, inadequacy or unsatisfactory work performance after notice and opportunity to correct performance	V	W	D			
11. Insubordination, or disruptive behavior; including the violation of an oral or written directive(s) which was known or reasonably should have been known	V	W	R	T		

CHCC HUMAN RESOURCES RULES AND REGULATIONS, ATTCHMENT C

COMMONWEALTH REGISTER VOLUME 38 NUMBER 11 NOVEMBER 29, 2016 PAGE 039026

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

TYPE OF OFFENSE	SANCTIONS					
	1 st	2 nd	3 rd	4 th	5 th	6 th
to the employee						
12. Leaving the work site during working hours without permission from supervisory officials	V	W	R	T		
13. Misuse mail, phones, computer system, internet access	V	W	R	T		
14. Other conduct or failure of performance which the management of the Corporation reasonably recognizes as justification for serious discipline, including dismissal	I	D	T			
15. Possession of weapons, explosives	T					
16. Punch another's time card/alter time records	V	W	R	T		
17. Repeated violations of CMS regulations or a single violation if the conduct is egregious	V	W	R	T		
18. Sleeping on duty	V	W	R	T		
19. Substance abuse on the job; or violation of the Employee's Drug and Alcohol Abuse Policy; reporting to work when impaired by or under the influence of alcohol or controlled substance	T					
20. Theft, conversion, or unauthorized removal of corporation's property, or the use of Corporation property without authorization	T					
21. Unauthorized removal of property of CHCC or stealing government property while on duty	V	W	R	T		
22. Unauthorized use of CHCC vehicles, equipment	V	W	R	T		
23. Use of obscene or abusive language	V	W	R	T		
24. Violation of a written policy, procedure or regulation, which was known or should have been known to the employee; including safety rules and policies as well as all other policies set out in the Manual	V	W	R	T		

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

TYPE OF OFFENSE	SANCTIONS					
	1 st	2 nd	3 rd	4 th	5 th	6 th

SANCTIONS FOR VIOLATION OF RULES

The CEO or the HR Manager, in consultation with the Legal Counsel, has the option of imposing a lesser or greater penalty than the suggested remedial action/starting point where the particular circumstances warrant or require it, in the management's judgment.

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

Appendix D
Conditions of Employment Form

APPENDIX D



Commonwealth Healthcare Corporation

Commonwealth of the Northern Mariana Islands
1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950



OUTSIDE EMPLOYMENT REQUEST & APPROVAL FORM

An employee may undertake outside employment only if such is not in conflict with his/her work assignments and duly scheduled work hours of his/her employment with the Commonwealth Healthcare Corporation (CHCC), and only with the consent in writing of the CHCC management. This form shall be updated annually and/or when there is a change.

Check One: New Request Update to Request on File | Date of Request:

NAME OF EMPLOYEE:

POSITION TITLE:

DEPARTMENT/UNIT:

INFORMATION ABOUT SECONDARY OR OUTSIDE EMPLOYMENT:

NAME OF EMPLOYER:

ADDRESS:

START DATE OF EMPLOYMENT:

END DATE OF EMPLOYMENT:

NATURE OF WORK:

CHCC'S POLICY/CONDITIONS OF EMPLOYMENT: 8. OUTSIDE EMPLOYMENT

The Employee may provide services to persons other than the Employer only if full disclosure is made by the Employee to the Employer and:

- A. The Employee receives the prior written approval of the Employer, and
- B. The outside employment does not conflict with the Employee's obligations or interfere with the Employee's performance of his/her duties under this contract of employment, and
- C. The outside employment is not, or does not appear to be, adverse to or in conflict with the interests of the corporation.

I, _____, request permission to engage in secondary or outside employment. I have read the CHCC's Policy/Conditions of Employment, Section 8. Outside Employment above and understand that my secondary or outside employment must not conflict nor interfere with the duties and responsibilities of my position at the CHCC and I will comply with the aforesaid Policy/Conditions of Employment.

Signature of Requestor/Employee: _____

Legal Counsel's Signature: _____ Recommended Not Recommended

Chief Executive Officer/Signature: _____ Approved Not Approved

Distribution: ● one copy each – Employee ● Assigned Department /Unit ● HR

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

Appendix E Outside Employment Request & Approval Form

APPENDIX E



Commonwealth Healthcare Corporation

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
1 Lower Navy Hill Road, Navy Hill, Saipan, MP 96950



CONDITIONS OF EMPLOYMENT

The following conditions pertain to the employment contract and are incorporated into it. The employee must read these terms before signing the contract. The signing of the contract will show assent to each of the terms set out below. The Employee confirms that s/he shall comply with these Conditions of Employment.

1. PRE-EMPLOYMENT CONDITIONS STANDARDS:

- A. The Employer requires that all persons employed by the CNMI be certified as physically capable of performing the duties of the position. They must be free from communicable diseases and any present medical condition that would prevent them from successfully and safely performing the essential elements of the position.
- B. The Employee shall be examined after receiving an offer of employment by medical personnel authorized by the Employer to conduct such examinations for employment purpose, and the results shall be recorded on forms prescribed by the Manager of Human Resources and will be subsequently filed in the Employee's official and confidential medical record at the Commonwealth Health Center. All of the rights afforded to an Employee under the Americans with Disabilities Act of 1990 will apply.
- C. At the time of application, applicants for any position will be notified that any offer of employment is contingent upon a negative urine test for illegal or unprescribed controlled pharmaceuticals. After receiving an offer of employment, the candidate shall be tested for the presence of cocaine, marijuana, opiates, amphetamines, and phencyclidine in the urine. Testing shall be conducted in conformity with the CNMI Drug testing procedures applicable to CNMI government employees.

2. COMPENSATION AND WORK SCHEDULE:

- A. **Compensation:** The Employee shall earn his salary on the basis of a twelve-month (12) work year consisting of twenty-six (26) bi-weekly pay periods. In cases of early termination, the gross pay will be reduced by the period in which no service is rendered.
- B. **Work Schedule:** The Employee's work schedule is based on the essential duties set forth in the attached job description. The Employee's workday and workweek may vary from time to time according to the needs of the Corporation. The Employee's specific assignment may also require shifts, night duty, irregular, split or on-call schedules unless otherwise specified in the employment contract.

(Revised: 04/01/2015)

Employee's Initial: _____

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

Every effort will be made to maintain a consistent and reasonable five (5) day, forty (40) hour workweek. However, subject to fiscal necessity, the Employer may reduce the number of work hours and compensation or salary without need to amend this contract.

The Employee agrees by acceptance of this employment to the schedule variations that may be required by the needs of the job, as determined by the Employer.

If the Employer determines there is a fiscal necessity, the Employer may reduce the Employee's work hours from a regular 40-hour workweek to a lesser number of hours, such as a 32-hour workweek. During any such period of budgetary constraint, the Employee's biweekly pay will be reduced to reflect the reduction in hours worked.

Additionally, the Employee's use of annual and sick leave will be restricted during any such period of fiscal necessity. The paid leave hours taken during a week by the Employee will be added to any regular hours that the Employee works during that week, and the total hours may not exceed the maximum number of hours per week that the Corporation has established (such as 32 per week), unless the Employee an exception from the reduced workweek hours requirement.

Unless a lesser notice period is established by legislation, the Employer will provide a written 30-day notice of the Corporation's intent to decrease work hours.

- C. **Work Hour Reduction, Reduction in Force, Furlough, or Other Fiscal Austerity Measures:** The terms of this contract shall be superseded by any legislation enacted to reduce the payroll obligations of the Commonwealth Healthcare Corporation by way of work hour reduction, government shutdown, furlough, or other measures adopted for the express purpose of fiscal austerity. The parties to this contract agree that the Employer shall not be liable for any reduction in pay or benefits due to such legislation.
- D. **Overtime:** As noted in the special terms and conditions of the contract, this position is either covered under the Fair Labor Standards Act of 1938, as amended (FLSA), for overtime and compensatory time purposes or is exempt from such coverage. An Employee who is not exempted from payment of overtime by the federal FLSA shall be paid overtime or given Compensatory Time-Off at the rate of one and one-half (1 ½) times the regular rate of pay for hours actually worked in excess of forty (40) hours a week; provided, however, that no Employee shall work more than 40 hours per week without written approval in advance by the Employer. Any such overtime approval shall be on forms prescribed by the Employer. The Employee understands and agrees by acceptance of this employment that Compensatory Time-Off may be used to replace overtime payments as authorized by the Fair Labor Standards Act. An employee who is exempted from payment of overtime by the federal FLSA shall not be paid overtime unless such payment is authorized by the Employer.

(Revised: 04/01/2015)

Employee's Initial: _____

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

E. **On-Call or Other Differential Payment:** Eligibility for On-Call assignment and authorization for On-Call or other differential payments are determined by the Employer as a matter of policy and will not be included as terms to these Conditions of Employment or the Employment Contract. On-Call time is not work time and will not be compensated as work time or compensatory time. Time called back to work for those Employees who are not exempt from payment of overtime will be considered work time and will be compensated as overtime as explained in paragraph 2.D, above.

F. **Effective Dates:**

(1) **Appointment/Contract Start Date:** Appointments or contracts and the Conditions of Employment for all employees, whether residing inside or outside the Commonwealth at the time of hire, shall be effective on the first day the Employee reports to work to the post of assignment in the Commonwealth.

(2) **Separation Date:** Separation upon completion of the contracted term of employment shall be effective on the last day of the term of employment, as stated in the appointment letter or contract or, if terminal leave is used, the date that leave ends, whichever date is later.

(3) **Early Termination:** Early termination of an appointment or contract by the Employer, with or without cause, or through resignation, shall be effective on the date of termination stated in the termination or resignation letter. Repatriation travel time is outside the contract period and will not be compensated.

3. **EMPLOYEE CONDUCT: GENERAL COMPLIANCE WITH RULES AND REGULATIONS:** The Employee and the Employee's dependents are subject to the laws, policies, rules and regulations of the Commonwealth that concern personal and work-related conduct and activities while employed by the Employer.

4. **MANDATORY PARTICIPATION IN THE FEDERAL SOCIAL SECURITY SYSTEM:** Public Law 17-82, the CNMI Pension and Recovery Act of 2012, requires mandatory participation in the Federal Social Security System for any employee who is a citizen or lawful permanent resident of the United States.

5. **LEAVE:**

A. **Annual Leave:** Annual leave shall accrue to the Employee at the rate of four (4) hours per pay period or as otherwise specified in the Special Terms and Conditions of the Employment Contract.

(Revised: 04/01/2015)

Employee's Initial: _____

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

- (1) The Employee employed in the first year of the Contract shall be entitled to use Annual Leave only after having been employed for a continuous period of ninety (90) calendar days without a break in service. This restriction does not apply to Employees re-employed on an immediately subsequent contract or appointment.

The Employee will be charged Leave Without Pay (LWOP) for any leave taken prior to the initial ninety (90) days.

- (2) Annual Leave may be used only upon prior written approval of the Employee's immediate supervisor.
 - (3) Annual Leave must be utilized during the contract/appointment period. No cash payment will be made for any unused annual leave during any period of employment. In the event the Employee's employment is terminated, either voluntarily or involuntarily, the Employee shall be compensated for all accrued annual leave by means of payroll extension and shall not be entitled to receive a single lump-sum payment for total accrued annual leave on termination.
 - (4) If an offer and acceptance for a new period of employment is agreed upon under a new employment contract/appointment within the corporation, accrued and unused Annual Leave credits from the prior contract/appointment, not to exceed 360 hours, may be carried over to the new contract/appointment period. Any accrued and unused annual leave in excess of 360 hours will be converted to sick leave.
 - (5) The accumulation of accrued and unused annual leave cannot exceed 360 hours on January 1 of any new calendar year. Any accrued and unused annual leave in excess of 360 hours at this time will be converted to sick leave.
- B. **Sick Leave:** Sick leave shall accrue to the Employee without limit at the rate of four (4) hours per pay period.

- (1) The Employee is entitled to use Sick Leave from the time Sick Leave first accrues.
- (2) Sick leave with pay shall be allowed whenever the employee is compelled to be absent from duty because of illness or injury or because of quarantine of the Employee's family or residence. Use of sick leave is appropriate for medical, dental or optometry examination or treatment, or for any mental health examination, counseling or treatment; or when required for the treatment and medical/dental referral escort of the Employees' minor dependant or ward.
- (3) The Employer may require a doctor's certification when the Employee has missed more than three (3) continuous days of work. The Employer may also require proof of illness for any claimed period(s) of less than three days as appropriate.

(Revised: 04/01/2015)

Employee's Initial: _____

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

- (4) The Employee may apply for sick leave to attend to an immediate family member who requires his or her presence due to an illness or injury. For leave in excess of two (2) consecutive days, such request shall be supported by a certified statement from an attending physician that the Employee is needed to care for the immediate family member. Such use of Sick Leave will be in accordance with the Corporation's policy and is subject to the approval of the Human Resources Manager.
 - (5) Upon completion of the present employment contract or termination of employment, Employee will not be paid for accrued and unused Sick Leave credits, but if the Employee agrees to another contract or appointment within three years of finishing the prior contract or from separation, whichever is later, the Sick Leave will be re-credited to the Employee's account.
 - (6) Where an offer and acceptance for a new period of employment is agreed upon under a new contract within the corporation. All accrued and unused Sick Leave credits from the prior contract will be carried over to the new contract period.
 - (7) Sick Leave may be accumulated without limit, but has no cash sell-back value and cannot be converted to annual leave.
- C. **Leave Without Pay:** Leave Without Pay may be taken only after obtaining the prior written approval of the Employer, except in cases of emergency. Any leave without pay taken without the Employer's approval will be considered Absent without Leave.
- D. **Administrative Leave With Pay:** Administrative Leave is absence authorized under emergency conditions beyond the control of management (e.g., typhoons), or for participation in civic activities of interest to the corporation, or to attend employment related examinations or professional development activities, or for such other special purposes as the Employer may determine. Administrative Leave with pay will be granted only in exceptional circumstances determined by the Employer.
- E. **Other Leaves:** The Employee may be eligible for other leaves as determined by the Employer.
6. **EXPATRIATION AND REPATRIATION (applicable to Off-Island Hire Only):**
- A. **Travel:** Travel expenses shall be paid by the Employer as follows:
- (1) Economy air transportation costs by the shortest direct route for the Employee and the Employee's dependents from the point of recruitment to the duty station.
 - (2) No salary will be paid during the period of travel. The paid contractual period of employment will begin on the first day of work.

(Revised: 04/01/2015)

Employee's Initial: _____

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

B. Repatriation:

- (1) Upon completion of the agreed upon period of service under this contract or any subsequent employment contract entered into upon the expiration of this contract, the Employer shall pay all return travel expenses to the point of recruitment, to the same extent and subject to the same limitations as enumerated in section 6.A above.
- (2) The Employer will provide a one-way economy ticket to the point of recruitment for the employee and each authorized dependent. This ticketing benefit will only be provided upon the Employee's full separation from employment.
- (3) The Employer will be discharged of this responsibility if repatriation benefits are not utilized within six (6) months of the Employee's date of separation.
- (4) An Employee who has separated from employment and has utilized contractual repatriation benefits will not be eligible for expatriation or repatriation benefits on the new contract if rehired within six (6) months from the date of separation.

C. Check-out: Before repatriation benefits are given and the final paycheck is issued, the Employee must obtain signatures from the Department of Finance, and Commonwealth Healthcare Corporation, the Commonwealth Utilities Corporation and the Office of Human Resources as evidence that the Employee has no outstanding debts owed to the Government.

D. Early Termination of Contract: "Early termination" occurs where the Employee resigns or willfully abandons his/her position or is terminated for cause prior to the end of the contract term.

- (1) If an Employee terminates the contract within the first year:
 - a) The Employer will not be liable for any repatriation expenses.
 - b) The Employee must repay the cost to the Employer of the Expatriation benefits and other costs paid by Employer related to recruitment.
 - c) If other arrangements are not initiated by the employee, the Employer will deduct the expatriation expenses from the Employee's remaining paychecks.
- (2) If an Employee on a two-year contract terminates the contract after completing one year service, the Employer will not be liable for any repatriation expenses and the Employee will not have to repay the expatriation cost. Accrued annual leave may be used to reach the one year of service.

(Revised: 04/01/2015)

Employee's Initial: _____

TITLE 140: COMMONWEALTH HEALTHCARE CORPORATION

7. **JOB DESCRIPTION:** In order to be a valid and binding agreement, this contract (unless it is for renewal) must have attached a detailed job description of the Employee, a complete application and other pertinent documents such as a college transcript, professional licenses and training certificates.
8. **OUTSIDE EMPLOYMENT:** The Employee may provide services to persons other than the Employer only if full disclosure is made by the Employee to the Employer and:
- A. The Employee receives the prior written approval of the Employer, and
 - B. The outside employment does not conflict with the Employee's obligations or interfere with the Employee's performance of his/her duties under this contract of employment, and
 - C. The outside employment is not, or does not appear to be, adverse to or in conflict with the interests of the corporation.
9. **INSURANCE:**
- A. **Workmen's Compensation:** In the event of on-the-job related injury or illness, he Employee shall be entitled to benefits under the Workmen's Compensation Insurance Contract in force for the Northern Mariana Islands Government. The Employee is responsible for reporting any on-the-job work related injury or illness to the Employee's Supervisor as soon as possible.
 - B. **Health and Life Insurance:** Group life insurance coverage is available to all employees who work at least twenty (20) hours per week; provided, however, that should a group life insurance policy be in effect covering employees not meeting the stated requirements, such as coverage shall immediately be afforded such employees. Group health insurance coverage is available to all employees of corporation. Brochures and other information concerning nature and extent of coverage, cost to the employee and manner of processing claims shall be available at the Northern Mariana Islands Settlement Fund.
 - C. **Limitation on Insurance:** The Employee is advised that the Corporation provides no insurance except that referred to in paragraphs A and B above, and the Corporation assumes no liability for loss or damage to personal property or vehicles in the workplace.
10. **ADDITIONAL TERMS AND CONDITIONS:** Upon mutual agreement of the Employer and Employee, any special terms and conditions may be placed in the section provided on the contract to the extent that they are not inconsistent with, and in no way purport to amend, these conditions of employment. No additional amendments will be made or attached to these terms and conditions.

(Revised: 04/01/2015)

Employee's Initial: _____