

CONTRACT INTERPRETATION MANUAL

Article 26 HOURS OF WORK, MEAL PERIODS, REST PERIODS

Interpretation Guidelines

Article 26.01 - Hours of Work

Full-time employees work an average of 37.5 hours per week calculated over the length of the rotation.

The normal daily full shift hours shall be 7.5 hours for all positions.

Shifts longer than 7.5 hours are considered to be an Extended Work Day/Compressed Work Week rotation and are covered by the Extended Work Day Memorandum in the PCA. When a rotation is being contemplated to move from a standard to an extended work day, a vote is required and each employee is required to sign a Release of Overtime for Extended Hour Shifts for shifts greater than 8 hours in length.

RPT and casuals working on a unit with a mixed rotation of standard and extended work day shifts are entitled to overtime if they are called in for a normal daily full shift and asked to extend their shift to an extended hour shift. If called in for less than 7.5 hours and asked to extend the shift, straight time is applicable up to 7.5 hours and then overtime applies.

For example, in a 2002 arbitration, the RPT employee normally worked 7.5 hour shifts on the weekend but was called in 4 hours early for workload reasons, the Employer paid the employee at straight time saying they worked an extended hour shift. However, Arbitrator Kelleher, in referencing the wording on the waiver form for overtime, said that it was clear that a 7.5 hour is still a full shift and therefore the employee was entitled to overtime for working the additional 4 hours (Simon Fraser Health Region Eagle Ridge Hospital and Ridge Meadows Hospital, February 8, 2002 (Kelleher)).

Article 26.02 - Consecutive Hours of Work

The daily hours of work must be consecutive for all employees with 2 exceptions:

1. Community based employees who work a flexible work schedule in accordance with the provisions in 25.07, may work a split shift, but only at the employee's request. In other words, the Employer cannot require an employee to work a split shift.
2. Client specific nurses working for a home support agency as long as two conditions are met:
 - (a) The employee must be working more than one scheduled shift per day; and
 - (b) The split shifts need to be confined to a 12 consecutive hour period (Employment Standards Act).

Client specific nurses have the right to refuse split shifts in circumstances that do not meet the above criteria. These positions may no longer exist in the PCA as Para Med the primary Employer of client specific nurses has ceased operations in BC (Appendix Q).

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Article 26.03 - Meal Periods

Arbitrators have stated that Article 26.03 is held to be “a complete code” for meal breaks. In their view, no other article in the PCA can change the meaning of what it says in the meal break provisions in the Article (Tahsis Hospital Society and BCNU, February 18, 1985 (Munroe) and Vernon Jubilee Hospital and BCNU, April 6, 2000 (Kelleher) (Expedited Award)).

Meal breaks are unpaid in the following circumstances:

1. The Employer is required to provide a meal period of at least 30 minutes away from the workplace (i.e. the employee is not required to be “available” and able to safely leave the workplace for 30 uninterrupted minutes for their meal break).
2. The meal period must be scheduled so an employee doesn’t work longer than 5 consecutive hours without an eating period (Section 32 of the Employment Standards Act).
3. Language was added in 2006 to confirm that Article 26.03 also applies to employees working overtime.

Meal breaks are paid at straight time in the following circumstances:

1. Where an employee is given explicit direction by the Employer that they are designated to be available for work during a meal period (e.g. the directions could be found in the policy manual and/or employees are advised when they are hired that they are required to be available (on-call) during meal breaks).
2. Even where there hasn’t been explicit direction, it is clear that the situation is such that it would be unsafe to leave the workplace during the meal break (e.g. where they are the only nurse on duty and there is no qualified person who would be available to deal with emergencies).

Meal breaks are paid at overtime rates in the following circumstances:

1. Where the employee has not been designated to be available for work during the meal period, are called back to work during the meal period, and are unable to “make up” the time taken from their meal break later in the shift, the employee is paid at 1.5X the regular rate for the day for the entire meal break. (i.e. 30 minutes).
2. Where the employee has been designated to be “on-call” for the meal break, they work through their meal break, and can’t make up the time later in the shift, the employee is paid 1.5 x the regular rate for the day (i.e. 1.5x the stat rate if that is the regular rate for the day).
3. Shift premiums, weekend premiums and responsibility pay are not paid for the meal period unless the employee has been designated to be “on-call” and works during their meal break (Windermere District Hospital and BCNU, May 27, 1988 (Kinzie)). Employees who receive overtime payment as provided in 26.03 should also receive the applicable shift, weekend premiums and responsibility pay for that 30 minute period. Employees who are receiving a rate of pay that is actually overtime, not a premium rate of pay, qualify for their premiums. Overtime is defined as work over and above regular full time hours. An example of a premium as opposed to overtime is the rate paid for regularly scheduled hours on a paid holiday.

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Extended Work Day/Compressed Work Week:

1. Employees working 10 hours or more are entitled to 2 meal periods of 30 consecutive minutes each away from the workplace during each shift (Extended Work Day Memorandum).
2. The same rules apply with respect to payment for meal breaks as set out above.

Additional Resources

Legislation

1. Employment Standards Act – Section 32

Arbitration Awards

1. Golden and District Hospital and CRNBC (RNABC), November 1980 (Owen-Flood). The nurses on night shift are entitled to be paid for their meal periods and shall receive payment at straight time where they actually receive their 30 minute meals break and time and a half for the 30 minute meal period where they do not receive the meal break but have to work during it.
2. Tahsis Hospital Society and BCNU, February 18, 1985 (Munroe). The arbitration panel ruled that nurses alone on the night shift are entitled to straight time rates of pay for meal periods (for being “on-call”) and not overtime as claimed by the Union.
3. Windermere District Hospital and BCNU, May 27, 1988 (Kinzie). The Union made the claim that the grievors were entitled to get shift premiums and responsibility pay for the meal periods as having to be available to work was the same as actually working. The grievance was dismissed as the arbitrator stated that the collective agreement was clear that employees are only entitled to shift premiums and responsibility pay for time actually worked.
4. Powell River General Hospital and BCNU, October 29, 1991 (Munroe). Nurses working over the unpaid meal period portion of a shift are to receive the rate of pay attached to the shift. If working and receiving a paid holiday rate of pay, the meal period for someone designated to be available to work receives the paid holiday rate of pay.

Expedited Awards (without precedent ruling)

1. Vernon Jubilee Hospital and BCNU, April 6, 2000 (Kelleher). The Union made the claim that nurses working overtime shifts (on call-back in the operating room) of over 5 hours were denied meal breaks or compensation in lieu of meal breaks. The Union was asking they be paid an additional half hour for their missed meal break. However, the Union argued that Article 26.03 did not apply to overtime shifts on call back as it wasn't “scheduled” work. The grievance was dismissed, as in the view of the Arbitrator; Article 26.03 provides the “complete code” for meal periods so therefore they were unable to find a violation of the collective agreement.
2. Beaumont and Volchuk 2018 (Bell). The decision was that employees who must remain at the nurses station during their meal break were entitled to pay for the meal break (Article 26.03 (B)) as well as any “in charge” premium (Article 30) or paid holiday rate (Article 39) applicable.

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Article 26.04 - Rest Periods

Unlike meal breaks, all rest periods (i.e. coffee breaks) are paid.

Employees working a normal full daily shift (e.g. 7.5 hours) are entitled to a rest period of 15 minutes in each half of the shift.

Employees working 4 hours or more are entitled to one 15 minute rest period.

Employees working a shift of 10 hours or more are entitled to 3 paid rest periods that need to be evenly scheduled throughout the shift.

Article 26.05 - On-Call Time

Hours of work do not include hours where an employee is not on shift but on-call being paid the on-call premium. This speaks to the determination of benefit entitlement for casuals and RPT employees.

Article 26.06 - Standard/Daylight Savings Time Change

Employees receive straight time pay for hours actually worked.

Employees working the night shift in the “fall back” time change will receive pay for the extra hour worked at straight time rates and employees working the night shift in the “spring forward” time change will receive 1 hour less pay.

Shift premiums and responsibility pay are also to be paid on all straight time hours worked during the time changes in the fall and spring.

Article 26.07 Paid end of Shift work

HEABC – NBA Provincial Collective Agreement - Joint Interpretation

ARTICLE 26.07 – PAID END OF SHIFT WORK

Where an employee is required to perform work, which extends beyond the end of their regularly scheduled shift by less than fifteen (15) minutes, they will be paid at their straight-time rate of pay for all time worked. Where the time worked is fifteen (15) minutes or greater, the employee will be paid at the applicable overtime rate in accordance with Article 27 – Overtime.

The goal of this article is not to increase work obligations, rather it is to ensure that workload is properly addressed, and nurses do not have to consistently stay past the end of their shift. It is also not intended to create additional administrative burden for supervisors or the system.

This language addresses the situation where, in the employee's professional judgment, work must be completed by the employee prior to the end of their shift (i.e., cannot be left for the oncoming staff to complete/perform). Some examples include completing a dressing change, completing a client visit, or completing charting that could not be finished by end of shift, and the work can be completed in less than fifteen (15) minutes.

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Work for fifteen (15) minutes or longer is considered overtime and must be authorized by the Employer as per Article 27 - Overtime. Nurses are expected to work collaboratively, with each other and with Management, to ensure that workload is properly managed and that nurses are not staying beyond the end of their shift. If a unit/program/department or nurse is experiencing consistent or significant requests for pay under this article, the manager and nurse or group of nurses should meet to discuss the reasons for the ongoing issues and identify strategies to ensure that the nurse(s) do not have to stay past the end of their shift. This review may include a discussion about the need to change the handover process, a schedule change to accommodate paid handover, or other strategies and approaches to manage workload.

Examples:

1. There is an unfilled shift on nights and a replacement is not available until 2100. The manager asks the day shift nurse (0700-1900) to stay the two (2) hours extra and work until 2100. The nurse is paid two (2) hours at the applicable overtime rate from 1900-2100.
2. An emergent patient incident late in the shift prevents the nurse from completing their charting by shift end. They stay an additional ten (10) minutes to ensure patient documentation is completed. The nurse may claim (10) minutes at straight time rate of pay.
3. A nurse working 0700-1900 becomes aware late in the shift that they will not be able to complete their charting on time and knows they will need about an hour to do so. They receive approval from their manager in advance and work until 2000. They are paid at the applicable overtime rate for one (1) hour.

Footnotes

Article	26
Sub-Article	26.01, 26.02, 26.03, 26.04, 26.05, 26.06, 26.07
Last Update	16-07-21
Related Articles	11, 25, 27, 28, 29, 30, 42, 45, 55, Extended Work Day/Compressed Work Week Memorandum, Appendix N