

COLLECTIVE BARGAINING AGREEMENT

BETWEEN

Local 509, SEIU

and

The Brien Center

July 1, 2010 – June 30, 2013

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PREAMBLE

AGREEMENT made on _____ by and between Brien Center, 1 Fenn Street, Pittsfield, MA 01201, hereinafter called the "Employer" and Local 509, Service Employees International Union, 100 Talcott Avenue, Watertown, MA 02472, hereinafter called the "Union".

WHEREAS, the Employer and the Union hereby declare their intent to promote and improve labor management relations between them and to set forth herein the terms of agreement;

WHEREAS, in consideration of their mutual promises and agreements between the parties hereto, and in consideration of their mutual desires in promoting the efficient conduct of service, to provide for the orderly settlement of disputes between them, the parties to the agreement agree as follows:

ARTICLE 1 – PURPOSE OF AGREEMENT

This Agreement is designed to provide an orderly and peaceful means for resolving grievances and to set forth herein the agreements between the parties; covering wages, rates of pay, hours of work, and other conditions of employment. The Union and the Employer agree to make every reasonable effort to assure efficient operation, to serve the needs of the community and to meet the highest possible professional standards in such service. Furthermore, the Employer, all managers, all bargaining unit members and all representative(s) of Local 509 agree that all parties shall be treated with dignity and respect. It is understood by the parties that an alleged violation solely of this Article is subject to the grievance procedure but may not be arbitrated under this Agreement.

ARTICLE 2 – RECOGNITION

Pursuant to an election held under the auspices of the National Labor Relations Board and certification thereafter in Case No. 1-RC-22347, dated September 9, 2009, the Employer recognizes the Union as the exclusive representative for all regular full-time, regular part-time, per diem, fee for service, relief, professional and non-professional employees (using the Board's per diem standard, working an average of four hours per week in the previous quarter) including BA social workers, clinicians, development specialist, masters level counselors, case worker/outreach, clinical team leader, counselor, intensive care coordinators, IT associate, licensed clinician, MIS associates, program leaders, physical therapist, registered nurses, shift supervisor, speech therapist, billing assistants, bookkeepers, clericals, client services, client services supervisor, contracts assistant, courier, data entry clerk, direct care worker, direct care specialist, direct care support, intake coordinator, LPN, maintenance worker, medical assistant, outreach worker, program assistant, and triage coordinators employed by the Employer at its sites in Berkshire County, Massachusetts, but excluding billing managers, controller, Director of Accounting, Director of Development, Director of Operations and IT, facilities manager, FS&T Director, MIS Supervisor, office managers,

program coordinators, program directors, program managers, program supervisors, psychologist, senior MIS associates, site supervisors, urgent care coordinator, executive assistant, HR Associate, HR Specialist, and other confidential employees, guards and supervisors, as defined by the Act.

ARTICLE 3 – MANAGEMENT RIGHTS

All management functions, rights and responsibilities which the Employer has not expressly modified or restricted by a specific provision of this Agreement are retained and vested exclusively in the Employer including, but not limited to: all rights and powers given the Employer by law; the right to manage the business and property and to direct the workforce; to establish and administer policies and procedures relating to training, operations, services and maintenance of the Employer; to determine professional standards, to reprimand, suspend, discharge or otherwise discipline non-probationary employees; to hire, promote, transfer, layoff and recall employees; to determine the number of employees and duties to be performed; to maintain order and efficiency in its facilities and operations; to establish, change or abolish any classification or service; to determine whether the whole or any part of its operations shall continue to operate; to determine the time for work, staffing pattern and work areas; to determine the scheduling of work and work breaks; to determine starting and quitting times; to assign work; to determine the size and composition of the workforce; to determine job content; to determine quality and quantity of work to be performed; to determine whether new work shall be performed by non-bargaining unit members due to a lack of agency expertise or a strong preference by the State for partnership with other entities in the service delivery models; to select managerial and supervisory employees; to require a reasonable amount of overtime; to determine the method and place of performing work including the introduction of improved production methods, processes, means or facilities; to make, change or enforce rules and regulations; and otherwise generally to manage the Brien Center except as expressly modified or restricted in this Agreement. The failure by the Employer to exercise any of its rights shall not be construed as a waiver of those rights.

ARTICLE 4 – UNION BUSINESS

Section 1:

All employees in the bargaining unit who, as of the date of this Agreement, are members of the Union shall, as a condition of continuing employment, maintain their membership in good standing in the Union for the duration of this Agreement.

All employees in the bargaining unit as of the date of the Agreement who are not members of the Union shall, no later than the thirtieth (30) day from the date of the Agreement, either become and remain members in good standing of the Union as a condition of employment for the duration of this Agreement or become an agency fee payer for the duration of this Agreement as a condition of employment.

All employees in the bargaining unit hired after the date of this agreement shall, following the completion of thirty (30) days of such employment, become and remain members in good standing in the Union as a condition of employment for the duration of this Agreement or become an agency fee payer as a condition of employment for the duration of this Agreement.

For the purposes of this Section, an employee shall be considered a member in good standing of the Union if s/he tenders the initiation fee and such periodic membership dues as are uniformly required by the Union as a condition of membership. An employee shall be considered an agency fee payer if s/he tenders an established amount in agency fees as required by the Union.

Section 2:

The Employer agrees to deduct dues uniformly from the pay of the employees who have executed written authorization forms approved by the Employer, and to remit to the Union all such deductions at the end of the payroll period for which the deduction is made along with a list of employees paying dues that month. Along with the first such deduction, the Employer agrees to uniformly deduct an initiation fee from the pay of the employees who have executed written authorizations in the form approved by the Employer and to remit same to the Union at the end of the payroll period in which said deduction is made. It is the responsibility of the Union to return signed authorization forms to the Employer in a timely manner.

All such deductions shall be sent to Local 509, Service Employees International Union, 100 Talcott Avenue, Watertown, MA 02472.

The Employer shall notify the Union each month of the names of newly hired employees, their address, date of hire, job title/classification, hours per week, base wages; also names of terminated employees, together with their dates of termination; and names of employees on leave of absence.

Section 3:

It is agreed that the Employer assumes no obligation, financial or otherwise, arising out of the provision of this Article, and the Union hereby agrees that it will indemnify and hold the Employer harmless from any claim, actions or proceedings by any employee arising from deductions by the employer hereunder.

Section 4:

An employee may consent in writing to the authorization of the deduction of a political education fund fee from his/her wages on a form approved by the Employer and to the designation of the Union as the recipient thereof. An employee may withdraw his/her political education fund fee authorization by giving notice in writing to the Employer.

The Employer shall deduct such political education fund fee from the pay of the employees who request such deduction and shall transmit deductions to the Treasurer of the Union together with a list of employees whose political fund fees are transmitted, at the same time that dues deductions are transmitted.

Section 5:

A duly authorized representative of the Union may visit the Employer's sites for the purpose of conducting Union business pertaining to the terms and conditions of this Agreement. Such Union Representative shall notify from the Director of Human Resources prior to arrival, except in emergencies. Upon arrival, the Union Representative shall notify the highest level manager at the work site. Such Union Representative shall not interfere with the Employer's operations.

Section 6:

The Employer agrees to recognize employees who have been designated or elected as Union Stewards. The Union Stewards on behalf of the Union may discuss and present grievances in accordance with the provisions of this Agreement. The Union shall supply the Employer with a written list of Union Stewards at least once a year and maintain such list in a current fashion.

Section 7:

The Employer agrees to provide a bulletin board for the Union to post notices pertaining to Union business at each of its locations subject to lease arrangements. The Union may use such space to post notices of union meetings, notices of union elections and/or notices of union educational, social or recreational activities. The Union will provide the Director of Human Resources with a copy said notices at or before the time of posting.

Section 8:

During new employee orientation, the Union shall be allotted fifteen (15) minutes to discuss the Union and this Agreement with the new employees. A union card and a copy of the Union Contract, to be supplied by the Union, will be given out with other new hire information.

ARTICLE 5 – LABOR/MANAGEMENT COMMITTEE

The parties agree to establish a Labor-Management Committee that will consist of at least three (3) Union members, and at least three (3) members of management. It will meet on a bi-monthly basis, or more frequently with mutual consent, for the purpose of discussing matters of mutual interest and concern. This committee shall serve solely in an advisory capacity. The parties shall seek to develop and exchange agenda items for such meetings at least one (1) week prior to the scheduled meeting. Meetings will not be held during the period of negotiations for a successor to this Agreement.

Such meetings will normally be scheduled outside the Union Committee members' regular work day and will be scheduled to last no more than two (2) hours. Time spent in meetings of the Committee shall not count as time worked.

ARTICLE 6 – PROBATIONARY PERIOD

Section 1:

The first one-hundred and fifty (150) days of employment in the bargaining unit shall be the probationary period for all employees.

Section 2:

During the probationary period, discipline will be at the sole discretion of the Employer. Upon successful completion of the probationary period, employees shall be accorded seniority status computed as of their first day of employment.

ARTICLE 7 – NON-DISCRIMINATION

The Employer and the Union will not discriminate against any employee on the basis of religion, race, color, sex, age, national origin, veteran status, handicap/disability, sexual orientation or any other characteristic protected by applicable law.

ARTICLE 8 – SENIORITY

Section 1:

Seniority shall be defined as an employee's length of continuous service with the Employer.

Section 2:

An employee's seniority shall be broken by the following:

1. Resignation, discharge or retirement;
2. Absence from work due to a layoff for a period equaling or exceeding eighteen (18) months;
3. Failure to respond to a recall notice within five (5) working days of the date the recall notice was mailed;
4. Failure to return to work from layoff within two (2) weeks for non-professional employees and within four (4) weeks for professional employees from the date the recall notice was mailed; and

5. Failure to return to work following the expiration of a leave of absence without good cause.

ARTICLE 9 – REDUCTION IN FORCE OR HOURS

Section 1 – Layoff Procedure:

In the event the Employer determines that it is necessary to reduce the number of employees in the bargaining unit by layoff or to reduce hours, the reductions will be by job classification. Except in unusual circumstances, the Employer will provide the Union and affected employee(s) fifteen (15) days notice of layoff. In determining the order in which employees shall be laid off within a classification, the Employer will take into account the following factors:

1. documented programmatic needs as specified in contracts, subcontracts, and agreements from the relevant funder(s) and payor(s) and/or job posting documents;
2. qualifications including disciplinary record at last step of discipline process in the preceding twelve (12) months; and
3. seniority.

At the time of layoff, the Employer will inform each laid-off employee of all posted vacant bargaining unit positions. If a laid-off employee desires to apply for any of the vacant positions, s/he shall so indicate at that time. If management determines that the employee is fully qualified to perform all the required duties and responsibilities of the vacant position and meets the needs of the program, s/he shall be awarded the vacant position.

In its sole discretion, management may seek volunteers for layoff in the classification(s) where layoffs or reductions in hours are to occur. Management will grant a request for voluntary layoff within an affected job classification unless it would have a detrimental impact on documented programmatic needs.

Section 2 – Recall:

During the eighteen (18) month recall period a laid-off employee will be eligible for recall to vacancies in his/her classification for which they are qualified. It is the obligation of employees during the recall period to notify the Employer of any changes in their contact information. Employees on the recall list must also have made arrangements satisfactory to Employer for the payment of any financial obligations owed to the Employer and the return of all property belonging to the Employer at the time of layoff and be current in such obligations. Any employee who declines recall to a vacancy in his/her classification more than once in accordance with this Article will be removed from the recall list.

Section 3 – Recall Procedure:

The Employer will notify the eligible laid-off employees of a recall opportunity by mail to the employee's last known address and/or by telephone and email, if provided by the employee. An employee on layoff who is offered a vacant position must notify the Employer within five (5) working days of the mailing of the recall notice that s/he accepts a recall. Non-professional employees must return to work within two (2) weeks after the recall notice was mailed, and professional employees must return to work within four (4) weeks after the recall notice was mailed.

ARTICLE 10 – FILLING OF VACANT POSITIONS

Section 1 – Vacant Positions:

The decision as to whether to fill a vacancy or make a promotion will be based on the Employer's judgment as to what will best serve the interests of clients and the Brien Center and is not subject to grievance and/or arbitration.

Section 2 – Posting and Filling of Vacancies:

When a vacancy occurs in a position covered by this Agreement, notice of the vacancy shall be circulated by Human Resources to all work sites and the Employer shall post a notice of the vacancy on its website for no less than seven (7) consecutive days. The electronic posting shall include: a) job title; b) description of job duties and responsibilities; c) job qualifications and requirements; d) job site; and e) shift.

Section 3 – Filling of Vacant Positions:

Members of the bargaining unit who wish to apply for a vacant position shall submit a written application to the Human Resources Director within five (5) days after the most recent posting.

In making the decision the Employer will consider the needs of the Brien Center, its clients and the applicant's qualifications for the position as set forth in the posting. However, if the Employer determines that an internal candidate and an external candidate are equally qualified, preference will be given to the internal candidate. If two (2) or more internal candidates are equally qualified, preference will be given to the most senior candidate.

ARTICLE 11 – HEALTH AND SAFETY

Section 1:

The Employer agrees to provide a safe and healthy work environment for all employees. The Employer further agrees to comply with all local, state and federal health and safety

laws and regulations.

Employees must observe all procedures regarding safety and report all injuries immediately to their supervisor. The existing OSHA Committee will meet quarterly to address any health and safety issues and it shall be expanded to include up to an equal number of bargaining unit members and non-bargaining unit members.

ARTICLE 12 – GRIEVANCE PROCEDURE

Section 1:

A grievance is defined as any dispute between the Employer and the Union, or between the Employer and any of its employees, arising during the term of this Agreement, involving a violation of the provisions of this Agreement. The grievance shall state the provision(s) of the Agreement alleged to have been violated, the facts on which the grievance is based and the date the alleged violation occurred. The written grievance must also be signed by the grievant and the Union.

Any grievance, as defined above, shall be processed in the following manner:

STEP 1

The employee, and/or the employee's representative, shall submit the grievance in writing. The grievance shall be dated and must be submitted within ten (10) working days after the occurrence of the event or the date on which the employee knew or should have known of the event. The grievance shall be presented to the supervisor. A copy of the grievance will be provided to the Director of Human Resources. The Employer's answer shall be given in writing within seven (7) working days after the receipt of the grievance.

A grievance which affects a substantial number or class of employees may be initially presented at Step 2.

STEP 2

If the Union wishes to appeal the grievance further, the Director of Human Resources shall be notified in writing within five (5) working days after receipt of the Step 1 answer. The Director of Human Resources shall meet with the grievant(s) and representatives within seven (7) working days after receipt of notice from the Union. The Employer's answer shall be given in writing within seven (7) days after the meeting with the Union.

STEP 3

If the Union wishes to appeal the grievance further, the CEO shall be notified in writing within ten (10) working days after receipt of the Step 2 answer. Within fifteen (15) working days of receipt of the Step 3 grievance, the CEO, or designee, shall meet with the grievant(s) and the Union to discuss the grievance. The CEO, or designee, shall provide a written answer within ten (10) working

days after the Step 3 meeting.

STEP 4

If a grievance has been properly and timely processed by the employee and the Union through the above procedure and has not been settled satisfactorily, the Union may submit the grievance in arbitration under the auspices of the American Arbitration Association. The submission to arbitration must be submitted to the Employer and the American Arbitration Association within thirty (30) working days after receipt of the decision by the CEO, or designee. The failure to appeal a grievance to arbitration in accordance with this Section shall constitute a waiver of the employee's and/or Union's right to appeal to arbitration.

- a. The arbitration, when filed with the American Arbitration Association, shall be handled in accordance with their Voluntary Rules of Labor Arbitration.
- b. The arbitrator shall have no power to add to, subtract from, or modify any of the terms of this Agreement or to change wage rates or wage scales.
- c. The decision of the arbitrator shall be final and binding upon the parties.
- d. The compensation of the arbitrator and his/her expenses incidental to the arbitration shall be borne equally.
- e. All awards of back wages shall be limited to the amount of wages the employee would otherwise have earned from his/her employment with the Employer less any unemployment compensation. Any other deductions from back wage awards are left to the discretion of the arbitrator.
- f. No more than one (1) grievance may be submitted to a single arbitrator at one time unless mutually agreed to, in writing, by both parties.

Section 2:

Unless appealed within the time limitation set forth, the last answer of the Employer shall be deemed final and binding of the aggrieved employee, the Union and the Employer.

Section 3:

For purposes of this Article, "working days" are defined as weekdays excluding holidays.

ARTICLE 13 – NO STRIKES/NO LOCKOUTS

Section 1:

While this Agreement is in effect, the Employer agrees that there shall be no lockouts and the Union and the Employees agree that there shall be no strikes of any kind including sympathy strikes, unfair labor practice strikes, sit-downs, slowdowns, concerted mass sick outs or any other interference with the operations of the Employer or to the services provided to its clients and the community.

Section 2:

In the event that there is a breach of the foregoing provisions, the Employer need not resort to the grievance and arbitration provisions of this Agreement, but may pursue any legal remedy available to it at law or equity. If there is any violation of the foregoing provisions, the Employer may take disciplinary action, up to and including discharge, subject to the grievance and arbitration provisions of this Agreement. In such event, the Arbitrator shall be limited to the question of whether or not the disciplined employee in fact instigated, participated in or gave leadership to any prohibited activity. If the Arbitrator answers such question in the affirmative, the Arbitrator shall have no authority to modify the disciplinary action.

ARTICLE 14 – PERSONNEL FILES

Upon written request, the Employer agrees to allow employees a reasonable opportunity to review their access to their individual personnel file. Employees shall have the right to insert statements of clarification or rebuttal regarding information contained in their personnel file. The Employer agrees that all employee warnings and performance evaluations shall be signed and further that no anonymous performance related documents shall be inserted into the file. The Employer agrees to treat personnel files in a confidential manner and further agrees not to release such information of a personal nature, absent written employee authorization, to outside non-Employer individuals or entities except when required by law or court order. Employees may periodically obtain a copy of their personnel file within three (3) business days of submission of a written request to the Human Resources Department.

ARTICLE 15 – DISCIPLINARY ACTION

Section 1:

The Employer shall have the right to discipline, suspend or discharge any non-probationary employee for just cause.

Section 2:

Employees may be suspended with pay pending the investigation of any disciplinary

matter.

Section 3:

The Employer will provide contemporaneous written notice of discharge to the affected employee and the Union.

ARTICLE 16 – BEREAVEMENT LEAVE

In the event an employee suffers a death in his/her immediate family, the employee shall be entitled to up to five (5) days off without loss of pay. For purposes of applying this benefit, the term "immediate family member" shall include: spouse, domestic partner, parent, a person standing *in loco parentis*, child, brother, sister, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, and grandparents. The foregoing list shall also include "step" relations.

Pay will be based on the employee's normal work schedule and at his/her normal rate of pay and will not be considered for purposes of computing overtime hours. The employee may be required to furnish proof of death and relationship satisfactory to the Employer.

ARTICLE 17 – SMALL NECESSITIES LEAVE

The Small Necessities Leave Act (SNLA) provides employees with twenty-four (24) hours of unpaid leave per leave year for the following purposes:

- Participation in school activities of a son or daughter, so long as those activities are "directly related to the educational advancement" of the child;
- Accompanying a son or daughter to routine health care appointments;
- Accompanying an elderly relative (must be over 60 years old and be related to the employee by blood or marriage) to routine health care appointments; and
- Accompanying an elderly relative to an appointment for professional services related to the individual's care; such as interviewing at nursing or group homes.

This leave can be taken intermittently or all at once. If available, employees must use accrued leave pool hours for Small Necessities Leave. However, the Employer will not rescind approval for other scheduled paid time off if use of paid time off for SNLA reduces employee's pool of paid time off to less than amount required to cover the previously scheduled and approved paid time off. If the need for the leave is foreseeable, the employee must provide at least three (3) days notice before the leave is to begin. If the leave is not foreseeable, the employee must provide as much notice as possible. Upon request, the employee shall provide documentation that

supports use of SNLA.

ARTICLE 18 – MILITARY LEAVE

The employer agrees to afford employees with military service commitments all rights to which they are entitled by applicable law.

ARTICLE 19 – MATERNITY LEAVE

Female employees who have completed their probationary period as a full-time employee are entitled to eight (8) weeks of unpaid leave to give birth, adopt a child under the age of eighteen (18), or adopt a child under the age of twenty-three (23) if that child is physically or mentally disabled. To be eligible for this leave, the employee must give the Employer at least two (2) weeks' notice of her anticipated date of departure and her intention to return to work at the end of her leave. This leave is available at the time of the birth or adoption, but not substantially earlier or substantially later. The employee may use accrued paid time off during this leave, if she so desires. At the conclusion of maternity leave, the employee will be restored to her previous or a similar position unless business conditions have resulted in elimination or restructuring of the position during maternity leave.

Maternity leave under this Article shall run concurrently with FMLA leave.

ARTICLE 20 – JURY DUTY

All employees who miss regularly scheduled work due to Jury Duty will receive the difference between their regular pay and jury duty pay for up to three (3) days. It is the obligation of the employee to show his/her supervisor the summons or notification to serve on a jury within seven (7) days of the employee's receipt of his/her summons or notification to serve. An employee who reports for jury duty and is excused from such duty for all or part of the day must report to his/her work site whenever the interruption of said service will permit four (4) or more consecutive hours of employment during his/her regularly scheduled work day, unless s/he has been replaced or no appointments were scheduled for the day because of jury duty. Time spent on jury duty will not count towards the computation of overtime.

ARTICLE 21 – HOLIDAYS

The Employer shall maintain the holiday benefits presently enjoyed by employees for the duration of this Agreement.

ARTICLE 22 – LEAVE POOL

Section 1:

Full-time employees shall earn paid time off as follows:

<u>Years of Service</u>	<u>Total Annual Hours</u>	<u>Hours Per Pay Period</u>
0-4	270	10.38
5-9	300	11.54
10 or more	330	12.69

Leave pool accruals are earned in each pay period and the accrued time may be used at any time following hire. Increases in accrual shall become effective in the pay period following the employee's anniversary date.

Section 2:

Part-time employees will earn paid time off as described in Section 1 on a pro-rata basis.

Section 3:

The Employer will pay separating employees all of their earned but unused current year leave pool.

Section 4:

All requests for vacation must be approved in advance by a supervisor. The Employer reserves the right to deny vacation requests based on staffing needs.

Requests for vacation between June 1 and September 1 ("Prime time") must be submitted on the approved form for supervisory approval by April 1. The Employer will notify the employee by April 15 whether his/her vacation request has been granted. Preference in scheduling "prime time" vacations will be given in accordance with program unit seniority. Requests for "prime time" vacation not made by April 1 will be considered on a first come, first served basis.

Employees may not take more than two (2) consecutive weeks or a total of three (3) weeks of paid time off between June 1 and September 1. However, employees seeking to additional leave between June 1 - September 1 must make a written request to the CEO at least four (4) weeks prior to the request time off. The decision to grant said request shall be in the sole discretion of the CEO, or her designee.

Section 5:

Employees must use their current year leave pool accrual by September 30. Leave pool accrued but not used by September 30 is transferred into the long-term leave pool provided that employees hired between April 1 and June 30 may carry over accrued time into the next fiscal year.

Section 6:

Employees may use "long term" leave pool for:

1. bona fide medical absences exceeding three (3) consecutive work days;
2. FMLA approved leave, including workers compensation leave;
3. donating up to five (5) days of leave to ill or injured co-workers in accordance with the existing criteria in the Employee Handbook.

ARTICLE 23 – FAMILY AND MEDICAL LEAVE

Section 1 – Basic Leave Entitlement:

The FMLA provides up to twelve (12) weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- for the birth and care of the newborn child of the employee;
- for placement with the employee of a son or daughter for adoption or foster care;
- to care for an immediate family member (spouse, child, or parent) with a serious health condition; or
- to take medical leave when the employee is unable to work because of a serious health condition.

Section 2 – Military Family Leave Entitlements:

Qualified Exigency Leave

Eligible employees with a spouse, son, daughter, or parent on active duty (or call to active duty) in a foreign country may use their twelve (12) week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending to certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending to certain counseling sessions, and attending post-deployment reintegration briefings.

Military Caregiver Leave

FMLA also includes a special leave entitlement that permits eligible employees to take up to twenty-six (26) weeks of leave to care for a covered service member or veteran during a single twelve (12) month period. A covered service member is a current member or veteran of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred or aggravated in the line of duty on active duty that may render the service member medically unfit to perform his/her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list. Military caregiver leave may be taken for up to five (5) years after a veteran leaves the Armed Forces.

Section 3 – Benefits and Protections:

During FMLA leave, we will maintain your health insurance coverage on the same terms as if you continued to work, if you have indicated your intent to return to work at the end of your FMLA leave. Arrangements to pay the employee share of such benefits must be made by contacting the Human Resources department. If you do not return to work upon the completion of your FMLA leave, the Employer may recover the cost of any payments made to maintain your health insurance coverage, unless the failure to return to work was for reasons beyond your control. Use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of FMLA leave.

Employees who return to work on or before the expiration of their FMLA leave will be restored to their original or an equivalent position with equivalent pay, benefits, and other employment terms. Employees on FMLA leave are, however, not entitled to any greater rights than they would otherwise have been entitled, had they continued as active employees at the Employer. Some key employees may not be entitled to reinstatement at the conclusion of their FMLA leave. Key employees will be notified of their status as such at the time of their leave request.

Section 4 – Eligibility Requirements:

Employees are eligible for FMLA if they have worked for the Employer for at least one (1) year and have worked at least 1,250 hours during the twelve (12) months prior to the start of the requested leave, and if at least fifty (50) employees are employed by the Employer within seventy-five (75) miles of the location where you work.

Section 5 – Definition of Serious Health Condition:

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three (3) consecutive calendar days combined with at least two (2) visits to a health care provider or one (1) visit and a regimen of continuing treatment, incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may also meet the definition of continuing treatment.

Section 6 – Use of Leave:

An employee does not need to use this leave entitlement in one (1) block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Intermittent leave is not, however, available to care for a child during the first twelve (12) months after the birth, adoption, or placement in foster care. Leave due to qualifying exigencies may also be taken on an intermittent basis.

If you use intermittent leave, you must comply with our regular call-out procedure for each day on which you are absent, including specifically referring to the FMLA-qualifying reason for the leave.

Section 7 – Substitution of Paid Leave for Unpaid Leave:

Employees eligible for FMLA leave must use accumulated paid leave concurrently with their FMLA leave until all such paid leave is exhausted, unless they are also receiving disability benefits or workers compensation while on FMLA leave. Employees receiving disability benefits or workers compensation while on FMLA leave are not required to use accumulated paid leave concurrently with their FMLA leave but may elect to do so. Employees must comply with the Employer's normal paid leave policies.

Employees will accrue paid leave time during the first thirty (30) days of continuous FMLA leave.

Section 8 – The Leave Year:

The Employer has designated a "rolling" leave year, which determines FMLA leave eligibility by reference to the amount of FMLA leave taken during the twelve (12) months immediately preceding the request for FMLA leave. This "rolling" leave year does not apply to Military Caregiver Leave. The leave year for Military Caregiver Leave is a single twelve (12) month period that begins on the first day of the employee's leave.

Section 9 – Employee Responsibilities:

Employees must provide thirty (30) days advance notice of the need to take FMLA leave when the need is foreseeable. When thirty (30) days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the Employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, a covered family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for Military Family Leave. Employees also must inform the Employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Employees may be required to provide a fitness for duty statement before they return after an FMLA leave for their own serious health condition. If you will be required to provide this statement, you will be notified at the time that your leave is approved.

Section 10 – "No Moonlighting":

Employees who are taking FMLA leave for their own or a covered family member's serious health condition or to care for a child after birth, adoption, or placement in foster care are not permitted to work for any other employer while on FMLA leave from their job with the Employer. Employees who accept employment with other employers while on FMLA leave from the Employer will be considered to have voluntarily resigned their employment and will not be eligible for reinstatement at the end of their previously approved leave.

Section 11 – Our Responsibilities:

We will inform employees requesting leave whether they are eligible under FMLA. If they are, the notice will specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, we will provide a reason for the ineligibility.

We will also inform employees if leave will be designated as FMLA-protected and the amount of leave for which the employee is eligible. If the Employer determines that the leave is not FMLA protected, we will notify you.

We will also comply with the FMLA by not:

- Interfering with, restraining, or denying the exercise of any right provided under FMLA;
- Discharging or discriminating against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Section 12 – FMLA Questions and Concerns:

If you or the Union have any questions about your FMLA rights or responsibilities or if you or the Union disagree with a decision we make regarding FMLA leave entitlement, please contact Human Resources to resolve your concerns as soon as possible,

Section 13 – Enforcement:

To enforce rights under the FMLA, an employee may file a grievance or a complaint with the U.S. Department of Labor or may bring a private lawsuit.

Please consult Human Resources for any additional information relating to FMLA leave.

ARTICLE 24 – INJURED AT WORK

The Employer will maintain Workers' Compensation insurance in accordance with Massachusetts law. An employee who sustains a work-related injury must report it immediately to his/her immediate Supervisor and complete all required forms and comply with the personnel policy regarding evaluation and/or treatment.

If a bargaining unit employee is absent from work due to a personal injury occurring in the course of employment for up to four (4) days, the employee will be paid from accrued leave. Should the injury result in absence of five (5) or more days, the Workers' Compensation carrier will compensate the employee in accordance with state law. An employee may supplement such workers compensation payments in order to make up the difference between workers compensation benefits and his/her normal pay by utilizing accrued leave.

ARTICLE 25 – WAGES

Section 1:

Each employee shall receive a base wage increase as follows:

2% as of 7/1/10
1% as of 7/1/11
1% as of 7/1/12

Wage increases will become effective with the first full pay period on or after July 1.

Section 2:

If the bargaining unit ratifies the Employer's contract offer of June 24, 2010, Each employee shall receive a signing bonus of \$100 payable in the first paycheck on after July 1, 2010.

Section 3:

The Employer shall determine the initial rates of pay for new employees. However, if a new clinician is paid more than an existing clinician with comparable experience, education, and licensure in the same title, the pay of that existing clinician or clinicians shall be increased to the rate of the new clinician.

ARTICLE 26 – INSURANCES

The Employer agrees to provide Group Health and Dental Insurance coverage on the same basis and extent that such plans are generally available to employees of The Brien Center subject to the eligibility, contributions and other requirements of the programs.

The Employer will maintain the present amount of its premium contribution to these plans for the duration of this Agreement. The Employer reserves the right to change, amend or replace the above-referenced plans or their carriers so long as such changes uniformly apply to all employees.

ARTICLE 27 – CLINICIAN PRODUCTIVITY

Section 1:

Full-time clinicians will be required to bill twenty-three (23) billable units per week. Clinicians will utilize a centralized, computerized appointment schedule provided by the Employer. The Employer will assist the clinician in scheduling appointments so that productivity will be achieved. In doing so, the Employer will consider the needs of the client and the preferences and case load of the clinician. Paid time off under this Agreement (600 time) will be deducted from the weekly productivity requirement.

Section 2:

Clinicians who exceed twenty-three (23) billable units in a work week will be paid \$32.50 for each billable unit over twenty-three (23) and \$35 for each billable unit over twenty-nine (29) in a work week.

Section 3:

The productivity requirement in Section 1 will be "pro rated" for clinicians who work less than full-time.

Section 4:

The recurring failure to meet productivity requirements will subject clinicians to discipline.

ARTICLE 28 – OVERTIME

All time worked in excess of forty (40) hours in a work week shall be paid at time and one-half (1½) the employee's regular rate of pay. Paid time off hours will not count as hours worked for the purposes of the computation of overtime.

All overtime must be pre-approved by a supervisor.

There shall be no pyramiding or duplication of overtime anywhere in this Agreement.

The Employer shall have the right to require employees to work a reasonable amount of overtime.

The Employer shall utilize an equitable system for the distribution of overtime. Issues related to the distribution of overtime will be discussed in the Labor Management Meetings if requested by either party.

The Employer will pay direct care employees at the rate of time and one-half (1½) their hourly rate of pay for time worked if they are required to come in more than one (1) hour early or remain more than one (1) hour after a scheduled shift.

ARTICLE 29 – TRAVEL EXPENSES

Section 1 – Use of Personal Vehicle:

Authorized use of a personal vehicle in the course of an employee's scheduled work day shall be reimbursed at the mileage rate of \$.40 per mile.

Employees will be reimbursed for reasonable parking and toll expenses incurred authorized travel on Brien Center business. Employees will be reimbursed reasonable cleaning or repair expenses for vehicle damage done by a client. Employees will be required to obtain two (2) estimates for cleaning or repair expenses over \$50.00.

The Employer reserves the right to require current proof of insurance coverage and/or possession of a valid driver's license for all employees who drive vehicles in the performance of their duties. The Employer will reimburse employees who drive vehicles in the performance of their duties up to \$25 per year for Class 30 insurance upon proof of same.

Section 2 – Reimbursement:

In order to be reimbursed, employees must submit fully completed and signed expense forms to the Payroll Department.

ARTICLE 30 – JOB DESCRIPTIONS

All bargaining unit employees shall receive a copy of their existing job description within thirty (30) days of the effective date of this agreement. The job description shall convey the essential duties, responsibilities, and requirements of the position.

Should the employer seek to substantively modify or create a new job description, notice of this intent shall be sent to the union along with a list of the desired changes.

ARTICLE 31 – RETURN TO BARGAINING UNIT

Employees who move into non-bargaining unit positions at The Brien Center shall suffer no loss of bargaining unit seniority if they return to a vacant bargaining unit within two (2) years. Employees who move into non-bargaining unit positions shall not accrue seniority while employed in non-bargaining unit positions.

ARTICLE 32 – HOURS OF WORK

Section 1:

Employees may make a written request for a reduction or increase in their schedule of work hours. The decision to grant these requests are in the sole discretion of the Employer and are not subject to the grievance and arbitration procedure in this Agreement.

Section 2:

Employees must comply with the Employer's procedures regarding monitoring and reporting of work time.

ARTICLE 33 – TOBACCO-FREE

As of December 31, 2010, smoking and/or the use of any tobacco products will be prohibited in or on any property utilized, owned or leased by the Employer. Employees may smoke and/or the use tobacco products during authorized work breaks provided they do not do so in or on any property utilized, owned or leased by the Employer.

The Employer will seek to make smoking cessation assistance available to employees.

Employees who violate this Article will be subject to discipline.

ARTICLE 34 – TRAINING

The Employer will offer training to employees at no cost to employees. As of July 1, 2010, the Employer will grant employees an additional paid day off to attend training from a list of trainings approved by the Employer. As of July 1, 2011, the Employer will grant employees up to two (2) additional paid days off to attend trainings from a list of

trainings approved by the Employer.

ARTICLE 35 – LICENSURE/CERTIFICATION

Section 1:

All employees must apply for the highest level of Massachusetts licensure/certification which is required for his/her job as specified in the job description and for which they are eligible within six months of their eligibility date or date of job-requirement. If an employee does not become licensed/certified within one (1) year of his/her eligibility date or job-requirement, the Employer may terminate that employee's employment. If the sitting for the necessary exam is not scheduled within the specified time frame and the employee can demonstrate that s/he has registered to take such exam, an extension, not to exceed six (6) months, will be granted to the date of the exam.

Section 2:

As employees become eligible for job required levels of licensure/certification as specified in their job description, they must apply for and obtain such licensure/certification under the timelines outlined in Section 1 above.

Section 3:

If an employee's license is suspended or revoked by the licensing authority, the Employer has the right to terminate employment.

ARTICLE 36 – SCOPE OF AGREEMENT

The parties acknowledge that during the negotiations of the terms of this Agreement, they were afforded the unrestricted right to negotiate all matters not removed by law from collective bargaining; that they shall be governed exclusively by and limited to the terms and provisions of this Agreement and that neither shall have any other obligation or be obligated to negotiate with respect to any addition pertaining to wages, hours, or other terms and conditions of employment.

No addition to, alteration, modification, practice, or waiver of any term, provision, covenant or condition or restriction in this Agreement shall be valid, binding or of any force or effect unless made in writing and executed by the Employer and the Union.

ARTICLE 37 – MODIFICATION

It is specifically understood that this Agreement may only be modified in writing with the consent of the Union and the Employer.

ARTICLE 38 – SAVINGS CLAUSE

Should any part hereof or any provision herein contained be rendered or declared illegal by reason of any existing or subsequently enacted legislation or by a decree of a court of competent jurisdiction, such invalidation of such part or portion of this Agreement shall not invalidate the remaining portions hereof. Nothing herein shall be construed to replace or abridge the right of either party to appeal court or administrative decrees or decisions.

ARTICLE 39 – WAGE AND HEALTH INSURANCE RE-OPENER

Either the Union or the Employer may reopen this Agreement for the sole purpose of renegotiation of wages and health insurance benefits if on or before June 30, 2011, it notifies the other party in writing of its desire to enter into such negotiations. During such negotiations all other provisions of the Agreement, including no strike/no lockout, shall remain in full force and effect until the Agreement's expiration date.

ARTICLE 40 – DURATION OF AGREEMENT

This Agreement shall take effect on *July 1, 2010* and shall continue in full force and effect until and including *June 30, 2013*. This Agreement shall continue in effect unless ninety (90) days prior to *June 30, 2013*, either the Union or the Employer gives written notice by registered or certified mail to the other that it desires to terminate or modify this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement, as of _____, at _____, Massachusetts.

The Brien Center

LOCAL 509 SEIU

BY: _____

BY: _____

BY: _____

BY: _____

BY: _____

BY: _____

BY: _____

BY: _____

BY: _____

BY: _____

DATE: _____

DATE: _____

July 1, 2010

Re: Side Letter of Agreement on health insurance plan(s)

Dear Mr. Page:

This letter will confirm that The Brien Center will confer with employees, before June 30, 2011, in the Labor-Management Committee, or some other suitable forum, on mutually beneficial ways to improve upon the current health insurance plan(s).

Sincerely yours,

Catherine Doherty,
Chief Executive Officer