

IN THE MATTER OF ARBITRATION ) INTEREST ARBITRATION  
 )  
 between )  
 )  
 State of Minnesota ) Registered Nurses  
 )  
 )  
 -and- ) BMS Case No. 08-PN-0114  
 )  
 )  
 Minnesota Nurses )  
 Association, Unit 205 ) July 29, 2008  
 ))

**APPEARANCES**

**For State of Minnesota**

Paul Larson, Assistant Commissioner, Department of Finance and Employee Relations  
Joy Hargons, Labor Relations Representative, DOER  
Ann Elizabeth Thompson, Labor Relations Representative, DOER  
Sandra S. O'Hara, Human Resources, DOC  
John Agrimson, Director of Nursing, Health Services, DOC  
Nancy F. Dahl, Chief Operating Officer, Minnesota Department of Veterans Affairs  
Pamela Bajari, Regional Nurse Administrator, DHS  
Mary Beth "Sandi" Blaeser, Compensation Specialist, DOER

**Minnesota Nurses Association, Unit 205**

Linda Lange, Labor Relations Specialist  
Betty Judd, RN Senior, DOC-Faribault  
Tammy Hughes, RN Senior, DHS-St. Peter  
Tamarra Ceminsky, RN, DHS-St. Peter  
Ethel Macheel, RN, MSN, CBHH-Fergus Falls  
Barbara Cole, RN Advance Practice, CBHH-Baxter  
Tim Turk, RN, MVH-Silver Bay  
Don Cyr, RN Senior, DOC-St. Cloud  
Larry Howes, State Representative, Walker, Minnesota  
Katherine Braeunig, RN, Minneapolis Veteran's Home  
Carol Diemert, Staff Representative

RECEIVED BMS-

30 JUL 08 11: 18

## JURISDICTION OF ARBITRATOR

Minnesota Nurses Association, Unit 205 (hereinafter referred to as the "Union", "Association" or "MNA") is the certified bargaining representative for Registered Nurses (hereinafter "RNs" or "nurses") employed by the State of Minnesota (hereinafter referred to as the "State", "Agency", "Appointing Authority" or "Employer"). There are approximately 787 RNs in the MNA bargaining unit. They are classified as Nurse Specialist (20 RNs), Nurse Educator (2), Evaluator 1 (1), Evaluator 2 (76), Public Health Advisor Senior (25), Public Health Advisor (4), RN (366), RN Advanced Practice (39), RN Principal (5) and RN Senior (249), all of whom are considered to be highly professional State employees. (MNA Tab #6). The State Departments that employ RNs include: Board of Nursing (6 RNs), Corrections (85), Education Department (2), Health (138), Human Services (431), MNSCU (18), Ombudsman (2) and Veterans Homes Board (105). (MNA Tab #3).

As clearly shown, the vast majority of the nurses work within one of the four major Agencies, including the Department of Corrections, Department of Health, Department of Human Services and the Veterans Homes Board. These Agencies provide care to the disabled, the elderly and the incarcerated as well as inspect hospitals, nursing homes and other health care entities.

The overwhelming majority of nurses work in outstate Minnesota compared to the eight county Twin Cities metropolitan area. (MNA Tab #3).

The State and MNA (hereinafter referred to as the "Parties") are signatories to an expired collective bargaining agreement that existed from July 1, 2005 through June 30, 2007. (Joint Exhibit #1).

The Parties entered into negotiations for a successor 2007-2009 collective bargaining agreement. The Parties negotiated and/or mediated on eight occasions from July 25, 2007 to November 9, 2007. They were successful in resolving some issues, but not all of them. As a result, on January 11, 2008, the Bureau of Mediation Services ("BMS") received a written request from the Union to submit the unresolved issues to conventional interest arbitration. On January 17, 2008, the BMS determined that the following items were certified for arbitration pursuant to M.S. 179A.16, subd. 2 and Minn. Rule 5510.2930:

1. Wages - 1st Year of Contract, Amount of - Appendix
2. Wages - 2nd Year of Contract, Amount of - Appendix
3. Shift Differential - 1st Year of Contract, Amount of - Art. 17, Sec. 13
4. Shift Differential - 2nd Year of Contract, Amount of - Art. 17, Sec. 13
5. Mandatory Overtime - Continuation OF? - Appendix
6. Memorandums of Understanding - Location/Placement in Contract? - Table of Contents

7. On-Call - Minimum Number of Hours - Art. 4, Sec. 10
8. Alternate Schedule Agreement - Structure of Alternate Schedule - Art. 4, Sec. 13
9. Holidays on Day Off- Compensation For Holidays Off  
- Art. 6, Sec. 3
10. Work on a Holiday - Compensation For Holidays Worked  
- Art. 6, Sec. 16
11. Crediting Accruals For Nurses In The R.N. Advance Practice Classification Process For Crediting Accruals  
- Art. 7, Sec. 3
12. Discipline Procedure - Methodology For Deducting Hours  
- Art. 15, Sec. 2A
13. Management Rights - Scope of Management Rights - Art. 19

The Parties selected Richard J. Miller to be the sole arbitrator from a panel submitted by the BMS. A hearing in the matter convened on June 2, 3 and 4, 2008. The Parties were afforded full opportunity to present evidence and arguments in support of their respective positions. The Parties agreed to keep the record open to resolve any data disputes which may exist between the Parties. There were none. The Parties agreed to submit post hearing briefs, postmarked no later than July 3, 2008. The Parties' post hearing briefs were timely filed and exchanged electronically by the arbitrator on July 3, 2008, after which the record was deemed to be closed.

**ISSUE ONE: WAGES - WHAT SHALL THE GENERAL WAGE ADJUSTMENT BE IN THE FIRST YEAR OF THE AGREEMENT**

**ISSUE TWO: WAGES - WHAT SHALL THE GENERAL WAGE ADJUSTMENT BE IN THE SECOND YEAR OF THE AGREEMENT**

**ISSUE THREE: SHIFT DIFFERENTIAL - WHAT SHALL THE AMOUNT BE IN THE FIRST YEAR OF THE AGREEMENT**

**ISSUE FOUR: SHIFT DIFFERENTIAL - WHAT SHALL THE AMOUNT BE  
IN THE SECOND YEAR OF THE AGREEMENT**

**MNA POSITION**

**Article 17, Section 3. Effective July 1, 2007, First Fiscal Year Compensation Grid and Wage Adjustments.** Effective July 1, 2007, the compensation grid, salary ranges and wage rates shall be increased by ten (10.0) percent, rounded to the nearest cent. All nurses shall be assigned to the same relative placement within the salary range for their respective class as specified in Appendix D, except as set forth below.

Nurses who are paid at a rate which exceeds the maximum rate established for their class prior to the implementation of the general adjustment on July 1, 2007, but whose rate falls within the new range for their class, shall be assigned to the maximum of the new range. In the event the July 1, 2007, maximum rate set forth in Appendix D is equal to or less than the nurse's rate as of June 30, 2007, no adjustment shall be made, but nurses assigned to these classes shall suffer no reduction in pay.

Effective July 1, 2007, one step shall be added to the maximum of the salary ranges for the following classifications:  
Public Health Nursing Advisor, Nurse Specialist, Nursing Education Specialist, Public Health Nursing Advisor Senior, Registered Nurse Principal, and Registered Nurse Advance

Practice. Nurses in these classifications who have been at the maximum step of their salary range for one or more years as of June 31, 2007, shall be eligible to move to the new maximum step of their salary range effective July 1, 2007, provided satisfactory performance is indicated by their Appointing Authority. Nurses in these classifications who have been at the maximum step of their salary range for less than one year as of June 31, 2007, shall be eligible to move to the new maximum step of their salary range effective at the start of the pay period nearest to their next anniversary date.

**Article 17, Section 4. Effective July 1, 2008, Second Fiscal Year Compensation Grid and Wage Adjustments.** Effective July 1, 2008, the compensation grid, salary ranges and wage rates shall be increased by ten (10.0) percent, rounded to the nearest cent. All nurses shall be assigned to the same relative placement within the salary range for their respective class as specified in Appendix E.

Salary increases provided by this section shall be given to all nurses, including those nurses whose rate of pay exceeds the maximum rate for their class.

The Association proposes that effective July 1, 2007, the shift differential for nurses be increased from the contract rate of \$.65 per hour to \$1.50 per hour. The Association proposes

that effective July 1, 2008, the shift differential remain at \$1.50 per hour.

**EMPLOYER POSITION**

The Employer proposes that effective July 1, 2007, the first year general salary adjustment shall be increased by 3.25% for all nurses in the bargaining unit, except those nurses whose current rate exceeds the maximum rate established for their class prior to the general adjustment, but whose rate falls within the new range, will be assigned the maximum of the new range. If the nurse's current salary is higher than the maximum of the new range, the nurse shall suffer no loss in pay.

The Employer proposes that effective July 1, 2008, the salary rates for ranges 52, 54 and 55 shall be increased by 3.25%, including those nurses who currently exceed the pay range maximum.

The Employer proposes that effective August 20, 2008, the salary rates for ranges 56, 57 and 59 shall be increased to 3.25%, including those nurses who currently exceed the pay range maximum.

The delay in the second year general salary adjustment for salary ranges 56, 57 and 59 will provide the necessary funding so that, also effective August 20, 2008, an additional step shall be added to the maximum of the salary ranges for nurses in the

following classifications:

<u>Class Code</u>	<u>Class Title</u>	8/19/08 <u>Comp Code</u>	8/20/08 <u>Comp Code</u>
000570	Public Health Nursing Advisor	56H	56I
002393	Nurse Specialist	57I	57J
000478	Nursing Education Specialist	57I	57J
001047	Public Health Nursing Advisor-Senior	57I	57J
001881	Registered Nurse Principal	57I	57J
003610	Registered Nurse Advanced Practice	59G	59H

Nurses in these classifications who have been at the maximum step for one or more years as of August 19, 2008, shall be eligible to move to the new maximum effective August 20, 2008, provided they have been performing satisfactorily.

Nurses in these classifications who have been at the maximum step for less than one year as of August 19, 2008, shall be eligible to move to the new maximum effective the start of the new pay period nearest to their next anniversary date.

The Employer proposes that the hourly shift differential for nurses shall be increased from the current rate of \$.65 per hour to \$.70 per hour. This increase shall be effective on the date approval is received from the Legislative Coordinating Commission's Subcommittee on Labor Relations.

The Employer proposes that during the second year of the contract effective July 1, 2008, or the date the approval is received from the Legislative Coordinating Commission's Subcommittee on Labor Relations, (whichever is later), the hourly shift differential will remain at \$.70 per hour.

**AWARD**

The Employer's position is sustained with respect to wages. The hourly shift differential for nurses shall be increased from the current rate of \$.65 per hour to \$.70 per hour effective July 1, 2007. The hourly shift differential for nurses shall remain at \$.70 per hour effective July 1, 2008.

**RATIONALE**

There are usually four basic considerations utilized by interest arbitrators in determining an appropriate award, especially concerning economic items. These considerations include: (1) the employer's financial ability to pay for the economic items and if affordable; (2) the appropriate internal comparison with a review of the equity and fairness between bargaining units; (3) the appropriate external comparison with similar classified employees performing similar work duties and responsibilities; and (4) past bargaining history between the involved parties.

As a public entity, the State must consider the budget limitations as appropriated by the legislature as well as the interests of taxpayers when negotiating the monetary terms of the collective bargaining agreement. Likewise, the arbitrator must "consider the statutory rights and obligations of public employers to efficiently manage and conduct their operations

within the legal limitations surrounding the financing of these operations." (Minn. Stats. 179A.16, Subd 7, Employer Tab #2).

In June 2007, final action by the State legislature provided a 3% increase in funding each year of the biennium for total compensation costs of State Agencies for the FY 2008-09 budget. (Employer Tab #13, p. 3). Such a large increase from the legislature has been a rarity in recent years, but was a welcome relief for all State employees, including the Department of Employee Relations "(DOER)", which is charged with the responsibility of negotiating collective bargaining agreements with organized State employee groups, and establishing the terms and conditions of non-organized State groups. This increase allowed DOER to negotiate settlements of 3.25% salary wage adjustments in both years of the biennium (2007-2009) for AFSCME, MAPE, MMA, Law Enforcement, MGEC and Commissioner's Plan. (Employer Tab #20).

After negotiating these contracts, the Minnesota Department of Finance has since projected that current expenditures for this biennium will exceed the budget by \$935 million due to further weakening of the economy. (Employer Tab #14, p. 1). Because of projected loss of revenue, Agencies such as Departments of Veterans Affairs, Corrections and Human Services have each been subjected to modifications of appropriations originally granted

to them, resulting in considerable reductions in funding.

(Employer Tab #15).

In order to maintain consistency among the bargaining units, the State offered the same percentage increase of 3.25% to MNA, in spite of the current budget shortfall. The Employer's position represents a wage increase of 3.25% each year, with a slight delay in the second year for certain classes as indicated above, who will be receiving an additional step, and an increase of \$.05 in the hourly shift differential for a total cost to the State (including progression and insurance) of \$9,884,000 during the 2007-2009 biennium. (Employer Tab #10). The cost of the Association's proposal for 10% wage increase each year along with shift differential of \$1.50 per hour and an additional step for six classes with an effective date of July 1, 2007, would be \$22,150,000 (including progression and insurance). (State Tab #12).

The difference in cost between the Association's economic proposals and those of the State is \$12,266,000. This is an enormous difference--more than doubling the cost of the State's proposal. Testimony from management representatives of the Department of Corrections (John Agrimson, Director of Nursing, Health Services, DOC), Veterans Affairs (Nancy F. Dahl, Chief Operating Officer, Minnesota Department of Veterans Affairs) and

Human Services (Pamela Bajari, Regional Nurse Administrator, DHS) each indicate that, while difficult, they would be able to manage the budget cuts in their respective Departments under the Employer's proposal (\$9,884,000). However, they all agreed that if the Association's proposal was adopted it would cause devastating effects, including the closing of some units and the elimination of some programs, creating an undue burden on the citizens of Minnesota who rely upon the services provided by these Agencies and their professional staff.

Clearly, while the Employer may not have proved their case for an inability to pay argument, they certainly provided compelling and convincing financial constraint arguments in favor of their economic package versus that of the Association's economic package, especially as to wages, which is the major cost item.

Minn. Stat. §43A.18, subd. 8 governs compensation for State employees covered by collective bargaining agreements. It provides guidance to the parties negotiating a collective bargaining agreement. The factors that must be taken into consideration include:

- a) Compensation for positions in the classified and unclassified service compare reasonably to one another;

- b) Compensation for state positions bears reasonable relationship to compensation for similar positions outside state service;
- c) Compensation for management positions bears a reasonable relationship to compensation of represented employees managed;
- d) Compensation for positions within the classified service bears a reasonable relationship among related job classes and among various levels within the same occupation; and
- e) Compensation bears relationship to one another within the meaning of this subdivision if compensation for positions which require comparable skill, effort, responsibility, and working conditions is comparable and if compensation for positions which require differing skill, effort, responsibility, and working conditions is proportional to the skill, effort, responsibility, and working conditions required.

(Employer Tab #21). The legislature designed these comparisons to ensure a just and equitable system of wages both internally and externally between similar positions. Thus, compensation must be equitable when viewed from an internal and external standpoint.

As to internal equity, if the Association's position had been granted, it would be the lone exception. As previously mentioned, the State has settled all of its labor agreements with its organized groups for 2007-2009, except with the MNA. Each of the labor agreements included a wage increase of 3.25% for each year of the contract along with a shift differential increase of \$.05, bringing it to \$.65 per hour. (Employer

Tab #20). In this case, the Employer's position is even greater than the settlement pattern in regards to shift differential in that the current contract rate is \$.65 per hour and it increases by \$.05 per hour to \$.70 per hour rather than \$.65 per hour in other contracts. The State's position is also greater than the other contracts in that it adds an additional step to the RN Advanced Practice class.

It is clear from the internal settlement pattern that labor organizations that had the right to strike (non-essential) and those that had the right to interest arbitration only (essential employees, including the nurses) all agreed to the same wage and shift differential increases for 2007-2009. In fact, there is no evidence that any employee group, whether organized or non-organized, received anything more than the established wage settlement pattern of 3.25% per year and the same shift differential increase. This is a far cry from the Association's position of a wage increase of 10% per year. Granting the MNA's position would promote interest arbitration over legitimate collective bargaining.

Another reason to deny the MNA's wage proposal is past bargaining history, which is one of the recognized standards for resolution in interest arbitration. The past bargaining history

establishes that from 1983-85 to 2005-2007, the nurses have received similar, if not identical, general wage increases granted to all other non-academic bargaining units. (Employer Tab #16). Past bargaining history between this unit and other organized State employees supports the State's position based on its uniform settlement wage pattern among all of its other units for 2007-2009.

The Association relies solely on external comparisons in order to support its wage and shift differential positions. Most, if not all, interest arbitrators, adhere to the principle that the use of external market data will be the basis for economic awards when the employees are substantially underpaid when compared to the appropriate external comparisons. In this case, the Association alleges that the most valid external comparison group to State nurses are those nurses working in acute care hospitals in which the MNA is the exclusive bargaining representative. Most of these hospitals are located in the Twin Cities metropolitan area.

It is inappropriate to compare the work performed by State nurses to those nurses working in a hospital setting which perform emergency services for patients in distress as well as complicated procedures and highly technical medical operations. Doing so is like comparing "apples to oranges." Minnesota Nurses

Association and State of Minnesota, BMS Case No. 98-PN-443, p. 17, (Befort 1998). (Employer Tab #44).

There is unrefuted testimony from Mr. Agrimson that nursing care in the State correctional facilities is similar to nursing in a clinical setting. Nurses spend most of their time answering sick calls and distributing medication. The facilities provide health care services to offenders who are in a stable condition. None of the inmates are placed in conscious sedation. If an offender is found to be unstable, he or she is transported to a hospital. If a medical emergency arises, 911 is called.

There is also the unrefuted testimony from Ms. Dahl that the Veterans Homes provide nursing and domiciliary care for patients with chronic health conditions such as those relating to smoking, pulmonary disease and diabetes. Nurses employed in the various Veterans Homes do not perform acute emergency care. They do not perform diagnostics. They do not provide intravenous feeding. If a patient at the Veteran's Home in Minneapolis is determined to be medically unstable, he or she is transferred to the Hennepin County or the Federal Veteran's Hospital.

Ms. Bajari also provided unrefuted testimony that nursing care is limited to basic first aid for patients at DHS behavioral health facilities. The nurses do not provide emergency care but call 911 if a patient is not stable.

The foregoing unrefuted testimony establishes that State nurses do not perform similar duties and responsibilities compared to nurses working in acute care hospitals. Nurses in acute care facilities are being paid more than State nurses because of their greater duties and responsibilities.

The State hired a neutral salary consultant to conduct a compensation survey for the purpose of comparing the wages of the State nurses to those RNs working in health care centers and nursing homes where nurses perform duties similar those performed by nurses working for the State. (Employer Tab #26). The survey revealed that the average starting pay and maximum rates for State RNs and RNs Senior were above the average starting and maximum rates for nurses working in similar facilities. Clearly, there is no justification for the Association's wage position based upon those facilities that perform nursing tasks similar to that of State nurses.

Finally, even though wages paid to State nurses are lower than those paid to nurses in acute care facilities, it is important to note that the cost of insurance provided to State nurses is better than nurses in acute facilities. The Employer conducted a survey of the 17 randomly selected hospitals to find out how much employees were paying for health insurance premiums. The survey revealed that the average cost to an

employee with single coverage is \$94 per month. Those with family coverage pay an average of \$430 per month. In contrast, a State employee with single coverage pays nothing towards the premium and the cost of family coverage is \$126 a month for family coverage. (Employer Tab #38). This savings to State nurses on health care benefits equates to receiving on the average an additional \$.54 per hour if receiving single coverage or an additional \$1.75 per hour when receiving family coverage when comparing the average costs at other facilities.

The external market data presented by the Association is not persuasive for the arbitrator to award its position with regards to wages or shift differential. It must be remembered that RNs and RNs Senior received substantial wage increases during negotiations of the 2005-2007 contract in recognition of some of the external market considerations, including a high employee turnover rate. Thus, there is no need for the arbitrator to make a market adjustment by awarding the Association's position with regard to wages and shift differential.

As required by Minnesota Statute 43A.18 Subdivision 8(c), the Employer must consider how the wages of its employees compare to the wages of their supervisors. Salary compression must be considered, especially in light of the salary cap provisions under Minn. Stats 15A.0815, which limits the salary of Agency

heads and attempts to control the salaries of lower level employees so they do not earn more than their Agency head. (Employer Tab #21).

By the arbitrator accepting the Employer's proposal of 3.25%, the pay difference between nurses and their supervisors would be between 8.2% and 12.6%. (Employer Tabs #32-34). According to the WorldatWork Society of Certified Professionals, the difference in the midpoint of pay ranges between paraprofessional or professional management and their employees should be between 8% and 15%. (Employer Tab #27). This concept is supported by Hay group job evaluators. (Employer Tab #29, pp. 6, 9). This difference in pay rates is necessary in order to induce promotions, i.e. moving into a supervisory role.

The State's position of 3.25% is within the guidelines set forth by the WorldatWork Society. However, if the arbitrator was to accept the Association's wage proposal of 10% per year, the wage difference between nurses and their supervisors would only be between 1.6% and 5.7% (Employer Tabs #32-34), and in some cases, nurses would be earning more than the positions above them (Employer Tab #35), which is not an acceptable business practice.

Another consideration under Minn. Stat. 43A. 18, Subd 8(e) is the internal comparisons at how the work performed by nurses compare to other classifications that have similar levels of

skill, responsibility and working conditions. Using the well-accepted Hay Rating system, nurses can be compared to a number of other classes based on the points assigned to them through the Hay Rating process. When comparing other State classes within the 15% margin, nurses have the highest rate of pay when compared to similar job categories. (Employer Tab #22). This difference is the result of the Employer recognizing some of the market issues impacting the nurses that were adequately address in the last round of collective bargaining. To provide an additional 10% increase per year, as proposed by the Association, would result in the State creating an inappropriate wage for nurses when comparing them to classifications which perform similar level functions.

The Employer proposes that the shift differential increases be effective on the date approval is received from the Legislative Coordinating Commissioner's Subcommittee on Labor Relations. The Association, on the other hand, proposes that any increase in shift differential payment shall be effective July 1, 2007. There is no compelling reasons to sustain the Employer's position in this regard. Wage increases are effective July 1, 2007, and so too should the increase in shift differential payment. To delay the implementation of the shift differential increase beyond the effective date of the new contract would

unjustly penalize the Association for pursuing this matter to interest arbitration, which is their only recourse under the law for essential employees.

**ISSUE FIVE: MANDATORY OVERTIME - SHOULD THE CONTRACT CONTINUE TO INCLUDE THE PRESENT LANGUAGE CONCERNING OVERTIME**

**EMPLOYER POSITION**

Retain the contract language appearing in Article 4, Section 5(G) as follows:

- G. Overtime Distribution - Continuous Operations.** Overtime shall be distributed to qualified nurses in the job classification(s) designated by the Appointing Authority in the order of bargaining unit seniority.
1. **On Duty Descending Order.** In the work unit, overtime shall be offered to the most senior qualified nurse in the work unit on duty and then to the next most senior qualified nurse on duty and on to the least senior qualified nurse on duty.
  2. **Off Duty Descending Order.** The most senior qualified nurse off duty, who has previously indicated interest, shall be offered, subject to availability, the overtime shift.
  3. **On Duty Ascending Order.** In the event no nurse in the work unit volunteers for overtime, the overtime shall be assigned to the least senior regularly scheduled qualified nurse on duty. However, a nurse who volunteers to fill an overtime shift shall be exempt from mandation on the subsequent shift unless he/she is the only qualified nurse available.
  4. **Subsequent Overtime in Pay Period.** Subsequent overtime in the payroll period shall be assigned to the next least senior qualified nurse on duty.

5. **Emergencies**. Only in emergency situations shall nurses be assigned more than one (1) double (two consecutive shifts) in a payroll period.

#### **MNA POSITION**

The MNA proposes the following language to be inserted in the contract:

- G. **Overtime Distribution - Continuous Operations**. Overtime shall be distributed to qualified nurses in the job classification(s) designated by the Appointing Authority in the order of bargaining unit seniority.
  1. **On Duty Descending Order**. In the work unit, overtime shall be offered to the most senior qualified nurse in the work unit on duty and then to the next most senior qualified nurse on duty and on to the least senior qualified nurse on duty.
  2. **Off Duty Descending Order**. The most senior qualified nurse off duty, who has previously indicated interest, shall be offered, subject to availability, the overtime shift.
  3. **Patient Safety Protection**. When asked or told to work overtime, nurses shall not be disciplined for refusing to work overtime. The Employer shall not extend the predetermined shift of any nurse refusing the overtime. The Employer shall not put a nurse on call for 4 hours.
  4. **Emergencies Defined**. Only in emergency situations, defined as when replacement staff are not able to report for duty for the next shift or increased patient need, because of unusual, unpredictable, or unforeseen circumstances such as (but not limited to) an act of terrorism, a disease outbreak, adverse weather conditions, or natural disasters which impact continuity of patient care, shall nurses be assigned to work overtime beyond a scheduled shift.

## **APPENDIX S - AGREEMENT REGARDING MANDATORY OVERTIME**

With regard to state laws/rules governing mandatory overtime, the parties agree to abide by such provisions. The parties further agree that resident or patient care Nurses are subject to the State's Nurse Overtime Act (M.S. 181.275).

### **AWARD**

Retain the collective bargaining agreement language in Article 4, Section 5(G), with the addition of the following language:

When asked or told to work mandatory overtime, nurses who refuse to work mandatory overtime by expressing a concern for patient safety cannot be forced to work mandatory overtime, nor can the nurses be disciplined for refusing to work mandatory overtime if they express a concern for patient safety.

### **RATIONALE**

The evidence clearly establishes that the issue of mandatory overtime has been a festering wound for both Parties since bargaining over this issue began in May 1989. There has been very little progress made to resolve the differences between the Parties, since the ultimate goal of the Association has been to make all overtime voluntary while the Employer desires mandatory overtime under any employment situation, except emergencies, but yet will not agree to a definition of emergency that prohibits the assignment of mandatory overtime if another employee cannot be found to work a shift.

Because of the frustration in collective bargaining with the Employer concerning overtime, the Association turned to the State legislature and the Governor for assistance. They agreed with the Association position and the following statutory language was enacted in 2002:

**181.275 Regulating nurses' overtime.**

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given them:

(1) "emergency" means a period when replacement staff are not able to report for duty for the next shift or increased patient need, because of unusual, unpredictable, or unforeseen circumstances such as, but not limited to, an act of terrorism, a disease outbreak, adverse weather conditions, or natural disasters which impact continuity of patient care;

(2) "normal work period" means 12 or fewer consecutive hours consistent with a predetermined work shift;

(3) "nurse" has the meaning given in section 148,171, subdivision 9; and

(4) "taking action against" means discharging; disciplining; threatening; reporting to the board of nursing; discriminating against; or penalizing regarding compensation, terms, conditions, location, or privileges of employment.

Subd. 2. **Prohibited actions.** Except as provided in subdivision 3, a hospital or other entity licensed under sections 144.50 to 144.58, and its agent, or other health care facility licensed by the commissioner of health, and the facility's agent, is prohibited from taking action against a nurse solely on the grounds that the nurse fails to accept an assignment of additional consecutive hours at the facility in excess of a normal work period, if the nurse declines to work additional hours because doing so may, in the nurse's judgment, jeopardize patient safety. This

subdivision does not apply to a nursing facility, an intermediate care facility for persons with mental retardation, a licensed boarding care facility, or a housing with services establishment.

Subd. 3. **Emergency.** Notwithstanding subdivision 2, a nurse may be scheduled for duty or required to continue on duty for more than one normal work period in an emergency.

Subd. 4. **Exception.** Section 645,241 does not apply to violations of this section.

(MNA Tab #17). Even with this statutory overtime language being enacted, the Parties' frustration boiled over to the next rounds of negotiations and little was accomplished. In 2007, the MNA went back to the legislature for relief from mandatory overtime. MNA sought and obtained blanket coverage of the nurses in State service who work in direct care. Minn. Stat. §181.275, Subd 2a, 2b, 2007. (MNA Tab #17).

The frustration level regarding overtime was not rectified by the legislative changes in Minn. Stat. §181.275, Subd 2a, 2b, 2007. The changes only addressed the coverage of the nurses in State service who work in direct care. What became more frustrating to the Association was the practice of many of the Twin Cities metropolitan hospitals that placed language in their collective bargaining agreements that no nurse shall be disciplined for refusal to work overtime, defined "emergencies" and stated that mandatory overtime is not a desirable practice. (MNA Tab #18). These hospitals not only eliminated mandatory

overtime, but voluntarily agreed to language that was better than the state law (Minn. Stat. §181.275).

The awarded contract language is a start toward ending the Parties' dispute regarding mandatory overtime. This language is nothing more than placing in the contract the sentiments of State supervisors (Mr. Agrimson - DOC, Ms. Dahl - Veterans Homes and Ms. Bajari - DHS). Each of these State's witnesses indicated that no one has forced a nurse to work mandatory overtime if they expressed they were too tired and feared for the safety of patients.

In fact, the evidence establishes that there are very few instances where mandated overtime is even necessary. An analysis of the amount of forced overtime implemented from the period July 2007 through April 2008 shows that out of the total hours worked during this period, the DOC mandated overtime 0.1% of the time; the DHS mandated overtime 0.3% of the time; and DVA mandated overtime 0.1% of the time. (Employer Tabs #40-42). In addition, the State's supervisors provided examples of current steps they are taking to limit the need to assign involuntary overtime to staff. These include: the creation of a pool of nurses to work at multiple locations as needed to fill in; the use of contract nurses when feasible; and the continued use of nurses who volunteer.

Hopefully, with the low number of demands for mandatory overtime already in existence due to the steps being taken by these supervisors, this problem will diminish or be eliminated in the near future. However, until that time comes the awarded contract language is needed.

While the awarded language may not have prevented the serious car accident suffered by RN Katherine Braeunig, Minneapolis Veteran's Home, who fell asleep while driving home after working mandatory overtime, this language may prevent this from happening in the future.

In order to assert their rights under the awarded contract language, nurses must specifically state that the reason for refusing the overtime is because they fear for the patient's safety. MNA Labor Relations Specialist Linda Lange's FAQ sheet dated July 2007 provides guidance as to what nurses should say if they are assigned overtime, but are in fear that working it would jeopardize patient safety. Suitable statements include, "I cannot take this overtime because the patient will be unsafe under my care," or "I cannot take this assignment because I will put the patient at risk" (MNA Tab #17, pink sheet, p. 1). The power point presentation by MNA Staff Representative Carol Diemert affirmed the requirement that nurses must clearly state they are declining the overtime because of risks to patient

safety, not because of risks to the employee's safety. (MNA Tab #28, p. 11).

The Parties have suggested that the arbitrator should define the meaning of various portions of the contract language appearing in Article 4, Hours of Work and Overtime, Section 5(G), standing alone, or as it applies to the mandatory overtime law (Minn. Stat. §181.275). The arbitrator will resist this temptation because he is acting an interest arbitrator in this case and not a grievance arbitrator. It would be the responsibility of a grievance arbitrator to interpret the meaning of the provisions contained in Article 4, Hours of Work and Overtime, Section 5(G) of the contract. It would be the responsibility of the courts and, not an interest arbitrator, to interpret the provisions of the mandatory overtime law (Minn. Stat. §181.275).

**ISSUE SIX: MEMORANDUM OF UNDERSTANDINGS - SHOULD SELECT OR ALL MEMORANDUM OF UNDERSTANDINGS BE PLACED IN THE CONTRACT**

**MNA POSITION**

In addition to the six Memorandum of Understandings ("MOUs") provided in MNA Tab #2, as attachments to MNA's February 1, 2008 letter to BMS Mediator Jan Johnson, MNA also requests to add to the Table of Contents and attached at the back of the collective bargaining agreement:

7. The Mental Health Initiative Letter in MNA Tab #26 which was included in the MAPE contract last round, but forgotten in MNA's. MNA continues to have Mental Health Initiative nurses covered by this MOU and potentially subject to program elimination in their area of the state.
8. The 10 Hour Agreement for St. Cloud RN Advance Practice Nurse signed by Bev Hall on July 11, 2006.
9. The Inequity for Carlene Cloud signed by Linda Lange dated September 29, 2007.

MNA has no objections to adding the other MOUs presented by the State at the hearing.

#### **EMPLOYER POSITION**

The Employer proposes that the MOUs listed by the Association not be placed in the collective bargaining agreement. In the alternative, if the arbitrator determines that the MOUs listed by the Association are to be placed in the collective bargaining agreement, the Employer requests that all MOUs entered into by the Parties since 1981 also be placed into the collective bargaining agreement.

#### **AWARD**

All MOUs entered into by the Parties since 1981 shall be placed into the contract.

#### **RATIONALE**

Nurses need to refer to the collective bargaining agreement and applicable MOUs to review all of the terms and conditions

which may govern their employment with regards to wages, fringe benefits and rights.

The State does not provide new hires or existing employees copies of applicable MOUs. MNA cannot be reasonably expected to supply the MOUs to all new hires or to all nurses. Thus, it is imperative that the MOUs be attached to the contract so that nurses can easily locate them rather than having to rely on paper copies which may be difficult to locate, or having to look for them on the MNA's web page when there is a possibility that the server may go down, the computer crashes, internet access is restricted or the disappearance of web documents.

The attachment of MOUs to a collective bargaining agreement is not a novel idea. In fact, the AFSCME and MAPE contracts with the State have a myriad of pages of MOUs and terms and conditions of employment at the end of their contracts. There have been no acknowledged problems with attaching MOUs to their contracts and there were no anticipated problems raised by the Parties at the hearing by attaching the MOUs to the MNA contract with the State.

It is only fair to both Parties that all of the MOUs since 1981 be attached to the contract rather than a select few offered by the MNA. In fact, the MNA has no objections to adding the other MOUs presented by the State at the hearing. If the Parties discover any MOUs not offered at the hearing, they should also

attached to the collective bargaining agreement dating back to 1981.

**ISSUE SEVEN - ON CALL - SHOULD THE MINIMUM AMOUNT OF HOURS THAT A NURSE CAN BE IN ON-CALL STATUS BE CHANGED**

**EMPLOYER POSITION**

The Employer requests that the minimum number of hours that a nurse can be placed on-call be reduced from eight hours to four hours.

**MNA POSITION**

The MNA proposes no change to the on-call contract language appearing in Article 4, Section 10 as follows:

No nurse shall be assigned to on-call status for a period of less than eight (8) consecutive hours.

**AWARD**

The MNA's position is sustained.

**RATIONALE**

Since the 1979-81 collective bargaining agreement on-call has been a minimum of eight hours in duration. (MNA Tab #16). This eight-hour minimum is a disincentive against the Employer placing nurses on-call because a nurse who is instructed to remain in an on-call status is compensated at the rate of fifteen minutes straight time pay for each one hour of on-call status. Thus, if nurses remain in on-call status for eight hours they receive two hours of pay, while under the Employer's proposal

(four hours) they would receive only one hour of pay.

Undoubtedly, this would be a cost-savings to the Employer.

The Employer argues that its proposal would give the nurses more control of their own time compared to being on-call for eight hours. While this may be true, the Association contends that the State's proposal is simply a clever ruse to mandate RNs to work overtime after working an eight-hour shift, when the facility is shorted staffed, as opposed to when the facility would experience a Minn. Stat. §181.275 emergency. Whether the State's proposal is a ruse or not is unimportant. What is important is that the State has not met its burden of proof to change this long-existing contract language.

**ISSUE EIGHT: ALTERNATE SCHEDULE AGREEMENT - SHOULD THE ABILITY TO ENTER INTO AGREEMENTS BE DELEGATED TO THE APPOINTING AUTHORITY AND LOCAL UNION REPRESENTATIVE**

**EMPLOYER POSITION**

The Employer requests that the Appointing Authority and the Local Union representative be allowed to enter into agreements relating to schedule changes rather than the current practice which includes the Association's Business Agent participating in every schedule change.

**MNA POSITION**

No change to Alternate Schedule Agreement language in Article 4, Section 13 which reads as follows:

The Employer and the Association may agree to local schedules that require modifications of the terms of this Article.

**AWARD**

The MNA's position is sustained.

**RATIONALE**

Currently the contract language in Article 4, Section 13 requires the Employer (Employer Relations) and the Association (MNA Staff Representative) to agree to schedule modifications outside what is required under the provisions of Article 4. The State contends that this can be very time-consuming because there is only one Union Business Representative representing the entire bargaining unit and Employee Relations has many responsibilities just like the Association's Business Representative. The Employer also points out that as long as the local Appointing Authority and the nurses can agree on schedule changes, there is no reason that nurses should have to wait until the Employer and the Association are each available to approve desired schedule modifications. The Employer further argues that having this flexibility in scheduling will help fill in gaps caused by unanticipated absences so that the need for mandatory overtime will further be reduced.

The Employer's arguments fail to recognize that the language contained in Article 4, Section 13 was negotiated into the 1989

contract because the State did not want to negotiate the global details and left open negotiations on terms and conditions at a later time with the Association. Now the State does not want to negotiate with the Association, which is contrary to its previous position and contrary to law.

The Employer has a duty under the law to bargain terms and conditions with the Exclusive Representative pursuant to Minn. Stat. §179A.07, subd 2. Minn. Stat. 179A.03 defines "Exclusive Representative" as the employee organization certified by the commissioner, which is the Association in this case. Minn. Stat. § 179A.03, subd. 19, defines terms and conditions of employment as hours of employment. Schedules under Article 4 are hours of employment. Thus, the Employer's proposal illegally seeks to substitute the Exclusive Representative by allowing nurses to negotiate with the Appointing Authority regarding changes in their schedules.

MNA will not agree to allow RNs to negotiate terms and conditions of employment, including their schedule changes, simply because RNs are not expert in labor law and they could inadvertently weaken the bargaining unit.

While there may be less delays in allowing nurses and the local Appointing Authority to negotiate schedule changes for nurses, to do so, would usurp the role of the Exclusive

Representative (Association) in representing the nurses in a legal and professional manner.

**ISSUE NINE - HOLIDAYS ON A DAY OFF - SHOULD THE LANGUAGE REQUIRING A NURSE TO TAKE AN ALTERNATIVE HOLIDAY WITHIN 120 DAYS BE CHANGED**

**ISSUE TEN: WORK ON A HOLIDAY - SHOULD THE LANGUAGE REQUIRING A NURSE TO TAKE AN ALTERNATE HOLIDAY WITHIN 120 DAYS BE CHANGED**

#### **EMPLOYER POSITION**

The Employer requests that the contract language in Article 6, Section 3 be modified so that if a holiday falls on a nurse's regular day off, instead of granting an alternate day off within 120 days of the holiday, the Employer may either compensate the nurse in cash or allow the nurse to receive holiday pay as compensatory or vacation time.

The Employer requests that the language in Article 6, Section 6 be modified so that if a nurse works on a holiday, instead of granting an alternate day off within 120 days of the holiday, the Employer may either compensate the nurse in cash or allow the nurse to receive holiday pay as compensatory or vacation time.

#### **MNA POSITION**

The Association proposes no change in the Holidays on Day Off language contained in Article 6, Section 3 as follows:

When any of the above holidays fall on a nurses regularly scheduled day off, the nurse shall be granted an alternate holiday within one hundred twenty (120) calendar days from the date of the holiday. The supervisor and the nurse shall make an effort to agree to the date of the alternate holiday. If there is no agreement as to the date of the alternate holiday between the Appointing Authority and the nurse, the Appointing Authority shall select one (1) of four (4) days preferred by the nurse.

The Association proposes no change in the Work on Holiday language contained in Article 6, Section 6 as follows in relevant part:

Any nurse who works on a holiday shall, at the discretion of the Appointing Authority, either be:

1. Paid in cash at time and one-half for all hours worked in addition to holiday pay provided for in Section 5 above; or,
2. Paid in cash at time and one-half for all hours worked in addition to an alternate holiday in lieu of holiday pay provided for in Section 5 above. Such alternate holiday shall be granted and must be taken within one hundred twenty (120) calendar days immediately following the holiday worked. If there is no agreement as to the date of the alternate holiday between the Appointing Authority and the nurse, the Appointing Authority shall select one (1) of the four (4) days preferred by the nurse. Alternate holidays shall be liquidated prior to transferring to a new Appointing Authority.

\*\*\*

#### **AWARD**

The MNA's position is sustained.

#### **RATIONALE**

The Employer's proposal to modify Article 6, Sections 3 and 6 addresses those nurses who have a regularly scheduled day off

when there is a holiday or if they work on a holiday. Currently in those two instances, nurses are granted an alternate day off with pay, which must be taken within 120 days of the actual holiday. All other State contracts have language similar to what is being proposed by the Employer. That is, to pay the holiday in cash, or if not in cash, the nurses may elect to put the hours into their vacation or compensatory bank, thus giving the nurses more flexibility as to when the days off may occur.

While other unions have agreed to the Employer's position, there was no evidence of any attempt by the Employer to negotiate an equitable quid pro quo (tradeoff) with the Union. Most certainly, the Union should not be expected to accept this proposal for nothing in return.

It appears that short staffing is one of the reasons for the Employer's proposal since the State argues that 120 days was too short of a time to give a nurse a day off.

This proposal also can create an economic benefit to the State. For example, if a nurse takes an alternate holiday day off and the State is short staffed that day, the State likely has to pay a replacement nurse time and one-half their wage rate under the contract language contained in Article 4, Section 5(E). Thus, instead of working a holiday and costing two and one-half times an employee's wage rate, the true cost is four times an

employee's wage rate. As long as the State does not have the time and one-half cost, it saves money. This cost savings is another reason the State wants to eliminate this benefit, not their internal equity argument,

There are other economic benefits to the State under its proposal. If the alternate holiday becomes compensation time, the state saves money on taxes. If the alternate holiday becomes vacation time, the State controls vacation time off and delays the time off over a longer period.

While the State's proposal would be an economic benefit to the State, the same cannot be said about its non-economic and economic effects on the nurses. With this proposal, nurses lose a 25% guaranteed day off, which can be a Friday or Monday around a weekend off or even a weekend day off. Neither compensation time off nor vacation time off have this same invaluable guarantee.

Further, with this proposal, another nurse loses the opportunity for one and one-half times pay when replacing the nurse taking the alternate holiday.

**ISSUE ELEVEN: CREDITING VACATION ACCRUALS FOR REGISTERED NURSE ADVANCED PRACTICE - WHAT SHOULD THE REQUIREMENT BE IN ALLOWING THE EMPLOYER TO CONSIDER PREVIOUS PRIVATE AND PUBLIC SERVICE IN THE AREA OF NURSING WHEN CALCULATING THE VACATION ACCRUAL RATE OF A REGISTERED NURSE ADVANCE PRACTICE**

## EMPLOYER POSITION

The Employer proposes the following new language in Article 7, Section 3:

**Section 3. Crediting Accruals for Nurses. in the Registered Nurse Advanced Practice Classification.** An Appointing Authority, at its discretion, may grant a nurse in the Registered Nurse Advance Practice classification, who is hired into State service following the approval of this agreement by the Legislative Coordinating Commission, length-of-service credit for all, some, or none of the following:

- 1) Prior related service with another public-sector employer, including, but not limited to, prior Minnesota State government employment beyond the four-year limitation as described above; or service in the United States Armed Forces, provided that the military service was full-time for at least one hundred eighty-one (181) consecutive days;
- 2) Prior private-sector related experience to the State of Minnesota position for which the nurse has been hired.

A nurse in the Registered Nurse Advanced Practice classification with previous service or employment experience as described in 1) or 2) of the preceding paragraphs who wishes to be considered for length-of-service credit must submit documentation of the qualifying service or experience, including evidence of vacation-eligibility status in the previously-held position, to the Appointing Authority for approval. Any length-of-service credit shall be effective the pay period following the Appointing Authority's approval of the request and shall not be retroactive.

Note: Remaining Sections in this Article are renumbered.

## MNA POSITION

The MNA's position is to insert the following new Vacation language in Article 7, Section 3, page 11:

Following approval of the 2007-2009 MNA contract by the Legislative Coordinating Commission, nurses in the Registered Nurse Advanced Practice classification can apply to their own Appointing Authority for upward adjustment of vacation accrual rates. Such application shall document evidence of earned vacation for both:

1. Prior public sector Registered Nurse Advanced Practice experience, (including and not limited to credit given in Article 7, Section 2 for reinstatement and reappointment beyond four years) except that military service must be full time military service for at least one hundred eighty one (181) consecutive days, and
2. Prior private sector Registered Nurse Advanced Practice experience.

Within thirty (30) days of receiving the nurse's completed application, the Appointing Authority shall approve in writing with a copy to MNA all, some, or none of the prior experience to adjust upward the individual Registered Nurse Advance Practice's vacation accrual rate. Such upward adjustment shall be effective in the pay period following the Appointing Authority's written approval and shall not be retroactive.

Re-number Article 7, Sections 3,4,5, pages 11-2, as the above is a new Section 3.

#### **AWARD**

The MNA's position is sustained.

#### **RATIONALE**

The Parties agree that there is a recruitment need to allow the Employer to give credit to nurses in the Registered Nurse Advanced Practice classification. The Parties, however, could not agree on what constitutes related experience, nor could they agree on the process which must be followed in order to grant

vacation accrual credit. The Employer proposes that nurses in this classification may request length of service credit for prior related experience (not limited to Advance Practice Nurse experience), when determining the amount of vacation accrual the nurse is eligible for. Granting such requests is discretionary on the part of the Appointing Authority, and shall not be retroactive. The MNA, on the other hand, proposes that nurses in the Registered Nurse Advanced Practice classification may request length of service credit for prior related Advanced Practice Nurse experience when determining the amount of vacation accrual the nurse is eligible for. Granting such requests is discretionary on the part of the Appointing Authority, and shall not be retroactive. If a request is granted, the Appointing Authority shall approve the request in writing within 30 days of the application. The Association will receive a copy of the written approval.

The MNA's proposal is preferred because it requires a deadline of 30 days for the Appointing Authority to respond back to the State Advanced Practice RN's application. It requires implementation of any upward adjustment in the pay period following the 30 day decision making period. The MNA proposal also provides written notice to MNA of the Appointing Authority's decision. Clearly, only the MNA proposal provides a better

guarantee to current State Advanced Practice RNs, which is the role of the MNA to safeguard their rights.

It is also noteworthy that the State's proposal gives credit to prior related service with another public-sector employer and prior private-sector employer. Thus, the State proposes that all related nursing experience be considered when granting vacation accrual credit. This type of proposal has been rejected by the MNA in the past because the nurses harmed are the current staff who the Employer is not trying to recruit. It is the fellow staff who cover for vacations of those new nurses who bargained for more vacation accruals. This creates a problem for current employees who were not given the same opportunity to negotiate for better vacation accruals.

**ISSUE TWELVE: DISCIPLINE PROCEDURE - SHOULD THE  
EMPLOYER BE ALLOWED TO USE VACATION REDUCTION  
IN LIEU OF SUSPENSION AS A FORM OF DISCIPLINE**

**EMPLOYER POSITION**

The Employer requests that the Appointing Authority may choose as a form of discipline subtraction of a nurse's vacation hours in lieu of issuing an unpaid suspension for just cause.

**MNA POSITION**

The Union proposes no change in Article 15, Termination of Employment, Disciplinary Actions, Section 2, Discipline, which reads as follows in relevant part:

- A. Procedure. A nurse with permanent status in her/his current job classification shall be disciplined for just cause. Disciplinary action or measures shall include only the following: 1) oral reprimand, 2) written reprimand, 3) suspension without pay, 4) demotion, and 5) discharge.

#### **AWARD**

The MNA's position is sustained.

#### **RATIONALE**

The Employer proposes that in cases where suspension without pay is for just cause, the Employer may choose to keep the nurse at work and then subtract the number of hours the suspension would be served from the nurse's vacation accrual bank. The Employer's position allows the nurse to work the shift without needing to find a replacement, reducing the need for overtime.

Due to the current staffing issues with regard to attraction and retention of nurses, the Employer's proposal would quickly become the discipline of choice. The Employer would have a great incentive to select this discipline over suspension without pay and save the trouble of finding a replacement when the nurses were on vacation.

There was evidence that attendance has been a problem which has resulted in nurses being suspended without pay for just cause. Since attendance is a performance issue, there is no convincing evidence that subtracting vacation accruals would be a

better solution to this performance problem than suspending without pay. A suspension without pay hurts the paycheck of the nurses and hopefully convinces the errant nurses to conform to regular attendance. The same cannot be said about subtracting vacation accruals from errant nurses.

The State's proposal is contained in the MGEC unit, which is a dual unit of both supervisors and non-supervisors and the MMA, which has multiple levels of supervisors. Thus, there is only a small group of State employees willing to accept this proposal.

**ISSUE THIRTEEN: MANAGEMENT RIGHTS**

The Employer agreed during the hearing to drop it proposed change in the scope of Management Rights. As a result, there is no change in the contract language in Article 19, Management Rights, which reads as follows:

It is recognized that the Employer retains all inherent managerial rights as stipulated by Minnesota Statutes 179A.07.

The Parties' representatives are to be complemented on their professional conduct at the hearing and the comprehensiveness of their oral and written presentations and submissions.



\_\_\_\_\_  
Richard John Miller

Dated July 29, 2008, at Maple Grove, Minnesota.