

the requested rehearing. If the request for rehearing is denied, the award shall thereupon be deemed to be issued effective that date and the jurisdiction of the arbitrator shall accordingly cease. If the request for rehearing is granted, the jurisdiction of the arbitrator shall continue until issuance of a final amended award incorporating or rejecting the substance of the allegations contained in the request.

- D. The participation by the parties in an arbitration proceeding under this agreement shall not be deemed a waiver of or prejudicial to the right of either party to contest the arbitrability of the grievance or the jurisdiction and authority of the arbitrator in proceedings to set aside the award of, in other appropriate proceedings, in any state or federal court of competent jurisdiction; provided such judicial proceedings are instituted within thirty (30) days of the date of the arbitrator's award.

## ARTICLE 11 HEAD PHARMACISTS

The Employer may designate staff pharmacists as head pharmacists. Head pharmacists shall be bargaining unit members and shall perform bargaining unit work, primarily filling prescriptions.

Application to the head pharmacist program shall be voluntary. Selection of volunteers shall be in the sole discretion of the Employer. If a Head Pharmacist gives the Company notice of his intent to resign from the responsibilities of Head Pharmacist, the Company will attempt to secure a replacement Head Pharmacist within thirty (30) days of receipt of the notice.

Head Pharmacists shall perform those duties as may be assigned by the Employer. Such duties may include: budget responsibilities; work flow supervision; directing the pharmacy staff; monitoring product sources, generic utilization, marketing promotions, competitor pricing, inventory control, pharmacy reports; administration of company programs/policies; training; recommending personnel related action; communication to the pharmacy staff; and other duties. Head Pharmacists shall not be responsible for the decision to hire, discharge or otherwise discipline other pharmacists.

Head Pharmacists are responsible for creating and implementing work schedules for their respective pharmacies. Work schedules of full-time staff pharmacists, including Head Pharmacists, shall be rotated in an equitable manner in regard to starting and ending times and weekend work, provided the needs of the business are met. All scheduling will be subject to the grievance procedure.

The Employer shall have the right to develop, modify or terminate an incentive pay plan for head pharmacists during the term of the Agreement.

A Head Pharmacist with an evaluation of satisfactory or above, employed more than twelve (12) months as a head pharmacist, and who chooses to be a staff pharmacist shall have preference over pharmacists who are not regularly assigned to a pharmacy as a staff pharmacist (i.e. undistributed pharmacists) with the Company for an available staff pharmacist vacancy. Nothing herein shall limit the Employer's right to demote or transfer pharmacist as