

Little Hoover Commission – Talking Points

History

The practice of mandatory overtime was banned through wage orders in 2001 in the State of California, but it only covered nurses within the private sector leaving the nurses who work in the critical areas of state hospitals and prisons uncovered. Mandatory overtime is the practice of hospitals and health care institutions to maintain adequate numbers of staff nurses through forced overtime, usually with a total of 12 to 16 hours worked, and with as little as one hour's notice.

The states of West Virginia, Illinois, Connecticut, Washington, Oregon, New Jersey, Minnesota, Maine, Maryland, Alaska and Massachusetts all have laws prohibiting the use of mandatory overtime as a general staffing tool.

Research

SEIU Local 1000 Research shows, the \$8.5 million mandatory time expenditure can be used to hire 92 additional full-time, benefited staff. The amount of funding to secure vacancies in state departments far outweighs the expenditure for mandatory overtime. For instance, DSH had an estimated \$23,385,940 in its budget for existing vacancies, and 244.3 vacancies in RN, LVN and CNA classifications. In 2012, DSH spent an estimated \$6.2M on MOT.

Additional research shows that with the current number of vacancies in each of the departments that this bill would impact, implementation would represent a cost shift from unfilled vacancies. Funding for mandatory overtime dollars would revert back to the General Fund.

Impact

This misuse of valuable human capital results in effects and consequences of fatigue. This practice prevents nurses from delivering optimum care by forcing them to work additional hours for which they cannot adequately prepare for, physically or mentally. Studies show banning mandatory overtime decreases medication errors; increases safety and quality patient care; increases recruitment of new nurses; aids in retention of nurses, and decreases legal liability issues against the State and nurses.

Forcing nurses to work absent a major event or disaster is a violation of the fundamental values of our society. Public Safety issues are dramatically increased because of mandatory overtime, thus becoming a liability issue for the state. Nursing staff are unable to meet their personal obligations to their families (ie. Taking kids to school, securing a babysitter to watch children or elderly parents). Several nursing staff have died and/or killed people in car accidents due to fatigue and exhaustion. Many report having to sleep on the side of the road, in the parking lot of the institution at which they are employed or get hotel rooms because they are too tired to drive and do not want to cause an accident. Others have died at the hands of patients because they were unable to react quickly or respond properly due to exhaustion and/or fatigue.

MOU provisions were put in place to protect patients and nursing staff from dangerous occurrences. Studies show banning mandatory overtime decreases medication errors, increases safety and quality patient care, increases recruitment of new nurses, aids in retention of nurses, and decreases legal liability issues against the State and its nurses.

When mandatory overtime is absolutely necessary grievances show that Departments still often do not adhere to mandatory overtime assignment requirements contained in the MOU. This is particularly the case for CDCR/CCHCS, which represents the Department with the most filed grievances on the matter. MOU provisions seek to prevent mandatory overtime by requiring Departments to establish transparent voluntary overtime assignment systems. The grievances show that time after time, Departments ignore this requirement and simply resort to mandating nurses based on “operational need” or convenience. Grievances are then filed, and months later the Department acknowledges a MOU violation, and declares an effort to correct the issue.

Recommendations

It is the responsibility of the State to remedy problems that adversely impact the civil service workforce. Although we have tried to address this issue repeatedly, both through administrative advocacy and bargaining; we have been unsuccessful.

We have the following recommendations:

1. Hire enough people to properly staff each department.

According to SEIU Local 1000’s research department, to fill actual positions to eliminate mandatory overtime, DSH would need to hire 22.3 RNs and 3.7 LVNs. We have also provided the committee with vacancy costing for CCHCS/CDCR, DDS and DVA.

2. Address the scheduling process used by each department.

The State to prioritize the scheduling order with the regular workforce being scheduled first and proper use of alternative staff to “fill in” gaps

in scheduling, instead of vice versa because the regular work force can be mandated for 16 hour shifts.

3. Ban mandatory overtime altogether.

SEIU Local 1000 is the proud sponsor of AB 840 (Ridley-Thomas) that will ban mandatory overtime for public sector nurses, and require the State to implement a more efficient scheduling process, thereby eliminating the need for mandatory overtime. This bill also defines “emergency situations” and prioritizes a scheduling order eliminating the unnecessary and costly use of mandatory overtime, both on-the-spot and pre-scheduled, due to “operational need”. However, there would be no need for this bill if the state would adhere to the contract.

Thank you.