

Mandatory Overtime
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California Department of Veterans Affairs
Little Hoover Commission Hearing
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Thank you for this opportunity to present our perspective on mandatory nurse overtime used in the Veterans Homes of California. The California Department of Veterans Affairs (CalVet) provides long term care at eight campuses throughout the state. The Homes vary in size and levels of care offered, from independent living to skilled nursing around the clock and including memory care; but all have a common staffing core of Certified Nursing Assistants (CNAs), Licensed Vocational Nurses (LVNs) and Registered Nurses (RNs). The Veterans Homes serve an aging and disabled veteran population some of whom require attentive care to survive.

This testimony answers three areas of interest: the first is a discussion on mandatory versus voluntary overtime; second, a brief overview of the factors which drive overtime within the Homes; and, finally, our efforts to minimize our use of mandatory overtime.

We have made a commitment to provide premier care in a homelike environment where our veterans can be treated with dignity and respect. The Homes are regulated on the amount of per patient hours our clinical staff must provide. Of the eight Veterans Homes CalVet operates, six provide skilled nursing facilities. These Veterans Homes must legally adhere to regulatory requirements for numbers of nurses on duty. The California Department of Public Health (CDPH) requires a minimum of 3.2 nursing hours per resident in skilled nursing facilities. Nursing hours refers to the total amount of time each resident requires each day by all levels of nursing staff. This requirement sets the minimum, but a facility must provide the level of nursing care adequate to meet the individual needs of the residents based on a plan of care determined by an interdisciplinary team of healthcare professionals. For example, CNAs are truly the first line of support to our veterans. CNAs provide the most basic but demanding care including feeding, bathing and dressing our residents; they are responsible for the routine medical care such as taking vital signs; and they answer the calls for help and observe changes in a patient's daily condition or behavior.

While the use of overtime is not ideal, it is necessary to ensure the quality care and commitment to our veterans CalVet proudly delivers. Mandatory overtime is used in a two of our Veterans Homes. Specifically, in the VHC-Yountville, 36,564 hours were mandated in fiscal year 2013-14 while staff volunteered to work an additional 24,764 hours. Of the total hours of mandatory overtime worked, 75 percent were for CNAs. Without the minimum number of care providers our Homes could not adequately attend to our residents.

Factors Driving Nurse Overtime

We see factors driving nursing overtime in three categories: care needs, civil service and emergencies/crisis.

Care:

- **Acuity of the Resident**

Acuity, as it pertains to healthcare, refers to the level of medical or nursing care an individual requires. As the acuity level of a resident increases so does the amount of staff needed to provide safe care. Acuity rates rise significantly in skilled nursing. The residents' needs are more complex; therefore, the demand for dedicated providers increases. Factors that determine a resident's acuity include types/amounts of medications, treatments to skin/wounds, involvement of

physical therapy and other rehabilitative modalities and levels of assistance needed with activities such as: getting out of bed, dressing, dining, and toileting. Additionally, dementia and psychiatric diagnoses have a great bearing on the acuity of the Veterans Homes' residents.

- **Required Nurse Training**

Keeping up our education in long term care nursing is essential to our mission to provide medical support to our veterans and to maintain regulatory compliance. Although considered during the scheduling, a variety of factors including vacation, sick leave, FMLA, workers comp and other factors erode the time available for planned training. Since training is mandatory for both personal and facility licensing, staff must participate in a minimum number of hours annually, regardless of staffing shortages.

Civil Service:

Several factors unique to civil service press our ability to work within the range of the established staffing relief factors. *Most Homes can only offer a two weeks' vacation for their staffs. If a nurse desires more time off for family celebrations or other needs, the most common practice is simply to call in sick vice request time off from supervisors who may feel compelled to mandate shifts.*

The State hiring process which involves multiple steps of taking exams for classifications, applying for vacancies and being screened is made more complicated by the need for background checks required by licensing agencies and regulations. When a Veterans Home has a vacancy, the workload is covered through overtime or scheduling changes until the position is filled which can take months. Further, some of these Homes were built in underserved communities where staffing can be a challenge or in high cost/long commute areas where state salaries are not commensurate with the high cost of living or with the competition in nursing professions.

The state of California caps the amount of vacation/annual leave most state workers may accumulate at 640 hours (80 days). However, CalVet does not have an adequate relief factor in its staffing to relieve employees on leave, so overtime is used. Also, over the recent five years of budget deficits, the state reduced state workers' pay in exchange for giving them additional time off in the form of furlough days. State workers used most of their furlough days, which were set to expire, but significantly decreased their use of vacation and annual leave days. As a result, the average employee's vacation/annual leave balance increased by 16 days between 2008 and 2012. State Policy caps Vacation and Annual Leave Balances. This problem has been compounded at CalVet with the aging workforce that is earning higher monthly leave credits.

The federal Family and Medical Leave Act and California Family Rights Act authorize an eligible employee to take up to a total of 12 weeks of paid (employee leave credits) or unpaid, job-protected leave with employer-paid health, dental and vision benefits during a 12-month period for a variety of reasons including but not limited to incapacity due to pregnancy, prenatal medical care or child birth; to care for a family member, or for a serious health condition that may cause the employee to be unable to perform the functions of his or her job. According to the federal Occupational Safety & Health Administration (OSHA), employees in the long-term care industry experience twice the rate of work-related injuries as full-time staff in all other workplaces. Examples of injuries and illnesses these workers most often are exposed to include: blood borne pathogens; musculoskeletal disorders caused by lifting and moving patients. At CalVet, many CNAs sustain injuries related to lifting and transferring residents who are under their care. California's Title 22, Section 72315, governing Skilled Nursing Facilities, mandates residents who are bedridden get cleaned of urine and feces, and are repositioned often enough to prevent breakdown of skin ("bed sores") and maintain integrity of joint movement and alignment. Standard nursing practice dictates this is provided a minimum of every two hours. According to OSHA, employee injuries sustained during some of this work lead to increases industry-wide in costs, turnover rates, days employees spend recovering outside the workplace, and staffing shortages.

Emergencies and Other Unanticipated Events:

We plan the staffing for daily operations of the home but scale staffing up as required to respond to unforeseen circumstances which drives nursing overtime. These circumstances include: outbreaks of any virus such as Influenza, or other contagious condition such as Scabies or Shingles. When outbreaks occur, it is also common for large numbers of staff to not report to work because they too are ill. Overtime from our healthy staff is essential to protect and give care to our Veterans at this time. Unforeseen plant operations issues such as loss of water, heat or power may require overtime. Typically if an accident occurs, certain "code" is called on a patient and there is a heavy nursing workload to respond to the situation and extensive charting is required after its resolution. When this occurs during a shift change, a group of nurses dealing with the emergency will need to be held on overtime till the event has settled. Finally, natural disasters and severe weather cause nursing staff to have challenges in getting to work or the need to leave work to address care concerns for their loved ones. Winter storms, downed power lines, impassable roads, and etc. can and do cause staff members to suddenly call off before, during and after the events, leaving only the existing nurses and staff working overtime in the home to care for our Veterans. For example, the recent earthquake in Napa Valley required our staff to work overtime to access the residents and incoming staff were unavailable due to closed highways. We were very proud of how the Yountville staff reacted to the emergency; in fact, much of the staff put their own families second and our veterans as their primary concern.

In the smaller homes where staffing is limited to one person for a shift, when the nurse due in for the next shift, suddenly and without notice, calls in to report they will not be able to work due to: a car wreck, house flooding, car trouble, child care problems, sick child, personal sickness or other, we have no choice but to hold the nurse present and utilize overtime to care for our Veterans.

Efforts used to Address Nurse Overtime

The Veterans Homes are licensed and surveyed by multiple entities including Department of Social Services, Department of Public Health, and the United States Department of Veterans Affairs. As such, the Veterans Homes must follow state and federal laws and regulations governing healthcare facilities. While the Veterans Homes face the same around-the-clock operational challenges as their counterparts in the community, our response to such challenges takes into consideration state employment rules and collective bargaining limitations.

Every CalVet Administrator and Director of Nursing works extremely hard to avoid overtime. They employ and use creative ways to meet the needs of the veterans and comply with licensing requirements, however, for the reasons explained above there are numerous times in a year when the proper care and protection of our Veterans is going to require both voluntary and/or mandatory overtime. CalVet has employed several mechanisms to create flexibility in staffing including:

1. Use of Permanent Intermittent Employees (PIEs) which are used as needed to fill the staffing gaps.
2. Job Fairs where on the spot exam and hiring interviews are conducted to expedite the hiring process and decrease the hiring time.
3. Modified nurse scheduling has been implemented in many homes to reduce overtime, e.g. converting from 12 hour shifts, which have an automatic 4 hours of overtime each 40 hour pay period, to 8 hour shifts, which is the Daphne model of nurse staffing.
4. The homes have used exempt staff to help cover during staff shortages.