August 10, 2015

The Honorable Pedro Nava, Chair
Little Hoover Commission
925 L Street, Suite 805
Sacramento, CA 95814

Dear Commissioner Nava:

Thank you for the opportunity to provide you with information regarding the issue of mandatory overtime use by our nursing classifications within the California Department of Corrections and Rehabilitation. We understand this is a critical issue for our nursing staff, and we look forward to hearing from our many presenters, and those on your Commission, for constructive ideas on how to limit the use of mandatory overtime.

The California prison system is one of the largest employers of nurses in the State. Currently, we employ almost 4,900 nurses: approximately 1,975 Registered Nurses, 1,725 Licensed Vocational Nurses, 1,000 Psychiatric Technicians/Senior Psychiatric Technicians, and 200 Certified Nurse Assistants. These nurses work in 35 prisons—from Pelican Bay in the North to Centinela and Calipatria to the South.

Our nurses provide critical primary care to our inmate population in prison which as of August 5, 2015, stood at 111,629. Our nurses are at the front line for insuring our inmate-patients receive good medical and mental health care. They work with some of the State's most violent and mentally-ill population, in places where many people would not choose to work in, and do so tirelessly and competently. We all owe a debt of gratitude for these persons who have chosen this as their career.

We are here today to talk about the use of mandatory overtime in public state facilities—why does this occur and what can we do to curb its use, or eliminate it? While some will point to the fact that private hospitals have been able to eliminate its usage, I would like to describe our prison system to explain to you how we differ from hospitals.

First and foremost, the prisoners sent to us must stay in prison—we cannot transfer them somewhere else for care. We provide nursing care for our prisoners in their general population living units, in administrative segregation and security housing units, in outpatient housing units (or infirmaries), and in licensed beds (skilled nursing facilities and correctional treatment centers). Our nurses work in many areas—they work in our reception centers doing assessments for incoming prisoners, triage patients daily to determine who needs to be seen for medical and mental health care, they work in our emergency treatment areas when inmates

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need emergency assistance, and they pass out medication around the clock to inmates needing medication.

The overwhelming number of our nurses work in a "posted" assignment. A "posted" assignment is one where if for any reason the nurse is not available to work their shift, someone MUST take their place. For example, if a nurse is assigned to pass out medication in the morning shift, we cannot simply tell the inmates to wait until the afternoon for their medication.

Each prison, therefore, is budgeted a certain number of nurses based on the medical and mental health needs of the inmate population. This number is adjusted twice a year. For a "post" that we are required to keep filled 24/7, such as in our licensed beds, we are provided with a set amount of funding to keep the individual nursing position filled. This is called a "relief factor". So, for example, if a nurse has a scheduled vacation, we know about it ahead of time, and we can fill that slot. We do this by utilizing additional nurses we hire solely for the purpose of "filling in" when we have a scheduled absence. Our "relief factor" provides us funding to cover vacations, holidays, sick leave, training, bereavement leave, and the Family Medical Leave Act (FMLA). Union contracts, however, include several other instances where certain employees are eligible to have time away from their position, both mandatory and discretionary, such as time off for attendance to school functions, jury duty, union business, and several labor/management committees.

Recruitment for nursing positions systemwide can be challenging, depending on the facility and physical location. We face challenges hiring Registered Nurses at Centinela State Prison (Imperial County), California Institution for Women (Corona), Folsom State Prison, and Pleasant Valley State Prison where our vacancy rate has ranged from 28 to 43 percent, depending on the month. For Licensed Vocational Nurses, our challenges in filling positions exists at the California Rehabilitation Center (Norco), High Desert State Prison (Susanville), Sierra Conservation Center (Jamestown), Solano State Prison, and Wasco State Prison where our vacancy rate has ranged from 35 to 60 percent, depending on the month. For Psychiatric Technicians, we have 11 prisons where over half of our positions were vacant for certain months.

One of the biggest problems we have, however, with our funding for nurses and our relief factor is the lack of any recognized funding needed for suicide watch. This is our biggest unfunded liability. For Fiscal Year 2014-15, we paid our staff over 387,000 hours, which amounted to $12.7 million dollars, to monitor inmates who were placed on suicide watch, for as little as a few hours to as long as several days. Over 90 percent of the time our nurses were the ones assigned to suicide watch.

Inmates who are placed on suicide watch MUST be monitored on a one-on-one basis, and for the most part, this is done by one of our nursing staff. However, since we have no funding for these positions, we do not have nurses on "stand-by" to perform this critical task. As a result, we will reassign someone to do the suicide watch and then fill behind them either through voluntary overtime, use of contract registry, and, as a last resort, mandatory overtime.

This is perhaps one of the fundamental differences between our prisons and a private hospital. On any given day, we have a significant amount of inmates who must be placed on suicide watch who need one-on-one coverage during their stay—something we are not budgeted for, nor something that can be anticipated for in terms of advance planning.

Our other remaining issues can exacerbate the problem. At some of our institutions, we can, at times, have problems recruiting nursing staff to fill our vacancies. Other times, we have employees not available because they are "temporarily separated"—which means they are out on long-term sick leave, are not available because of a pending investigation, or out on military leave. When many of these factors come together, it can result in us needing to use mandatory overtime because we have no other choice. Let me give you an example. At Corcoran State Prison, in the month of December 2014, we were authorized to have 62 psychiatric technician positions. Of those positions, however, that month we had 10 vacancies and 3 people who were "temporarily separated". So, to start with, we already had 20 percent of our staff unavailable. December is a month full of holidays, and children who are on winter break. Therefore, it is a month where people get scheduled and approved for vacation. It is also a time where, unfortunately, inmates in the prison system get depressed, so we have high incidences of inmates needing to be placed on suicide watch. It should come as no surprise, then, during that month, our psychiatric technicians worked 570 hours of mandatory overtime. We have fewer people available, people previously scheduled for time off, people who don't want to voluntarily work overtime during the holidays, people who call in sick around the holidays, and prisoners who are depressed—all of which creates a perfect storm.

This is just one of the many examples I could give you about our daily challenge to provide health care to our patient population. Other times, we have major, unplanned disturbances on a prison yard that requires "all hands on deck" so our nurses can do health assessments on inmates involved in a disturbance. Sometimes we have yard "lockdowns" that require nurses to pass out medications from cell to cell, which greatly increases the amount of time we need to safely pass out medication. Staff calling in sick around weekends and holidays also provide us with staffing challenges.

When community hospitals face a staffing shortage they have a few things they can do. They can divert patient care to another facility. They can move or discharge their patients if it can be done safely. They can reschedule patients where their care is not time-sensitive. Patients needing psychiatric care are transferred to a community psychiatric facility. We cannot "turn away" our inmates. We cannot divert them away from the prison system.

So what can we do about this? First, we must continue to improve our recruitment and retention for nurses that lead to staff shortages. The Legislature this year provided us with additional staffing to address this problem, and have now added staff who will be responsible for improving our recruitment/retention. We must also address our need for permanent funding for inmates placed on suicide watch. Having staff available at our institutions with a large mental health population will help cut down on our need to resort to the use of mandatory overtime. Third, we should continue to explore the usage of "intermittent/on-call" pools of staff that could be available on an emergency basis to fill in behind staff that are unavailable for any number of reasons. Finally, we will continue to explore those "best practices", as they become available, to better improve our system.

We will continue to work with our labor partners as part of our negotiated agreements. Currently, each bargaining unit agreement with our nurses contains provisions that allow for mandatory overtime that were mutually agreed upon. In these ways, we hope to improve our operations and limit the use of mandatory overtime in the future.

Thank you for your time and attention to this matter. We have included several attachments for your use as follows:

- Attachment I--Total Voluntary/Involuntary Overtime Use for Nursing Classifications
- Attachment II--Voluntary/Involuntary Overtime by Institution by Month (2014-15)
- Attachment III--Authorized Positions and Vacancies by Institution by Month (2014-15)
- Attachment IV--Temporary Separations by Institution by Month (2014-15)

Should you have any questions or need additional information, please contact me at (916) 691-6710.

Sincerely,

JOYCE E. HAYHOE
Director of Legislation and Communications
California Correctional Health Care Services

Attachments (4)