

March 12, 2015

Association Professional Registered Nurses (APRN) Officers:

President:
Glenda Peters, RN, 8E

**Vice President /
Treasurer:**
Anna Vernon, RN, ED

Secretary:
John Smeltzer, RN, 5E

Members at Large:
Anne Byles, RN,
IV Therapy

Kathy Keane, RN, 6W

Flu Masking

Ends

Nurses and staff
required to wear
flu masks were
relieved to learn
that the masking
requirement ended
March 4.

ONA Labor Relations Representatives

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Timecard Grievance and Class Action Resolution Reached – ONA Supports the Settlement

In May 2013, ONA filed a grievance against Providence St. Vincent Medical Center on behalf of all St. Vincent nurses after nurses came forward with reports that their timecards were improperly altered after submission by their managers.

This was primarily in cases in which they had clocked out or in on Kronos in amounts greater than seven minutes, to prevent the quarter hour rounding. As more staff learned how to check their time cards and identify the errors, the grievance continued to expand.

Providence initially agreed to an audit of all the units and repayment of all money owed, and we mutually agreed the grievance would be on hold while this audit was underway. Also during this time, two individual nurses who had left employment at St. Vincent, and would not be included in the grievance or repayments, initiated a class action lawsuit (*Thanane v. Providence Health & Services*) over this issue.

The audit then appeared to have slowed, with little information about the status provided to ONA. The Association later learned that it had been stopped entirely by the Medical Center after the class

action lawsuit was filed. Providence announced that it believed that the grievance and class action were so similar that any resolution must be global. The plaintiffs in the class action lawsuit and the Association agreed to formal mediation with Providence, which began in May 2014 with a federal judge.

In November, 2014, Providence and the plaintiffs in the class action lawsuit reached a proposed settlement. That settlement was preliminarily approved by the court Dec. 19.

Official notice will be mailed to all persons included in the class action and/or grievance by a claims administrator by March 13, 2015. That notice will include information about the process as well as the amount you would be paid.

If you would like to read the settlement agreement, it is available on the front page of our ONA website under *News and Notes*. www.oregonrn.org.

For more specific information not included in the agreement, please wait for the official notice from the claims administrator, that will include information about your claim.

ONA Supports the Settlement Agreement and Encourages Nurses to Opt Into the Settlement Agreement

Procedure and Next Steps

Feb.17, 2015: Providence provided a list of class members' names, addresses and individual settlement to the class action plaintiffs and ONA. Providence sent a list of all eligible persons claims to a third party administrator that has been retained to track the claims and disburse funds on March 3.

March 13, 2015: The party administrator will send notices to all eligible persons, and communicate all the details of the individual's settlement.

Keep an eye out in your mail for it.

April 13, 2015: Last day for class members to opt out, object or return claim forms.

May 2015: Materials filed with court, and reports of opt outs, objections or unfound persons.

June 12, 2015: Final approval hearing of proposed settlement agreement to be held

July 12, 2015: Effective date of final approval of proposed settlement agreement - if approved by court at June 12 hearing.

Forty Days from Effective Date:

(Estimated late August 2015): Payments issued by mail.

For Two Years after the settlement is implemented, random spot audits will be performed.

Settlement Agreement Highlights

- **Nurses must opt in to the settlement agreement to receive the full settlement amount.**
- ONA encourages nurses to participate fully in the settlement agreement.
- Official notices and all communication regarding the details of individual settlements will come from a third party administrator.
- All persons employed by Providence in Oregon from 9/13/07-9/13/13 (including non-nurses), are eligible to participate in the settlement agreement.
- The settlement is statewide, affecting former and current Providence employees across the State of Oregon.
- There will be random spot audits for the next two years.
- Providence will train all current and newly hired managers, directors, supervisors and CNOs on wage and hour laws within six months of the agreement being finalized.
- **The amount awarded will be the highest of either all unpaid wages since Nov. 1, 2009 or a set dollar amount that is based full, part-time, or on-call status and whether the employee is still employed by Providence. These amounts are set out in the settlement agreement.**

Clinical Ladder Negotiation Update Number 13

The Clinical Ladder Board met March 9 for their quarterly review of applications. We followed it the same day by having a smaller meeting with administration and the nurse bargaining team members to work out details and any changes we would

recommend to the application and criteria.

If readers missed the last newsletter, we are pleased to announce that we have been making significant

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Clinical Ladder Negotiation Update continued from page 2

progress on Clinical Ladder negotiations. We believe that with some minor changes to the renewal/application materials and the criteria, we will be close to a deal. The main change to the program would be the review at the initial stages of the application, which would include a Project Review Team (PRT). The PRT would likely take the place of the manager's review, to work with the nurse on research, results and provide support for the project. The number of reviews required is still under discussion but we are committed to balancing this with the review by the Clinical Ladder Board to ensure we keep this program focused on bed-side nursing.

We have two upcoming workgroup meetings scheduled for March 18 and 30. If we are able to put this together and agree upon some final points (term of the agreement, criteria and review process, and a few other topics), we should have a final agreement soon after, which we would then put to a vote.

Any ratification vote requires a *minimum* of seven (7) days' notice (we always try and give at least two weeks). After the workgroup concludes, we would need to meet at least one more time in the full bargaining team format, so we will not likely have a vote before April. This would not likely allow time for nurses to be trained on the new criteria and application in time for the June review, so for now, please continue to work on the current materials if you need to submit for the June review.

If you have any questions, please contact a bargaining team member or Clinical Ladder Board member. ONA bargaining team/workgroup members are: Glenda Peters (8E), Merridee Dobbeck (5E), Maryann Dutton (retired, OP Infusion), Kathy Keane (6W), Eric Sabbe (6W) and Nicole Tabbal (6E) and Sally LaJoie.

Welcome to our New Stewards for Critical Care Float IV Therapy and Emergency Department

Thank you to Ann Murdock (Critical Care Float), Jill Greene-So (IV Therapy) and Rebecca Sudduth (ED) for stepping forward as our newest Stewards. Stewards serve an important role at St. Vincent by providing local support for their coworkers and helping the nursing organization at large.

We will be offering Basic Steward Training in the next month to new the stewards. *Training isn't limited to just stewards.* If you want to learn the basics but aren't quite ready to become a steward or want to know more, contact an ONA officer, Pat Sheridan-Walker or Sally LaJoie to learn more.

Investigatory meetings and Calls to Nurses at Home – What's the Rule?

Every so often nurses report they were called by a manager on their day off and asked about an event rather than being called into a meeting. Sometimes this is something minor that affects a current patient that is truly necessary, and other times these calls could be addressed during the nurse's next shift – and are not urgent.

The issues with calls at home are twofold. First, unless the nurse submits the time, this call is unpaid, when it should be compensated time for hours worked. Human resources agrees this is paid time, and so if you have a call like this be sure and log it into Kronos as this is your time.

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Second, the call could be investigatory, meaning it could lead to discipline. If that's the case, a nurse called by phone is not likely to request the presence of a representative under their *Weingarten* rights. This can be very important if the issue leads to a coaching note in the employee's file, or discipline, because it is important to have someone else take notes, and to have another person to ensure that all the memories of what were said are accurate. Many meetings are attended by human resources, the manager and the nurse, and it is not uncommon to have a later disagreement about what was said in the meeting. In person meetings also allow for clearer communication than by telephone and the opportunity to gauge nuance and body language.

We discussed this in the March Labor-Management Task Force meeting and requested that the St. Vincent managers not call nurses when they are off work to investigate issues, unless it is an urgent/important issue affecting a patient's care or a very minor check in about a patient. If you are called, it is perfectly acceptable to request that the meeting be scheduled in person at a time that you can bring a representative.

If you have any questions, contact your ONA staff representatives or officers.

Corrective Action Basics:

You have a right to know why and the issue about which you have been accused, and if you are called to a meeting which could lead to discipline, you can bring a representative.

Sometimes employees are asked to attend meetings and are told the meeting is not "investigatory" and they do not need a representative.

Please keep in mind that an investigatory meeting is any meeting *which could lead to discipline*. So, if your manager requests your presence, but you believe he is concerned you may have made an error, or there is gossip surrounding your unit, this *could lead to discipline*.

It is the employee's option to bring a representative to the meeting. Note that the Medical Center is *not obligated* to tell you that you can, or should, bring a representative. Please keep this in mind, and if you have questions, contact your unit steward, officer or labor relations representative.

Maternal-Child Arbitrations Update

We completed two days of arbitration Feb. 26 and 27 for the Perinatal Special Care Unit and Labor and Delivery nurses who were terminated last year relating to their administration and receipt of an IV of lactated ringers without a physician's order when one was dehydrated during a shift.

Neither nurse had any prior discipline, and had worked at St. Vincent for 12 and 23 years. The nurses and Association took this forward to arbitration. They did so because they argued that while the nurses made mistakes, they should not have been disciplined so severely and after years of excellent service, they should have been given a chance to improve their performance, under the principle of "just" or "proper cause." Any discipline issued must meet the

requirements of "just cause" and if it doesn't, the method of disputing a corrective action is through the grievance process.

We will now finalize and submit closing briefs to the arbitrator, Michael Cavanaugh, and expect he will make a ruling within 30 days after those briefs are submitted. Arbitrations are held before a neutral third-party arbitrator that is selected from a panel maintained by the National Labor Relations Board (NLRB). Our selected Arbitrator has a long history serving as an arbitrator in labor matters and is an attorney with a background in these areas.

If you have questions, please contact Sally LaJoie.

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What is “Just” or “Proper Cause?”

Anything nurses receive that is disciplinary falls under the “just” or “proper cause” provision in our contract. (Art VII C, p31). That means that if you receive a discipline, suspension or discharge it must meet the seven tests of proper cause:

Notice – Did the Medical Center give forewarning of the possibility of discipline for this conduct?

Reasonable Rule or Policy – Was the rule reasonably related to the orderly, efficient and safe operation of the Medical Center?

Investigation – Did the manager, prior to issuing discipline, make an effort to discover whether the employee actually violated the rule?

Fair and Objective – Was the investigation conducted fairly and objectively?

Evidence – Was there substantial evidence that the employee engaged in the act that led to discipline?

Even and Consistent treatment of all employees – Is the Medical Center applying its rules and penalties evenly and without discrimination to all staff?

Reasonable Penalty – Was the severity of the discipline reasonably related to the severity of the offense?

A work plan this is not considered to be a corrective action, or “discipline” and is in place to help improve performance. If you have questions about this, please contact your steward, officer or labor representative to get a second opinion and assistance.

Worker’s Compensation and Licensure– ONA Members Have Legal Resources

Did you know that employees injured on the job have a right to a lawyer, and many worker’s compensation attorneys work on contingency fee? (The attorney is paid only if your claims prevails.) Often employees try to navigate the system without legal assistance and retain an attorney only after they have initiated the process and reached a road-block.

Worker’s Compensation is a very complex system – it is recommended that workers retain an attorney to help them negotiate this system.

ONA members are entitled to a free one-half hour consultation with a law firm, which specializes in labor and employment matters, and has attorneys that represent nurses in OSBN licensure cases and domestic relations matters. For contact information for this firm, please contact Sally LaJoie or Pat Sheridan-Walker.

For information on the Worker’s Compensation system, you can contact the Ombudsman for Injured Workers at (503) 378-3351 or the Injured Worker Helpline at (800) 927-1271.

Updates From Around the House

Acute Dialysis Unit Low Census

The ADU has been experiencing extreme low census since mid-January with nurses missing multiple days. There are issues with the factor system and how it works in the ADU so we will be meeting soon to discuss if we need to create an alternative process for this unit.

Maternal Child Low Census

The Maternal Child Division transferred to Kronos Advance Scheduler at the end of 2014, and also began using the Regional Staffing Office (RSO). Because the low season is at the first of the year, the problems resulting from the transfer were immediately felt by the

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staff. We first approached the administration and asked to hold the timelines on filing grievances to see if we could resolve it in a larger division-wide setting, rather than piecemeal, and to set up a meeting to discuss the concerns.

In early March we had a meeting attended by the impacted nurses, charge nurses, managers, human resources, local bargaining unit president Glenda Peters, and ONA representatives. We noted that nearly all the issues have been resolved already, leaving only a few remaining issues to sort out. The group will be issuing an update to the maternal child division shortly. If you have questions contact Sally LaJoie or Pat Sheridan-Walker.

Emergency Department (ED)

The ED is still working on filling their bench with nursing staff after the mass exodus of the past several years. Forty percent of the staff have left since 2011, a disturbing trend that was largely ignored by the administration until last fall when it reached a peak. The director position was vacated

by Joe DaFoe in November. Turnover has been consistent; the unit that has rarely had a director/manager in place for more than two years.

A bright spot was the recent resolution of a long-standing dissatisfier for the Sexual Assault Nurse Examiners (SANE) nurses at Providence. Because these nurses work between Providence facilities, there were inconsistencies in their pay, how their "call" was treated and their compensation. At last we were able to get all the details confirmed, and completed a side-contract (letter of agreement) which sets out their compensation. This will be formally added to your contract in 2015 when it reopens. To read the agreement, visit your bargaining unit webpage and scroll to the bottom under "Documents."

Another light has been the assistance the unit has received from Jennifer Burrows since she joined St. Vincent. Ms. Burrows, along with Bonnie Forsch (the existing regional director), held open meetings to talk to the staff and learn about problems experienced by this unit and how to improve working conditions.

Providence Portland, Willamette Falls and Home Health Services Ratify Contracts

A number of ONA contracts were recently in open negotiations: Providence Portland, Providence Home Health and Services and Providence Willamette Falls.

Here are the wages that were recently agreed upon and ratified in all three contracts.

Jan. 1, 2015 1.5% Raise

July 1, 2015: 5% bonus

Jan. 1, 2016: 2.25% Raise

Milwaukie will be bargaining next as their contract expires May 31, 2015. Their last raise was 2.5 percent on Jan. 1. After that it will be St. Vincent, Hood River and Medford who bargain next. All contracts expire Dec. 31, 2015.

Providence will be working hard to bargain for no greater than 2.25 percent raises for January 2016 and the primary focus at the table will be the raise for January 2017 in the second year of your contract.