Holiday Pay for Non-Eights

Beginning Memorial Day, full-time nurses will receive holiday pay for their regularly scheduled shifts

After consulting with all of you, our leaders decided to advocate for proper pay on holidays for those who work shifts that are more than eight hours in length.

Our interpretation of the contract is that 40-hour nurses (i.e., an FTE of 1.0) should receive payment for the hours they would have worked on any holiday (see box to the right for contractual provisions). That is, the payment of holiday hours should be consistent with their normally scheduled hours that day, whether it be an 8-, 9-, 10- or 12-hour shift.

On May 16, we sent a formal letter to Benton County asking them to begin paying us properly commencing with the Memorial Day holiday. On May 24, the county agreed to pay full-time nurses for their normally scheduled hours that fall on a holiday beginning with the Memorial Day holiday.

However, the county responded that they thought this was an “equity issue” and “are willing to take this issue up at a later time in regular contract negotiations.” We think it is a fairness issue. Nurses should receive holiday pay for the hours they missed, regardless of their shift length.

So, beginning with the Memorial Day holiday, full-time nurses should submit holiday hours equivalent to the hours they would have worked on that day.

Contractual Provisions related to Holiday Pay
(with relevant clauses italicized)

Section 7.4 Normal Work Week. Excluding meal periods, the normal work week shall consist of forty hours per week, not to be worked in excess of five (5) consecutive days with at least two (2) days off, or four consecutive days with three (3) consecutive days off. Department heads shall have the authority to initiate either five (5) day or four (4) day work weeks, consistent with priorities and efficiencies established by the county. …

Section 8.3 Holiday Pay. All nurses shall receive one (1) day’s pay for each of the holidays listed in section 1, provided that the nurse is on paid status on the last scheduled day before and the first scheduled day after the holiday. …

Find the full ONA/BEC contract on the ONA website at www.OregonRN.org/52

Benton County has instituted a new policy and procedures to qualify for the Pay for Performance wage increases effective July 1, 2019. These procedures require employees to develop SMAART goals. We will be hosting a training session to help you develop achievable goals for the coming year.

To prepare, we suggest you review your departmental and county mission statements. Think about work-related outcomes that you would like to achieve in the next year or two. How can you measure your accomplishments?

This is a hands-on workshop designed to provide you with near-complete SMAART goals at the end of the session.

TUESDAY, JUNE 25 at 5:15 p.m.
Benton County Health Services
530 NW 27th St, Corvallis
Fact or Fiction: Unions Protect Lousy Workers

Our critics regularly claim that “unions protect lousy workers.” Nothing could be farther from the truth. The last thing Benton County nurses want is another nurse who is unsafe in their practice working beside them. An unsafe nurse exposes a patient to unnecessary risk.

Further, it makes the job of other nurses more difficult. When we follow or hand-off a patient, we want to be confident that our colleagues will also provide exemplary care.

Our Association ensures that nurses’ rights are protected, especially from an unfair allegation by a manager or a patient. Our right to have a steward present means that the accused nurse is heard and their words in a fact-finding meeting are recorded accurately.

Most nurses who are called into such meetings adopt a reflective, inquiring posture. They are open to learn about possible errors in their practice and in the overall system. They are willing to assess all aspects of patient care, including their own behavior.

A few nurses resist efforts to recognize gaps in their practice. In the rare cases where the representative suspects a nurse may have erred and does not self-recognize, we sometimes use a double blind peer review process.

We redact all documents from the case, stripping them of any identifiers. These documents might include the nurse’s own written recitation of the event, the steward’s notes from the fact-finding meeting, and any discipline issued by the employer.

The labor representative will share these documents with nurse leaders in our bargaining unit or another county’s public health department to assess the nurse’s behavior. These assessments will be returned to the nurse being investigated, with a general description of each reviewer.

For example, it might describe a reviewer as “Nurse B has worked for 12 years in public health in an ONA-represented bargaining unit. Previously, they were charge nurse in an ICU for five years, served on their PNCC for more than two years, and recently won an award for nurse practice.” Just enough for the nurse to contextualize the reviewer, but not enough to identify them.

Your Right to ONA Representation

Both ONA contracts and the laws governing employment in a unionized workplace protect your right to ONA representation. ONA-represented nurses have the right to be represented during any questioning about, or investigation into, their performance or activities as employees. These are known as “Weingarten Rights,” after the federal court ruling that established them, and these rights are only available to workers who are unionized.

A nurse must assert their Weingarten Rights by insisting on having an ONA representative present during an investigation, because an employer is not required to provide a nurse a representative or even notify the nurse of their right to a representative.

Weingarten Rights Statement
"I request to have a union representative present on my behalf during this meeting because I believe it may lead to disciplinary action being taken against me. If I am denied my right to have a union representative present, I will attend the meeting, but refuse to answer questions that I believe may lead to discipline. This is my right under a Supreme Court Decision called Weingarten."
Fact or Fiction: Unions Protect Lousy Workers (continued from page 2)

The goal of these evaluations is to provide the nurse with an objective evaluation of their actions by several respected peers. Usually, the nurse accepts this collective judgment.

Then, the representative ensures that the employer provides resources for the nurse to improve their practice. Everyone’s goal is to return the nurse to a high-performing practice. We have too few RNs in Oregon to lose any. We want nurses to improve their practice rather than being removed from patient care. We need every nurse to be a high-performer!

In some cases, the steward or labor representative perceives that the nurse may not be a good fit with their present position. If this is the case, we may act like a career counselor. We ask what kind of nursing they are interested in. We may point out possibilities in other departments or other (preferably unionized) employers of nurses in our area.

In short, our Association advocates for safe patient care by developing strong nurse leaders. If an employer has practice concerns, we ensure the nurse is provided the support and resources to rebuild their practice. Our community deserves high-performing nurses.

We sometimes find that an under-performing nurse is not handled well by the employer. Many managers are not fully trained to coach and mentor nurses. They may not understand how to improve the behavior of subpar workers. These poor managers don’t know how to use the many tools they possess to develop a nurse’s practice! Our stewards often educate managers on how to improve a nurse’s performance.

In other cases, we find a manager unfairly targets a nurse because of a personality conflict or because the nurse is vocal in advocating for their patients or other nurses. Our contract ensures that these rights are protected by the “just cause” provision in our contract. We protect nurses from being disciplined for non-performance issues!

**Just cause** are due process rights accorded to each unionized worker by our contract. They ensure a full and fair investigation of the facts and progressive stages of discipline. These are the “property rights” to our jobs, which only unionized employees possess. All other workers are “at-will” employees, who may be terminated at any time. These at-will employees, including managers, may pursue an unlawful termination lawsuit in certain protected categories, by employing a private attorney. As unionized employees, we have our collective bargaining agreement and other nurses to support us!

**JUST CAUSE**

A basic principle in all collective bargaining agreements is that administration must have just cause for imposing discipline. Although the definition of just cause varies from arbitrator to arbitrator, most agree that one should be able to answer “yes” to these questions if there was just cause.

- **Forewarning:** Did administrative give the worker forewarning of possible disciplinary consequences of worker’s conduct?
- **Reasonable Rule:** Was administration’s rule or order reasonably related to an orderly, efficient, and safe operation?
- **Discovery:** Did administration make an effort to discover what happened before disciplining the worker? Did malmanagement investigate before administering the discipline? Who was interviewed? Did these employees bring complaints forward?
- **Fair Investigation:** Was administration’s investigation fair and objective? Were there witnesses?
- **Evidence of Guilt:** Did the investigation produce substantial evidence or proof of guilt?
- **Evenhanded Application:** Did administration apply its rules, orders, and penalties evenhandedly and without discrimination?
- **Fair Punishment:** Was the degree of discipline reasonably related to the seriousness of the offense and the record of the worker’s service to the employer?

Contract questions? Need information from the last newsletter? Find the answers on the ONA/BEC website!

www.OregonRN.org/52
We are planning to hold one or more Know Your Rights workshops in Corvallis this summer and fall. Participants receive information on ONA member benefits, our rights as union members, and how to build power. The core of the training focuses on how to assist nurses in a factfinding meeting or when they may be disciplined.

While this workshop is our steward training, nurses who attend this workshop are not obligated to sign up as stewards. Come and get the education. Decide later if you want to become a steward.

Stewards are the lowest-level officials in our Association. They assist other nurses in answering questions about membership and our contract, represent nurses when they are called into potentially disciplinary meetings, and sometimes handle initial grievance intake.

If you are interested in receiving this training, please contact our labor representative, Gary Aguiar, via text/call at: (503) 444-0690, or email: Aguiar@OregonRN.org.

Don’t Miss Important ONA Emails

ONA wants to make sure all members receive timely communications, ensuring you have the most up-to-date information on your contract, bargaining issues, upcoming votes, nursing research, practice issues and workplace policies. If you are not receiving ONA emails, we can help.

First, check to make sure ONA emails are not being filtered into a junk, spam or clutter folder. Many email providers, like Comcast, Yahoo and Gmail, have built in Spam/Junk filters or blockers. The filters are intended to prevent you from getting junk mail or spam, but can unintentionally block emails you want to receive. If ONA emails are in one of these folders, flag them as “not junk” and add News@OregonRN.org to your safe sender list.

If there are no ONA emails in those folders and you still aren’t receiving ONA emails, there are various causes listed to the right.

You can fix most problems by simply emailing ONA at News@OregonRN.org with your name, personal email address and the name of the facility you work at in the body of the email.

We will update our records to ensure you don’t miss future ONA emails.