



November 28, 2022

*SENT VIA EMAIL*

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District Attorney Mike Schmidt:

I serve as General Counsel for the Oregon Nurses Association (ONA), which represents more than 15,000 Oregon registered nurses and allied health workers, including 4,000 registered nurses who work for one of Oregon's largest companies--Providence Health & Services (hereinafter "Providence"). When your office announced earlier this year it would partner with the Bureau of Labor and Industries (BOLI) to investigate and prosecute corporate wage theft, we applauded this as an important win for Oregon workers. We are writing in response to that announcement to request that your office investigate and act upon what we believe is pervasive wage theft perpetrated by Providence against ONA-represented registered nurses and thousands of additional Providence workers in Multnomah County.

Specifically, we believe that the facts presented below potentially establish the commission of a theft of services by Providence in violation of ORS 164.125. Providence has systematically, and seemingly with intent to avoid payment for services, underpaid non-salaried health care workers since at least July 08, 2022. These events occurred when Providence adopted a new Genesis HR Solutions payroll platform. The new Genesis payroll system failure led to lost pay and benefits for health care workers in Multnomah County and across the country. Many frontline health care workers in Multnomah County have not received appropriate differentials or overtime payments from Providence. It has been reported to ONA that some workers have not been paid for the hours they worked and some have missed entire paychecks.

As you know, ORS 164.125 establishes the crime of theft of services:

- (1) A person commits the crime of theft of services if:
  - (a) With intent to avoid payment therefore, the person obtains services that are available only for compensation, by force, threat, deception or other means to avoid payment for the services;

The events of the last three months may establish a prima facie case of theft of services. During that time, frontline health care workers at Providence have been systematically underpaid. When Providence does manage to get workers their paychecks, Providence's paystubs are so complicated that their own Human Resource professionals acknowledge

they cannot interpret them or confirm their accuracy. Thousands of Oregon workers across the Providence Health Services system know they have been underpaid, and many more cannot be sure about the accuracy of their pay. This burden falls particularly heavily on nurses and other frontline health care workers in Multnomah County where Providence has a large presence ranging from its flagship hospital--Providence Portland Medical Center--to its main Oregon administrative offices, home health and hospice workers, and workers in outpatient medical clinics.

In response, workers have filed tens of thousands of complaint "tickets" with Providence's Human Resources Department to alert it of lost wages and paycheck mistakes. However in many cases their tickets are inaccurately closed under the false claim that the problem has been resolved. In addition, ONA has filed contractual grievances at each of the ten facilities where ONA represents registered nurses. These grievances sought to identify and remedy all improper deductions. Nurses have also filed a class action lawsuit seeking injunctive relief and damages.

Despite these efforts, Providence has refused to remedy the situation and continues to not pay wages that have been earned. Providence has also refused our proposed grievance remedy to operate the previous payroll platform (Lawson) in parallel with Genesis to identify errors. Providence has similarly refused to perform a comprehensive third-party audit to identify and remedy all improper deductions. As a result, we have no choice but to believe that rather than being mere negligence, Providence's business practice and income is predicated on obtaining the service of nurses and other staff knowing that those staff will not be paid the agreed-on wages for those services.

Under ORS 164.125, the level of penalty is determined by the aggregate value of the services exceeding certain thresholds. "The value of single theft transactions may be added together if the thefts were committed: "(a) Against multiple victims by a similar means within a 30-day period." Based on information and belief, we have evidence that the aggregate value of the services at issue exceeds \$10,000 monthly, and thus Providence could potentially face a Class B felony.

As one of Oregon's largest companies, Providence is responsible for providing accurate and timely pay to workers. While we continue to pursue resolution through the grievance process, we are not hopeful that Providence will adopt the requested remedies unless they are compelled to do so by an arbitrator. This process could take many more months or years. In the meantime, frontline health care workers in Multnomah County who work for Providence will continue to experience wage theft and take on unfair financial burdens. In many cases, they will continue to leave Providence, ultimately exacerbating a health care worker shortage that is already in crisis. We ask that you investigate this potential wage theft and act swiftly to ensure all frontline health care workers who have been unjustly affected are made whole.

Sincerely,



Thomas Doyle  
ONA General Counsel

Cc: Victor Mercado, Assigned Wage Theft Deputy District Attorney

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ONA is an affiliate of the American Nurses Association, AFT and AFL-CIO