PUBLIC MEETING MINUTES

April 12, 2018

PUBLIC EMPLOYMENT RELATIONS BOARD
1031 18th Street
Sacramento, CA 95811

Chair Gregersen called the meeting to order at 10:00 a.m.

Members Present

Mark C. Gregersen, Chair
Eric R. Banks, Member
Priscilla S. Winslow, Member
Erich W. Shiners, Member
Arthur A. Krantz, Member

Staff Present

J. Felix De La Torre, General Counsel
Shawn Cloughesy, Chief Administrative Law Judge
Mary Ann Aguayo, Chief Administrative Officer
Loretta van der Pol, Division Chief, State Mediation & Conciliation Service

Call to Order

Chair Gregersen welcomed Arthur Krantz as a Member of the Board. After establishing that a quorum had been reached, Chair Gregersen called the meeting to order for a return to the open session of the March 15, 2018 Public Meeting. He reported that the Board met in continuous closed session to deliberate the pending cases on the Board's docket, pending requests for injunctive relief, pending litigation and personnel matters, as appropriate.

Chair Gregersen read into the record the decisions that issued since the open session on February 8, 2018. Those were PERB Decision Nos. 2549-H, 2550-H, 2551, 2552, 2553, 2554-M, 2555-H, 2556-M, 2557, 2558, and 2559, and Order Nos. Ad-461-M and JR-28-H. There were four Requests for Injunctive Relief (IR Request) filed as follows: No. 741 (*American Federation of State, County & Municipal Employees Local 2620 v. State of California (Correctional Health Care Services*), the request was denied; No. 742 (*Tahoe Forest Hospital Employees Association v. Tahoe Forest Hospital District*), the request was withdrawn; No. 743 (*Tahoe Forest Hospital Employees Association v. Tahoe Forest Hospital District*), the request was withdrawn; and in No. 744 (*San Diego City Firefighters Association Local 145 v. City of San Diego*), the request was pending. Chair Gregersen announced that a document containing a listing of the aforementioned decisions was available at the meeting and that the decisions were available on PERB's website.

Motion: Motion by Member Winslow and seconded by Member Banks, to close the March 15, 2018 Public Meeting.

Ayes: Gregersen, Banks, Winslow, Shiners, and Krantz.
Motion Adopted – 5 to 0.

Chair Gregersen adjourned the March 15, 2018 Public Meeting. He then opened and called to order the April 12, 2018 Public Meeting.

Minutes

Motion: Motion by Member Winslow and seconded by Member Banks that the Board adopt the minutes for the February 8, 2018 Public Meeting. Not being present or officially on the Board, Member Krantz abstained.

Ayes: Gregersen, Banks, Winslow, and Shiners.
Abstained: Krantz
Motion Adopted – 4 to 0.

Motion: Motion by Member Banks and seconded by Member Shiners that the Board adopt the minutes for the March 14, 2018 Public Meeting. Member Krantz was present at this meeting, but was not officially on the Board and therefore abstained from voting on this matter.

Ayes: Gregersen, Banks, Winslow, and Shiners.
Abstained: Krantz
Motion Adopted – 4 to 0.

Motion: Motion by Member Winslow and seconded by Members Shiners that the Board adopt the minutes for the March 15, 2018 Public Meeting. Not being present or officially on the Board, Member Krantz abstained.

Ayes: Gregersen, Banks, Winslow, and Shiners.
Abstained: Krantz
Motion Adopted – 4 to 0.

Comments from Public Participants: (See the attached Transcript for the complete statement of all public participants.)

Toby Marsh, Chief Nursing Officer, University of California, Davis Medical Center, appeared before the Board. He addressed the Board about a possible upcoming strike at five of the U.C. Medical Centers. He wanted to bring to the Board's attention areas of concern that he felt should continue to operate if a strike were to be called while contract negotiations were taking place.

Tina Mamone, Chief Nursing Officer, University of California, San Francisco, appeared before the Board. She addressed the Board with information as to the importance of the work that the U.C. Medical Centers performs on a daily basis in different specialty areas as well as staffing levels needed to perform many specialty areas throughout the medical centers.

Member Winslow asked Ms. Mamone if the University of California was anticipating a strike.

Ms. Mamone responded that they are in status quo with many of their collective bargaining agreements, whether that's AFSCME, UPTE, or California Nursing Association. She stated that they are preparing and planning to be able to protect the public.

Member Winslow then asked Ms. Mamone what the University was doing to prepare for a strike.

Ms. Mamone responded that they have been preparing for quite some time as they are at the bargaining table with California Nurses Association. She stated that they are bargaining in good faith.

Specifically, Member Winslow asked Ms. Mamone if the University had contracted for replacement services.

Ms. Mamone stated that they have been working for months to work with a staffing replacement agency to support our needs, whether they're registered nurses, pharmacists, lab scientists, housekeepers, etc. She stated certain specialties are very hard to replace. She stated many come from all over the United States and others they still cannot recruit because of licensure requirements in California. She stated the contract expired formally June 30, 2017, and they have been working on this since April of 2017 in terms of preparation efforts

Mr. Marsh added that health care is complex. She stated that electronic medical records and protocols are not universal. Training and getting replacement workers up to speed means we are not able to deliver the same level of quality care.

Member Winslow wanted to know from Ms. Mamone if the University has had conversations with the unions about who should be considered essential and who should not.

Ms. Mamone stated they had not begun those conversations. She stated that for specialized areas, a nurse is not a nurse. She stated they would deliver safe care, but not the same care as if it was a U.C. nurse.

Trisha Maxfield, Hematology Oncology Clinic and Infusion Manager, University of California, San Francisco, also appeared before the Board. She gave an overview of

some of the patient population, both pediatric and adult, at the different medical centers. She stated that treatment starts long before a 10-day strike notice for many patients. She stated that insurance companies would not always pay if a patient was transferred to a different hospital and that the patient would receive the bill. She talked about patients who are receiving trial treatments and how they would be affected.

Brian Smith, Director of Respiratory Care Services, University of California, San Francisco, appeared before the Board. He addressed the Board about the responsibility of respiratory therapists at UCSF Medical Center.

Staff Reports

The following staff reports were received with the caveat that any matter requiring action by the Board and not included as an item in today's agenda would be scheduled for consideration at a subsequent meeting.

A. Division of Administration

Chief Administrative Officer Mary Ann Aguayo provided staffing updates and noted that Chair Gregersen had already announced the new Board Member appointments. The Office of the General Counsel hired an Attorney Three, Katharine Nyman, and a Senior Legal Typist, Marina Gonsalves. Ms. Aguayo stated several recruitments are underway including three legal advisors and two Board Assistants for the Board; two Conciliators positions for State Mediation and Conciliation Services; one limited term Attorney for the Office of the General Counsel; and a limited term IT position for the Division of Administration.

PERB is conducting the Conciliator examination which is a new exam that was rolled out in March on a continuous file basis, and a certification list for filling vacancies completed by May. The last issue Ms. Aguayo reported was the 2017-2018 annual leave buy-back program was announced by CalHR and that PERB would be participating, allowing staff with high leave balances to cash out up to 80 hours.

For fiscal updates, Ms. Aguayo reported being well into the Financial Information System for California transition, however that some major hurdles remained, and that staff were still very reliant on external support. Moving forward Ms. Aguayo reported that the focus will be to transact more independently and to gear up for a successful year end.

Ms. Aguayo provided a current budget update announcing that there is a surplus primarily due to salary savings. Staff were working to identify one-time needs to spend the funds. The budget update projected a year-end balance of about $845,000.

Ms. Aguayo reported that the Governor's Budget was released in January and that PERB had no pending Budget Change Proposal activity, though PERB has been asked to present updates on its historical issues to the legislative budget subcommittees. Last

month PERB presented to the Assembly Budget Subcommittee and a date was set to present to the Senate Budget Subcommittee later this month.

A brief update for the LARO relocation effort was presented. The new facility build out is progressing smoothly and on target for completion unless the State Fire Marshal inspections are delayed. Planning has begun with staff and to obtain a moving company.

B. Office of General Counsel

General Counsel J. Felix De La Torre gave the report for the GC Office for the months of February and March 2018 highlighting significant activity since the Board's Public Meeting on February 8, 2018.

Mr. De La Torre reported on activities during the past two months (February and March 2018) stating that a total of 196 new unfair practice charges were filed (a significant increase from the prior two-month period [104 to 196]). During the most recent two-month period, the GC Office completed 113 case investigations (an increase over the prior two-month period where 103 case investigations were completed [103 to 113]). Also during February and March, 52 complaints were issued, and 14 charges were dismissed (compared to 58 complaints issued and 22 charges dismissed in December/ January). Case processing times rose slightly with a two-month average of 161 days in February and March, compared to 156 days in December and January.

Mr. De La Torre continued reporting that the number of litigation matters completed by the GC Office remained approximately the same with 7 in February and March (6 litigation matters were completed in December/January). The number of factfinding requests decreased: in February and March there were 12 requests (in December and January there were 16). The number of representation petitions increased significantly to 21 petitions in February and March (compared to 5 in December/January).

As reported earlier by Chair Gregersen, in the past two months, PERB received four IR Requests.

Since the Public Meeting in February:

- In terms of court litigation, three new litigation matters have been filed by or against PERB.

    - ***PERB v. Bellflower Unified School District; CSEA Chapter 32***. Filed: March 6, 2018, California Court of Appeal, Second Appellate District, Division 3, Case No. B288594, PERB Decision Nos. 2385 & 2455 [PERB Case Nos. LA-CE-5508-E and LA-CE-5784-E]. Issue: The District challenges a judgment by the Los Angeles County Superior Court, which grants PERB's petition for writ of mandate directing the District to comply with the Board's Orders in PERB Decisions Nos. 2385 and 2455.

- ***Julie Barrett v. PERB; United Auto Workers Local*** 2865. Filed: March 13, 2018, California Court of Appeal, First Appellate District, Division 3, Case No. A153828; PERB Decision No. 2550-H [PERB Case No. SF-CO-212-H]. Issue: The petitioner challenges the Board's decision sustaining the Regional Attorney's refusal to issue a complaint in her breach of the duty of fair representation charge against the UAW.

- ***Sharon Curcio v. Public Employment Relations Board; Fontana Teachers Association***. Filed: March 14, 2018, San Bernardino County Superior Court, Case No. CIVDS1806317; PERB Decision No. 2551-E [PERB Case No. LA-CO-1700-E]. Issue: Whether the Board's Decision to affirm the dismissal of unfair practice charge Case No. LA-CO-1700-E violated a constitutional right, exceeded a specific grant of authority, or erroneously construed a statute.

➢ PERB received no final case determinations.

Legislation/Rulemaking. For informational purposes and inquiries by the Legislature, the GC Office monitors legislation that concerns the labor relations statutes under PERB's jurisdiction. To date, the GC Office has identified several bills that relate to PERB's jurisdiction and Mr. De La Torre reported on the following bill.

- Assembly Bill 2017 (Chiu): Existing law prohibits a public employer from deterring or discouraging public employees from becoming or remaining members of an employee organization. AB 2017 would additionally prohibit a public employer from deterring or discouraging *prospective* public employees from becoming or remaining members of an employee organization. This bill is at the Assembly Appropriations committee having passed the committee on Public Employment, Retirement and Social Security.

- Assembly Bill 2305 (Rodriguez): This bill would statutorily bring peace officer employee organizations under PERB's jurisdiction but would not apply to: (1) individual peace officers; and (2) employers and employees under the jurisdiction of the employee relations commission established by, and in effect for, the County of Los Angeles and the City of Los Angeles. This bill is at the Assembly committee on Public Employment, Retirement and Social Security where it was amended at their last hearing.

- Assembly Bill 2886 (Daly): This bill would bring the Orange County Transportation Authority and the San Joaquin Regional Transit District under PERB's jurisdiction for purposes of specified unfair practice charges. This bill is at the Assembly committee on Public Employment, Retirement and Social Security.

- Assembly Bill 3034 (Low): This bill would specify that employer-employee relations for supervisory, professional, and technical employees of the BART system would be governed by the MMBA, and that PERB would have jurisdiction. This bill is at the Assembly committee on Public Employment, Retirement and Social Security.

Mr. De La Torre announced that the GC Office hired Marina Gonsalves as Senior Legal Typist in PERB's Oakland Regional Office, and that Katharine Nyman has been promoted and returned to the GC Office as an Attorney Three. He offered congratulations to them both and expressed gratitude for their service.

Member Shiners asked about the doubling of charges filed in February and March versus the prior two months. He asked if there was any particular reason for the uptick.

Mr. De La Torre stated that November and December tend to be slower months because of the holidays. He stated that it is a little bit higher of an increase than we've seen in the past. Other than that he was not certain what caused the jump.

Member Winslow asked a question about the Rodriguez bill, stating a similar bill was vetoed by the Governor last year because he perceived that the sponsor, the police unions, were trying to have their cake and eat it to, and have Board jurisdiction, with reserve jurisdiction with the courts as well. Does this bill have that same flaw?

Mr. De La Torre stated no. The veto was focused on the fact that the prior bill excluded peace officers from the injunctive relief process that goes through PERB. In other words, they would not have to come to us, they could go straight to court. And that's what the Governor found to be unfair, or at least inconsistent, as he saw no reason why they should be excluded from that requirement. This bill does not have that language.

Member Banks asked if he had any idea how many employees are currently in the three transit districts that are included in AB 2886 and 3034.

Mr. De La Torre stated that Loretta van der Pol would be able to give us BART's numbers, which are around about 200 or 300?

Ms. van der Pol stated that BART is a lot smaller than you would think in terms of numbers of employees. She stated she would be doing some research in the afternoon and could have a better number later.

Member Winslow asked if this bill would not include everybody, not just the train operators or the station attendants.

Ms. van der Pol stated that if BART comes under MMBA, BART has its own statute, based on an arbitrator's decision back when the public sector was allowed to start collectively bargaining so it would be all four of their unions, they have four bargaining units.

Mr. De La Torre stated the three groups are supervisory, professional and technical.

Ms. van der Pol stated that the professional and technical unit is just a very small unit and are a subset of the larger SEIU unit. She believes the only one that's not included is the ATU unit.

Mr. De La Torre stated he is not familiar enough with BART.

Ms. van der Pol stated she will be having a phone call with one of the people that has more information about BART.

Mr. De La Torre then stated he was going to clarify that the Orange County provision under the Daly bill just added the San Joaquin unit within the last couple of days and we are now just doing the analysis to include this new group. He is unaware of the number of employees covered.

Member Winslow had another question about BART. She stated that it sounds like not all of the rank and file employees are covered by this bill because it was stated that ATU is not covered.

Ms. van der Pol stated that she would try to get some clarity later in the afternoon. She stated that the other confusion about the Daly bill, because this is all transit, is that the Daly bill does something different. It doesn't move them under MMBA, it just brings them over for purposes of unfair practice charges, which means that their representation work still stays with SMCS, separate from PERB. She stated it is very confusing.

Mr. De La Torre stated that the charges that are specified in the bill would be those unfair practice charges under their own local rules.

C. Division of Administrative Law

Chief Administrative Law Judge Shawn Cloughesy reported on the activities in the Division of Administrative Law. He stated that formal hearings are being scheduled within three and one-half months to four months of the informal settlement conference in the Sacramento, Oakland and Glendale Regional Offices.

Judge Cloughesy stated the reason he removed himself from the room during public comment is that he may have to hear a case that was being discussed regarding U.C. later for formal hearing.

He stated the assignment of ALJ cases has increased over the last year by about 36 percent. While it is significant, it is about the same as it was two years ago. He also stated that the number of pending cases in the queue for a decision to be written or to be heard slightly increased from last year. He stated that cases are settling before hearing,

but there is some growth in the amount of pending cases which is a cause for some concern at this time.

Judge Cloughesy stated that the issuance of ALJ proposed decisions is about the same as last year. He stated that the exceptions ratio is at 35 percent, which is down from 48 percent last year. He stated that the exceptions ratio is the ratio of those ALJ proposed decisions that get appealed to the Board.

That concluded Judge Cloughesy's presentation.

Member Banks had one question for Judge Cloughesy. He asked if the 40 cases pending issuance of a decision were part of that 79 cases assigned to the ALJs

Judge Cloughesy responded that there are a total of 119 active pending cases in the queue that are not in abeyance.

D. State Mediation and Conciliation Service

Division Chief Loretta van der Pol gave the report for the State Mediation and Conciliation Service for February and March 2018.

She stated that new cases are still fairly low. This is the time of the year that we don't have a lot of activity. She stated there should be an uptick in impasses very soon. She stated that SMCS is starting to get some reopener type impasses in some of the statutory areas but stated that the rest of the public sector does its bargaining very late in the fiscal year and those cases would start coming in around May.

Ms. van der Pol stated that two vacant Mediator positions are affecting the case closure rate. She stated SMCS had 127 cases going into March from February 2017, but was unable to capture the number of cases for 2018 with their current program.

She stated in March going into April there were 101 active cases this year, compared to 109 last year, which is about the same.

Ms. van der Pol stated that elections and rep cases seem continually to be unusually low, still in single digits. She stated this is unusual for SMCS, because a lot of work in SMCS on the consent side tends to be with decertifications and agency shop elections. She stated that everyone is in a state of limbo pending the Janus decision and we will have to wait to see if that has an impact on our work or not.

She stated that the PUC transit cases that involve unit determinations or representation issues come to SMCS. She stated that one or two of those cases took five years to handle, and now there are three more that are moving forward. She stated that one case is being scheduled for hearing by Katharine Nyman in the Office of the General Counsel who will be functioning as SMCS's hearing officer.

Ms. van der Pol stated that the examination period for the Conciliator recruitment opened on March 23 with a cutoff point of April 6 for anyone minimally qualified to take the exam. She stated that two vacancies were posted. She stated we will see how many people we have who pass the exam that are eligible to be interviewed for hiring.

She stated that year-to-date as of the end of March, SMCS has collected about $58,000 for chargeable work in the administration of the Arbitrator's panel.

Member Winslow asked Ms. van der Pol if the fees were raised for factfinders last year.

Ms. van der Pol stated that was not part of SMCS, but that it was part of the General Counsel's office.

Member Winslow redirected her question to Mr. De La Torre. Member Winslow stated she was concerned about how the community of factfinders would get word that the daily fee had been increased.

Mr. De La Torre stated that Wendi Ross, our Deputy General Counsel would be able to answer that question. He stated that we are paying somewhere close to a market price, about $1,100 a day now, with a new cap. He stated that Ms. Ross has had no problem getting factfinders to sign on. He further stated that he believes that word has spread because there is a lot more interest and people asking to be on these panels.

Ms. Aguayo offered some information. She stated the volume of factfinders is not as high as expected and that there should be an agenda item for the next Board Meeting to reassess the salary that was requested for factfinding.

Member Winslow asked Ms. Ross if and how PERB had gotten the word out to the potential pool of factfinders that the daily rate has gone up.

Ms. Ross replied that it has been handled by word of mouth and by sending a letter notifying folks of the increased rate—individuals who had previously only taken $100 a day as well as individuals who never had taken that rate but had indicated they were available to chair a factfinding panel or to participate in other types of activities. She stated that did see an increase from about half dozen individuals to about one dozen. She also stated that they expected a flood of requests to pay for the contracts, but that has not happened yet. She stated that may happen if the Supreme Court *Janus* case were to go a certain way. Ms. Ross stated PERB is paying a little higher than when under the $100 rate. She stated that the 12 to 18 individuals who are willing to take the $1,100 rate have been able to cover all of the factfindings we have asked them to do.

Ms. van der Pol stated she wanted to point out that the factfinding money that gets paid out of that pool is for the statutory impasses under EERA and HEERA. She stated there has not been a significant increase in those impasses and if they settle in mediation, they never go to factfinding.

Member Winslow questioned about it covering MMBA cases.

Ms. Ross stated that under MMBA the parties themselves have to pay.

Motion: Motion by Member Banks and seconded by Member Winslow that the Division of Administration, Office of the General Counsel including Legislative/Rulemaking, Division of Administrative Law, and State Mediation and Conciliation Service reports be accepted.

Ayes: Gregersen, Banks, Winslow, Shiners, and Krantz.
Motion Adopted – 5 to 0.

Old Business

Update regarding PERB's Case Processing Efficiency Initiative.

Chair Gregersen stated public comments were taken at the last Public Meeting. He stated that the Administrative Committee was directed by the Board to develop some recommended priorities. The Administrative Committee has done that. He stated that they are costing out each of those recommendations and will be finalizing the costing soon. He stated that progress is continuing. He stated there may be a special meeting in the future to deal with these recommendations. He stated that the recommendation report would be on-line for the constituents to review and digest it prior to the meeting in which the Board considers it.

New Business

None.

General Discussion

Chair Gregersen announced that there being no further business, it would be appropriate to recess the meeting to continuous closed session and that the Board would meet in continuous closed session each business day beginning immediately upon the recess of the open portion of this meeting through June 14, 2018, when the Board will reconvene in Room 103, Headquarters Office of the Public Employment Relations Board. The purpose of these closed sessions will be to deliberate on cases listed on the Board's Docket (Gov. Code, sec. 11126(c)(3)), personnel (Gov. Code, sec. 11126(a)), pending litigation (Gov. Code, sec. 11126(e)(1)), and any pending requests for injunctive relief (Gov. Code, sec. 11126(e)(2)(c)).

Motion: Motion by Member Shiners and seconded by Member Krantz to recess the meeting to continuous closed session.

Ayes: Gregersen, Banks, Winslow, Shiners, and Krantz.
Motion Adopted – 5 to 0.

Respectfully submitted,

_____
Cheryl Shelly, Senior Legal Analyst

APPROVED AT THE PUBLIC MEETING OF:

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Mark C. Gregersen, Chair

Transcript of Public Participants of the April 12, 2018 Public Meeting of the Public Employment Relations Board.

PUBLIC COMMENTS:

Speaker Toby Marsh:
Good morning. My name is Toby Marsh. I'm the Chief Nursing Officer at U.C. Davis Medical Center. We are here representing all of the 5 University of California Medical Centers, those being UCLA, UC Irvine, UC San Diego, and UC San Francisco. We are aware that several unions are mobilizing for a labor action I the coming weeks or months, so we wanted to take this opportunity to tell you about the UC health system and the vital and unique services we provide to our patients and our communities. UC health is a vital part of California's safety net of providing those in need with access to quality care. The 5 UC Medical Centers are designated public hospitals providing care to uninsured, Medi-Cal and indigent poor patients in more than 50 counties. Combined are 5 medical centers admitting over 167,000 people and had 368,000 emergency room visits. Greater than 25 percent of care for extensive burn patients are delivered by University of California Medical Centers. And to provide this type of care we provide, it really takes an all hands on deck approach from every member of the health care team, from housekeepers who ensure those rooms are disinfected between patients, to our dieticians, our social workers, nurses, clinical lab scientists who provide lab results to treat patients with, radiology technicians. All are an essential part of the health care team.

The University of California Medical Centers could not offer the unique services we do without these professionals. And the health and well-being of our communities are at risk should a staffing shortage occur from a labor action. So a little differentiating about the medical centers is many of our patients get transferred from community hospitals who are not able to provide tertiary or quaternary care at their hospitals. And those specifically are . . . talking about tertiary care, at this level you will find procedures such as coronary artery bypasses, hemo or renal dialysis and some neurosurgeries. When we talk about quaternary care, that is care that is experimental and cannot be delivered at local community hospitals. At UC Davis Medical Center in the last 12 months there was 15,000 requests from community hospitals to transfer to UC Davis Medical Center specifically and we were able to accept 6,500 of those patients because those patients could not be cared for at their community hospitals. Each of the medical centers have a neonatal ICU care unit that are categorized at the highest level of those type of critical care units. This means our facilities can provide surgical repair of complex congenital or acquired conditions and our facilities have a full range of pediatric medical and surgical subspecialties as well as pediatric anesthesiologists on site where these community hospitals do not. Again, greater than 25 percent of the patients in the State of California who receive burn care is at a UC Medical Center.

Recently, a couple who physically work hard to support their children are currently in the UC Davis Medical Center Burn Unit. They were cleaning a house in Lake Tahoe

area for extra money when a clothes dryer exploded burning her over 70 percent of her body. And her spouse received 40 percent burns. That is a unique care that can be delivered at a tertiary or quaternary facility that is like UC Davis Medical Center, UC San Francisco, UCLA. During the Valley fires which devastated much of Lake and Napa Counties with a shift of wind conditions, a small firefighting crew found themselves surrounded by fire. The lead firefighter directed his crew to the safest location he could see nearby. This individual also needed burn care and only at UC Davis Medical Center.

Additionally, UC Davis Medical Center and other of our UC Medical Centers are designated as level 1 for adult and pediatric trauma care. There are other designations such as 2 and 3. And many of our community partners are level 2. But they are not able to provide the 24/7 subspecialty care around the clock that a level 1 does. And that is one of the reasons we receive the tremendous amount of referral patients from those community hospitals. Here locally a community hospital is designated as level 2, but we receive all of the care that is needed for patients who have experienced either vascular injuries or heart injuries that cannot be done at that local facility. And we are happy to provide that care, we just do not, we want to ensure that type of care is not jeopardized from a labor action.

Additionally, with the state of affairs in our community, nothing is off limits. We see the news about active shooters, peaceful protests that have turned violent, and UC Davis Medical Center and the other UC Medical Centers stand ready to support the safety of our communities and ensure that from law enforcement to other citizens are well cared for and get timely care so that they can heal, recuperate and go back into their communities. While those may seem outlandish, a car going into a crowd, these types of local emergencies happen all the time where people are stabbed, shot, hit in a car accident and require that type of emergent care. And we want to continue that those types of services are able to continue while we continue to bargain for a contract.

Chair Gregersen:
Okay, thank you.

Speaker Toby Marsh:
Thank you.

Chair Gregersen:
The next speaker we have is Tina Mamone.

Speaker Tina Mamone:
Yes.

Chair Gregersen:
And I hope I pronounced the last name reasonably correct.

Speaker Tina Mamone:
You did. Thank you.

Good morning. My name is Tina Mamone and I'm the Chief Nursing Officer at UCSF Medical Center in San Francisco, California. But I'm also representing, as Toby mentioned, the rest of our CNO colleagues throughout the State of California at UCLA, UC San Diego, and UC Irvine. As Toby mentioned, our academic medical centers are very different than perhaps the community hospitals such as the Dignity Health System or Kaiser or even Stanford in the Bay Area. One of the challenges, and certainly as many of you know, we are often times asked to reduce our inpatient census during a labor action. And I'm here this morning to speak about why that is so challenging and often times impossible for an academic medical center.

We have the responsibility at UCSF for well over 700 lives on a daily basis and that is 700 lives of inpatients, both adults and pediatrics, that come to us to receive care. We are asked to reduce our elective surgeries and I'm here to clarify what elective means. Often times the public believes elective surgeries to be something as simple as a cosmetic surgery, or something that we choose to have, a sports injury, an ACL repair, or an ankle or wrist or carpal tunnel. At UCSF and what differentiates the UC health system from others is that our elective surgeries, while they may be scheduled, are life threatening. Our patients come, as Toby mentioned, for brain surgery, because they have a brain tumor or cancer and if that tumor is not excised, they will be left with permanent deficits. So yes, we do schedule our surgeries, whether it's neurosurgery or even a transplant as a kidney, a liver, a heart and a lung, for infants and all the way up to our geriatric patients. But without those surgeries occurring as scheduled, we may be causing more harm to our patients because they will be remaining with permanent deficits or worse, have negative outcomes if we were to reschedule their surgery after a labor action.

Second of all, for our transplant patients, we may lose those organs. As many of you know, organs are only good for six hours after they've been donated and we receive organs from anywhere within a six hour reach. We have patients, certainly we work with UNOS and we have a priority of patients in terms of who needs the organ the most or else they will die. And if we cannot do those surgeries at UCSF, and UCSF is certainly the second largest kidney transplant center in the United States, those patients lose their opportunity. So we're here to sort of clarify elective is not necessarily elective in laymen's terms. Lives depend on our patients receiving the surgery and having the full complement of the inner-professional team to not only perform those surgeries whether it is the perfusionist in the operating room, the certified registered nurse assistant, the OR nurse, to the intensive care unit nurse that will provide that post-operative nursing care and be able to pick up vital and subtle changes to their condition and be able to intervene. And all the way up to the acute care nurse or the pharmacist that may be preparing the medications for transplant surgery.

The other notion that I want to sort of touch upon is as chief nursing officers, we are often asked if there is a labor action, go to weekend staffing. But because we are an academic medical center, our weekend staffing is actually the same as the weekday staffing. So if we were to have a labor action that is 24 hours, which sounds relatively brief, that affects our operational requirements tremendously. Our staffing, as you know, we follow Title 22 in the State of California, that we have staffing ratios for all our inpatient areas as well as many other areas. And so our staffing is the same whether it is daytime, nighttime, Wednesday morning, or a Sunday morning. And because we are so busy in terms of our average daily census is well over 700 lives, our staffing is the same and we cannot rely on replacement workers who fly in from all over the country who may get a brief orientation and have never worked in our medical centers to provide that same level of expert nursing care and deliver that care in a compassionate manor as our own staff would who have years of experience and organizational wisdom to be able to deliver the care that all of us would like to receive if we were patients across the UC Health System.

Thank you for your time and consideration.

Chair Gregersen:
The next speaker card that I have. . .

Member Winslow:
Can we have some questions?

Chair Gregersen:
Oh, certainly.

Member Winslow:
I do have some questions. I take it you are expecting a strike?

Speaker Tina Mamone:
I think, you know, we are planning because it would be negligent if us as chief nursing officers, we know the climate. We have been nurses for well over 25 years. We have been in the UC system for well over 15 years. So we are doing our best to prepare, you know, certainly we are in status quo with many of our collective bargaining agreements, whether that's AFSCME, UPTE, or California Nursing Association, so we are planning our best to be able to prepare and protect the public. We see that as our responsibility and we will do whatever it takes.

Member Winslow:
So that goes to my next question. What are you doing to prepare?

Speaker Tina Mamone:
So many of the UC systems have been preparing for quite some time because certainly the California Nursing Association in that we are at the bargaining table, actually Thursday and Friday and next week in Oakland. However, we know that

there is a gap and we are doing our best to bargain, and we are bargaining in good faith.

Member Winslow:
I'm sorry. What I'm really get at is, have you contracted with any replacement services?

Speaker Tina Mamone:
Absolutely. We have been working for months to work with a staffing replacement agency to support our needs, whether they're registered nurses, pharmacists, lab scientists, housekeepers, you name it. However, there are certain specialties where it's next to impossible to find replacement workers. And our replacement workers come from all over the United States, yet we still cannot recruit. And hematology oncology, the cancer discipline is the most difficult to recruit, as well as pharmacists and many others. And as you know, they all need to be licensed in California, and the Board of Registered Nursing is certainly, it is challenging to, we're not a compact State for nursing, so that also hampers our ability to find replacement workers. But we have been working for the past, since our contract, even months before, our contract expired September 30, 2017. But knowing that the contract expired formally June 30, 2017, we have been working on this since April of 2017 in terms of preparation efforts.

Speaker Toby Marsh:
I would like to just piggy back on that. So while it's possible to get replacement workers, again, the level of complexity of patients that are seen in our type of facilities are not where some of these replacement workers come from. Additionally, as some people said, health care is complex. And with the electronic medical record, protocols and so forth, are not the same universally. So for instance, let's say Epic is the electronic medical record. If you've seen one electronic medical record, you've seen one. They are not the same and to be able to go in and navigate orders for medication administration, those processes are unique from organization to organization. So training and getting them up to speed does not mean we are going to be able to deliver the same level of quality of care based on that.

Member Winslow:
Here's another question. We've been through this drill before. This Board or a configuration of it and been through other public sector strikes also where the employer is claiming a certain group of people are essential employees and the union is saying, oh, nobody's essential, we're all going to go on strike. I'm being factious of course. But my question to you is, are you in conversations with the unions about who are, who should be considered essential and who should not?

Speaker Tina Mamone:
We've not begun those conversations. We certainly internally are preparing our declarations on who we feel are essential to deliver the care. You raise a good point. Let's say a medicine nurse on an acute care unit, we may be able to get a replacement worker, and that may be sufficient for say 24 hours, because they're

delivering basic care. But for those very specialized areas, a nurse is not a nurse. A nurse from Alabama that walks into UCSF Medical Center with eight hours of training will not deliver the care that we would all want to. They'll deliver safe care, but it will not be the same care delivery as if it was a UCSF nurse. Thank you.

Chair Gregersen:
Okay, the next speaker Trisha Maxfield.

Speaker Trisha Maxfield:
Good morning. My name is Trisha Maxfield. I'm the Hematology Oncology Clinic and Infusion Manager at UCSF. And piggy backing on what Ms. Mamone and what Toby had said. We wanted to come and kind of give a face of some of the patient population that we're talking about and what that really entails. So in our infusion centers at UCSF, we treat a lot of pediatric and adult patients undergoing bone marrow transplant and we're concerned with a labor action. But even if there was a 10 day notice, the ball has already begun rolling for that patient population. So about 14 days ahead of time is when the trigger is pulled for a patient that is going to undergo a bone marrow transplant. And those are patients that need to be cared for by staff whether it's nursing staff, technical staff that have undergone the training in order to care for those patients. They usually come into the infusion center about 21 days ahead of time to get their stem cells collected. And they can be receiving their stem cells at UCSF or we can be collecting stem cells to send to another state where they're going to be doing the transplant. Once a patient is set up in that 21 days ahead of time, they've already started getting their chemotherapy. So if we have a patient that's coming in expecting a transplant from a sibling, they'll come in about 21 days ahead of time and start what we call their prep. And then about 8 days ahead of time, they're sibling will come in and donate their stem cells, which then we will infuse 8 days later. So even with a 10 day notice of a labor action, there's no way to halt what's already started. And so that is some concern because involved in that is not just nursing staff, but it's the staff, the technical staff that can actually do the stem cell collections. It's the lab staff that receive the cells and has to process them in order to administer them to the receiving patient. And then all of the laboratory staff that needs to run the important blood tests that we're monitoring for the next three weeks while the patient's there. After the patient receive the transplant, at UCSF we require them actually to stay within 35, 30 minutes driving distance to UCSF for three months because there is not, bone marrow transplants are only done at three or four hospitals in the Bay Area. And so there is not other hospitals that are capable in the emergency rooms to handle these patients. So they're required to come back to UCSF.

Another big concern with even planning ahead of time is these patients' insurance companies are case rated to come specifically to UCSF for the following three months. So if we were to send them to another hospital for emergent care, or have to transfer them because we didn't have the staff to take care of them at UCSF, that patient would be handed that bill because the insurance company would not have to pay for the patient if we sent them to another hospital. So there's very big concerns that are more than just a 24 hour issue. It's a month or two long issue.

Also in the infusion areas, we are an early phase clinical trial setting. Which means we're doing first in trial patients and they have to stick to the schedule that's been given to the by the sponsor in order to maintain the schedule. So if a patient is scheduled to come in during the day that we have a labor issue and the staff wasn't there to care for the patient, it can prevent them from staying on that trial by missing that one day. That's how tight they're monitored by the sponsors and the FDA. And so that's some concern, all of our early phase trial patients, the nurses and the staff taking care of them have gone through training and have to be signed off by the sponsor for FDA Regulations that they can care for those patients. So bringing in relief staff for that patient population, we're unable to do that. So, that's our concerns, and that affects the adult and the pediatric population.

Chair Gregersen:
Okay, thank you. And the final speaker that we have a card for is Brian Smith.

Speaker Brian Smith:
Good morning. My name is Brian Smith. I'm the Director of Respiratory Care Services at UCSF Medical Center. I'm here to talk about respiratory therapists. Most people know what a physician is, they know what a nurse is, but a respiratory therapist is a very integral part of the care team that provides a lot of technical, as well as protocol-driven services to the team. We work across the continuum of the medical center. We work in every area of medical leadership from pulmonary medicine and from anesthesiology and also surgery. The service that we're very integrated with is the transplant service, lung transplant service. There is much that goes into the care and prep work for someone who's going to have lung transplantation. Many times we have patients here for months before they get (unintelligible) for their lung transplant and we have to keep them conditioned, we have to go through a rigorous regiment and protocol driven routine to keep their bodies in shape so that they could have a successful transplant when they get the organ match and they're called for a transplant. So there's a lot of up front work and there's also a lot of work with the patients after they've had their transplant. And that's provided with the team, respiratory therapists are part of that. So, people come to our facility because of the outcomes. We have great outcomes. People live. (unintelligible) That's important. And there's also an element of trust that patients have, family members have with our team. They know us by name. They know who we are. We follow them for sometimes years before they've had these interventions. And the same goes for other areas that we cover, such as pediatrics, neonatal, respiratory therapists have to provide a different set of skills when they take care of pediatric patients and do premature baby ventilation, neonatal population. So it's complicated, it's complex where we're at. It's something that replacement staff, although licensed and deemed competent, may not be specialized to the extent that our therapists are to take care of these subset populations. So I would urge the Board to consider this going forward if there is a labor action and understand that there is a difference between what a respiratory therapist does in these different areas and the teams that they work with. Thank you.

Chair Gregersen:
Thank you. That concludes the comments from people that I have cards. Is there anybody else in the audience that wishes to address the Board? So seeing none, let's now move on to our staff reports that have been received by the Board. Let's start with Division of Administration, Chief Administrative Officer Mary Ann Aguayo.

Transcribed by:
Cheryl Shelly
Appeals Assistant
Public Employment Relations Board

Date: April 12, 2018