

CHA HUMAN RESOURCES COMMITTEE CONFERENCE CALL

**July 25, 2017
1 - 2:30 p.m.**

Dial-in: 1-800-882-3610
Passcode: 7940090#

AGENDA

<u>ITEM</u>	<u>TIME</u>	<u>SUBJECT</u>	<u>REPORTING</u>	<u>PAGE</u>
I.	1:00 - 1:10 p.m.	WELCOME, INTRODUCTIONS A. HR Committee Roster: changes to Michele Coughlin	Blanchard-Saiger	3
II.	1:10 - 1:30 p.m.	LEGISLATIVE AND REGULATORY UPDATE	Blanchard-Saiger	6
III.	1:30 - 2:30 p.m.	LOOKING AT ABSENCES & LEAVES WITH A FRESH PERSPECTIVE A. Discussion guide <ol style="list-style-type: none"> 1. What business analytics/data is needed to advocate for a different approach with leadership? 2. Are there effective messages for CEO/CFO? 3. What data is currently available? 4. Are there appropriate staffing benchmarks? 5. What training for management/staff/physicians is needed/effective? 6. Prioritizing resources – 2-3 steps to improve productivity and decrease risk 7. Other B. Allied for Health Survey – Input requested C. Next steps	All	19
IV.	2:30 p.m.	ADJOURN	Blanchard-Saiger	

ANTITRUST POLICY STATEMENT

This meeting will bring together representatives of organizations that are competitors to explore issues that might provide general benefit to the industry. Although the subject matter of these discussions is not intended to restrain competition in any manner, it is important for everyone to recognize that this meeting conceivably could be characterized as an opportunity for inappropriate information exchanges or agreements that result in anticompetitive or otherwise unlawful conduct in violation of the antitrust laws.

It is the intent of all participants that this meeting and their participation in it will comply fully with all legal obligations. In particular, any discussions or agreements that could raise antitrust concerns are entirely beyond the bounds of this meeting and the advice of legal counsel will be sought if there is any question in this regard. Similarly, any questions about the appropriateness of a discussion topic or a particular piece of information to be shared should be raised with the legal counsel before they are shared with the group. Discussing the following categories of information should be avoided:

1. Profits, premiums, prices, surcharges, or discounts;
2. Current or forward-looking wage and other compensation information, including actual figures as well as strategies;
3. Rate of hiring and number of personnel to be hired;
4. Any refusal to deal with an employee or class of employees;
5. Allocation of geographic or product markets;
6. Any other topic involving any possible anticompetitive practice.

Another key issue to keep in mind is that even though employees, through their unions, may legally coordinate with one another through the collective bargaining process, hospitals must act independently and unilaterally in negotiating with unions (absent a valid multi-employer bargaining arrangement).

Discussion of the meaning and interpretation of legislative and regulatory developments is permissible. However, if the discussion moves towards an exchange among hospitals about how those developments are affecting the levels of compensation each will offer, the rate of hiring, or other competitively sensitive subjects, then those topics could expose roundtable participants to potential risk.

These discussions and any actions resulting from them are not intended to play any role in the individual competitive business decisions of the participating companies, nor in any way restrict competition among them or with respect to the industries they serve. It is the responsibility of every participant to be guided by this policy of strict compliance with the antitrust laws and to raise any concerns with possible violations of this policy promptly.



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Open

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July 2017 Legislative, Regulatory and Case Law Update

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Vice President, Labor and Employment



CALIFORNIA
HOSPITAL
ASSOCIATION



2017 Bills



Minimum Wage

- AB 387 (Thurmond)
 - Would require employers to pay individuals minimum wage to a person engaged in a period of supervised work experience to satisfy requirements for licensure, registration, or certification as an allied health professional.
 - Excludes nurses and pharmacists
 - CHA – Oppose
 - Status – Assembly Inactive File (2 year bill)

3



“Opportunity to Work”

- AB 5 (Gonzalez-Fletcher)
 - Would require an employer to offer additional hours of work to an existing employee who, in the employer’s reasonable judgment, has the skills and experience to perform the work before hiring any additional employees or subcontractors, including hiring an additional employee or subcontractor through the use of a temporary employment agency, staffing agency, or similar entity; would not apply where it would result in payment of overtime
 - Would require the employer to use a transparent and nondiscriminatory process to distribute the additional hours of work among existing employees
 - To the extent required by federal law, any of portion of this section may be waived in a bona fide CBA provided that such waiver is explicitly set forth in clear and unambiguous terms.
 - CHA – Oppose unless amended
 - Status – Assembly Appropriations (2 year bill)

4



Cal/OSHA - Plume

- AB 402 (Thurmond)
 - Would require Cal/OSHA to convene, by June 1, 2018, an advisory committee to develop regulations requiring hospitals to evacuate or remove plume — noxious airborne contaminants generated as byproducts from specific devices used during surgical, diagnostic and therapeutic procedures
 - The proposed regulations must be submitted to the Cal/OSHA Standards Board by June 1, 2019
 - The Cal/OSHA Standards Board must adopt regulations by July 1, 2020.
 - CHA – Oppose Unless Amended
 - Status – Senate Floor

5



Whistleblower

- AB 1102 (Rodriguez)
 - Would have prohibited a health facility from taking adverse action against staff who refuse a patient assignment or change in assignment on the basis that such assignment would violate Title 22 section 70217 (nurse to patient ratios, floating, competencies, etc.)
 - Amended to remove this provision and increase penalty for whistleblower retaliation
 - CHA – Neutral
 - Status – Senate Appropriations

6



RN Reporting

- SB 799 (Hill)
 - Would require employers to report to the BRN any termination or resignation for cause based on:
 - Use of controlled substances or alcohol to the extent that it impairs the licensee's ability to safely practice registered nursing.
 - Unlawful sale or possession of a controlled substance or other prescription items.
 - Patient or client abuse, neglect, physical harm, or sexual contact with a patient or client.
 - Also requires staffing agencies to report rejection for assignment for the same reasons
 - Provides employer with immunity for reporting
 - Imposes a \$5,000 fine for willful violations
 - Treated as a complaint by BRN; is not included on RNs license
 - CHA – Neutral
 - Status – Assembly Bus. & Prof (did not meet deadline)

7



Staffing – Dialysis Clinics

- SB 349 (Lara)
 - Would establish minimum staffing requirements for RNs, techs and social workers in chronic dialysis clinics
 - Would establish a minimum transition time between patients receiving dialysis services at a treatment station
 - CHA – Oppose
 - Status – Assembly Appropriations

8



Emergency Services

- AB 263 (Rodriguez)
 - Would require EMS providers to submit their violent incident logs to EMSA; EMSA would then post a corresponding report on its website annually beginning in 2019
 - Would require EMS providers to pay employees 226.7 premium if their meal or rest period is interrupted and provide another meal or rest period
 - CHA – Follow, hot
 - Status – Senate Appropriations

9



Home Care Aide Registry

- AB 1513 (Kalra)
 - Would authorize specified labor unions to request and obtain personal contact information for individuals registered on the home care aide registry for purposes of organizing
 - Would require the department to develop an opt-out process for home care aides
 - CHA – Follow, hot
 - Status – Senate Appropriations

10



County Contracting

- AB 1250 (Jones-Sawyer)
 - Would require counties to go through onerous analysis before contracting for any “personal services” and to make public specific, confidential information
 - Impacts county hospitals as well as private hospitals as contractors
 - CHA – Oppose unless amended
 - Status – Senate Appropriations

11



Salary Test

- AB 1565 (Thurmond)
 - Would increase the minimum salary requirement for exempt employees to \$3,956 per month (\$47,472/year) or an amount no less than twice the state minimum wage for full-time employment beginning January 1, 2018
 - Does not alter duties test
 - CHA – Follow
 - Status – Senate Floor

12



Employers: Gender Pay Differentials

- AB 1209 (Gonzalez-Fletcher)
 - Would require an employer that is required to file a statement of information with the Secretary of State and that has more than 500 employees to:
 - Collect pay disparity information for exempt employees and board members
 - Post the information on a specified webpage beginning July 1, 2020
 - Annually update the information
 - CHA – Follow
 - Status – Senate Appropriations

13



Equal Pay

- AB 168 (Eggman)
 - Would prohibit an employer from seeking salary information about an applicant for employment.
 - CHA – Follow
 - Status – Senate Floor

14



Discrimination

- AB 569 (Gonzalez-Fletcher)
 - Would prohibit an employer from
 - Taking adverse employment action against an employee based on his or her reproductive health care decisions, including the timing thereof, methods, or the use of any drug, device, or medical service related to reproductive health by an employee or employee's dependent.
 - Requiring an employee to sign a waiver or other code of conduct or similar document that purports to deny any employee the right to make his or her own reproductive health care decisions, including the use of a particular drug, device, or medical service.
 - Would require employers that provides an employee handbook to its employees to include notice of the employee rights and remedies under this section
 - CHA – Follow
 - Status – Senate Appropriations

15



Employee Safety

- AB 978 (Limon)
 - Requires employers to provide employees or their representatives with a copy of the Illness and Injury Prevention Plan upon request
 - CHA – Follow
 - Status – Senate Floor

16



Criminal History

- AB 1008 (McCarty)
 - Would prohibit employers from inquiring into an applicants criminal history until a conditional offer has been made- “Ban the Box”
 - Establishes an individualize assessment and “grievance process”
 - Has not yet been amended to address CHA’s concerns
 - CHA – Oppose unless amended
 - Status – Senate Appropriations

17



Legislation

[leginfo.legislature.ca.gov/faces/
billSearchClient.xhtml](http://leginfo.legislature.ca.gov/faces/billSearchClient.xhtml)

18

A slide with a light blue background featuring a white logo in the top left corner and the text "Indoor Heat Illness" in dark blue. The background has a subtle pattern of curved lines and a halftone texture.

Indoor Heat Illness

- Required by SB 1167 (2016)
- Cal/OSHA convened an Advisory Committee in Feb. 2017 and second meeting held on May 25, 2017
- <http://www.dir.ca.gov/dosh/doshreg/Heat-illness-prevention-indoors/>
- CHA is working with employer coalition; significant concerns
 - CHA has created a workgroup

20



Antineoplastic Drug Handling

- Cal/OSHA convened an Advisory Committee in June 2015; held a subsequent meeting in October with a draft discussion document
- CHA created a workgroup
 - Attended the meetings
 - Reviewed the draft discussion document
 - Submitted comments
- No formal deadline established

21



Fair Employment & Housing Council

- Criminal History in Employment Decisions
 - Went into effect on July 1, 2017
- Transgender Identity & Expression
 - Went into effect on July 1, 2017
- www.dfeh.ca.gov/FEHCouncil.htm


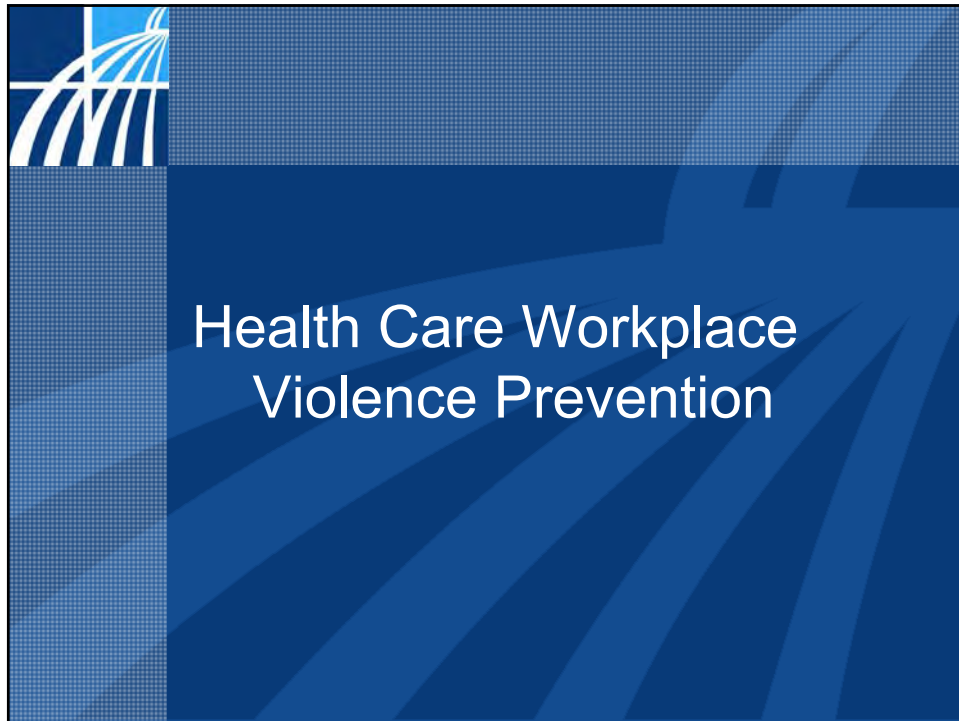
22

A slide with a light blue background featuring a white logo in the top left corner consisting of several curved lines. The title "Gerard v. Orange Coast Memorial Medical Center" is in dark blue. Below the title is a list of bullet points in black text. The number "24" is in the bottom right corner.

Gerard v. Orange Coast Memorial Medical Center

- Appellate court determined that healthcare meal period waivers were unlawful
- Hospital appealed the case to the CA Supreme Court
- SB 327 was passed
- CA Supreme Court sent the case back to Appellate Court to reconsider in light of SB 327
- Appellate Court reverses earlier decision; finds waivers are valid
- Plaintiffs file petition for review with California Supreme Court
- CHA files amicus briefs at all stages
- Only question outstanding relates to retroactive liability for period prior to October 5, 2015
- California Supreme Court accepted review last week

24



Health Care Workplace Violence Prevention

- Regulations went into effect on April 1, 2017
 - April 1, 2017: Recording and record-keeping requirements go into effect
 - July 1, 2017: Reporting to Cal/OSHA required
 - Remainder of provisions have delayed compliance date of April 1, 2018
- CHA and workgroup have been engaged with Cal/OSHA on training requirements
 - FAQs will be developed
- Status of DP/SNF, home health and hospice reporting obligation

26

Leaves of Absence

* = required question

Please answer this section only for the Location (facility) indicated above, as of September 1, 2015.

***20. How many regular employees at your facility (full- and part-time) took *leaves of absence* in the last 12 months (if any)?**
Answer with headcount, not FTEs; if none, fill in 0.

_____ employees

a. If one or more, how long was the *average* leave?

_____ days OR # _____ hours

***21. In the last 12 months, did any regular employees at your facility (full- or part-time) take *intermittent leave* – that is, leave taken in separate stretches for the same purpose, e.g., medical, sickness, family?**

yes no

a. If yes, how long (in total) was the *average* intermittent leave?

_____ days OR # _____ hours

***22. In the last 12 months, did any regular employees at your facility (full- or part-time) take any *statutory leave* – that is, leave(s) required by law, such as FMLA, ADA, voting, jury duty, etc.?**

yes no

If yes ...

a. How many statutory leaves were taken by regular employees at your facility in the last 12 months?

Answer number of cases, not number of employees.

_____ cases

b. How long was the *average* statutory leave?

_____ days OR # _____ hours

***23. In the last 12 months, did any regular employees at your facility (full- or part-time) take any *policy leave* – that is, leave(s) not required by law, but part of your organization's leave policy?**

yes no

If yes ...

a. How many policy leaves were taken by regular employees at your facility in the last 12 months?

Answer number of cases, not number of employees.

_____ cases

b. How long was the *average* policy leave?

_____ days OR # _____ hours

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Metrics Glossary

Definitions: FTE = Full-time Employees; HC = Headcount

	Calculation	Definition
Organization Costs		
Payroll Costs	$\frac{\text{FY Payroll Costs}}{\text{FTE or HC}}$	Average payroll cost per employee.
Benefits Costs	$\frac{\text{FY Benefits Costs}}{\text{FTE or HC}}$	Average benefits cost per employee.
Total Operating Costs	$\frac{\text{FY Op. Costs}}{\text{FTE or HC}}$	Average operating cost per employee.
Payroll Percentage of Op. Costs	$\left[\frac{\text{FY Payroll Costs}}{\text{FY Op. Costs}} \right] \times 100$	Payroll as a percentage of the total operating cost.
Benefits as Percentage of Op. Costs	$\left[\frac{\text{FY Benefits Costs}}{\text{FY Op. Costs}} \right] \times 100$	Benefits as a percentage of the total operating cost.
Registry as Percentage of Op. Costs	$\left[\frac{\text{FY Registry Costs}}{\text{FY Op. Costs}} \right] \times 100$	Registry as a percentage of the total operating cost.
Human Resource Structure		
HR Expense Percentage of Op. Costs	$\left[\frac{\text{FY HR Costs}}{\text{FY Op. Costs}} \right] \times 100$	Human Resources as a percentage of the total operating cost.
HR Expense per Employee	$\frac{\text{FY HR Costs}}{\text{FTE or HC}}$	Cost of Human Resources per employee.
HR Expense per HR Staff	$\frac{\text{FY HR Costs}}{\text{Core HR Staff FTE or HC}}$	Cost of Human Resources per Human Resource Staff.
Number of Employees per HR Staff	$\frac{\text{FTE or HC}}{\text{Core HR Staff FTE or HC}}$	Number of employees allocated to each member of the HR Staff.

Risk Mgmt. & Worker's Comp		
Cases with Days Away	$\frac{\# \text{ Cases}}{[\text{FTE or HC} \div 1,000]}$	Number of cases with days away per 1,000 employees.
Other Recordable Cases	$\frac{\# \text{ Rec. Cases}}{[\text{FTE or HC} \div 1,000]}$	Other recordable cases per 1,000 employees.
Total Number of Days Away	$\frac{\# \text{ Days Away}}{[\text{FTE or HC} \div 1,000]}$	Total number of days away per 1,000 employees.
Total Injuries	$\frac{\# \text{ Injuries}}{[\text{FTE or HC} \div 1,000]}$	Number of injuries per 1,000 employees.
Acquisition & Recruiting		
Accession Rate	$\frac{[\# \text{ of New Hires}]}{\text{FTE or HC}} \times 100$	Number of replacement hires and hires for new positions as a percentage of the workforce.
Time to Hire (days)	[# of Days Elapsed to Fill Position]	Average number of days to acquire new hires.
New Hires per Recruiting FTE	$\frac{[\# \text{ of New Hires}]}{\text{Recruiting FTEs}}$	Number of new hires per dedicated recruiting FTE.
Cost per Hire	$\frac{[\text{Internal} + \text{External Recruiting Costs}]}{\# \text{ New Hires}}$	Costs involved per new hire.
Retention & Turnover		
Turnover Rate	$\frac{[\# \text{ of Voluntary or Involuntary Separations}]}{\text{FTE or HC}} \times 100$	Rate in which employees voluntarily and involuntarily leave an organization.
Retention of New Hires	Percent of employees hired in the last 12 months still employed in the time periods indicated (e.g. 0-30 days, 31-60 days, etc.). For example, if all new hires made it past 30 days, the 0-30 day's column would reflect 100%.	
Length of Service for Those Terminated	Percent of employees – hired between 4/01/10 and 4/01/11 – terminated in the time periods indicated (e.g. 0-90 days, 91-180 days, etc.). Sum of time periods should equal 100%.	

Metrics Data

	# of Facilities	Percent of Facilities	Percentiles			Average
			25th	50th	75th	
Leaves of Absence						
41 Regular Employee Leaves of Absence Last 12 Months						
None	2	2%				
One or More	84	98%				
42 Number Taking Leaves of Absence	84		98	185	430	336
43 Average Leave Length						
Days	67		44	57	72	64
Hours	8		240	12,330	26,582	13,861
44 Regular Employee Intermittent Leaves Last 12 Months						
Yes	73	85%				
No	13	15%				
45 Average Leave Length						
Days	42		4	12	115	65
Hours	24		6	17	39	40
46 Regular Employee Statutory Leaves Last 12 Months						
Yes	74	86%				
No	12	14%				
47 Number Statutory Leave Cases	70		68	175	464	370
48 Average Leave Length						
Days	61		33	49	70	54
Hours	1		*	*	*	*
49 Regular Employee Policy Leaves Last 12 Months						
Yes	65	76%				
No	21	24%				
50 Number Policy Leave Cases	62		13	26	57	77
51 Average Leave Length						
Days	55		29	31	60	45
Hours	0					

Metrics Data

		# of Facilities	Percentiles			Average
			25th	50th	75th	
Risk Management and Workers' Comp						
19 Cases with Days Away per 1,000 Employees						
	FTE	83	8	16	26	19
	Headcount	84	7	14	25	17
20 Cases with Job Transfer or Restriction per 1,000 Employees						
	FTE	83	4	17	22	16
	Headcount	84	3	15	21	14
12 Other Recordable Cases per 1,000 Employees						
	FTE	83	22	30	42	34
	Headcount	84	19	27	36	30
22 Number of Days Away per 1,000 Employees						
	FTE	83	198	466	1,067	758
	Headcount	84	180	440	959	673
23 Number of Days of Job Transfer or Restriction per 1,000 Employees						
	FTE	83	274	853	1,475	978
	Headcount	84	260	790	1,330	882
24 Total Injuries per 1,000 Employees						
	FTE	83	47	62	76	63
	Headcount	84	41	58	67	56
25 Total Skin Disorders per 1,000 Employees						
	FTE	83	0.0	0.0	1.3	1.1
	Headcount	84	0.0	0.0	1.1	1.0
26 Total Respiratory Conditions per 1,000 Employees						
	FTE	83	0.0	0.0	0.4	0.5
	Headcount	84	0.0	0.0	0.4	0.4
27 Other Illnesses Total per 1,000 Employees						
	FTE	83	0	0	7	5
	Headcount	84	0	0	8	5

Metrics Data

	# of Facilities	Percent of Facilities	Percentiles			Average
Risk Management and Workers' Comp			25th	50th	75th	
28 Workers' Comp Administration						
Self-Administered	27	31%				
Outsourced	44	51%				
Other	15	17%				
29 Workers' Comp Plan Description						
Self-Insured	56	65%				
Insured	30	35%				
30 Pay a Fixed Premium (if Insured)						
Yes	11	37%				
No	19	63%				
31 Fixed Premium Amount	10		\$613,800	\$1,048,000	\$1,130,800	\$951,900
32 Safe Patient Handling Injuries Last 12 Months						
None	30	35%				
One or More	56	65%				
33 Number of Patient Safe Handling Injuries	86		0.0	4.8	16.0	12.5
<i>"0" responses excluded</i>	56		5.0	10.5	19.8	19.2
34 Average Patient Safe Handling Leave Length						
Days	53		3.5	14.0	30.0	27.5
Hours	3		*	*	*	*