

October 17, 2023

Labor and Workforce Development Agency
Attn: PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
Filed Online via LWDA Portal

Re: Written Notice – Private Attorney General Act (“PAGA”) – California Labor Code § 2698 et seq.
Vijayarathy Sivakumar v. Providence Health Services, et al.

Dear PAGA Administrator:

Pursuant to California Labor Code § 2699.3(a)(1), Vijayarathy Sivakumar (“Employee”) hereby notifies the California Labor & Workforce Development Agency (“LWDA”) that she intends to seek civil penalties pursuant to California Labor Code § 2699.5 for violations of California Labor Code §§ 201, 202, 203, 221-223, 226, 246, 510, 512, 1174, 1194, and 1198, on behalf of herself and other aggrieved employees of Providence Health & Services and Providence Health System – Southern California (collectively “Employer”).

Ms. Sivakumar and other aggrieved employees are similarly situated current and former non-exempt employees of Providence Health & Services and Providence Health System – Southern California, who worked at Little Company of Mary Medical Center. Employee worked for Employer at Little Company of Mary Medical Center San Pedro in Los Angeles County, California, as a nurse at from approximately 2016 through June 2023.

During the relevant time period of this action, Employer has employed Employee and other aggrieved employees to provide nursing services. Their job duties have included assisting patients in recovery and prevention, filling out patient charts, administering tests, checking vital signs, blood pressures, and temperatures, filling out reports regarding a patient’s health and recovery for review by the treating physician and other nurses, providing medication, providing pre- and post-operation care, administering intravenous infusions, providing wound care, physically moving and otherwise assisting patients with everyday activities, performing other treatment duties, and performing additional administrative duties at the direction of Employer, filling out patient charts and other paperwork.

Pursuant to California law, Employer is obligated to compensate their nurses at a regular rate of pay for the first 8 hours worked in a day, at an overtime premium rate of 1.5 times the regular rate for hours worked in excess of 8 in a day, and at a “double-time” rate of 2 times the regular rate for hours worked in excess of 12 in a day.

Employer regularly schedules nurses to work 12-hour shifts. Employer assigns their nurses to two patients at any given time, and nurses are not permitted to have more than two patients. Nurses’ job duties consist of: taking patient pulses, samples, temperatures, and blood pressures; writing records; filling out patient charts; providing pre- and post-operation care; monitoring and administering medication and intravenous infusions; “reporting on” patients to the next shift of nurses; performing physical exams and health histories; providing wound care; providing healthcare counseling and education to patients; and directing other healthcare personnel, among other duties) that they typically cannot complete all of their duties within the pre-allotted 12- hour shift time. As a result, meal and rest breaks are missed entirely, and if charting is not finished within the allotted shift time, Employee and other nurses are to complete this off-the-clock.

Employer communicates to their nurses the importance of taking special care to accurately record patient information, and clearly and effectively communicate all necessary information to the nurses working the subsequent shift, such as patients’ health history, diagnosis, and plan of care. This is because passing along inaccurate information or failing to alert subsequent staffers of a patient’s particular needs can contribute to gaps in patient care and breaches in patient safety, such as medication errors, wrong-site surgery, and even patient deaths.

As a result, the nurses must be thorough and complete in fulfilling their obligations to fill out patient charts after providing treatment. Thus, nurses are routinely obligated to work much later than their scheduled shift end time to finish their charting obligations.

Further, because Employee and other nurses are prohibited from having more than two patients at any given time, they are not permitted to hand-off their patients to another nurse during meal and rest breaks, as this would result in nurses having more than two patients. However, as a result of pressures from management, Employee and other aggrieved employees are still required to clock-out for meal breaks and continue working.

Employer has failed to provide sufficient “break nurses” to tend to patients so that nurses may take statutorily-mandated meal and rest periods. As a result, the nurses routinely are not provided with uninterrupted, thirty-minute meal periods during which they are completely relieved of any duty, by the end of the fifth hour of work and the end of the tenth hour of work, and are routinely not authorized and permitted to take rest breaks of at least ten minutes by the end of every fourth hour of work or major fraction thereof.

Additionally, supervisors have also ignored the nurses’ pleas for Employer to provide adequate break nurses so that statutorily mandated meal and rest periods may be taken. Further, during the Covid-19 pandemic, nurses were required to arrive prior to their shift time, wait in line and have their temperatures checked prior to clocking-in. This process would take approximately

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5-10 minutes and was unpaid and off-the-clock.

Employer also failed to pay sick pay wages at the regular rate, and instead paid sick pay wages to nurses at the base rate of pay.

Employer also failed to accurately record the hours worked by the nurses in that, as a result of Employer's policies and procedures, all time worked is not accurately captured and thus Employer have failed to keep accurate payroll records.

In light of the foregoing, the nurses—including Employee—have been denied the wages and benefits to which they are entitled under California law.

Employee is bringing an action for compensation and restitution of unpaid wages and recovery for any other injuries arising from Employer's unlawful scheduling policies, pursuant to the California Labor Code, the applicable IWC wage order, and California's Unfair Competition Law, Cal. Bus & Prof. Code §§ 17200, *et seq.* Employee also is seeking penalties, including waiting time penalties and penalties for the failure to keep accurate payroll records, under Labor Code §§ 201, 202, 203, 204, 210, 221-223, 246, 226, 512, 1174.5, 1194, and 1198, on behalf of herself and all other aggrieved, similarly situated nurses who have been employed by Employer.

In addition, Employee intends to commence a law enforcement action pursuant to the Private Attorneys General Act to seek civil penalties for violations of California Labor Code §§ 201, 202, 203, 221-223, 510, 1174, 1194, and 1198.

We respectfully request that the LWDA notify us as to whether it intends to investigate the alleged violations as soon as possible Employee will seek to commence the PAGA action in Los Angeles County Superior Court, either through filing of a new complaint or amendment of an existing complaint, upon receipt of notice that the LWDA does not intend to investigate the alleged violations, or 65 calendar days from the date of this letter, whichever is sooner.

We thank you for your attention to this matter. If you have any questions, please contact us.

Very truly yours,

BRADLEY/GROMBACHER, LLP

A handwritten signature in black ink, appearing to read 'M. Bradley', is written over a horizontal line.

Marcus J. Bradley, Esq.

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cc: PROVIDENCE HEALTH & SERVICES
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