No. S241655

SUPREME COURT OF CALIFORNIA

JAZMINA GERARD, KRISTIANE MCELROY, AND JEFFREY CARL,

Plaintiffs-Appellants,

vs.

ORANGE COAST MEMORIAL MEDICAL CENTER,

Defendant-Respondent.

On Review From the Court of Appeal, Fourth Appellate District, Division Three, Case No. G048039
and
After an Appeal From The Superior Court Of California, Orange County
The Honorable Nancy Wieben Stock, Presiding, Dept. CX-105
Case No. 30-2008-00096591

MOTION OF *AMICUS CURIAE* CALIFORNIA HOSPITAL ASSOCIATION FOR JUDICIAL NOTICE IN SUPPORT OF AMICUS BRIEF

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MOTION FOR JUDICIAL NOTICE

Pursuant to California Rule of Court 8.252 and California Evidence Code Sections 452, 453 and 459, *amicus curiae* California Hospital Association requests that the Court take judicial notice of the documents attached as Exhibits A through D to the Declaration of Kiran A. Seldon.

- Exhibit A is a true and correct copy of relevant excerpts of the Transcript of a Public Hearing of the Industrial Wage Commission (IWC), dated June 30, 2000 ("IWC June Transcript").
- Exhibit B is a true and correct copy of the IWC's Notice of Actions Taken at Public Hearing in connection with the June 30, 2000 hearing ("IWC Notice").
- Exhibit C is a true and correct of relevant excerpts of the Transcript of a Public Hearing of the IWC, dated May 26, 2000 ("IWC May Transcript").
- Exhibit D is comprised of letters of support for SB 327, which are part of the Senate file.

The documents are properly the subject of judicial notice and are relevant to the issues before the Court.

Courts may take judicial notice of (1) official acts of the legislative, executive, and judicial departments of the United States, and (2) facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy. *See* Cal. Evid. Code Sections 452 (c) and (h). "Official acts" include reports, records, and orders of administrative agencies. *Rodas v. Spiegel*, 87 Cal.App.4th 513, 518 (2001).

The IWC is a state agency that was established to regulate wages,

hours, and working conditions in California. *Brinker Rest. Corp. v. Superior Court,* 53 Cal.4th 1004, 1026 (2012). The IWC's Transcripts of Public Hearings (Exhibits A and C) and its Notice of Actions Taken at that Public Hearing (Exhibit B) are, therefore, official acts of an administrative agency that are subject to judicial notice. *See e.g. California Sch. of Culinary Arts v. Lujan*, 112 Cal.App.4th 16, 26 (2003) (taking judicial notice of "orders, minutes, and findings of IWC.")

Exhibits A through C also are available on the website of a state agency (the Department of Industrial Relations), and, therefore, are subject to judicial notice as facts "capable of immediate and accurate determination." Cal. Evid. Code Section 452(h). (The IWC June Transcript is available at www.dir.ca.gov/iwc/PUBHRG6302000.pdf, the Notice is at www.dir.ca.gov/iwc/Amendedagenda6302000.html, and the IWC May Transcript is available at www.dir.ca.gov/iwc/PUBHRG5262000.pdf). *See e.g. Moehring v. Thomas,* 126 Cal.App.4th 1515, 1523 (2005)(granting judicial notice of reports on federal agency websites).

Exhibit D is a part of the legislative history for SB 327, comprised of letters in support of the bill that are contained in the Senate file. These materials were authenticated by the declaration of Gail Blanchard-Saiger, which was previously filed in this Court and attached again to Respondent Orange Coast Medical Center's Motion for Judicial Notice. Courts routinely grant requests for judicial notice of legislative history. *See e.g.*

Marie v. Riverside County Reg. Park, 46 Cal.4th 282, 290-92 (2009).

The documents are also relevant to the issues before this Court. The IWC Transcripts and Notice both describe the adoption of the Healthcare Meal Period Waiver Provision on June 30, 2000. This bears directly on the validity of the Waiver Provision because, as explained in CHA's concurrently-filed amicus brief, the IWC acted *before* SB 88 took away its authority to adopt future meal period requirements at odds with Labor Code Section 512.

The Transcripts and Notice also describe the circumstances leading to the Waiver Provision's adoption on June 30, 2000. Those documents, along with the letters supporting SB 327, show the importance of the Waiver Provision to various stakeholders, including hospitals, employees, and unions, and their good-faith reliance on the validity of the Waiver Provision, all of which is relevant to the retroactivity issue before the Court.

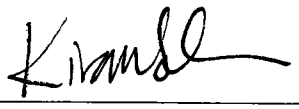
CONCLUSION

For the foregoing reasons, CHA respectfully requests that the Court take judicial notice of the documents attached as Exhibits A through D.

Dated: December 22, 2017

Respectfully Submitted,

SEYFARTH SHAW LLP



Jeffrey A. Berman
Kiran A. Seldon
Counsel for *Amicus Curiae*
California Hospital Association

DECLARATION OF KIRAN A. SELDON

1. I am an attorney licensed to practice law in the state of California and before this Court. I am senior counsel in the law firm of Seyfarth Shaw LLP, attorneys of record for the California Hospital Association ("CHA"). I have personal knowledge of the matters stated herein, and if called upon, I could and would competently testify thereto. I make this declaration in support of CHA's Motion for Judicial Notice.

2. Attached hereto as Exhibit A is a true and correct copy of relevant excerpts of the Transcript of a Public Hearing of the Industrial Wage Commission (IWC), dated June 30, 2000, which I printed from the website of the Department of Industrial Relations (DIR) at www.dir.ca.gov/iwc/PUBHRG6302000.pdf. Also attached in Exhibit A is the document referred to at page 13 of the foregoing Transcript as "Attachment A," which is available at www.dir.ca.gov/IWC/Attachment%20A.html.

3. Attached hereto as Exhibit B is a true and correct copy of the IWC's Notice of Actions Taken at Public Hearing in connection with the June 30, 2000 hearing, which I printed from the DIR's website at www.dir.ca.gov/iwc/Amendedagenda6302000.html.

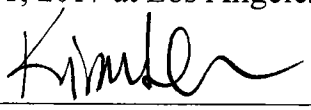
4. Attached hereto as Exhibit C is a true and correct copy of relevant excerpts of the Transcript of a Public Hearing of the Industrial Wage Commission (IWC), dated May 26, 2000, which I printed from the

website of the Department of Industrial Relations (DIR) at www.dir.ca.gov/iwc/PUBHRG5262000.pdf.

5. Attached hereto as Exhibit D is a true and correct copy of letters in support of SB 327 contained in the Senate file. These materials were authenticated in paragraph 4 of the declaration of Gail Blanchard-Saiger, which was previously filed in this Court and attached again to Respondent Orange Coast Medical Center's Motion for Judicial Notice.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct.

Executed on December 21, 2017 at Los Angeles, California.



Kiran A. Seldon

EXHIBIT A

STATE OF CALIFORNIA

DEPARTMENT OF INDUSTRIAL RELATIONS

INDUSTRIAL WELFARE COMMISSION

Public Hearing

June 30, 2000

State capitol, Room 4202

Sacramento, California

P A R T I C I P A N T S

--o0o--

Industrial Welfare Commission

BILL DOMBROWSKI, Chair

BARRY BROAD

LESLEE COLEMAN

DOUG BOSCO

HAROLD ROSE

Staff

ANDREW R. BARON, Executive Officer

MARGUERITE STRICKLIN, Legal Counsel

RANDALL BORCHERDING, Legal Counsel

MICHAEL MORENO, Principal Analyst

DONNA SCOTTI, Administrative Analyst

NIKKI VERRETT, Analyst

I N D E X

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INDEX (Continued)

PROCEEDINGS

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(Time noted: 10:18 a.m.)

COMMISSIONER DOMBROWSKI: I'd like to call the meeting to order, please.

I'd like the record to show that we have all five commissioners in attendance and move to Item 1, approval of the minutes for the meeting that was held on -- where's my date?

MR. BARON: May 26.

COMMISSIONER DOMBROWSKI: May 26th.

COMMISSIONER BROAD: We have to take roll.

COMMISSIONER DOMBROWSKI: I just said the record will show that we're all here.

COMMISSIONER BROAD: Oh, okay.

COMMISSIONER DOMBROWSKI: Commissioners have reviewed the minutes. Can I hear a motion for approval?

COMMISSIONER BOSCO: I move we approve the minutes.

COMMISSIONER DOMBROWSKI: Second?

COMMISSIONER COLEMAN: Second.

COMMISSIONER DOMBROWSKI: All in favor, say "aye."

(Chorus of "ayes")

COMMISSIONER DOMBROWSKI: I would like to make a brief comment for the record that there was contention after the last meeting about the Commission following proper procedures on some of the items on the agenda, that the Attorney General's Office reviewed those procedures and said verbally that we followed the proper steps and were within our boundaries.

Let's go to Agenda Item Number 2, consideration of the proposed amendments to Wages 1 through 13 and 15, from the Interim Wage Order. And I would ask Mr. Baron to comment on that.

MR. BARON: Basically, what Item 2 is, is other than the issues in Item 3 that relate particularly to the healthcare industry, but in those couple of areas that would be expanded to affect the other orders, basically all that Item 2 is, is the -- kind of the -- a lot of the core backbone of what was in AB 60 that we -- if you -- even if you look at the headings on the notice, "Definitions," "Daily Overtime," "Collective Bargaining Agreements," "Make-up Time," "Meal Periods," "Minors," and "Penalties" are taken -- were taken directly from AB 60 and put into the Interim Wage Order. And now, today, we're basically going through a process of fanning out those provisions from the Interim Wage Order into -- so

that they will now sit into all of the orders.

COMMISSIONER DOMBROWSKI: Okay. I have -- it doesn't -- I believe there are four people -- I'm not sure if they want to talk about this item or if they were related to healthcare -- Barbara Blake, United Nurses Association; Michael Zackos; Rebecca Motlagh; or Allen Davenport.

MR. DAVENPORT: (Not using microphone) Healthcare.

MR. BARON: They all want health.

COMMISSIONER DOMBROWSKI: Healthcare? Okay.

COMMISSIONER BROAD: Mr. Chairman, can I just ask a question --

COMMISSIONER DOMBROWSKI: Um-hmm.

COMMISSIONER BROAD: -- of Mr. Baron?

Under Item 2, there's a reference to two issues involving the collective bargaining and the meal period in Order 12. We are -- that is included in what is in the noticed thing that we are voting on. Is that correct?

MR. BARON: The -- no. The issue on -- you know, I would suggest that you -- those were items that were sent out to the commissioners.

COMMISSIONER BROAD: Okay.

MR. BARON: I would say that you should formally offer those as amendments.

COMMISSIONER BROAD: Okay. I will formally --

COMMISSIONER DOMBROWSKI: Can you just read them into the record?

MR. BARON: As to the -- as to the -- in the "Collective Bargaining" section, basically what we're doing is, where it makes mention in the notice of "pertinent collective bargaining subsection," the amendment would actually delineate the specific subsections. And so, it would start off by saying, "Except as provided in subsections" -- and the applicable subsections as to where they fit in the wage orders themselves. We have situations where the same language can be sitting in different subsections. So, it doesn't -- you have to make allowance for that as we fan it out.

So, in the "Collective Bargaining," it would start out by saying, "Except as provided in Subsection (C)," which deals with overtime for minors 16 or 17 years of age; "(D), 'Availability of Place to Eat for Workers on a Night Shift'; and (G), 'Limit on Work over 72 Hours,' the provisions of this order," meaning that if you have a collective bargaining agreement, "shall not apply," and then it continues on.

COMMISSIONER BROAD: The provisions of the overtime section of the order, right, not all of the order?

MR. BARON: Right.

COMMISSIONER BROAD: That's the --

MR. BARON: Because it's still --

COMMISSIONER BROAD: Right. Section 3, in most of the wage orders.

MR. BARON: Right, right. I mean, it's still going into Section 3 as it's -- as it's put in the notice.

Then as to the -- as to the meal periods -- and again, this is apart from -- there's a section on meal periods in Item 3 relative to the healthcare industry -- but what is basically sitting now is to meal periods in the -- in the language that's in the notice, is direct language from AB 60. And the other amendment would say that -- that "This section, however, shall not apply to Wage Order 12," which is the motion picture industry, and that the language in Order 12 which provides for a meal period after six hours, as opposed to after five hours, would continue to apply.

COMMISSIONER BROAD: Okay. Mr. Chairman, I would move those two items. However, I would ask that

the record reflect, on the second one dealing with meal periods in the movie industry, that it show me as abstaining on that. So, two motions.

COMMISSIONER DOMBROWSKI: All right.

COMMISSIONER BROAD: The first one and the second one, with me abstaining on the second one.

COMMISSIONER DOMBROWSKI: Okay.

COMMISSIONER BROAD: Thank you.

COMMISSIONER DOMBROWSKI: Do I need to do a roll or just -- okay. We have a motion. We have -- all in favor, say "aye."

(Chorus of "ayes")

MR. BARON: With an abstention on the second.

COMMISSIONER DOMBROWSKI: With an abstention from Commissioner Broad on the second one.

With that said, I need a motion for approval of the language in Item 2.

COMMISSIONER BROAD: So moved.

COMMISSIONER ROSE: Second.

COMMISSIONER DOMBROWSKI: Second. Let's call the roll.

MR. BARON: Dombrowski.

COMMISSIONER DOMBROWSKI: Aye.

MR. BARON: Bosco.

COMMISSIONER BOSCO: Aye.

MR. BARON: Broad.

COMMISSIONER BROAD: Aye.

MR. BARON: Coleman.

COMMISSIONER COLEMAN: Aye.

MR. BARON: Rose.

COMMISSIONER ROSE: Aye.

COMMISSIONER DOMBROWSKI: That item is adopted, five to zero.

Let's go to Item 3, which is the review of the language adopted at the May 26 public hearing on the healthcare industry.

I would like to point out that we have -- I believe there are still copies at the desk of an alternative compromise that the industry and its participants and labor have reached. I think it demonstrates very good faith on the part of both sides on some very difficult issues. It does provide for a further refinement of the definition of the healthcare industry and which industry employees are eligible for a 12-hour shift. It addresses the issue of mandatory overtime after 12 hours and what conditions would dictate that. It provides for some restrictions in terms of after 16 hours, and the employee having to -- can only be

-- volunteer to work overtime, no mandatory overtime after 16 hours. And in other areas, it provides for other disclosures in other items that we -- that we were addressing.

Commissioner Broad, I don't know you want to make any other comments.

COMMISSIONER BROAD: Yes. I'd just like to say that Chairman Dombrowski and I were present at some of the negotiations which occurred. It was an example of how the various interests involved in these issues can get together and negotiate something that works for everyone. And I -- it's the way the process should go forward.

So, I support this amended draft of Attachment A and would urge my fellow commissioners to support it as well.

COMMISSIONER DOMBROWSKI: Commissioner Bosco?

COMMISSIONER BOSCO: Mr. Chairman, I also want to reflect what Commissioner Broad has just said. I think, if you look back at our last meeting and the contentiousness that we faced then and see now that almost all these issues are resolved, I think it is to the credit of you, Mr. Chairman, and Mr. Broad, and the representatives from management and organized labor that

we can be here today in relative quietude on this matter.

Having said that, though, I may disrupt things a bit because I do want to offer an amendment. I don't know if the chair wants to entertain it at this time or --

COMMISSIONER DOMBROWSKI: Yes.

COMMISSIONER BOSCO: Okay. And I noted that in the agreement that had been reached, veterinary care and veterinary establishments had been left out. I haven't made a lifetime of animal rights or that type of thing. I do love pets and I kind of unwittingly stepped into this issue, thanks to local veterinarians contacting me. But I do think it's important that those clinics that want to keep 24-hour emergency service, as many of them do now in each community, be able to adjust their work hours accordingly. And although all of us, I think, view human healthcare issues as perhaps more important, I don't think we should forget that there are healthcare needs out there for animals through these veterinary clinics.

And so, I would like to make an amendment to the draft that we have before us, and that be a new amendment, Item 1(B)(4), that "licensed veterinarians, registered veterinary technicians, and registered animal

health technicians providing patient care" be included in the healthcare industry coverage, and furthermore, that the Statement as to Basis be amended to say that within the meaning of Business and Professions Code Section 4825 through 4857.

COMMISSIONER DOMBROWSKI: Let me just -- I was -- I was going -- we have people who want to testify, so before we take the motion -- I wanted to have it on the table so everybody understands what we're going to be voting on -- but now let's call up the people to testify.

COMMISSIONER BOSCO: Okay. Do we have a second to that or --

COMMISSIONER DOMBROWSKI: Well, we will, I think.

COMMISSIONER BOSCO: Okay.

COMMISSIONER DOMBROWSKI: After the testimony, we'll recognize the motion and then ask for a second.

COMMISSIONER BOSCO: Okay.

COMMISSIONER DOMBROWSKI: But I felt we should have that on the table before we --

COMMISSIONER BOSCO: All right.

COMMISSIONER DOMBROWSKI: Let's see. I'd like to have Mr. Rankin, Mr. Camp, Mr. Davenport. I believe you want -- did Mr. Camp want to talk on this issue?

MR. CAMP: (Not using microphone) On Item 7, on the ski industry.

COMMISSIONER DOMBROWSKI: I'm sorry. I'm sorry.

Barbara Blake, Mr. Maddy, Michael -- I'm sorry -- Zackos, Mr. Sponseller, Rebecca Motlagh, Mr. Richard Holober.

Did I miss anyone?

Go ahead, Mr. Rankin.

MR. RANKIN: Tom Rankin, California Labor Federation.

We, after many meetings and a lot of time and a lot of support from a lot of people, have reached an agreement on the proposal that you have before you. I would like to just point out -- we support this agreement, but I would like to point out, because I heard some moans in the audience when you characterized the agreement, it does provide for no mandatory overtime except in cases of emergency.

COMMISSIONER DOMBROWSKI: Oh, I'm sorry. You're --

MR. RANKIN: And the 16 hours had to do with a voluntary agreement in the case of an emergency only.

COMMISSIONER DOMBROWSKI: Right.

MR. RANKIN: It also -- so, that was the --

that's -- I wanted to make that clear. And it also, in a concession to the hospitals, does allow for a 13-hour period of work in certain circumstances where an employee scheduled to relieve the other employee does not report for duty and doesn't inform the employer more than two hours before the employee is scheduled to report. And this is designed to give a one-hour period to find someone else to do that work.

So, both sides made some concessions here. We worked hard, and we think this is an agreement that you should approve.

Just one comment on the issue that was just raised. We really don't believe that animal care falls within the definition of healthcare.

COMMISSIONER DOMBROWSKI: Mr. Davenport?

MR. DAVENPORT: Mr. Chairman, Allen Davenport, with the Service Employees International Union, the largest union of healthcare workers in California and in the nation.

We're very pleased that Mr. Broad and yourself were able to bring us together with the management side of the operation and that we were able to create an agreement that I think accomplishes our major goals, in terms of a prohibition on mandatory overtime and in

creating fairness in the election process. We didn't achieve everything that we asked for, but I think we're satisfied that this is a much improved version over the current state of affairs. There will be more fairness in the elections. There will be a prohibition on mandatory overtime.

And we're very grateful to you and Mr. Broad for the work that you put into doing this.

We would also say that animal care is not healthcare. And while there may be an interest in this industry in doing this, the appropriate way to do that is not by calling it healthcare, but by creating a wage board and going -- and going through the same kind of exercise that we all went through here, as people in the healthcare industry. And that's -- that's the course of action I'd recommend to Mr. Bosco and the people who are appealing to him.

MS. BLAKE: Barbara Blake, United Nurses Associations of California, AFSCME.

We urge the Commission to accept the amendments as they're written. This took a lot of time, patience, hard work on everyone's part. And we're pleased, as Allen said, with the amendments as written, and we would appreciate approval of this.

Thank you.

MR. HOLOBER: Richard Holober, California Nurses Association.

And, you know, we respect and appreciate all the work and effort that went into this; however, we do not support the language on the mandatory overtime, for several reasons that, you know, we have tried to enunciate. First is that this leaves the vast majority of registered nurses in California without any overtime protection. Approximately half or more of the registered nurses are not working alternative 12-hour work shifts. So while this would appear to provide some protection after 12 hours to that individual, it provides no protection to an 8- or 10-hour shift nurse, who still can be compelled to work 16 or 24 hours, as does sometimes occur.

And the language regarding what would constitute an emergency will still really remain completely in the discretion of the hospital administrator. When the hospital administrator determines that there is an emergency, there is an emergency. It is not subject to review by any external or objective source, and there are no penalties for violation of those declarations of an emergency.

So, given those shortcomings, we respectfully do not support that language.

We also do appreciate, you know, all the work that was put into this. We recognize that in some of the election procedures, there are some improvements. But we do believe that the language regarding mandatory overtime falls short of protection for our nurses.

Thank you.

MR. MADDY: Mr. Chairman and members, Don Maddy, representing the California Healthcare Association.

We were also a party to the compromise. We think this is a good balance between the goals the Legislature and the Governor had with respect to AB 60 and patient care issues. We brought a lot of patient care issues to the table.

With respect to the mandatory overtime issue, we wanted to have some triggers in there that would protect in the case of emergency so patients aren't left without care. That was the goal of both sides, and I think that we -- and both sides wanted to make sure patients were protected as well as having some employees and management have some flexibility and some -- some way to work out problems among themselves, as opposed to going to outside parties and third parties for every single dispute.

So I think this is a very good compromise that's been reached. I think it is very fair with respect to election procedures, gives some remedies when employers are not operating properly with respect to the goals of the legislation. And I think it also is a testament to where cooperation can take you.

Your help, Mr. Chairman, and Mr. Broad's, since you sat through the meetings, were particularly helpful to us. This is a -- this was a tough road. It was a tough road for us to go down. We didn't have -- we didn't really have a good understanding of each other's needs at the beginning, and I think at the last meeting it kind of showed that. There was a lot of misunderstandings. And I think we reached some understandings through last month that are going to be very productive and helpful to all concerned.

I also want to thank Mr. Baron for his participation, because he was a good person to bounce things off of and to also help communicate between the sides during this process.

So, we support it and we appreciate your help.

Thank you.

COMMISSIONER BROAD: Mr. Chairman?

COMMISSIONER DOMBROWSKI: Barry.

COMMISSIONER BROAD: Mr. Maddy, I just wanted to particularly express my appreciation for your role in this process. You showed tremendous leadership. And as someone who's a professional advocate myself, I sort of admire -- I very much admire the way you handled yourself in this process. Thank you.

MR. MADDY: Thank you very much.

COMMISSIONER DOMBROWSKI: And I'd like to echo the compliments to the staff and Mr. Baron for the work they did on this. It was -- it was very, very helpful.

Any other comments?

(No response)

COMMISSIONER DOMBROWSKI: Okay. I believe we have a motion on the table from Commissioner Bosco. Do we have a second?

COMMISSIONER COLEMAN: I'll second that.

I've thought about this quite a bit and we have received, I think, more correspondence on this topic than just about anything else. But I think the key thing to keep in mind is the flexibility that this affords not only, I think, helps the industry, but it is flexibility for the -- for the workforce to be able to do this. So, I think this is a human issue, not just an issue about service to the animals that are being served through the

industry.

COMMISSIONER DOMBROWSKI: Mr. Broad.

COMMISSIONER BROAD: Very quickly, with all due respect to Mr. Bosco, I feel like the intent of the Legislature in passing AB 60 was to restore -- or give us the authority to maintain 12-hour days in the healthcare industry as they existed prior to the 1998 wage orders. And I do not believe the veterinary industry was ever included previously. So just -- everyone should understand that what we're doing here is expanding something that was never there prior to 1998.

So, I must respectfully vote no on this particular issue.

Thank you.

COMMISSIONER DOMBROWSKI: Any other comments?

(No response)

COMMISSIONER DOMBROWSKI: Okay. Let's call the roll.

MR. BARON: On the amendment, right?

COMMISSIONER BROAD: On the amendment.

COMMISSIONER DOMBROWSKI: On the amendment.

MR. BARON: Dombrowski.

COMMISSIONER DOMBROWSKI: Aye.

MR. BARON: Bosco.

COMMISSIONER BOSCO: Aye.

MR. BARON: Broad.

COMMISSIONER BROAD: No.

MR. BARON: Coleman.

COMMISSIONER COLEMAN: Aye.

MR. BARON: Rose.

COMMISSIONER ROSE: No.

MR. BARON: Three to two.

COMMISSIONER DOMBROWSKI: Yeah. And we need a motion on the overall --

COMMISSIONER BROAD: I'd like to move the overall.

COMMISSIONER DOMBROWSKI: Second?

COMMISSIONER ROSE: Second.

COMMISSIONER DOMBROWSKI: Okay. Call the roll.

MR. BARON: Dombrowski.

COMMISSIONER DOMBROWSKI: Aye.

MR. BARON: Bosco.

COMMISSIONER BOSCO: Aye.

MR. BARON: Broad.

COMMISSIONER BROAD: Aye.

MR. BARON: Coleman.

COMMISSIONER COLEMAN: Aye.

MR. BARON: Rose.

COMMISSIONER ROSE: Aye.

COMMISSIONER DOMBROWSKI: Five to nothing. That is adopted.

Let's go to Item 4. Commissioner Broad has circulated language concerning meal periods and rest periods for Orders 1 through 13 and 15. Would you like to --

COMMISSIONER BROAD: Yes, Mr. Chairman. This is a rather -- a relatively small issue, but I think a significant one, and that is we received testimony that despite the fact that employees are entitled to a meal period or rest period, that there really is no incentive as we establish it, for example, in overtime or other areas, for employers to ensure that people are given their rights to a meal period and rest period. At this point, if they are not giving a meal period or rest period, the only remedy is an injunction against the employer or -- saying they must give them.

And what I wanted to do, and I'd to sort of amend the language that's in there to make it clearer, that what it would require is that on any day that an employer does not provide a meal period or rest period in accordance with our regulations, that it shall pay the employee one hour -- one additional hour of pay at the

employee's regular rate of compensation for each workday that the meal or rest period is not provided.

I believe that this will ensure that people do get proper meal periods and rest periods. And I would --

COMMISSIONER DOMBROWSKI: Let me ask a question. If you're an employer and you provide for a 30-minute meal period a day, and your employee misses that meal period or eats while working through that meal period, I believe you get paid, correct? It's a paid -- it would then be a paid meal period.

COMMISSIONER BROAD: Yes, it would be a paid meal period.

COMMISSIONER DOMBROWSKI: Right.

COMMISSIONER BROAD: I mean, assuming they pay you for it. I mean --

COMMISSIONER DOMBROWSKI: Assuming that -- well, okay. Does this say, then, if you had a 30-minute meal period as your standard procedure, you would get -- and you missed that, you get an hour's worth of pay? Is that what I'm -- additional -- an hour additional pay.

COMMISSIONER BROAD: If your employer did not let you have your meal period, I think, is what it says. So it's -- it doesn't involve, you know, waivers of a meal period or time off or anything of that sort. And

rest periods, of course, are somewhat different. Employers are obligated to provide rest periods --

COMMISSIONER DOMBROWSKI: Correct.

COMMISSIONER BROAD: -- duty-free and must pay for them. So if you don't provide a rest period, then the -- you know, the employee gets their day's pay, but they don't get the rest, and so that's -- with respect to a meal period, it doesn't have to be compensated.

COMMISSIONER DOMBROWSKI: Okay.

COMMISSIONER BROAD: So it's particularly egregious with regard to rest periods.

COMMISSIONER DOMBROWSKI: Okay. I don't -- does anyone wish to testify on this item?

MR. RANKIN: Tom Rankin, California Labor Federation.

I would like to express our support for Commissioner Broad's proposal. As he stated, the problem exists right now that there is no remedy for a missed meal period or a missed rest period. And what his proposal does is provide a remedy.

And the purpose of the rest period and the meal period is, in the case of rest periods, to have a rest break where an employee is relieved from work duties. The same is true for meal periods, to provide a break

where people can partake of a meal. It is not sufficient that they -- if they don't get their meal period, they simply get paid for that half hour. Sure they do; they're working that half hour. I would hope they would.

This provision of Mr. Broad's at least provides a minor disincentive for employers not to deny employees their rights to rest and meal breaks.

MS. BROYLES: Good morning, commissioners. Julianne Broyles, from the California Chamber of Commerce.

We had not been apprised, of course, of this particular provision early on. Otherwise we probably would have had more extensive comments on it.

I guess I would have to, first of all, raise the issue of the authority to establish a new crime, which basically this is doing. Additionally, we would also point out that if the employee has missed a meal period, they are going to be paid for the meal period in almost all instances. In terms of setting up a new penalty and a crime for basically missing a rest period, as far as I know there is no statute that would permit that to be done. And we would oppose this particular amendment.

MR. ABRAMS: Thank you, Mr. Chairman, members of the Commission. My name is Jim Abrams. I'm with the

California Hotel and Motel Association.

And two issues: first of all, we also question the legislative authority of the Commission to, in essence, adopt and impose new penalties with respect to violations of what is, in essence, a statute, and then the statute picking up the regulations of the Industrial Welfare Commission. So, we object to and question the authority of the IWC to adopt this particular provision.

If, however -- and not conceding the point -- if, however, this type of language is adopted, I have several questions.

First of all, Commissioner Broad, is it your intent that the hour of pay that you reference here would be treated as an hour worked for purposes of calculating daily or weekly overtime?

COMMISSIONER BROAD: No.

MR. ABRAMS: I think -- and again, not conceding that the Commission has any authority to adopt any such provision as this, but if you decide to do so, I would suggest to you that you need to make that clear.

Secondly, I -- I'm not sure I understood your comments with regard to on-duty -- agreed upon on-duty meal periods. I -- I think, in reading the language here, my understanding was that it was intended that an

agreed upon on-duty meal period, for which the employee is, in fact, paid for the half hour that he or she is working, in essence, does not enter into this equation at all. But you made a comment a moment ago that quite -- with all due respect, confused me. I just want to clarify that.

COMMISSIONER BROAD: The employer who, under our regulations, lawfully establishes an on-duty meal period would not be affected if the employee then takes the on-duty meal period. This is an employer who says, "You do not get lunch today, you do not get your rest break, you must work now." That is -- that is the intent.

Let me respond, if I may. Clearly, I don't intend this to be an hour counted towards hours worked any more than the overtime penalty. And, of course, the courts have long construed overtime as a penalty, in effect, on employers for working people more than full -- you know, that is how it's been construed, as more than the -- the daily normal workday. It is viewed as a penalty and a disincentive in order to encourage employers not to. So, it is in the same authority that we provide overtime pay that we provide this extra hour of pay. And that --

So, now, with regard to creating a new crime, I

guess you could argue that anything we do that changes something creates a new crime to the extent that things -- that there are certain aspects of our wage orders that, if violated, can be prosecuted criminally. But I don't believe we have the authority to establish a new crime in the sense that we could say if you -- if you deny someone their meal period or rest period, that you shall spend six months in jail or a year in jail or it will be a felony and so forth. No, we cannot establish new crimes. The Legislature, however, can establish crimes for violations of our wage orders, which is their prerogative, not ours.

MR. ABRAMS: Understood. I -- and on that note, I would -- we -- the California Hotel and Motel Association objects to the proposal on the ground that the -- we submit the Commission does not have the legal authority to adopt such a penalty, also on the ground that if -- to any extent that an employer is required to pay this one hour of pay for a meal period missed, that that has to be offset against whatever penalties the Legislature has established for violation of the Commission's wage orders. Otherwise you are basically saying to an employer, "You are going to be punished twice."

So we object to the proposed amendment.

MS. BROYLES: Mr. Commissioner, can I make one final point?

If this is something that the Commission would like to move forward on and put over -- or at least put out notice so --

COMMISSIONER DOMBROWSKI: It was noticed. It was in the notice.

COMMISSIONER BROAD: It has been in our notice for a month. I mean, we did --

MS. BROYLES: In terms of the full penalty, the hour penalty?

COMMISSIONER BROAD: No. The language that's proposed to be adopted has been out there. I think --

MS. BROYLES: Right.

COMMISSIONER BROAD: -- you may agree with that substantively --

MS. BROYLES: The amendment of Mr. -- of Commissioner Broad.

COMMISSIONER BROAD: -- but there's no last-minute aspect to this at all.

MS. KAHN: Spike Kahn, AFSCME Council 57.

I represent quite a few workers in the hospital industry at UCSF that -- just in policy, the clinics are

always understaffed and they just never have enough staffing to let that person come out on a break. It's not every day, it just happens that people, because the clinics are full, the patients are coming, you have to keep the flow going because you don't want your patients to be waiting while you go out. And day after day, people don't get a break.

And I would like to support this amendment and explain that, by having it on the books, it would give us quite a bit of incentive to our employers that they would just start following the contracts and following the laws that are already down there, that you have to have a break, just by having it on the books. I don't think it would come up that often, in the same way that they don't usually violate any of the -- the overtime laws. It's just a matter of they would be encouraged much more to not keep on working us through our breaks and our lunch times if it were there.

So we're in support of that.

COMMISSIONER DOMBROWSKI: Thank you.

Ms. Stricklin, regarding the legal question?

MS. STRICKLIN: You were asking whether there was any legal impediment to such a penalty. And 516 of the Labor Code allows the Commission to adopt or amend

working condition orders with respect to break periods, meal periods, and days of rest.

And then again, if you look at Section 558, the last section says that civil penalties provided in 558 are in addition to any other civil or criminal penalty provided by law, so that a regulation which sets forth a penalty would just be an additional penalty, which the IWC has the power to do.

COMMISSIONER DOMBROWSKI: Any other questions from the commissioners?

(No response)

COMMISSIONER DOMBROWSKI: Okay. Commissioner Broad, I believe you want to make a motion?

COMMISSIONER BROAD: Yeah. I'll move it.

COMMISSIONER DOMBROWSKI: Is there a second?

COMMISSIONER ROSE: Second.

COMMISSIONER DOMBROWSKI: Okay. Call the roll.

MR. BARON: Dombrowski.

COMMISSIONER DOMBROWSKI: No.

MR. BARON: Bosco.

COMMISSIONER BOSCO: Aye.

MR. BARON: Broad.

COMMISSIONER BROAD: Aye.

MR. BARON: Coleman.

COMMISSIONER COLEMAN: No.

MR. BARON: Rose.

COMMISSIONER ROSE: Aye.

MR. BARON: Three to two.

(Applause)

COMMISSIONER DOMBROWSKI: Okay. I'd like to move to Item 5, consideration of --

COMMISSIONER BOSCO: How about a round of applause for the veterinary?

COMMISSIONER BROAD: Take care of the dogs and cats right now.

(Laughter)

COMMISSIONER DOMBROWSKI: Here we are, moving along so well.

Item 5, consideration of amendment to Wage Order 5 concerning personal attendants.

I'd ask Mr. Baron to brief us.

MR. BARON: This is an overall issue that has been discussed previously. The background to this is that there had been language in the earlier version of the wage orders, in 5-93, that, when we went -- going back to that -- had been changed in '98, but then when we went back to, now, the earlier versions, referenced a 54-hour workday (sic) for these categories of employees.

Attachment A

ALTERNATIVE WORKWEEKS

Wage Orders 4 and 5 are amended as follows:

(A) No employer shall be deemed to have violated the daily overtime provisions by instituting, pursuant to the election procedures set forth in this wage order, a regularly scheduled alternative workweek schedule of not more than ten (10) hours per day within a forty (40) hour workweek without the payment of an overtime rate of compensation. All work performed in any workday beyond the schedule established by the agreement up to twelve (12) hours a day or beyond forty (40) hours per week shall be paid at one and one-half (1 ½) times the employee's regular rate of pay. All work performed in excess of twelve (12) hours per day and any work in excess of eight (8) hours on those days worked beyond the regularly scheduled number of workdays established by the alternative workweek agreement shall be paid at double the employee's regular rate of pay. Nothing in this section shall prohibit an employer, at the request of the employee, to substitute one day of work for another day of the same length in the shift provided by the alternative workweek agreement on an occasional basis to meet the personal needs of the employee without the payment of overtime. No hours paid at either one and one-half (1 ½) or double the regular rate of pay shall be included in determining when forty (40) hours have been worked for the purpose of computing overtime compensation.

(B) If an employer, whose employees have adopted an alternative workweek agreement permitted by this order requires an employee to work fewer hours than those that are regularly scheduled by the agreement, the employer shall pay the employee overtime compensation at a rate of one and one-half (1 ½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours, and double the employee's regular rate of pay for all hours worked in excess of twelve (12) hours for the day the employee is required to work the reduced hours.

(C) An employer shall not reduce an employee's regular rate of hourly pay as a result of the adoption, repeal or nullification of an alternative workweek schedule.

(D) An employer shall explore any available reasonable alternative means of accommodating the religious belief or observance of an affected employee that conflicts with an adopted alternative workweek schedule, in the manner provided by subdivision (j) of Section 12940 of the Government Code.

(E) An employer shall make a reasonable effort to find a work schedule not to exceed eight (8) hours in a workday, in order to accommodate any affected employee who was eligible to vote in an election authorized by this Section and who is unable to work the alternative workweek schedule established as the result of that election.

(F) An employer shall be permitted, but not required, to provide a work schedule not to exceed eight (8) hours in a workday to accommodate any employee who is hired after the date of the election and who is unable to work the alternative workweek schedule established by the election.

(G) The provisions of Labor Code §§ 551 and 552 regarding one (1) day's rest in seven (7) shall not be construed to prevent an accumulation of days of rest when the nature of the employment reasonably requires the employee to work seven (7) or more consecutive days; provided, however, that in each calendar month, the employee shall receive the equivalent of one (1) day's rest in seven (7).

(H) Notwithstanding the above provisions regarding alternative workweek schedules, no employer of employees in the health care industry shall be deemed to have violated the daily overtime provisions by instituting, pursuant to the election procedures set forth in this wage order a regularly scheduled alternative workweek schedule that includes work days exceeding ten (10) hours but not more than twelve (12) hours within a 40-hour workweek without the payment of overtime compensation, provided that:

(1) An employee who works beyond twelve (12) hours in a workday shall be compensated at double the employee's regular rate of pay for all hours in excess of twelve (12);

(2) An employee who works in excess of forty (40) hours in a workweek shall be compensated at one and one-half (1 ½) times the employee's regular rate of pay for all hours over forty (40) hours in the workweek;

(3) The same overtime standards shall apply to employees who are temporarily assigned to a work unit covered by this subsection;

(4) Any employer who instituted an alternative workweek schedule pursuant to this subsection shall make a reasonable effort to find another work assignment for any employee who participated in a valid election prior to 1998 pursuant to the provisions of Wage Orders 4 and 5 and who is unable to

work the alternative workweek schedule established.

(5) An employer engaged in the operation of a licensed hospital or in providing personnel for the operation of a licensed hospital who institutes, pursuant to a valid order of the Commission, a regularly scheduled alternative workweek that includes no more than three (3) 12-hour workdays, shall make a reasonable effort to find another work assignment for any employee who participated in the vote which authorized the schedule and is unable to work the 12-hour shifts. An employer shall not be required to offer a different work assignment to an employee if such a work assignment is not available or if the employee was hired after the adoption of the 12-hour, 3-day alternative workweek schedule.

For purposes of this order, the term "health care industry" is intended to cover, employees who work at or for facilities or organizations that provide health care services of any kind including pharmacists dispensing prescriptions in any practice setting, employees who work in ancillary fields, or employees who perform services in patient care areas. Said facilities or organizations include, but are not limited to, a hospital, convalescent facility, residential care facility, medical office, doctor's office, dentist's office, patient's home, clinic, office, ambulance, dispensary, laboratory, veterinary facilities, or other facility where health care services of any kind are provided.

(I) If an employee was voluntarily working an alternative workweek schedule as of July 1, 1999, that was an individual agreement made after January 1, 1998 between the employee and employer, and that agreement provides for a workday of not more than ten (10) hours, that employee may continue to work that alternative workweek schedule without payment of an overtime rate of compensation for the hours provided in that schedule if the employee submits, and the employer approves, a written request to do so. Any such request and approval must be made on or before May 30, 2000. An employee may revoke his or her voluntary authorization to continue such a schedule with thirty (30) days written notice to the employer.

(J) No employee assigned to work a twelve (12) hour shift established pursuant to this Order shall be required to work more than thirteen (13) hours in any 24-hour period unless the Chief Nursing Officer or authorized executive declares that:

1) An emergency or unplanned circumstance exists, and
2) All reasonable steps have been taken to provide required staffing, and
3) Considering overall operational status and staffing needs, continued overtime is necessary to provide

required staffing.

(K) Arrangements adopted in a secret ballot election held pursuant to this order prior to 1998, or under the rules in effect prior to 1998, and before the performance of the work, shall remain valid after July 1, 2000. As of July 1, 2000, new arrangements can be entered into pursuant to the provisions of this section. Notwithstanding the foregoing, if a health care industry employer implemented a reduced rate for twelve (12) hour shift employees in the last quarter of 1999 and desires to reimplement a flexible work arrangement that includes twelve (12) hour shifts at straight time for the same work unit, the employer must pay a base rate to each affected employee in the work unit that is no less than that employee's base rate in 1999 immediately prior to the date of the rate reduction.

Wage Orders 1, 7, and 9 are amended as set forth above, except that Sections (H), (J), and (K) shall not apply, and Section (I), above shall become Sections (H) for those Wage Orders. Wage Orders 2, 3, 6, 8, 10, 11, 12, and 13 are amended as set forth above, except that Sections (H) through (K) shall not apply.

ELECTION PROCEDURES

Wage Orders 4 and 5 are amended as follows:

(A) Each proposal for an alternative workweek schedule shall be in the form of a written agreement proposed by the employer. The proposed agreement must designate a regularly scheduled alternative workweek in which the specified number of work days and work hours are regularly recurring. The actual days worked within that alternative workweek schedule need not be specified. The employer may propose a single work schedule that would become the standard schedule for workers in the work unit, or a menu of work schedule options, from which each employee in the unit would be entitled to choose. If the employer proposes a menu of work schedule options, the employee may, with the approval of the employer, move from one menu option to another.

(B) In order to be valid, the proposed alternative workweek schedule must be adopted in a secret ballot election, before the performance of work, by at least a two-thirds (2/3) vote of the affected employees in the work unit. The election shall be held during regular working hours at the employees' work site. For purposes of this subsection, "affected employees in the work unit" may include all employees in a readily identifiable work unit, such as a division, a department, a job classification, a shift, a separate physical location, or a recognized

subdivision of any such work unit. A work unit may consist of an individual employee as long as the criteria for an identifiable work unit in this subsection is met.

(C) Prior to the secret ballot vote, any employer who proposed to institute an alternative workweek schedule shall have made a disclosure in writing to the affected employees, including the effects of the proposed arrangement on the employees' wages, hours, and benefits. Such a disclosure shall include meeting(s), duly noticed, held at least fourteen (14) days prior to voting, for the specific purpose of discussing the effects of the alternative workweek schedule. Failure to comply with this Section shall make the election null and void;

(D) Any election to establish or repeal an alternative workweek schedule shall be held during regular working hours at the worksite of the affected employees. The employer shall bear the costs of conducting any election held pursuant to this section Upon a complaint by an affected employee, and after an investigation by the Labor Commissioner, the Labor Commissioner may require the employer to select a neutral third party to conduct the election.

(E) Any type of alternative workweek schedule that is authorized by the Labor Code may be repealed by the affected employees. Upon a petition of one-third (1/3) of the affected employees, a new secret ballot election shall be held and a two-thirds (2/3) vote of the affected employees shall be required to reverse the alternative workweek schedule. The election to repeal the alternative workweek schedule shall be held not more than 30 days after the petition is submitted to the employer, except that the election shall be held not less that twelve (12) months after the date that the same group of employees voted in an election held to adopt or repeal an alternative workweek schedule. However, where an alternative workweek schedule was adopted between October 1, 1999 and the effective date of this Order, a new secret ballot election to repeal that alternative workweek schedule shall not be subject to the 12-month interval between elections. The election shall take place during regular working hours at the employees' work site. If the alternative workweek schedule is revoked, the employer shall comply within sixty (60) days. Upon proper showing of undue hardship, the Division of Labor Standards Enforcement may grant an extension of time for compliance.

(F) Only secret ballots may be cast by affected employees in the work unit at any election held pursuant to this Section. The results of any election conducted pursuant to this Section shall be reported by the employer to the Division of Labor Statistics and Research within thirty (30) days after the results are final.

(G) Employees affected by a change in work hours resulting from the adoption of an alternative workweek

schedule may not be required to work those new work hours for at least thirty (30) days after the announcement of the final results of the election.

An employer shall not reduce an employee's regular rate of hourly pay as a result of the adoption, repeal or nullification of an alternative workweek schedule.

Wage Orders 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, and 13, are amended as set forth above, except for subsection E which will read as follows:

(E) Any type of alternative workweek schedule that is authorized by the Labor Code may be repealed by the affected employees. Upon a petition of one-third (1/3) of the affected employees, a new secret ballot election shall be held and a two-thirds (2/3) vote of the affected employees shall be required to reverse the alternative workweek schedule. The election to repeal the alternative workweek schedule shall be held not more than 30 days after the petition is submitted to the employer, except that the election shall be held not less that twelve (12) months after the date that the same group of employees voted in an election held to adopt or repeal an alternative workweek schedule. The election shall take place during regular working hours at the employees' work site. If the alternative workweek schedule is revoked, the employer shall comply within sixty (60) days. Upon proper showing of undue hardship, the Division of Labor Standards Enforcement may grant an extension of time for compliance.

MEAL PERIODS

Pursuant to the provisions of Labor Code § 516, and notwithstanding the provisions of Labor Code § 512, Wage Orders 4 and 5 should continue to read as follows:

(A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than thirty (30) minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of employer and employee. Unless an employee is relieved of all duty during a thirty (30) minute meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. An "on duty" meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when the employee and employer agree in writing to an on-the-job paid meal period.

(B) In all places of employment where employees are required to eat on the premises, the employer shall designate a suitable place for that purpose.

(C) Notwithstanding any other provision of this order, employees in the health care industry who work shifts in excess of eight (8) hours total in a workday may voluntarily waive their right to a meal period. In order to be valid, any such waiver must be documented in a written agreement that is voluntarily signed by both the employee and the employer. The employee may revoke the waiver at any time by providing the employer at least one (1) day's written notice. The employee shall be fully compensated for all working time, including an on-the-job meal period, while such a waiver is in effect.

Otherwise employees covered by Wage Orders 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, and 13 are subject to the provisions of Labor Code § 512 until further regulations are promulgated by the IWC.

Revised 6/12/00

EXHIBIT B

State of California
Department of Industrial Relations
INDUSTRIAL WELFARE COMMISSION
~~770 L Street, Suite 1170~~
~~Sacramento, CA 95814~~
~~(916) 323-9167 FAX (916) 324-1795~~

GRAY DAVIS, Governor

NOTICE OF ACTIONS TAKEN AT PUBLIC HEARING of the INDUSTRIAL WELFARE COMMISSION June 30, 2000 Sacramento

1. Minutes from May 26 public hearing approved.

2. The following proposed amendments to the IWC's Wage Orders 1 through 13, 15 and Interim Wage Order 2000 were adopted:

DEFINITIONS

A. "Workday" and "day" mean any consecutive twenty-four (24) hour period beginning at the same time each calendar day.
B. "Workweek" and "week" mean any seven (7) consecutive days, starting with the same calendar day each week. "Workweek" is a fixed and regularly recurring period of 168 hours, seven (7) consecutive twenty-four (24) hour periods.
C. An "Alternative workweek schedule" means any regularly scheduled workweek requiring an employee to work more than eight (8) hours in a twenty-four (24) hour period.
D. "Shift" means designated hours of work by an employee, with a designated beginning time and quitting time.

DAILY OVERTIME - GENERAL PROVISIONS

The following overtime provisions are applicable to employees eighteen (18) years of age or over and to employees sixteen (16) or seventeen (17) years of age who are not required by law to attend school and are not otherwise prohibited by law from engaging in the subject work: such employees shall not be employed more than eight (8) hours in any workday or more than forty (40) hours in any workweek unless the employee receives one and one-half (1½) times such employee's regular rate of pay for all hours worked over forty (40) hours in the workweek. Eight (8) hours of labor constitutes a day's work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:

(A) One and one-half (1½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including twelve (12) hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek; and

(B) Double the employee's regular rate of pay for all hours worked in excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek.

(C) The overtime rate of compensation required to be paid to a nonexempt full-time salaried employee shall be computed by using the employee's regular hourly salary as 1/40th of the employee's weekly salary.

COLLECTIVE BARGAINING AGREEMENTS

(A) Section 3. Hours and Days of Work "Except as provided in subsections referring to: overtime for minors 16 or 17 years of age, availability of place to eat for workers on night shift, and limit on work over seventy-two (72) hours, Section 3 shall not apply to any employee covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work, and working conditions of the employees, and if the agreement provides premium wage rates for all overtime hours worked and a regular hourly rate of pay for those employees of not less than thirty (30) percent more than the state minimum wage.

(B) Notwithstanding Subsection (A), where the employer and a labor organization representing employees of the employer have entered into a valid collective bargaining agreement pertaining to the hours of work of the employees, the requirement regarding the equivalent of one day's rest in seven shall apply, unless the agreement expressly provides otherwise.

MAKE UP TIME

If an employer approves a written request of an employee to make-up work time that is or would be lost as a result of a personal obligation of the employee, the hours of that make-up work time, if performed in the same workweek in which the work time was lost, may not be counted toward computing the total number of hours worked in a day for purposes of the overtime requirements, except for hours in excess of eleven (11) hours of work in one (1) day or forty (40) hours of work in one (1) workweek. If an employee knows in advance that he or she will be requesting make-up time for a personal obligation that will recur at a fixed time over a succession of weeks, the employee may request to make-up work time for up to four (4) weeks in advance; provided, however, that the make-up work must be performed in the same week that the work time was lost. An employee shall provide a signed written request for each occasion that the employee makes a request to make up a work time pursuant to this section. While an employer may inform an employee of this make-up time option, the employer is prohibited from encouraging or otherwise soliciting an employee to request the employer's approval to take personal time off and make-up the work hours within the same workweek pursuant to this section.

MEAL PERIODS

(A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than thirty (30) minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of employer and employee.

(B) An employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than thirty (30) minutes, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived

(C)In § 17 regarding Exemptions - delete the words "Section 11, Meal Periods," in accordance with Labor Code § 512.

In addition, this section other than (C), shall not apply to Wage Orders 4 and 5 (see Item #3, Meal Periods Section), nor to Wage Order 12. See also Item #4.

MINORS

VIOLATIONS OF CHILD LABOR LAWS are subject to civil penalties of from $500 to $10,000 as well as to criminal penalties. Refer to California Labor Code §§ 1285 to 1312 and 1390 to 1399 for additional restrictions on the employment of minors and for descriptions of criminal and civil penalties for violation of the child labor laws. Employers should ask school districts about any required work permits.

PENALTIES

In addition to any other civil or criminal penalty provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to a civil penalty of:

(A) Initial Violation - $50.00 for each underpaid employee for each pay period during which the employee was underpaid in addition to an amount which is sufficient to recover underpaid wages.

(B) Subsequent Violations - $100.00 for each underpaid employee for each pay period during which the employee was underpaid in addition to an amount which is sufficient to recover underpaid wages.

(C)The affected employee shall receive payment of all wages recovered.

The Labor Commissioner may also issue citations pursuant to Labor Code § 1197.1 for payment of wages for overtime work in violation of this order.

(In accordance with AB 60, the IWC voted to extend this Penalties Section to Wage Order 14 during the public hearing held on May 26, 2000).

3. The IWC adopted the following proposed amendments to the IWC's Wage Orders 1-13 and Interim Wage Order 2000, concerning alternative workweeks and election procedures, as well as meal periods in Wage Orders 4 and 5:

ALTERNATIVE WORKWEEKS

Wage Orders 4 and 5 are amended as follows:

> (A) No employer shall be deemed to have violated the daily overtime provisions by instituting, pursuant to the election procedures set forth in this wage order, a regularly scheduled alternative workweek schedule of not more than ten (10) hours per day within a forty (40) hour workweek without the payment of an overtime rate of compensation. All work performed in any workday beyond the schedule established by the agreement up to twelve (12) hours a day or beyond forty (40) hours per week shall be paid at one and one-half (1½) times the employee's regular rate of pay. All work performed in excess of twelve (12) hours per day and any work in excess of eight (8) hours on those days worked beyond the regularly scheduled number of workdays established by the alternative workweek agreement shall be paid at double the employee's regular rate of pay. Any alternative workweek agreement adopted pursuant to this section shall provide for not less than four (4) hours of work in any shift. Nothing in this section shall prohibit an employer, at the request of the employee, to substitute one (1) day of work for another day of the same length in the shift provided by the alternative workweek agreement on an occasional basis to meet the personal needs of the employee without the payment of overtime. No hours paid at either one and one-half (1½) or double the regular rate of pay shall be included in determining when forty (40) hours have been worked for the purpose of computing overtime compensation.

Include in Statement as to the basis:

After receiving testimony and correspondence from employers seeking flexibility and employees seeking predictability, the IWC concluded that the alternative workweek schedule presented to employees for their approval must establish the number of days of the workweek and the duration of the shift. The employer need not specify the actual days to be worked within that workweek prior to that alternative workweek election. However, the term "regularly scheduled" as set forth in Labor Code § 511(a), means that the employer must schedule the actual work days and the starting and ending time of the shift in advance, providing the employees with reasonable notice of any changes; wherein said changes, if occasional, shall not result in a loss of the overtime exemption. In no event does Labor Code § 511(a) authorize an employer to create a system of "on-call" employment in which the days and hours of work are subject to continual changes, depriving employees of a predictable work schedule.

> (B) If an employer, whose employees have adopted an alternative workweek agreement permitted by this order requires an employee to work fewer hours than those that are regularly scheduled by the agreement, the employer shall pay the employee overtime compensation at a rate of one

and one-half (1½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours, and double the employee's regular rate of pay for all hours worked in excess of twelve (12) hours for the day the employee is required to work the reduced hours.

(C) An employer shall not reduce an employee's regular rate of hourly pay as a result of the adoption, repeal or nullification of an alternative workweek schedule.

(D) An employer shall explore any available reasonable alternative means of accommodating the religious belief or observance of an affected employee that conflicts with an adopted alternative workweek schedule, in the manner provided by subdivision (j) of § 12940 of the Government Code.

(E) An employer shall make a reasonable effort to find a work schedule not to exceed eight (8) hours in a workday, in order to accommodate any affected employee who was eligible to vote in an election authorized by this section and who is unable to work the alternative workweek schedule established as the result of that election.

(F) An employer shall be permitted, but not required, to provide a work schedule not to exceed eight (8) hours in a workday to accommodate any employee who is hired after the date of the election and who is unable to work the alternative workweek schedule established by the election.

(G) The provisions of Labor Code §§ 551 and 552 regarding one (1) day's rest in seven (7) shall not be construed to prevent an accumulation of days of rest when the nature of the employment reasonably requires the employee to work seven (7) or more consecutive days; provided, however, that in each calendar month, the employee shall receive the equivalent of one (1) day's rest in seven (7).

(H) Notwithstanding the above provisions regarding alternative workweek schedules, no employer of employees in the healthcare industry shall be deemed to have violated the daily overtime provisions by instituting, pursuant to the election procedures set forth in this wage order a regularly scheduled alternative workweek schedule that includes work days exceeding ten (10) hours but not more than twelve (12) hours within a forty 40-hour workweek without the payment of overtime compensation, provided that:

(1) An employee who works beyond twelve (12) hours in a workday shall be compensated at double the employee's regular rate of pay for all hours in excess of twelve (12);

(2) An employee who works in excess of forty (40) hours in a workweek shall be compensated at one and one-half (1½) times the employee's regular rate of pay for all hours over forty (40) hours in the workweek;

(3) Any alternative workweek agreement adopted pursuant to this section shall provide for not less than four (4) hours of work in any shift.

(4) The same overtime standards shall apply to employees who are temporarily assigned to a work unit covered by this subsection;

(5) Any employer who instituted an alternative workweek schedule pursuant to this subsection shall make a reasonable effort to find another work assignment for any employee who participated in a valid election prior to 1998 pursuant to the provisions of Wage Orders 4 and 5 and who is unable to work the alternative workweek schedule established.

(6) An employer engaged in the operation of a licensed hospital or in providing personnel for the operation of a licensed hospital who institutes, pursuant to a valid order of the Commission, a regularly scheduled alternative workweek that includes no more than three (3) twelve (12)-hour workdays, shall make a reasonable effort to find another work assignment for any employee who participated in the vote which authorized the schedule and is unable to work the 12-hour shifts. An employer shall not be required to offer a different work assignment to an employee if such a work assignment is not available or if the employee was hired after the adoption of the twelve (12) hour, three (3) day alternative workweek schedule.

(I) For purposes of this order,

(A) The term "healthcare industry" is defined as hospitals, skilled nursing facilities, intermediate care and residential care facilities, convalescent care institutions, home health agencies, clinics operating twenty-four (24) hours per day, and clinics performing surgery, urgent care, radiology, anesthesiology, pathology, neurology or dialysis.

(B) Employees in the healthcare industry means any of the following:

(1) Employees in the healthcare industry providing patient care; or

(2) Employees in the healthcare industry working in a clinical or medical department, including pharmacists dispensing prescriptions in any practice setting; or

(3) Employees in the healthcare industry working primarily or regularly as a member of a patient care delivery team

(4) Licensed veterinarians, registered veterinary technicians and unregistered animal health technicians providing patient care.

(C) Notwithstanding Section (I)(B), "employees in the healthcare industry" shall not include those persons primarily engaged in the following duties or combination of duties: providing meals, performing maintenance or cleaning services, or performing business office or other clerical functions.

Include in Statement as to the Basis

For Item (I)(A):The IWC received testimony and correspondence that in intermediate care and residential care facilities other regulatory agencies use the term "resident" to describe persons receiving medical care in those facilities. The IWC concluded that the term "patient" includes "residents" of those facilities as defined by Health & Safety Code: §§ 1250(c), 1250 (d), 1250(e), 1250(g), 1250(h),and 1569.2(k).

For Item (I)(B)(4): Within the meaning of B&P Code §§ 4825-4857

(J) If an employee was voluntarily working an alternative workweek schedule as of July 1, 1999, that was an individual agreement made after January 1, 1998 between the employee and employer, and that agreement provides for a workday of not more than ten (10) hours, that employee may continue to work that alternative workweek schedule without payment of an overtime rate of compensation for the hours provided in that schedule if the employee submits, and the employer approves, a written request to do so. Any such request and approval must be made on or before May 30, 2000. An employee may revoke his or her voluntary authorization to continue such a schedule with thirty (30) days written notice to the employer.

(K) No employee assigned to work a twelve (12) hour shift established pursuant to this Order shall be required to work more than twelve (12) hours in any twenty-four (24) hour period unless the Chief Nursing Officer or authorized executive declares that:

(1) A "healthcare emergency", as defined below, exists, and

(2) All reasonable steps have been taken to provide required staffing, and

(3) Considering overall operational status needs, continued overtime is necessary to provide required staffing.

Provided further that no employee shall be required to work more than sixteen (16) hours in a twenty-four (24) hour period unless by voluntary mutual agreement of the employee and the employer and no employee shall work more than twenty-four (24) consecutive hours until said employee receives not less than eight (8) consecutive hours off-duty immediately following the twenty-four (24) consecutive hours of work.

For the purposes of this section, a "healthcare emergency" consists of an unpredictable or unavoidable occurrence at unscheduled intervals relating to healthcare delivery, requiring immediate action.

(L) Notwithstanding Section (K), an employee may be required to work up to thirteen (13) hours in any twenty-four (24) hour period if the employee scheduled to relieve the subject employee does not report for duty as scheduled and does not inform the employer more than two (2) hours in advance of that scheduled shift that he/she will not be appearing for duty as scheduled.

(M) Arrangements adopted in a secret ballot election held pursuant to this order prior to 1998, or under the rules in effect prior to 1998, and before the performance of the work, shall remain valid after July 1, 2000, provided that the results of the election are reported by the employer to the Division of Labor Statistics and Research by January 1, 2001, in accordance with the requirements of Section (F) (Election procedures). New arrangements can be entered into pursuant to the provisions of this section. Notwithstanding the foregoing, if a healthcare industry employer implemented a reduced rate for twelve (12) hour shift employees in the last quarter of 1999 and desires to reimplement a flexible work arrangement that includes twelve (12) hour shifts at straight time for the same work unit, the employer must pay a base rate to each affected employee in the work unit that is no less than that employee's base rate in 1999 immediately prior to the date of the rate reduction.

Wage Orders 1, 7, and 9 are amended as set forth above, except that Sections (H), (I), (K) and (L), shall not apply, and Section (J), above shall become Sections (H) for those Wage Orders. Wage Orders 2, 3, 6, 8, 10, 11, 12, and 13 are amended as set forth above, except that Sections (H) through (L) shall not apply. Sections I (A-C) only apply to Orders 4 and 5.

ELECTION PROCEDURES

Wage Orders 4 and 5 are amended as follows:

(A) Each proposal for an alternative workweek schedule shall be in the form of a written agreement proposed by the employer. The proposed agreement must designate a regularly scheduled alternative workweek in which the specified number of work days and work hours are regularly recurring. The actual days worked within that alternative workweek schedule need not be specified. The employer may propose a single work schedule that would become the standard schedule for workers in the work unit, or a menu of work schedule options, from which each employee in the unit would be entitled to choose. If the employer proposes a menu of work schedule options, the employee may, with the approval of the employer, move from one menu option to another.

Include in Statement as to the basis (same as in Alternative Workweeks Section):

After receiving testimony and correspondence from employers seeking flexibility and employees seeking predictability, the IWC concluded that the alternative workweek schedule presented to employees for their approval must establish the number of days of the workweek and the duration of the shift. The employer need not specify the actual days to be worked within that workweek prior to that alternative workweek election. However, the term

"regularly scheduled" as set forth in Labor Code § 511(a), means that the employer must schedule the actual work days and the starting and ending time of the shift in advance, providing the employees with reasonable notice of any changes; wherein said changes, if occasional, shall not result in a loss of the overtime exemption. In no event does Labor Code § 511(a) authorize an employer to create a system of "on-call" employment in which the days and hours of work are subject to continual changes, depriving employees of a predictable work schedule.

(B) In order to be valid, the proposed alternative workweek schedule must be adopted in a secret ballot election, before the performance of work, by at least a two-thirds (2/3) vote of the affected employees in the work unit. The election shall be held during regular working hours at the employees' work site. For purposes of this subsection, "affected employees in the work unit" may include all employees in a readily identifiable work unit, such as a division, a department, a job classification, a shift, a separate physical location, or a recognized subdivision of any such work unit. A work unit may consist of an individual employee as long as the criteria for an identifiable work unit in this subsection is met.

(C) Prior to the secret ballot vote, any employer who proposed to institute an alternative workweek schedule shall have made a disclosure in writing to the affected employees, including the effects of the proposed arrangement on the employees' wages, hours, and benefits. Such a disclosure shall include meeting(s), duly noticed, held at least fourteen (14) days prior to voting, for the specific purpose of discussing the effects of the alternative workweek schedule An employer shall provide that disclosure in a non-English language, as well as in English, if at least five (5) percent of the affected employees primarily speak that non-English language. The employer shall mail the written disclosure to employees who do not attend the meeting. Failure to comply with this section shall make the election null and void;

(D) Any election to establish or repeal an alternative workweek schedule shall be held during regular working hours at the worksite of the affected employees. The employer shall bear the costs of conducting any election held pursuant to this section. Upon a complaint by an affected employee, and after an investigation by the Labor Commissioner, the Labor Commissioner may require the employer to select a neutral third party to conduct the election.

(E) Any type of alternative workweek schedule that is authorized by the Labor Code may be repealed by the affected employees. Upon a petition of one-third (1/3) of the affected employees, a new secret ballot election shall be held and a two-thirds (2/3) vote of the affected employees shall be required to reverse the alternative workweek schedule. The election to repeal the alternative workweek schedule shall be held not more than thirty (30) days after the petition is submitted to the employer, except that the election shall be held not less that twelve (12) months after the date that the same group of employees voted in an election held to adopt or repeal

an alternative workweek schedule. However, where an alternative workweek schedule was adopted between October 1, 1999 and the effective date of this Order, a new secret ballot election to repeal that alternative workweek schedule shall not be subject to the twelve (12) month interval between elections. The election shall take place during regular working hours at the employees' work site. If the alternative workweek schedule is revoked, the employer shall comply within sixty (60) days. Upon proper showing of undue hardship, the Division of Labor Standards Enforcement may grant an extension of time for compliance.

(F) Only secret ballots may be cast by affected employees in the work unit at any election held pursuant to this section. The results of any election conducted pursuant to this section shall be reported by the employer to the Division of Labor Statistics and Research within thirty (30) days after the results are final, and the report of election results shall be a public document. The report shall include the final tally of the vote, the size of the unit, and the nature of the business of the employer.

(G) Employees affected by a change in work hours resulting from the adoption of an alternative workweek schedule may not be required to work those new work hours for at least thirty (30) days after the announcement of the final results of the election.

(H) Employers shall not intimidate or coerce employees to vote either in support or in opposition to a proposed alternative workweek. No employees shall be discharged or discriminated against for expressing opinions concerning the alternative workweek election or for opposing or supporting its adoption or repeal. However, nothing in this section shall prohibit an employer from expressing his/her position concerning that alternative workweek to the affected employees. A violation of subsection shall be subject to Labor Code § 98 et seq.

Wage Orders 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, and 13, are amended as set forth above, except for Subsection E which will read as follows:

(E) Any type of alternative workweek schedule that is authorized by the Labor Code may be repealed by the affected employees. Upon a petition of one-third (1/3) of the affected employees, a new secret ballot election shall be held and a two-thirds (2/3) vote of the affected employees shall be required to reverse the alternative workweek schedule. The election to repeal the alternative workweek schedule shall be held not more than thirty (30) days after the petition is submitted to the employer, except that the election shall be held not less that twelve (12) months after the date that the same group of employees voted in an election held to adopt or repeal an alternative workweek schedule. The election shall take place during regular working hours at the employees' work site. If the alternative workweek schedule is revoked, the employer shall comply within sixty (60) days. Upon proper showing of undue hardship, the Division of Labor Standards Enforcement may grant an extension of time for compliance.

MEAL PERIODS

Pursuant to the provisions of Labor Code § 516, and notwithstanding the provisions of Labor Code § 512, Wage Orders 4 and 5 will read as follows:

> (A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than thirty (30) minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of employer and employee. Unless an employee is relieved of all duty during a thirty (30) minute meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. An "on duty" meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when the employee and employer agree in writing to an on-the-job paid meal period.
>
> (B) In all places of employment where employees are required to eat on the premises, the employer shall designate a suitable place for that purpose.
>
> (C) Notwithstanding any other provision of this order, employees in the healthcare industry who work shifts in excess of eight (8) hours total in a workday may voluntarily waive their right to one of their two meal periods. In order to be valid, any such waiver must be documented in a written agreement that is voluntarily signed by both the employee and the employer. The employee may revoke the waiver at any time by providing the employer with at least one (1) day's written notice. The employee shall be fully compensated for all working time, including an on-the-job meal period, while such a waiver is in effect.

4. Pursuant to Labor Code §§ 516 and 517(a), the following proposal concerning meal and rest periods for Wage Orders 1-13 and 15 were adopted:

> -If an employer fails to provide an employee a meal period or rest period in accordance with the applicable provisions of these orders, it shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.
>
> -Amend Section 11, "Meal Periods," in each order to add at the end of the subsection regarding on-duty meal periods that the written agreement shall state that the employee may, in writing, revoke the agreement at any time.

5. The IWC adopted the following proposed amendment to Wage Order 5, deleting personal attendants, resident managers and employees who have direct responsibility for children in twenty-four (24) hour care from Section 3(D) of that Order to comply with pertinent federal regulations.

> 3. Hours and Days of Work
> (D) This section does not apply to organized camp counselors who are not employed more than fifty-four (54) hours not more than six (6) days in any workweek except under the conditions set forth below. This section shall also not apply to personal attendants as defined in Section 2(K), nor to adult employees or minors who are permitted to work as adults who have direct responsibility for

children under eighteen (18) years of age receiving twenty-four hour care, nor to resident managers of homes for the aged having less than eight (8) beds, provided that persons employed in such occupations shall not be employed more than forty (40) hours nor more than six (6) days in any workweek; except under the following conditions:

In case of emergency, employees may be employed in excess of forty (40) hours or six (6) days in any workweek, provided the employee is compensated for all hours in excess of forty (40) hours and six (6) days in the workweek, at not less than one and one-half (1½) times the employee's regular rate of pay. However, regarding organized camp counselors, in case of emergency they may be employed in excess of fifty-four (54) hours or six (6) days, provided that they are compensated at not less than one and one half (1½) times the employee's regular rate of pay for all hours in excess of fifty-four (54) hours and six (6) days in the workweek.

6. Pursuant to Labor Code § 517(b), the IWC adopted the following proposal regarding the commercial fishing industry:

Amend Wage Order 10 (Amusement and Recreation) as follows:

Add a new Section 3(l):

(l) The provisions of this section are not applicable to any crew member employed on a commercial passenger fishing boat licensed pursuant to Article 5 (commencing with § 7920) of Chapter 1 of Part 3 of Division 6 of the Fish and Game Code.

Add a new Section 4(E):

(E) If the employee is a crew member employed on a commercial passenger fishing boat licensed pursuant to Article 5 (commencing with § 7920) of Chapter 1 of Part 3 of Division 6 of the Fish and Game Code, the minimum wage obligation of this section may, at the employer's option, be satisfied by paying employees according to the following formula:

(1) A "one-half day trip" shall be comprised of a maximum of six (6) hours of work compensated at a rate of no less than six (6) times the hourly minimum wage.

(2) A "three-quarter day trip" shall be comprised of a maximum of ten (10) hours of work compensated at a rate of no less than ten (10) times the hourly minimum wage.

(3) A "full-day trip" shall be comprised of a maximum of twelve (12) hours of work compensated at a rate of no less than twelve (12) times the hourly minimum wage.

(4) An "overnight trip" shall be comprised of a maximum of twelve (12) hours worked within a period of no less than twenty-four (24) hours compensated at a rate of no less than twelve (12) times the hourly minimum wage.

Nothing in this subsection relieves the employer of the obligation to pay employees no less than the minimum wage for all hours worked.

Add a new Section 7(E):

(E) If the employee is a crew member employed on a commercial passenger fishing boat licensed pursuant to Article 5 (commencing with § 7920) of Chapter 1 of Part 3 of Division 6 of the Fish and Game Code, the provisions of (A)(3) and (5) may, at the employer's option, be satisfied by expressing the hours worked in terms of the formula established pursuant to Section 4 (E). Hours worked in excess of the formula in Section 4(E) shall be recorded on the employee's pay record as additional hours worked.

Add the following sentence to Section 12, Rest Periods:

A crew member employed on a commercial passenger fishing boat who is on an overnight trip within the meaning of Section 4 (E) shall receive no less than eight (8) hours off-duty time during each twenty-four (24) hour period.

Statement as to the Basis

(Section 3)

The IWC received testimony from persons employed in the commercial passenger fishing industry that, due to the uncertain length of the work day as well as long established customs in the industry, which is highly dependent on the availability of fish, it would be inappropriate to impose a requirement that employees receive overtime pay. In addition, commercial passenger fishing boats are subject to minimum manning requirements regulated by the United States Coast Guard, Title 46, Code of Federal Regulation, Part 15, which limit the number of hours that crew members may work while at sea. There is also an exemption from overtime requirements for commercial fishing vessels under the Fair Labor Standards Act. Therefore, the IWC concluded that it would continue the exemption from Section 3, formerly set forth in the Labor Code § 1182.3, for employees of commercial passenger fishing boats when they perform duties as licensed crew members. Such an exemption would not apply to other employees in the industry, such as clerical or maintenance personnel, who do not perform duties as licensed crew members on fishing boats.

(Section 4)

The IWC received testimony from representatives of the commercial passenger fishing industry that the custom in the industry was to pay crew members on the basis of "one-half day," "three-quarter day," "full day," or "overnight" trips. These employers wished to continue this custom consistent with their obligation to pay the minimum wage for all hours worked.

The provisions of Section 4 (E) would allow employers to record pay of crew members in accordance with a formula based on the length of the trip. However, if the trip exceeds the defined hours of the formula, the additional hours would have to be recorded as additional hours worked and compensated accordingly. In practice, this alternative record keeping system may result in employees being paid more than the actual hours worked, but can never result in them being paid less than the actual hours worked. It is, therefore, primarily established as a convenience for employers. It is noted that regulations of the United States Coast Guard establish minimum crew standards which are intended to insure that, when boats are at sea for protracted periods, they receive adequate rest periods.

(Section 12)

The IWC added the last paragraph of Section 12 to insure that crew members on commercial passenger fishing boats are at sea for periods of twenty-four (24) hours or longer receive no less than eight (8) hours off-duty within each twenty-four (24) hour period to permit the employee to sleep. This rest period is in addition to the meal and rest periods otherwise required under Section 12.

Amend Wage Order 14 (Agricultural Occupations) as follows:

Add a new Subsection (7) to Section 2 (C):

> (8) The harvesting of fish, as defined by § 45 of the Fish and Game Code, for commercial sale.
>
> (Change current #7 to #8)

Add a new Subsection (F) to Section 1, Applicability of Order:

> (F) Section 3 of this Order shall not apply to an employee licensed pursuant to Article 3 (commencing with § 7850) of Chapter 1 of Part 3 of Division 6 of the Fish and Game Code who serves as a crew member on a commercial fishing vessel.

Statement as to the Basis

The IWC received testimony from persons employed in the commercial fishing industry that, due to the uncertain length of the work day as well as long established customs in the industry, which is highly dependent on the availability of fish, it would be inappropriate to impose a requirement that employees receive overtime pay. There is also an exemption from overtime requirements for commercial fishing vessels under the Fair Labor Standards Act. Therefore, the IWC concluded that it would continue the exemption from Section 3, formerly set forth in Labor Code § 1182.3, for employees of commercial fishing vessels when they perform duties as licensed crew members. Such an exemption would not apply to other employees in the industry, such as clerical or maintenance personnel, who do not perform duties as licensed crew members on fishing vessels.

7. Pursuant to Labor Code § 517 (b), the IWC adopted the following proposed language regarding the ski industry:

Amend Wage Order 10 as follows:

No employer who operates a ski establishment shall be in violation of this Order by instituting a regularly scheduled workweek of not more than forty-eight (48) hours during any month of the year when Alpine or Nordic skiing activities, including snowmaking and grooming activities, are actually being conducted by the ski establishment; provided, however, that any employee shall be compensated at a rate of not less than one and one-half times (1½) the employee's regular rate of pay for any hours worked in excess of ten (10) hours work in a day or forty-eight (48) hours in a workweek. For purposes of this section, "ski establishment" means an integrated, geographically limited recreational industry which is comprised of basic skiing facilities, together with all operations and facilities related thereto.

8. The IWC adopted the following proposal regarding executive, administrative, and professional duties as provided for in AB 60 - Labor Code § 515:

DUTIES TEST FOR OVERTIME EXEMPTIONS

Sections 3 through 12 of this Order shall not apply to persons employed in administrative, executive or professional capacities. The following requirements shall apply in determining whether an employee's duties meet the test to qualify for an exemption from those sections:

A. Executive Exemption. A person employed in an executive capacity means any employee:

(1) Whose duties and responsibilities involve the management of the enterprise in which he is employed or of a customarily recognized department or subdivision thereof; and

(2) Who customarily and regularly directs the work of two or more other employees therein; and

(3) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; and

(4) Who customarily and regularly exercises discretionary powers; and

(5) Who is primarily engaged in duties which meet the test of the exemption. For purposes of this provision, "primarily engaged in" means that more than one-half (½) of the employee's work time must be spent engaged in exempt work. The activities constituting exempt work and non-exempt work shall be construed in the same manner as such terms are construed in the following regulations under the Fair Labor Standards Act effective as of the date of this order (29 C.F.R. §§ 541.102, 541.104-111, 541.115-116) and shall include, for example, all

work that is directly and closely related to exempt work and work which is properly viewed as a means for carrying out exempt functions. The work actually performed by the employee during the course of the work week must, first and foremost, be examined and the amount of time the employee spends on such work, together with the employer's realistic expectations and the realistic requirements of the job, shall be considered in determining whether the employee satisfies this requirement.

(6) Such an employee must also earn a monthly salary equivalent to no less than two (2) times the state minimum wage for full-time employment. Full-time employment is defined in Labor Code § 515(c) as forty (40) hours per week.

B. Administrative Exemption. A person employed in an administrative capacity means any employee:

(1) Whose duties and responsibilities involve either:

(a) The performance of office or non-manual work directly related to management policies or general business operations of his employer or his employer's customers, or

(b) The performance of functions in the administration of a school system, or educational establishment or institution, or of a department of subdivision thereof; in work directly related to the academic instruction or training carried on therein; and

(2) Who customarily and regularly exercises discretion and independent judgment; and

(3) (a) Who regularly and directly assists a proprietor, or an employee employed in a bona fide executive or administrative capacity (as such terms are defined for purposes of this section), or

(b) who performs under only general supervision work along specialized or technical lines requiring special training, experience, or knowledge, or

(c) who executes under only general supervision special assignments and tasks, and

(4) Who is primarily engaged in duties which meet the test of the exemption. For purposes of this provision, "primarily engaged in" means that more than one-half (1/2) of the employee's work time must be spent engaged in exempt work. The activities constituting exempt work and non-exempt work shall be construed in the same manner as such terms are construed in the following regulations under the Fair Labor Standards Act effective as of the date of this

order (29 C.F.R. §§ 541.201-205, 541.207-208, 541.210, 541.215) and shall include, for example, all work that is directly and closely related to exempt work and work which is properly viewed as a means for carrying out exempt functions. The work actually performed by the employee during the course of the work week must, first and foremost, be examined and the amount of time the employee spends on such work, together with the employer's realistic expectations and the realistic requirements of the job, shall be considered in determining whether the employee satisfies this requirement.

(5) Such an employee must also earn a monthly salary equivalent to no less than two (2) times the state minimum wage for full-time employment. Full-time is defined in Labor Code § 515(c) as forty (40) hours per week.

C. Professional Exemption. A person employed in a professional capacity means any employee who meets all of the following requirements:

(1)(a) Who is licensed or certified by the State of California and is primarily engaged in the practice of one of the following recognized professions: law, medicine, dentistry, optometry, architecture, engineering, teaching, or accounting; or

(b) Who is primarily engaged in an occupation commonly recognized as a learned or artistic profession. For the purposes of this subsection, "learned or artistic profession" means an employee who is primarily engaged in the performance of:

(i) Work requiring knowledge of an advanced type in a field or science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished form a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes or work that is an essential part of or necessarily incident to any of the above work; or

(ii) Work that is original and creative in character in a recognized field of artistic endeavor (as opposed to work which an be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the invention, imagination, or talent of the employee or work that is an essential part of or necessarily incident to any of the above work; and

(iii) Whose work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical, or physical work) and is of such character that

the output produced or the result accomplished cannot be standardized in relation to a given period of time.

(2) Who customarily and regularly exercises discretion and independent judgment in the performance of the duties set forth in paragraph (1).

(3) Who earns a monthly salary equivalent to no less than two (2) times the state minimum wage for full-time employment.

(4) Subsection (1) (b) is intended to be construed in accordance with the following provisions of federal law as they existed as of the date of this Wage Order: 29 CFR §§ 541.207, 541.301(a) -(d), 541.302, 541.306, 541.307, 541.308, and 541.310.

(5) Notwithstanding the provisions of this subsection, pharmacists employed to engage in the practice of pharmacy, and registered nurses employed to engage in the practice of nursing, shall not be considered exempt professional employees, nor shall they be considered exempt from coverage for the purposes of this section unless they individually meet the criteria established for exemption as executive or administrative employees.

9. The IWC directed the Executive Officer to finalize the statement as to the basis and summary language in accordance with the Commission's deliberations and regulations that have been adopted. The Executive Officer shall report on its completion to the Commission.

10. The IWC adopted the following proposal regarding the effective date of its actions:

Any action taken by the Industrial Welfare Commission at this hearing to adopt wage, hours, and working conditions orders is taken pursuant to the provisions of Labor Code § 517 (a). In furtherance of that section, the effective date of such actions taken at this public hearing shall be no later than October 1, 2000. If the IWC takes no action to amend the Interim Wage Order Section 5(K), (L), (M), or (N), the provisions of those subsections shall expire on July 1. The remaining provisions of the Interim Wage Order 2000, as well as Wage Orders 1-15 currently in effect, shall remain operative until superceded.

7/24/00

EXHIBIT C

STATE OF CALIFORNIA

DEPARTMENT OF INDUSTRIAL RELATIONS

INDUSTRIAL WELFARE COMMISSION

Public Hearing

May 26, 2000

State capitol, Room 4292

Sacramento, California

GOLDEN STATE REPORTING
P.O. BOX 5848
Monterey, CA 93944-0848
(831) 663-8851

P A R T I C I P A N T S

--o0o--

Industrial Welfare Commission

BILL DOMBROWSKI, Chair

BARRY BROAD

LESLEE COLEMAN

DOUG BOSCO

Staff

ANDREW R. BARON, Executive Officer

MOLLY MOSLEY, Legal Counsel

MICHAEL MORENO, Principal Analyst

DONNA SCOTTI, Administrative Analyst

NIKKI VERRETT, Analyst

I N D E X

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INDEX (Continued) Page

INDEX (Continued) Page

sense of trust. And so, the way in which this issue gets raised with us undermines the notion of what we're trying to build here as we grow this economy.

So, I appreciate the fact you're not going to decide on it today, but I'm worried about the fact -- am I going to get a notice that tells me who it is going to affect? Because I represent workers in this area and can go to them and say, "The Commission's going to meet today and talk about your issue," and they said, "Well, I don't know whether they're going to talk about something that affects my work or not," so that as we think about the kind of notice and the kind of preparation that we need, as a group of workers, we're looking for a way to engage our members in this process. And we appreciate any effort you can make to help us accommodate that.

Thank you.

COMMISSIONER DOMBROWSKI: Item Number 6, consideration of whether to extend the provisions of Interim Wage Order 2000 to the effective date of amendments adopted at this hearing or at a hearing concluded on or before July 1st, 2000, pursuant to Labor Code 517(a).

Mr. Baron.

MR. BARON: The issue is under -- relating to AB

60, in a number of areas, talks about the issue of July 1. 517(a) says, "The Industrial Welfare Commission, shall, at a public hearing to be concluded by July 1, 2000, adopt wages, hours, and working conditions," so it's -- however, there's -- there's clearly time from the time that you adopt to the time that -- dealing the "Statement as to the Basis," dealing with publishing, all those things can affect -- can deal with the effective date. So there's language here being proposed that would relate both to actions taken at this hearing and actions taken -- whatever action that would be taken at a June -- at any other hearing before July 1st, which the Commission needs to adopt.

And what the -- what has certainly been learned from the time that it took to deal with one wage order, the interim wage order, here the Commission now is facing making changes in Orders 1 through 15, as well as the interim, so that's 16 wage orders. Clearly, there will be a lot involved in making sure that that, in the end, is put in the proper form and issued through the proper entities.

So, the language here says that:

"Any action taken by the Commission at this hearing to adopt wages, hours, and working

adopting this as a motion? It's not going to appear in print anywhere?

MR. BARON: No.

COMMISSIONER BROAD: Okay.

MR. BARON: It is just -- it is just the Commission issuing its will in terms of the -- making clear the timing of the effective dates.

COMMISSIONER BROAD: Okay. Let me ask you this question. We conclude on June 30th our deliberations of AB 60, and we do whatever we do on that wild day --

MR. BARON: Right.

COMMISSIONER BROAD: -- and it's done. And therefore, you know, 15 wage orders have to be changed. Is it possible that they will be rolled out serially, between that time and October 1st?

MR. BARON: I don't -- I don't know the answer. At that point we'll have to see when --

COMMISSIONER BROAD: Well, here's -- well, because I -- because, it seems to me, like as you complete them, they would be -- so, I guess what I'm suggesting is that maybe it should say -- taking -- in Line 5 --

MR. BARON: Okay. So, what do you want to say? "Up until" --

COMMISSIONER BROAD: "Be no later than October 1, 2000."

MR. BARON: Okay.

COMMISSIONER BROAD: Would that be --

MR. BARON: I think that's fine.

COMMISSIONER BROAD: Okay.

COMMISSIONER DOMBROWSKI: Any other questions? Do we just adopt this?

MR. BARON: Yeah, just make it a motion.

COMMISSIONER DOMBROWSKI: Wake up, people. Can I get a motion?

COMMISSIONER BROAD: I'll move this item as amended.

COMMISSIONER DOMBROWSKI: Second?

COMMISSIONER COLEMAN: Second.

COMMISSIONER DOMBROWSKI: All in favor, say "aye."

(Chorus of "ayes")

COMMISSIONER DOMBROWSKI: Item 7, consideration of appointment of members to the Wage Board established to review the adequacy of the minimum wage, in accordance with Labor Code Section 1178.5.

I think, Andy, you have the names. Could you just read those off for the record?

EXHIBIT D

CALIFORNIA LEGISLATURE

SENATE RULES COMMITTEE

KEVIN DE LEÓN
Chair

November 9, 2015

Gail Blanchard-Saiger
California Hospital Association
1215 K Street, Suite 800
Sacramento, CA 95814

RE: LEGISLATIVE OPEN RECORDS ACT REQUEST

Dear Ms. Blanchard-Saiger:

We are in receipt of your request dated October 22, 2015, in which you ask, pursuant to the California Public Records Act, for "a copy of all Senate records, including but not limited to, committee analysis, correspondence and memoranda, maintained by any Senate Committee, Senate body, or Senator Hernandez, the author, which relate to Senate Bill 327" of the 2015-16 Regular Session of the Legislature (Ch. 506, Stats. 2015), as amended on September 4, 2015. Although your request indicates that it is made pursuant to the California Public Records Act, to which the California Legislature is not subject, we have construed your request as made pursuant to the Legislative Open Records Act (Art. 3.5 (commencing with Sec. 9070), Ch. 1.5, Pt. 1, Div. 2, Title 2, Gov. C.).

We are prepared to provide you 319 pages of records that are responsive to your request. Under the Legislative Open Records Act, you are responsible for reimbursing the Legislature for the cost of copying records provided to you at a rate of 10 cents per page (Sec. 9073, Gov. C.). Please forward a check for $31.90, made payable to "Senate Rules Committee." Upon receipt of your payment, these records will be provided. For additional records that may be of interest, we refer you to the Internet Web site www.leginfo.ca.gov.

However, the Legislative Open Records Act provides that a number of categories of documents are exempt from mandatory disclosure, including "[p]reliminary drafts, notes, or legislative memoranda"; "[c]orrespondence of and to individual Members of the Legislature and their staff"; and "[r]ecords the disclosure of which is exempted or prohibited pursuant to provisions of federal or state law," which would include the

legislative privilege and the attorney-client privilege, and "[c]ommunications from private citizens to the Legislature" (subds. (a), (b), (i), and (j), Sec. 9075, Gov. C.; Sec. 954, Evid. C.). With the exception of correspondence in support of or opposition to SB 327, copies of which are enclosed, any records that fall within the foregoing exemptions will not be produced.

Sincerely,

DANIEL ALVAREZ
Secretary of the Senate

MEMORIALCARE
HEALTH SYSTEM
Excellence in Health Care

September 3, 2015

The Honorable Roger Hernandez, Chair
Assembly Labor Committee
State Capitol
Sacramento, CA 95814

RE: SB 327 (Support) As Proposed to be Amended

Dear Assemblymember Hernandez,

As President and Chief Executive Officer of **MemorialCare Health System**, a nonprofit, integrated delivery system in Los Angeles and Orange Counties which represents over 11,000 employees, I am writing today to express strong support of SB 327 (Hernandez) as proposed to be amended. This bill will clarify that employees in the healthcare industry can voluntarily waive one of their two meal periods pursuant to Wage Orders, including specific provisions of Wage Order 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, therefore jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospitals have offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Employees in three of our six award-winning hospitals are represented by a labor union and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period. This option allows employees to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to 8-hour shifts, or lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or explore other unattractive options that employees and hospitals would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes would occur. In fact, **MemorialCare Health System** is acutely aware of then potential disruption in employee relations; **Orange Coast Memorial Medical Center** is one of our member facilities. For over 30 years, healthcare employers and employees have been able to utilize the special healthcare waiver provision in Wage Order 5, section (11) (D) and there has never been any question about its validity.

17360 Brookhurst Street • Fountain Valley, CA 92708 | Phone: (714) 377-2900 | memorialcare.org

Absent clarification that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, this hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even 1 minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, **MemorialCare Health System** asks for your "YES" vote on SB 327 (Hernandez) as proposed to be amended.

Sincerely,

Barry S. Arbuckle, Ph.D.
President and Chief Executive Officer
MemorialCare Health System

SADDLEBACK MEMORIAL
MEMORIALCARE HEALTH SYSTEM

September 3, 2015

The Honorable Roger Hernandez, Chair
Assembly Labor Committee
State Capitol
Sacramento, CA 95814

RE: SB 327 (Support) As Proposed to be Amended

Dear Assemblymember Hernandez,

As Chief Executive Officer of **Saddleback Memorial Medical Center**, a member of the **MemorialCare Health System**, a nonprofit, integrated delivery system in Los Angeles and Orange Counties which represents over 11,000 employees, I am writing today to express strong support of SB 327 (Hernandez) as proposed to be amended. This bill will clarify that employees in the healthcare industry can voluntarily waive one of their two meal periods pursuant to Wage Orders, including specific provisions of Wage Order 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, therefore jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospitals have offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Employees in three of our six award-winning hospitals are represented by a labor union and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period. This option allows employees to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to 8-hour shifts, or lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or explore other unattractive options that employees and hospitals would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes would occur. In fact, **Saddleback Memorial** is acutely aware of then potential disruption in employee relations; **Orange Coast Memorial Medical Center** is also a member of **MemorialCare** Health System For over 30 years, healthcare employers and employees have been able to utilize the special healthcare waiver provision in Wage Order 5, section (11) (D) and there has never been any question about its validity.

Laguna Hills 24451 Health Center Drive • Laguna Hills, CA 92653 | Phone: (949) 837-4500 | memorialcare.org
San Clemente 654 Camino de los Mares • San Clemente, CA 92673 | Phone: (949) 496-1122 | memorialcare.org

Absent clarification that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, this hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even 1 minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, **Saddleback Memorial Medical Center** asks for your "YES" vote on SB 327 (Hernandez) as proposed to be amended. .

Sincerely,

Stephen B. Geidt, FACHE
Chief Executive Officer
Saddleback Memorial Medical Center

GLENN MEDICAL CENTER

Glenn Medical Center Inc., dba Glenn Medical Center
1133 West Sycamore Street • Willows, CA 95988
Administration • (530) 934-1881 • Fax (530) 934-1818
www.glennmed.org

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Glenn Medical Center I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

This institution is an equal opportunity provider and employer.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Barbara Rydgren

Barbara Rydgren
Administrator
Glenn Medical Center

This institution is an equal opportunity provider and employer.

ORANGE COAST MEMORIAL
MEMORIALCARE HEALTH SYSTEM

September 3, 2015

The Honorable Roger Hernandez, Chair
Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SB 327 - 4

Subject: **SUPPORT SB 327 (Hernandez) AS PROPOSED TO BE AMENDED**

Dear Assembly Member Hernandez,

As Chief Executive Officer of Orange Coast Memorial Medical Center, a member of the MemorialCare Health System, a nonprofit, integrated delivery system in Los Angeles and Orange Counties which represents over 11,000 employees I am writing today to express strong support of SB 327 (Hernandez) as proposed to be amended. This bill will clarify that employees in the healthcare industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling in a case where Orange Coast Memorial Medical Center is a named party, jeopardizes this option, and therefore jeopardizes the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to 8-hour shifts, or lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or exploring other unattractive options that employees and the hospital would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, healthcare employers and employees have been able to utilize the special healthcare waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

9920 Talbert Avenue • Fountain Valley, CA 92708 | Phone: (714) 378-7000 | memorialcare.org/orangecoast

Absent the clarification provided by SB 327 as proposed to be amended that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, a claim could be made that the hospital is liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **If such a claim were successful, it could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, we ask for your "YES" vote on SB 327 as proposed to be amended.

Sincerely,

Marcia Manker
Chief Executive Officer

9920 Talbert Avenue • Fountain Valley, CA 92708 | Phone: (714) 378-7000 | memorialcare.org

Good Samaritan Hospital

SEP - 4 |

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Good Samaritan Hospital (GSH), Los Angeles, California, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard* v. *Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

An Affiliated Hospital of the University of Southern California
1225 Wilshire Boulevard, Los Angeles, California 90017-2395 • Tel (213) 977-2121

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
September 3, 2015
Page 2 of 2

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Andrew B. Lecka
President and CEO
Good Samaritan Hospital
Los Angeles, CA 90017

CORONA REGIONAL MEDICAL CENTER
Partners in Health and Healing

SEP – 4

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Corona Regional Medical Center, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

CORONA REGIONAL MEDICAL CENTER
Partners in Health and Healing

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Mark Uffer
CEO
Corona Regional Medical Center

Main Hospital 800 South Main Street, Corona, California 92882-3400 (951) 737-4343
Rehabilitation Hospital 730 Magnolia Avenue, Corona, California 92879-3150 (951) 736-7200
A Universal Health Services Facility • www.coronaregional.com

USC Verdugo Hills Hospital
Keck Medicine of USC

PAUL CRAIG
Interim Chief Executive Officer
USC Verdugo Hills Hospital

SEP – 4

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of USC Verdugo Hills Hospital I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

University of Southern California
1812 Verdugo Boulevard, Glendale, California 91208 • Tel: 818 952 2208 • Fax: 818 952 4649

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Paul Craig
Interim CEO
USC Verdugo Hills Hospital

Dignity Health.
Sequoia Hospital

SEP -- 4

September 3, 2015

Via Facsimile
916.319.2191

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Sequoia Hospital I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could

170 Alameda de las Pulgas
Redwood City, CA 94062-2795
650.369.5811
sequoiahospital.org

Dignity Health.
Sequoia Hospital

result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Bill Graham
President, Sequoia Hospital

BG/blm

c: The Honorable Members of the Assembly Labor and Employment Committee
Dawn Vicari 916.554.2275

170 Alameda de las Pulgas
Redwood City, CA 94062-2799
650.369.5811
sequoiahospital.org

SEP - 4

SAN ANTONIO
REGIONAL HOSPITAL

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814
VIA Fax: (916) 554-2275

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of San Antonio Regional Hospital, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in Gerard v. Orange Coast Memorial Medical Center will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in a significant economic penalty, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Harris F. Koenig
President and Chief Executive Officer

HK:bp

THE HONORABLE ED HERNANDEZ
CALIFORNIA STATE SENATE
STATE CAPITOL, ROOM 2080

CALIFORNIA HOSPITAL ASSOCIATION
Providing Leadership in Health Policy and Advocacy

September 3, 2015

SEP - 3

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: **SB 327 (Ed Hernandez) – SUPPORT AS PROPOSED TO BE AMENDED**

Dear Assembly Member Hernandez:

On behalf of over 400 California hospitals and health systems, the California Hospital Association is pleased to sponsor and support SB 327 (Hernandez). This bill will clarify that employees in the healthcare industry can continue to waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when their shift exceeds 12 hours. A recent court ruling, *Gerard v. Orange Coast Memorial Medical Center*, could jeopardize this option, thus jeopardizing the availability to 12-hour shifts. Absent clarification that Wage Orders 4 and 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, hospitals will be liable for a missed meal period premium on any day an employee worked even 1 minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes throughout the hospital industry. Thus, it is critically important for the Legislature to construe and clarify the meaning of and effect of existing law and to abrogate the court's decision on this issue in *Gerard*.**

While the California Supreme Court recently accepted review of the *Gerard* case, it nonetheless poses a significant adverse impact on healthcare employers and employees, particularly those working 12-hour shifts who want to waive one of their meal periods so that they do not have to prolong their workday by 30 minutes. Because it is unclear when and how the Supreme Court will resolve the case, hospitals are faced with the decision whether to immediately and significantly change their scheduling practices, which may include extending the shift to 13 hours to accommodate a second, off-duty meal period, reverting to 8-hour shifts or taking some other action to minimize potential liability moving forward. Further, while the *Gerard* appellate decision has been de-published similar cases have already been filed and thus without clarification of the law, hospitals currently risk facing expensive class action litigation and potential retroactive liability in the millions of dollars. As the Supreme Court evaluates the legal issues raised in the *Gerard* case, clarification of the law by the legislature is extremely important to the Court's analysis. Thus, it is critically important for the Legislature to reject the Court of Appeal decision and the rationale on which it is based.

Since 1993, healthcare employers have been able to offer a meal period waiver that allows employees working more than 12 hours to voluntarily waive one of their two meal periods. 12-hour shifts are common in the healthcare industry, both in unionized and non-unionized environments. Employees who work 12-hour shifts may frequently work a few minutes more than 12 hours due to clocking in a couple of minutes early or clocking out a couple of minutes late.

In 1999, as part of AB 60, the California Legislature codified the meal period rules which had formerly only been included in the wage order. In Labor Code section 512, the Legislature expressly required that employees working more than 10 hours be provided a second meal period and also expressly provided that employees could voluntarily waive the second meal period so long as they did not work more than 12 hours.

1215 K Street, Suite 800, Sacramento, CA 95814 • *Telephone:* 916.443.7401 • *Facsimile:* 916.552.7596 • www.calhospital.org
Corporate Members: Hospital Council of Northern and Central California, Hospital Association of Southern California, and Hospital Association of San Diego and Imperial Counties

At the same time, the Legislature specifically gave the Industrial Welfare Commission (IWC) authority to determine whether to continue to authorize 12-hour alternative workweek schedules, in Labor Code 517. In Labor Code 516, the Legislature also expressly authorized the IWC to adopt or amend the wage orders with respect to meal periods, notwithstanding the rules set forth in Labor Code 512.

After several hearings on the matter and significant negotiation between labor and hospital representatives, the IWC decided to maintain 12-hour shifts, with some variation, and to maintain the special healthcare meal period waiver rules, allowing employees in the healthcare industry to waive one of their meal periods even when a shift exceeded 12 hours.

This action was taken on June 30, 2000 — the deadline set by the Legislature for the IWC to determine whether to continue 12-hour shifts. These amendments went into effect on October 1, 2000. The time between the adoption date of June 30 and the effective date of October 1 was needed to accomplish administrative activity, such as updating the wage orders.

On September 16, 2000, the Governor signed urgency legislation, SB 88. That bill limited the IWC's authority to establish meal period rules that conflicted with Labor Code section 512. That law went into effect more than two months after the IWC adopted Wage Order 4 and 5, as well as other wage orders.

There is no evidence to suggest that SB 88 was intended to invalidate the action the IWC took on June 30, 2000 with respect to the healthcare meal period rules. In order to preserve the status quo preferred by both hospitals and their employees for over 20 years, as confirmed by the IWC in 2000, a legislative clarification is necessary.

Therefore, CHA respectfully request your YES vote on SB 327.

Sincerely,

Kathryn Austin Scott
Legislative Advocate

KAS:dlv

cc: The Honorable Ed Hernandez
The Honorable Members of Assembly Labor and Employment Committee
Ben Ebbink, Consultant, Assembly Labor and Employment Committee
Anthony Archie, Consultant, Assembly Republican Caucus

COMMUNITY
MEDICAL CENTERS

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of nonprofit Community Medical Centers, I am writing in strong support of SB 327. This bill will clarify that employees in the healthcare industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, healthcare employers and employees have been able to utilize the special healthcare waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Tim A. Joslin
President and Chief Executive Officer
Community Medical Centers

P.O. Box 1232, Fresno, California 93715-1232 • www.communitymedical.org

Seton Medical Center
Seton Coastside
Member of Daughters of Charity Health System

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September 3, 2015

SB 327

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Seton Medical Center, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section 11(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Joanne E. Allen
President and CEO
Seton Medical Center

CALIFORNIA
ASSOCIATION OF
HEALTH FACILITIES

CAHF

Supporting People, Health and Quality of Life

September 3, 2015

The Honorable Roger Hernandez, Chair
Assembly Labor Committee
State Capitol
Sacramento, CA 95814

RE: SB 327 (Hernandez) - Support

Dear Assembly Member Hernandez,

The California Association of Health Facilities (CAHF) is a non-profit, professional organization representing more than 800 skilled nursing facilities (SNFs) and 500 intermediate care facilities for people with developmental disabilities (ICF/DDs). Serving 300,000 individuals each year, SNFs are directly responsible for more than 135,000 jobs in California. CAHF supports SB 327 (Hernandez).

CAHF has 23 member SNFs and approximately 3,000 employees in your Assembly District 48. This bill will clarify that employees in SNFs, and the healthcare industry, can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, therefore jeopardizing SNFs' ability to schedule 12-hour shifts.

For decades, SNFs have offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period. This option allows employees to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to 8-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or another option that the facility and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes would occur. For over 20 years, healthcare employers and employees have been able to utilize the special healthcare waiver provision in Wage Order 5, section (11)(D) and there has never been any question about its validity.

Absent clarification that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, SNFs would be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in hundred millions of dollars in liability, as well as scheduling changes across California that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, CAHF respectfully asks for your "YES" vote on SB 327 (Hernandez) when it is heard in Assembly Labor Committee. If you need any further information, I can be reached at (916) 432-5205 or mrobinson@cahf.org, or please contact Jennifer Snyder at Capitol Advocacy at (916) 444-0400 or jsnyder@capitoladvocacy.com.

Sincerely,

Matt B. Robinson,
Director of Legislative Affairs

cc: Assembly Labor Committee
Senator Ed Hernandez

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2080

AFSCME
Make America Happen

SEP - 4

September 3, 2015

AFSCME Council 36

AFSCME Council 57

AFSCME/MWD Local 1902
Metropolitan Water District

AFSCME/MWA Local 1001
Metropolitan Water District

AFSCME/AAPD Local 206
Union Of American
Physicians And Dentists

AFSCME/UC Local 3299
University of California

AFSCME/UNAC NUHHCE
United Nurses Associations
Of California
Union of Health Care
Professionals

TO: The Honorable Roger Hernández, Chair
The Honorable Members of the Assembly Committee on Labor and Employment

RE: Senate Bill 327 (Hernandez) – AFSCME SUPPORTS

The American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO, would like to inform you of our **support for Senate Bill 327**, as amended on September 3rd, 2015.

On February 10, 2015, the California Court of Appeal for the 4th District concluded that Wage Order 5, Section 11 (D) was partially invalid to the extent that it conflicted with labor Code Section 512 (*Gerard v. Orange Coast Memorial Medical Center)*. This prohibited employees from waiving their second meal period when they work more than 12 hours; which is commonplace due to employees coming in early and clocking out late.

Since 1993, healthcare employers have been able to offer a meal period waiver that allows employees working 12-hour shirts to voluntarily waive one of their two meal periods. Eliminating this practice will potentially lead to staffing disarray at hospitals due to drastically decreased staffing flexibility, which may in turn lead to less effective patient care. Patient outcomes are dramatically improved in environments where the nurses and other health care professionals can place priority on the needs of their patients without interruption.

For these reasons, AFSCME, in conjunction with the United Nurses Associations of California/ Union of Health Care Professionals (UNAC/UHCP), emphatically support SB 327 in rectifying a decision that upends well-established staffing schedules, severely disrupts the lives of our members, and could potentially affect the quality of care provided to patients.

Please join us in supporting Senate Bill 327.

Should you have any questions regarding our position in this matter, you may call me at your earliest convenience. AFSCME also reserves the right to change our position in the event of future amendments.

Sincerely,

Brian A. Allison
Political and Legislative Director, California

American Federation of State, County and Municipal Employees, AFL-CIO
TEL (916) 441-1570 FAX (916) 441-3426 WEB www.calafscme.org 1121 L Street, Suite 904 • Sacramento, California 95814-3926

CITRUS VALLEY HEALTH PARTNERS

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Citrus Valley Health Partners, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in Gerard v. Orange Coast Memorial Medical Center will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Robert H. Curry
President & CEO

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www.cvhp.org

Southern California Region
20555 Earl Street
Torrance, CA 90503

california.providence.org

PROVIDENCE
Health & Services
Southern California

September 3, 2015

The Honorable Roger Hernandez
Chai, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SB 327 (Hernandez), AS PROPOSED TO BE AMENDED – SUPPORT

Dear Assembly Member Hernandez:

Providence Health & Services supports SB 327, which will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

Providence operates six award-winning medical centers in Southern California: Providence Holy Cross in Mission Hills, Providence Little Company of Mary Medical Centers in San Pedro and Torrance, Providence Saint John's in Santa Monica, Providence Saint Joseph in Burbank and Providence Tarzana.

Providence has continuously offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Many of our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our six hospitals will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in significant costs, as well as scheduling changes across our hospitals that would result in the loss of scheduling flexibility for employees and adversely impact our continuity of care.**

For these reasons, Providence asks for your "AYE" vote on SB 327.

Sincerely,

Pamela Stahl, MS, RN
Chief Human Resources Officer

2200 River Plaza Drive
Sacramento, CA 95833

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Sutter Health and our 25 affiliated hospitals, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospitals have offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Patrick E. Fry
President and CEO

Dignity Health.
Mercy Medical Center
Redding

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Redding, CA 96001
direct 530-225-6133
fax 530-225-7297
dignityhealth.org

VIA FACSIMILE
(916) 319-2191

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Dignity Health / Mercy Medical Center Redding, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Stephan Hosler
VP Service Area Human Resources
Dignity Health North State

cc: The Honorable Members of the Assembly Labor and Employment Committee

MCH
Madera Community Hospital

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Madera Community Hospital, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are not represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts and has been the employee's preference. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Christina Watts Johnson
Assistant Vice President

Human Resources

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DELANO
REGIONAL
MEDICAL CENTER

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TDD: (661) 725-5443

September 3, 2015

SEP - 4

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Delano Regional Medical Center I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Bahram Ghaffari
President
Delano Regional Medical Center

AHMC ANAHEIM
Regional Medical Center

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of AHMC Anaheim Regional Medical Center, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Patrick Peere
Chief Executive Officer

1111 West La Palma Avenue • Anaheim, CA 92801-2881 • Phone: 714-774-1450

MARSHALL
MEDICAL CENTER
It's about you

September 4, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assembly Member Hernandez:

On behalf of Marshall Medical Center, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

James Whipple
CEO - Administrator

1100 Marshall Way, Placerville, CA 95667 t: 530-622-1441 www.marshallmedical.org

Dignity Health.
French Hospital Medical Center

1911 Johnson Avenue
San Luis Obispo, CA 93401
Direct: 805.513.2153
fmcalan@dignityhealth.org

Via Facsimile
916-319-2191

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of French Hospital Medical Center I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in Gerard v. Orange Coast Memorial Medical Center will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Alan Ifrimuk
President & CEO
French Hospital Medical Center

cc: Dawn Vicari, California Hospital Assoc. (via fax: 916-554-2275)

VISTA del MAR
Behavioral Healthcare Hospital

September 4, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Aurora Vista del Mar Hospital, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Mayla Krebsbach
CEO
Aurora Vista del Mar Hospital

801 Seneca Street • Ventura, CA 93001 • Phone (805) 653-6434 • Fax (805) 652-2065

Stanford HEALTH CARE
STANFORD MEDICINE
ValleyCare

September 4, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Stanford Health Care - ValleyCare I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in Gerard v. Orange Coast Memorial Medical Center will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Scott Gregerson
President
Stanford Health Care - ValleyCare

1111 E. Stanley Boulevard | Livermore, CA 94550 (mailing address)
5555 W. Las Positas Boulevard | Pleasanton, CA 94588

St.JosephHealth
St. Jude Medical Center
A member of the St. Joseph Hoag Health alliance

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of St. Jude Medical Center in Fullerton, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Lee Penrose
President and CEO
St. Jude Medical Center

101 E. Valencia Mesa Dr. • Fullerton, CA 92835-3875
T: (714) 871-3280

St. Joseph Health
St. Mary

September 3, 2015

SEP - 4

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol
Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of St. Mary Medical Center in Apple Valley, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Best regards,

Alan H. Garrett
President and CEO

18300 Highway 18 • Apple Valley, CA 92307
T: (760) 242-2311

SEP - 4

9/3/15

CAPITOL STRATEGIC ADVISORS, LLC

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of our client, Hospital Corporation of America, we are writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospitals have offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Shaun Flanigan
Partner

James Jack
Partner

1215 K Street, Suite 1760 Sacramento, California 95814 (916) 325-4521

LOMPOC VALLEY MEDICAL CENTER
Lompoc Healthcare District

Chief Human Resources Officer
P: 805-737-3307
F: 805-737-6740
E: braxtone@lompocvmc.com

SEP - 4

September 3, 2015

The Honorable Katcho Achadjian
State Capitol
Sacramento, CA 94249

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assembly Member Achadjian:

On behalf of Lompoc Valley Medical Center, I am writing in strong support of SB 327. This bill will clarify that employees in the healthcare industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, healthcare employers and employees have been able to utilize the special healthcare waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Very respectfully,

Edwin R. Braxton, MSHRM
Chief Human Resources Officer

Stanford
HEALTH CARE
STANFORD MEDICINE

SEP - 4 ;

MAGNET RECOGNIZED

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Stanford Health Care, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Nancy J. Lee, RN, MSN, NEA-BC
Chief Nursing Officer and Vice President, Patient Care Services
Stanford Health Care

cc: Dawn Vicari, California Hospital Association via email dvicari@calhospital.org

Office of the CNO | 300 Pasteur Drive | Room H3200, M/C 5230 | Stanford, CA 94305

St. Joseph Health
St. Joseph Hospital

September 3, 2015

SEP - 4

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of St. Joseph Hospital in Orange, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Steven C. Moreau, President and CEO
St. Joseph Hospital

1100 West Stewart Drive • Orange, CA 92868
T: (714) 633-9111
www.sjo.org

SEP - 4

Dignity Health.
St. Joseph's Behavioral Health Center

VIA FACSIMILE
(916) 319-2191

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of St. Joseph's Behavioral Health Center I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Paul Rains

Paul Rains, President
St. Joseph's Behavioral Health Center

cc: The Honorable Members of the Assembly Labor and Employment Committee

CALIFORNIA
CHILDREN'S
HOSPITAL
ASSOCIATION

1215 K STREET SUITE 1930
SACRAMENTO, CA 95814
916.552.7111
916.552.7119 FAX
www.cchaorg

September 3, 2015

SEP -- 4

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of the California Children's Hospital Association, I am writing in strong support of SB 327 (Hernandez). This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, stifling our member hospitals' abilities to schedule 12-hour shifts.

For many years, our hospitals have offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Without the option, hospitals would have to change scheduling practices, either moving to eight-hour shifts or lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or otherwise reducing scheduling flexibility for employees. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted, hospitals will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability. Children's hospitals care for the most vulnerable children in California – severely ill or injured – and over 62% of visits to children's hospitals in 2012 were paid for by Medi-Cal. The financial liabilities could increase stress on these important safety net institutions.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Bernardette Arellano
Director of Government Affairs

SAN GORGONIO
MEMORIAL HOSPITAL

SEP - 4

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol
Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of San Gorgonio Memorial Hospital I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Mark Turner
Chief Executive Officer

600 North Highland Springs Ave. • Banning, CA 92220 • 951.845.1121 • Fax 951.845.2836

Keck Medical Center of USC

Hospital Administration
Rodney Hanners
Chief Operating Officer, Keck Medicine of USC
& Chief Executive Officer for Keck Hospitals

SEP - 4

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Keck Hospital of USC and USC Norris Cancer Hospital, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Rodney Hanners
Chief Operating Officer, Keck Medicine of USC
Chief Executive Officer for Keck Hospitals of USC

University of Southern California
1500 San Pablo Street, Los Angeles, California 90033 • Tel: 323 442 8500 • Fax: 323 442 5257

Dignity Health.
Community Hospital of
San Bernardino

SEP - 4

dignityhealth.org/san-bernardino
1805 Medical Center Drive
San Bernardino, CA 92411

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol Room 5016
Sacramento, CA 95814

Sent via fax: (916) 319-2191

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Dignity Health – Community Hospital of San Bernardino I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

June Collison

June Collison
President, Dignity Health Community Hospital of San Bernardino

Dignity Health.
St. Bernardine Medical Center

dignityhealth.org/stbernardinemedical
2101 N. Waterman Ave
San Bernardino, CA 92404

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol Room 5016
Sacramento, CA 95814

Sent via fax: (916) 319-2191

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Dignity Health – St. Bernardine Medical Center I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur, For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Daryl VandenBosch
President, Dignity Health St. Bernardine Medical Center

ADMINISTRATION

SEP - 4

PALOMAR HEALTH

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor & Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814.

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Palomar Health, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, hospitals may be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes for hospitals that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez). If you have questions, about Palomar Health's support to SB 327, please contact Elly Garner at elly.garner@palomarhealth.org.

Sincerely,

Bob Hemker
President and CEO
Palomar Health

Marina Del Rey Hospital

4650 Lincoln Boulevard • Marina Del Rey • CA • 90292
310.823.8911 • www.marinahospital.com

September 3, 2015

SEP - 4

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Marina Del Rey Hospital I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Scan Fowler
President
Marina Del Rey Hospital

BEVERLY HOSPITAL

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SEP - 4

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Beverly Hospital I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Alice Cheng
President & CEO
Beverly Hospital Association

309 West Beverly Boulevard • Montebello, California 90640 • Telephone 323-726-1222

Glendale Adventist Medical Center
Adventist Health

SEP - 4

Administration
1509 Wilson Terrace
Glendale, CA 91206
Tel. 818-409-8300

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Glendale Adventist Medical Center, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Kevin A. Roberts

Kevin A. Roberts, CEO/President
Glendale Adventist Medical Center

975 S. Fairmont Ave.
P.O. Box 3004
Lodi, California 95240
209.334.3411
lodihealth.org

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Lodi Memorial Hospital I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Daniel Wolcott, CEO
Lodi Memorial Hospital

El Camino Hospital
THE HOSPITAL OF SILICON VALLEY

2500 Grant Road
Mountain View, CA 94040-4378
Phone: 650-940-7000
www.elcaminohospital.org

September 3, 2015

SEP - 4

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of El Camino Hospital I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Many of our hourly employees are represented by labor unions, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and our employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Tonni Ryba

Tonni Ryba
President & CEO

SAN JOAQUIN VALLEY REHABILITATION HOSPITAL

Hospital & Outpatient Center
7173 N. Sharon
Fresno, California 93720
559-436-3600
559-436-3606 FAX

Fresno Outpatient &
Fitness Center
7033 N. Fresno St., Suite 101
Fresno, California 93720
559-431-2635
559-431-2650 FAX

Oakhurst
Outpatient Center
40232 Junction Drive
Oakhurst, California 93644
559-658-6490
559-658-6491 FAX

Balance and
Dizziness Center
1865 E. Alluvial, Suite 104
Fresno, California 93720
559-326-1155
559-326-1154 FAX

Clovis Outpatient &
Fitness Center
1315 Shaw Ave., Suite 102
Clovis, California 93612
559-325-5601
559-325-5605 FAX

Selma Outpatient Center
2711 Cinema Way, Suite 103
Selma, CA 93662
559-257-5970
559-318-9184 FAX

9/3/15

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of San Joaquin Valley Rehabilitation Hospital, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in Gerard v. Orange Coast Memorial Medical Center will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Mary Jo Jacobson, PT CEO
San Joaquin Valley Rehabilitation Hospital

SEP - 4

2014 Press Ganey Guardian of Excellence Award Winner

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Southern Mono healthcare District dba Mammoth Hospital, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Melanie Van Winkle
Chief Financial Officer

P.O. Box 660 | 85 Sierra Park Road | Mammoth Lakes, CA 93546 | 760.924.4114 | Fax 760.924.4104
www.mammothhospital.com

METICULOUS CARE * MEMORABLE PEOPLE * MAJESTIC LOCATION

Redlands Community Hospital

350 Terracina Blvd.
P.O. Box 3391
Redlands, CA 92373-0742
909-335-5500
Fax 909-335-6497

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol
Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Redlands Community Hospital I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

James R. Holmes
President/Chief Executive Officer

E. Hernandez
(2220

KAISER PERMANENTE®

Kaiser Foundation Health Plan, Inc.

September 3, 2015

The Honorable Roger Hernandez, Chair
Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SEP - 3

RE: SB 327 *As to be Amended* – SUPPORT

Dear Assemblymember Hernandez:

Kaiser Permanente is in strong support of SB 327 (Hernandez), which would clarify that employees in the healthcare industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, therefore jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades our hospitals have offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by labor unions, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period. This option allows employees to go home earlier after working 12 hours, and without this option, we would need to change our scheduling practices.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes would occur. For decades, healthcare employers and employees have been able to utilize the special healthcare waiver provision in Wage Order 5, section (11)(D) and there has never been any question about its validity.

Absent clarification that Wage Order 5, section (11)(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, hospitals will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in scheduling changes across hospitals that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we urge your support of SB 327 (Hernandez). If you have any questions, please do not hesitate to contact me at 916-448-9875.

Sincerely,

Angelica V. Gonzalez
Director, Government Relations

cc: The Honorable Ed Hernandez, O.D.
Members, Assembly Labor and Employment Committee
Anthony Archie, Assembly Republican Caucus

Government Relations
1215 K Street, Suite 2030
Sacramento, CA 95814
Phone: 916-448-4912
Fax: 916-973-6476

CALIFORNIA HOSPITAL ASSOCIATION

Providing Leadership in Health Policy and Advocacy

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SB 327 (Ed Hernandez) - SUPPORT

Dear Assembly Member Hernandez:

On behalf of over 400 California hospitals and health systems, the California Hospital Association is pleased to sponsor and support SB 327 (Hernandez). This bill will clarify that employees in the healthcare industry can continue to waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when their shift exceeds 12 hours. A recent court ruling, *Gerard v. Orange Coast Memorial Medical Center*, could jeopardize this option, thus jeopardizing the availability to 12-hour shifts. Absent clarification that Wage Orders 4 and 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, hospitals will be liable for a missed meal period premium on any day an employee worked even 1 minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes throughout the hospital industry. Thus, it is critically important for the Legislature to construe and clarify the meaning of and effect of existing law and to abrogate the court's decision on this issue in *Gerard*.**

While the California Supreme Court recently accepted review of the *Gerard* case, it nonetheless poses a significant adverse impact on healthcare employers and employees, particularly those working 12-hour shifts who want to waive one of their meal periods so that they do not have to prolong their workday by 30 minutes. Because it is unclear when and how the Supreme Court will resolve the case, hospitals are faced with the decision whether to immediately and significantly change their scheduling practices, which may include extending the shift to 13 hours to accommodate a second, off-duty meal period, reverting to 8-hour shifts or taking some other action to minimize potential liability moving forward. Further, while the *Gerard* appellate decision has been de-published similar cases have already been filed and thus without clarification of the law, hospitals currently risk facing expensive class action litigation and potential retroactive liability in the millions of dollars. As the Supreme Court evaluates the legal issues raised in the *Gerard* case, clarification of the law by the legislature is extremely important to the Court's analysis. Thus, it is critically important for the Legislature to reject the Court of Appeal decision and the rationale on which it is based.

Since 1993, healthcare employers have been able to offer a meal period waiver that allows employees working more than 12 hours to voluntarily waive one of their two meal periods. 12-hour shifts are common in the healthcare industry, both in unionized and non-unionized environments. Employees who work 12-hour shifts may frequently work a few minutes more than 12 hours due to clocking in a couple of minutes early or clocking out a couple of minutes late.

In 1999, as part of AB 60, the California Legislature codified the meal period rules which had formerly only been included in the wage order. In Labor Code section 512, the Legislature expressly required that employees working more than 10 hours be provided a second meal period and also expressly provided that employees could voluntarily waive the second meal period so long as they did not work more than 12 hours.

1215 K Street, Suite 800, Sacramento, CA 95814 • *Telephone:* 916.443.7401 • *Facsimile:* 916.552.7596 • www.calhospital.org
Corporate Members: Hospital Council of Northern and Central California, Hospital Association of Southern California, and Hospital Association of San Diego and Imperial Counties

At the same time, the Legislature specifically gave the Industrial Welfare Commission (IWC) authority to determine whether to continue to authorize 12-hour alternative workweek schedules, in Labor Code 517. In Labor Code 516, the Legislature also expressly authorized the IWC to adopt or amend the wage orders with respect to meal periods, notwithstanding the rules set forth in Labor Code 512.

After several hearings on the matter and significant negotiation between labor and hospital representatives, the IWC decided to maintain 12-hour shifts, with some variation, and to maintain the special healthcare meal period waiver rules, allowing employees in the healthcare industry to waive one of their meal periods even when a shift exceeded 12 hours.

This action was taken on June 30, 2000 — the deadline set by the Legislature for the IWC to determine whether to continue 12-hour shifts. These amendments went into effect on October 1, 2000. The time between the adoption date of June 30 and the effective date of October 1 was needed to accomplish administrative activity, such as updating the wage orders.

On September 16, 2000, the Governor signed urgency legislation, SB 88. That bill limited the IWC's authority to establish meal period rules that conflicted with Labor Code section 512. That law went into effect more than two months after the IWC adopted Wage Order 4 and 5, as well as other wage orders.

There is no evidence to suggest that SB 88 was intended to invalidate the action the IWC took on June 30, 2000 with respect to the healthcare meal period rules. In order to preserve the status quo preferred by both hospitals and their employees for over 20 years, as confirmed by the IWC in 2000, a legislative clarification is necessary.

Therefore, CHA respectfully request your YES vote on SB 327.

Sincerely,

Kathryn Austin Scott
Legislative Advocate

KAS:dlv

cc: The Honorable Ed Hernandez
The Honorable Members of Assembly Labor and Employment Committee
Ben Ebbink, Consultant, Assembly Labor and Employment Committee
Anthony Archie, Consultant, Assembly Republican Caucus

SEIU-UHW
UNITED HEALTHCARE WORKERS WEST
SERVICE EMPLOYEES INTERNATIONAL UNION, CLC

Dave Regan - President
Jan Lyles - Vice President

560 Thomas L. Berkley Way
Oakland, CA 94612
510-251-1250
FAX 510-763-2680

5480 Ferguson Drive
Los Angeles, CA 90022
323-734-8399
FAX 323-721-3538

www.SEIU-UHW.org

The Hon. Dr. Ed Hernandez
Senator, Twenty-second District
State Capitol, Room 2080
Sacramento, CA 95814

Re: Support for SB 327

Dear Dr. Hernandez:

SEIU-UHW is pleased to support your SB 327. SB 327 will codify long-standing regulations regarding 12 hour shifts in healthcare settings. A recent court decision (Gerard v. Orange Coast Memorial Medical Center) invalidated these longstanding special healthcare rules adopted by the Industrial Welfare Commission (IWC) in 1992 and reaffirmed by the IWC in 2000. This long-standing rule allows employees to waive one of their two meal periods when they work more than 10 hours. Employees generally like to waive one of their two meal periods because they are scheduled for 12 ½ hours (to accommodate one off duty meal period) rather than 13 hours (to accommodate 2 off duty meal periods).

The court decision is currently on appeal at the California State Supreme Court, but a decision could be years away. In the meantime hospitals and healthcare workers are waiting in limbo, trying to figure out what potential impact the ruling may have on current shift practices.

If it stands, the impact of this ruling on healthcare workers is significant. Hospitals would have to change their shift practices. Options include going back to 8-hour shifts, requiring employees to take a second meal period-which means they would be scheduled for 13 hours rather than 12 ½ or maintaining the current 12 ½ hour scheduling but paying employees for 11 ½ hours of work to accommodate two meal periods. None of these are very desirable options, either for patient safety, healthcare workers and their families or for hospitals.

A wholesale disruption of current shift practices across every hospital in the state could result in in increased patient care issues as healthcare workers try to adjust to new hours and new work patterns. If the industry adopts 8 hour shifts continuity of care will suffer. It's a well-known fact that communication errors often occur at shift changes. These "handoff errors," as they are sometimes called, can put patients at risk. When there are two shift changes in a day instead of three, patients will benefit from better continuity of care.

Twelve hour shifts are overwhelming preferred by healthcare workers because they work a shorter work week (3 days on, 4 days off). They spend less time commuting and more time with family and friends. The enhanced work-life balance increases job satisfaction and less burn-out. This is the benefit that nurses cite most often in surveys about their shift preferences. Having four full days away from the job can allow you to enjoy your personal life to a greater extent or spend more time with family. Hospitals find that this in turn translates into better staff morale, less staff turnover, and reduced absenteeism.

Rather than risk overturning 22 years of settled regulation we are asking for a legislative solution that would simply codify the existing regulation into law. SB 327 does that.

Sincerely,

David Kieffer
SEIU-UHW Director of Government Affairs

Adventist Health

Feather River Hospital

5974 Pentz Road
Paradise, CA 95969
530-877-9361

September 17, 2015

SEP 18

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Feather River Hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Kevin R. Erich
President & CEO
Feather River Hospital

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

Recipient of the Gold CAPS Award for Performance Excellence 2008 & 2010

COMMUNITY
MEDICAL CENTERS

SEP 18

Sept. 16, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of nonprofit Community Medical Centers, I ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the healthcare industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, healthcare employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, I respectfully ask that you sign SB 327.

Sincerely,

Tim A. Joslin
President and CEO
Community Medical Centers

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

P.O. Box 1232, Fresno, California 93715-1232 • www.communitymedical.org

DESERT VALLEY HOSPITAL

September 16, 2015

SEP 16

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Desert Valley Hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Fred Hunter
CEO
Desert Valley Hospital

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

SP 18.

Mayers Memorial Hospital District

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

September 16, 2015

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Mayers Memorial Hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Valerie Lakey
Director of Public Relations/Advocacy

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

P.O. Box 459 – 43563 Highway 299 East, Fall River Mills, CA 96028 Tel. (530) 336-5511 Fax (530) 336-6199
http://www.mayersmemorial.com

Stanford
HEALTH CARE
STANFORD MEDICINE

SEP 19

MAGNET RECOGNIZED

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Stanford Health Care, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section 11(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Nancy Lee

Nancy J. Lee, RN, MSN, NEA-BC
Chief Nursing Officer and Vice President, Patient Care Services
Stanford Health Care

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor
Dawn Vicari, California Hospital Association

Office of the CNO | 300 Pasteur Drive | Room H3200, M/C 5230 | Stanford, CA 94305

CALIFORNIA
CHILDREN'S
HOSPITAL
ASSOCIATION

1215 K STREET SUITE 1930
SACRAMENTO, CA 95814
916.552.7118
916.552.7119 FAX
www.cchaorg

September 16, 2015

The Honorable Jerry Brown
Governor, State of California
State Capitol, Suite 1173
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ)

Dear Governor Brown:

On behalf of the California Children's Hospital Association (CCHA), I am writing to respectfully request your signature on SB 327 (Hernandez). This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, stifling our member hospitals' abilities to schedule 12-hour shifts.

For many years, our hospitals have offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Without the option, hospitals would have to change scheduling practices, either moving to eight-hour shifts or lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or otherwise reducing scheduling flexibility for employees. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted, hospitals will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability. Children's hospitals care for the most vulnerable children in California – severely ill or injured – and over 62% of visits to children's hospitals in 2012 were paid for by Medi-Cal. The financial liabilities could increase stress on these important safety net institutions.

For these reasons, we respectfully request your signature on SB 327 (Hernandez).

Sincerely,

Bernardette Arellano
Director of Government Affairs

Cc: The Honorable Senator Ed Hernandez
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

Scripps Health Public Affairs
Office of the President
4275 Campus Point Court
San Diego, CA 92121-1513
Tel 858-678-6892
Fax 858-678-6131

Scripps

SEP 18

September 15, 2015

Governor Jerry Brown
State Capitol
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Scripps Health I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, we ask for your signature on SB 327 (Hernandez).

Sincerely,

Michael D. Bardin
Senior Director Public and Government Affairs

CHOC Children's.
1201 W. La Veta Avenue
Orange, CA 92868-4203
T 714 997 3000
w choc.org

September 16, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SEP 18

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

As President and Chief Executive Officer of CHOC Children's, a pediatric health system based in Orange County, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing a hospital's ability to schedule 12-hour shifts.

For decades, CHOC Children's has offered 12-hour-shift employees the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period, because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and its employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This outcome could result in millions of dollars in liability – dollars that nonprofit safety net providers like CHOC Children's would otherwise reinvest in providing services to our state's most medically needy residents. In addition, we would be required to make dramatic scheduling changes across our system that would result in loss of employee scheduling flexibility and disruptive impacts in the way patient care is delivered.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Kimberly Chavalas Cripe
President & Chief Executive Officer

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

SEP 18

Barlow Respiratory HOSPITAL

September 16, 2015

Margaret W. Crane
Chief Executive Officer

2000 Stadium Way
Los Angeles, California 90026-1696
Direct: 213.202.6866
Main: 213.250.4100 ext 3316
Fax: 213.202.6801
Email: mcrane@barlow2000.org

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Barlow Respiratory Hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Margaret Crane

Margaret W. Crane
Chief Executive Officer

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

SEP 18

Lodi Health

975 S. Fairmont Ave.
P.O. Box 3004
Lodi, California 95240
209.334.3411
lodihealth.org

September 16, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Lodi Memorial Hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Mark Wallace

Mark Wallace, MA, PHR
Director of Human Resources
Lodi Memorial Hospital Association, Inc.

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

SEP 18

975 S. Fairmont Ave.
P.O. Box 3004
Lodi, California 95240
209.334.3411
lodihealth.org

September 16, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Lodi Memorial Hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Terry Deak
Chief Financial Officer
Lodi Memorial Hospital Association, Inc.

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

SEP 18

Lodi Health

975 S. Fairmont Ave.
P.O. Box 3004
Lodi, California 95240
209.334.3411
lodihealth.org

September 16, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Lodi Memorial Hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Daniel Wolcott
Chief Executive Officer
Lodi Memorial Hospital Association, Inc.

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

Lodi Health

975 S. Fairmont Ave.
P.O. Box 3004
Lodi, California 95240
209.334.3411
lodihealth.org

September 16, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Lodi Memorial Hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Joseph P. Harrington
Administrator
Lodi Memorial Hospital Association, Inc.

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

Good Samaritan Hospital

SEP 18

September 19, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Good Samaritan Hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Lexie Schuster
Vice President, Human Resources
Good Samaritan Hospital, Los Angeles

cc: The Honorable Ed Hernandez, Member of the Senate ✓
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

An Affiliated Hospital of the University of Southern California
1225 Wilshire Boulevard, Los Angeles, California 90017-2395 • Tel (213) 977-2121

LOMA LINDA UNIVERSITY MEDICAL CENTER

Office of the Chief Executive Officer/Administrator

11234 Anderson Street
Post Office Box 2000
Loma Linda, California 92354
(909) 558-4308
FAX: (909) 558-0308

SEP 18

September 17, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Loma Linda University Medical Center, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Kerry L. Heinrich
Chief Executive Officer

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

SEP 18

San Joaquin General Hospital • P. O. Box 1020 • Stockton • CA 95201 • (209) 468-6000

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of San Joaquin General Hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by labor unions, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

David K. Culberson
Chief Operating Hospital
San Joaquin General Hospital

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

JOHN MUIR HEALTH

September 17, 2015

SEP 18

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of John Muir Health, which represents approximately 5,500 employees and includes two of the largest medical centers in Contra Costa County, as well as a psychiatric hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Some of our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital's would likely be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Nancy Olson
Chief Governance and Government Affairs Officer

cc: The Honorable Ed Hernandez, Member of the Senate ✓
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

Fairchild Medical Center

SEP 18

September 16, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Fairchild Medical Center, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Jonathon Andrus
Chief Executive Officer
Fairchild Medical Center

JA/rb

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

444 Bruce Street • Yreka, CA 96097 • 530.842.4121

HEALTHSOUTH
Tustin Rehabilitation Hospital

SEP 18

September 17, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of HealthSouth Tustin Rehabilitation Hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

LaDonna Butler, RN, MSHCA
Chief Nursing Officer
HealthSouth Tustin Rehabilitation Hospital

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

14451 Yorba Street • Tustin, CA 92780-2925 • 714-832-9200 • Fax 714-508-4550

HEALTHSOUTH
Tustin Rehabilitation Hospital

September 17, 2015

SEP 18

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of HealthSouth Tustin Rehabilitation Hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

JoAnn Roiz, PHR, SHRM-CP
Chief Nursing Officer
HealthSouth Tustin Rehabilitation Hospital

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

14851 Yorba Street • Tustin, CA 92780-2925 • 714-832-9200 • Fax 714-508-4550

SEP 18

September 17, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Enloe Medical Center, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Mike Wiltermood
President and CEO
Enloe Medical Center

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

Parkview
Community Hospital
Medical Center

SEP 18

September 16, 2015

The Honorable Edmund "Jerry" G. Brown, Jr. Governor of California
State Capitol Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Parkview Community Hosp Medical Center, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hours shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Steve Popkin,
Chief Executive Officer

cc: The Honorable Ed Hernandez, Member of the Senate ✓
Camillo Wagner, Secretary, Legislative Affairs, Office of the Governor

3865 Jackson Street, Riverside, CA 92503 (951) 688-2211 pchmc.org

VIBRA HOSPITAL
OF SAN DIEGO

SEP 18

September 18, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Vibra Hospital of San Diego, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Yameeka Jones, FACHE
Chief Executive Officer
Vibra Hospital of San Diego

cc: The Honorable Ed Hernandez, Member of the Senate ✓
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

CHOC Children's 1201 W. La Veta Avenue Orange, CA 92868-4220 T 714 997 3000 www.choc.org

September 16, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SEP 17

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

As President and Chief Executive Officer of CHOC Children's, a pediatric health system based in Orange County, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing a hospital's ability to schedule 12-hour shifts.

For decades, CHOC Children's has offered 12-hour-shift employees the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period, because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and its employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This outcome could result in millions of dollars in liability – dollars that nonprofit safety net providers like CHOC Children's would otherwise reinvest in providing services to our state's most medically needy residents. In addition, we would be required to make dramatic scheduling changes across our system that would result in loss of employee scheduling flexibility and disruptive impacts in the way patient care is delivered.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Kimberly Chavalas Cripe
President & Chief Executive Officer

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

CALIFORNIA
ASSOCIATION OF
HEALTH FACILITIES

Supporting People, Health and Quality of Life

September 14, 2015

Governor Jerry Brown
State Capitol
Sacramento, CA 95814

RE: SB 327 (Hernandez) - Support

SEP 17

Dear Governor Brown,

The California Association of Health Facilities (CAHF) is a non-profit, professional organization representing more than 800 skilled nursing facilities (SNFs) and 500 intermediate care facilities for people with developmental disabilities (ICF/DDs). Serving 300,000 individuals each year, SNFs are directly responsible for more than 135,000 jobs in California. CAHF supports SB 327 (Hernandez) and respectfully asks for your signature.

This bill will clarify that employees in SNFs, and the healthcare industry, can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, therefore jeopardizing SNFs' ability to schedule 12-hour shifts.

For decades, SNFs have offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period. This option allows employees to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to 8-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or another option that the facility and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes would occur. For over 20 years, healthcare employers and employees have been able to utilize the special healthcare waiver provision in Wage Order 5, section (11)(D) and there has never been any question about its validity.

Absent clarification that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, SNFs would be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in hundred millions of dollars in liability, as well as scheduling changes across California that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, CAHF respectfully asks for your signature on SB 327 (Hernandez). If you need any further information, I can be reached at (916) 432-5205 or mrobinson@cahf.org.

Sincerely,

Matt B. Robinson,
Director of Legislative Affairs

cc: Senator Ed Hernandez

Main Office:
2201 K Street
Sacramento, CA
95816-4922
(916) 441-6400
(916) 441-6441 fax

Southern California
Regional Office:
560 N. Coast Hwy 101
Suite 8
Encinitas, CA 92024

P.O. Box 370
La Jolla, CA
92038

(760) 944-1666
(760) 944-1049 fax

www.cahf.org

Cottage Health
GOLETA VALLEY | SANTA BARBARA | SANTA YNEZ VALLEY

SEP 16

Post Office Box 689
400 W. Pueblo Street
Santa Barbara, CA 93102-0689
p: 805-682-7111
w: CottageHealth.org

September 15, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Cottage Health, our three hospitals and our 3,400 employees I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Ron Werit
President & Chief Executive Officer

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

The Cottage Health mission is to provide superior health care through a commitment to our communities and to our core values of excellence, integrity, and compassion.

CEDARS-SINAI.

September 16, 2015

SEP 16

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Cedars-Sinai Medical Center, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section 11(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Thomas M. Priselac
President and CEO

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

8700 Beverly Boulevard Los Angeles, CA 90048 office 310.423.3277 cedars-sinai.edu

HEALTHSOUTH
Tustin Rehabilitation Hospital

SEP 16

September 15, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of HealthSouth Tustin Rehabilitation Hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

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For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Diane Hanyak
Chief Executive Officer
HealthSouth Tustin Rehabilitation Hospital

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

14851 Yorba Street · Tustin, CA 92780 · 714 832-9200

SEP 16

September 15, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of San Gorgonio Memorial Hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

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For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Mark Turner
Chief Executive Officer

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

600 North Highland Springs Ave. • Banning, CA 92220 • 951.845.1121 • Fax 951.845.2836

SAN JOAQUIN VALLEY
REHABILITATION HOSPITAL

Hospital &
Outpatient Center
7173 N. Sharon
Fresno, California 93720
559-436-3600
559-436-3606 FAX

Fresno Outpatient &
Fitness Center
7033 N. Fresno St., Suite 101
Fresno, California 93720
559-431-2635
559-431-2650 FAX

Oakhurst
Outpatient Center
40232 Junction Drive
Oakhurst, California 93644
559-658-6490
559-658-6491 FAX

Balance and
Dizziness Center
1866 E. Alluvial, Suite 104
Fresno, California 93720
559-326-1155
559-326-1154 FAX

Clovis Outpatient &
Fitness Center
1315 Shaw Ave., Suite 102
Clovis, California 93612
559-325-5601
559-325-5606 FAX

Selma Outpatient Center
2711 Cinema Way, Suite 103
Selma, CA 93662
559-257-5970
559-318-9184 FAX

September 15, 2015

SEP 16

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of San Joaquin Valley Rehabilitation Hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in Gerard v. Orange Coast Memorial Medical Center will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Mary Jo Jacobson
Chief Executive Officer
San Joaquin Valley Rehabilitation Hospital

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

SEP 16

Mayers Memorial Hospital District

Chief Executive Officer
Interim
Louis Ward, MHA

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

September 16, 2015

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Mayers Memorial Hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

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The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

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For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Valerie Lakey
Director of Public Relations/Advocacy

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

P.O. Box 459 – 43563 Highway 299 East, Fall River Mills, CA 96028 Tel. (530) 336-5511 Fax (530) 336-6199
http://www.mayersmemorial.com

CALIFORNIA
ASSOCIATION OF
HEALTH FACILITIES

CAHF

Supporting People, Health and Quality of Life

September 9, 2015

Senator Tony Mendoza, Chair
Senate Labor and Industrial Relations Committee
State Capitol
Sacramento, CA 95814

RE: SB 327 (Hernandez) - Support

Dear Senator Tony Mendoza,

The California Association of Health Facilities (CAHF) is a non-profit, professional organization representing more than 800 skilled nursing facilities (SNFs) and 500 intermediate care facilities for people with developmental disabilities (ICF/DDs). Serving 300,000 individuals each year, SNFs are directly responsible for more than 135,000 jobs in California. CAHF supports SB 327 (Hernandez).

CAHF has 23 member SNFs and approximately 3,000 employees in your Assembly District 48. This bill will clarify that employees in SNFs, and the healthcare industry, can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, therefore jeopardizing SNFs' ability to schedule 12-hour shifts.

For decades, SNFs have offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period. This option allows employees to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to 8-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or another option that the facility and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes would occur. For over 20 years, healthcare employers and employees have been able to utilize the special healthcare waiver provision in Wage Order 5, section (11)(D) and there has never been any question about its validity.

Absent clarification that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, SNFs would be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in hundred millions of dollars in liability, as well as scheduling changes across California that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, CAHF respectfully asks for your "YES" vote on SB 327 (Hernandez) when it is heard in Senate Labor and Industrial Relations Committee. If you need any further information, I can be reached at (916) 432-5205 or mrobinson@cahf.org, or please contact Jennifer Snyder at Capitol Advocacy at (916) 444-0400 or jsnyder@capitoladvocacy.com.

Sincerely,

Matt B. Robinson,
Director of Legislative Affairs

cc: Senate Labor and Industrial Relations
Senator Ed Hernandez

Main Office:
2201 K Street
Sacramento, CA
95816-4922
(916) 441-6400
(916) 441-4441 fax

Southern California
Regional Office:
560 N. Coast Hwy 101
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P.O. Box 390
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92038

(760) 944-1666
(760) 944-1049 fax

www.cahf.org

CALIFORNIA
ASSOCIATION OF
HEALTH FACILITIES

CAHF

Supporting People, Health and Quality of Life

September 9, 2015

Senator Tony Mendoza, Chair
Senate Labor and Industrial Relations Committee
State Capitol
Sacramento, CA 95814

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For these reasons, CAHF respectfully asks for your "YES" vote on SB 327 (Hernandez) when it is heard in Senate Labor and Industrial Relations Committee. If you need any further information, I can be reached at (916) 432-5205 or mrobinson@cahf.org, or please contact Jennifer Snyder at Capitol Advocacy at (916) 444-0400 or jsnyder@capitoladvocacy.com.

Sincerely,

Matt B. Robinson,
Director of Legislative Affairs

cc: Senate Labor and Industrial Relations
Senator Ed Hernandez

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2201 K Street
Sacramento, CA
95816-4922
(916) 441-6400
(916) 441-6441 fax

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92038

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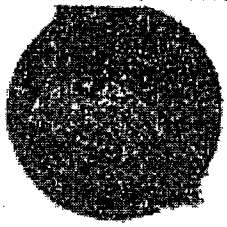

California Labor Federation AFL-CIO www.workingcalifornia.org

Headquarters: 600 Grand Ave
Suite 410
Oakland, CA 94610-3561
510.665.4000 tel
510.665.4099 fax

1127 11th Street
Suite 425
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916.444.3676 tel
916.444.7693 fax

3303 Wilshire Boulevard
Suite 415
Los Angeles, CA 90010-1738
213.736.1770 tel
213.736.1777 fax

September 10, 2015

SEP 10

Senator Tony Mendoza
Chair, Senate Labor and Industrial Relations Committee
1020 N Street, Room 545
Sacramento, CA 95814

RE: **SB 327 (Hernandez) – SUPPORT AS AMENDED SEPTEMBER 4TH**

Dear Senator Mendoza:

The California Labor Federation supports SB 327 (Hernandez), which will clarify the rules on meal period waivers for workers on 12-hour shifts.

A recent court decision – Gerard v. Orange Coast Memorial Medical Center – invalidated a wage order provision that allowed employees to waive one of two legally guaranteed meal periods when working shifts over 10 hours long. SB 327 simply reinstates the wage order provision that permits these waivers for workers on 12-hour shifts. This restores the status quo prior to that court decision.

This bill is unique in that it has the support of both the California Hospital Association and several of the unions representing hospital workers. For that reason, we support this proposal.

We urge you to vote "YES" on SB 327 (Hernandez) when it comes before you in the Senate Labor and Industrial Relations Committee.

Sincerely,

Mitch Seaman
Legislative Advocate
MS: sn
CPEIU 3 AFL CIO (31)
ms/cpe39321/afl-cio

Cc: Committee Members
Senator Ed Hernandez

CalChamber
CALIFORNIA CHAMBER OF COMMERCE

****FLOOR ALERT****

September 10, 2015 SEP 10.

TO: Members, California State Assembly

FROM: Jennifer Barrera, Policy Advocate

SUBJECT: **SB 327 (HERNANDEZ) INDUSTRIAL WELFARE COMMISSION: WAGE ORDERS: MEAL PERIODS**
SUPPORT

The California Chamber of Commerce is pleased to **SUPPORT SB 327 (Hernandez)**, as amended September 9, 2015, that clarifies the enforceability of meal period waivers contained in the Industrial Welfare Commission (IWC) Wage Orders for employees in the health care industry.

The IWC updated the Wage Orders in 2000 according to various industries, including Wage Orders 4 and 5 with regard to employees in the health care industry. Given the unique circumstances and working conditions of employees in the health care industry, including shifts that are typically 12-hours long, these Wage Orders include special rules with regard to waivers of meal periods. .

SB 327 clarifies the enforceability of these meal period rules to eliminate any uncertainty that can lead to unnecessary litigation. This clarification benefits both employers and employees who requested the IWC to enact such waivers in order to preserve the working conditions in the health care industry.

For these reasons, we are pleased to **SUPPORT SB 327.**

cc: Camille Wagner, Office of the Governor
The Honorable Ed Hernandez
Anthony Archie, Assembly Republican Caucus
District Office, Members, California State Assembly
Labor and Workforce Development Agency
Department of Industrial Relations

JB:ll

1215 K Street, Suite 1400
Sacramento, CA 95814
916 444 6670
www.calchamber.com

KAISER PERMANENTE®

Kaiser Foundation Health Plan, Inc.

SEP - 9

September 8, 2015

The Honorable Tony Mendoza, Chair
Senate Labor and Industrial Relations Committee
1020 N Street, Room 545
Sacramento, CA 95814

RE: SB 327 (Hernandez) – SUPPORT

Dear Senator Mendoza:

Kaiser Permanente is in strong support of SB 327 (Hernandez), which would clarify that employees in the healthcare industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, therefore jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades our hospitals have offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by labor unions, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period. This option allows employees to go home earlier after working 12 hours, and without this option, we would need to change our scheduling practices.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes would occur. For decades, healthcare employers and employees have been able to utilize the special healthcare waiver provision in Wage Order 5, section (11)(D) and there has never been any question about its validity.

Absent clarification that Wage Order 5, section (11)(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, hospitals will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in scheduling changes across hospitals that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

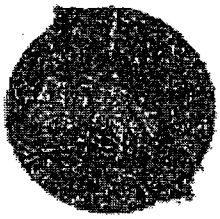
For these reasons, we urge your support of SB 327 (Hernandez). If you have any questions, please do not hesitate to contact me at 916-448-9875.

Sincerely,

Angelica V. Gonzalez
Director, Government Relations

cc: The Honorable Ed Hernandez, O.D.
Members, Senate Labor and Industrial Relations Committee
Cory Botts, Senate Republican Caucus

Government Relations
1215 K Street, Suite 2030
Sacramento, CA 95814
Phone: 916-448-4912
Fax: 916-973-6476



California Labor Federation | AFL-CIO www.workingcalifornia.org

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916.444.7593 fax

3303 Wilshire Boulevard
Suite 415
Los Angeles, CA 90010-1798

213.736.1770 tel
213.736.1777 fax

September 9, 2015

Speaker Toni Atkins
California State Assembly
State Capitol, Room 219
Sacramento, CA 95814

SEP - 9

RE: SB 327 (Hernandez) – SUPPORT AS AMENDED SEPTEMBER 4TH

Dear Speaker Atkins:

The California Labor Federation supports SB 327 (Hernandez), which will clarify the rules on meal period waivers for workers on 12-hour shifts.

A recent court decision – Gerard v. Orange Coast Memorial Medical Center – invalidated a wage order provision that allowed employees to waive one of two legally guaranteed meal periods when working shifts over 10 hours long. SB 327 simply reinstates the wage order provision that permits these waivers for workers on 12-hour shifts. This restores the status quo prior to that court decision.

This bill is unique in that it has the support of both the California Hospital Association and several of the unions representing hospital workers. For that reason, we support this proposal.

We urge you to vote "YES" on SB 327 (Hernandez) when it comes before you on the Assembly Floor.

Sincerely,

Mitch Seaman
Legislative Advocate
MS: sm
OPEIU 3 AFL CIO (51)
ms/tng3952L/afl-cio

Cc: California State Assembly
Senator Ed Hernandez

Kindred Hospital
Riverside

Dedicated [illegible]

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assembly member Hernandez;

On behalf of Kindred Hospital - Riverside, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard* v. *Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

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For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Jonathan Jean-Marie
Interim CEO

2224 Medical Center Drive • Perris, California 92571
951.436.3535 • 951.657.3968 fax • 800.735.2922 TDD/TTY
www.khriverside.com

DESERT VALLEY HOSPITAL

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assembly member Hernandez:

On behalf of Desert Valley Hospital, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

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For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Fred Hunter
CEO
Desert Valley Hospital

PIONEERS MEMORIAL Healthcare District

207 West Legion Road, Brawley, CA 92227 voice 760.351.3333 fax 760.344.4401

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Pioneers Memorial Healthcare District I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section 11(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Julie Cunningham
Chief Human Resources Officer/Community Relations
Pioneers Memorial Healthcare District

PALO VERDE HOSPITAL
Bringing Health & Care Together

250 North First Street
Blythe, CA 92225
760.921.5150

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assembly member Hernandez:

On behalf of Palo Verde Hospital, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Sandra Anaya
CEO
Palo Verde Hospital

Sandra.anaya@paloverdehospital.org

O'Connor Hospital
It's the Way We Care

2105 Forest Avenue
San Jose, California 95128-1471
(408) 947-2500
www.oconnorhospital.org
facebook.com/oconnorhospital

September 4, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol
Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assembly member Hernandez:

On behalf of O'Connor Hospital I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Dawn Goeringer

Dawn Goeringer, MSN, RN
Sr. Vice President, Chief Clinical Care Officer
O'Connor Hospital

Parkview
Community Hospital
Medical Center

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Parkview Community Hospital Medical Center, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Steve Popkin
Chief Executive Officer

3865 Jackson Street, Riverside, CA 92503 (951) 688-2211 pchmc.org

Dignity Health.
Marian Regional Medical Center

1400 East Church Street
Santa Maria, CA 93454
Direct: 805.739.3000
mariamedicalcenter.org

Via Facsimile
916-319-2191

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Marian Regional Medical Center I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in Gerard v. Orange Coast Memorial Medical Center will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Chuck Cova

Charles J. Cova
President & CEO, Marian Regional Medical Center
Senior VP, Operations, Dignity Health Central Coast

cc: Dawn Vicari, California Hospital Assoc. (via fax: 916-554-2275)

SOUTHWEST HEALTHCARE SYSTEM
INLAND VALLEY MEDICAL CENTER
RANCHO SPRINGS MEDICAL CENTER

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Southwest Healthcare System Murrieta & Wildomar, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Bradley D. Neet, CEO
Southwest Healthcare System

SP - 4

MONTEREY PARK HOSPITAL
AHMC

Friday September 4, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Monterey Park Hospital I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Some of our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Philip A. Cohen
Chief Executive Officer
And Executive Vice President
for AHMC Healthcare

900 South Atlantic Blvd., Monterey Park, CA 91754
Tel: (626) 570-9000

Dignity Health.
St. Joseph's Medical Center

Administration
1800 North California Street
Stockton, CA 95204
direct 209.467.6315
fax 209.461.3299
dignityhealth.org

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

VIA FACSIMILE
(916) 319-2191

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of St. Joseph's Medical Center, Stockton, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Sister Abby Newton, OP
Vice President Mission Integration

cc: The Honorable Members of the Assembly Labor and Employment Committee

SHARP

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Mr. Chairman:

On behalf of Sharp HealthCare (Sharp), San Diego's largest provider of health care and largest private employer, I write in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could endanger this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Some Sharp employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, Sharp requests your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Daniel L. Gross
Executive Vice President, Hospital Operations

SHARP ORGANIZATIONS
Sharp HealthCare ■ Sharp Memorial Hospital ■ Sharp Grossmont Hospital ■ Sharp Chula Vista Medical Center
Sharp Coronado Hospital and Healthcare Center ■ Sharp Mesa Vista Hospital ■ Sharp Mary Birch Hospital for Women & Newborns
Sharp McDonald Center ■ Sharp Rees-Stealy Medical Centers ■ Sharp Health Plan
Sharp HealthCare Foundation ■ Grossmont Hospital Foundation

8695 Spectrum Center Boulevard ■ San Diego, California 92123-1489

St. Joseph Health
St. Joseph Hospital

September 22, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of St. Joseph Hospital in Orange, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Steven C. Moreau, President and CEO
St. Joseph Hospital

Cc: The Honorable Ed Hernandez, Member of the Senate ✓
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

1100 West Stewart Drive • Orange, CA 92868
T: (714) 633-9111
www.sjo.org

Saint Louise Regional Hospital

9100 No Name Line
Gilroy, California 95020-1548
(408) 848-2000

September 22, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Saint Louise Regional Hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Lori Katterhagen, DNP, RN, CENP
Vice President of Patient Care and Clinical Services/Chief Nurse Executive

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

VISTA del MAR
Behavioral Healthcare Hospital

September 23, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Aurora Vista del Mar Hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Mayla Krebsbach
CEO
Vista del Mar Hospital

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

801 Seneca Street • Ventura, CA 93001 • Phone (805) 653-6434 • Fax (805) 652-2065

Cottage Health

GOLETA VALLEY | SANTA BARBARA | SANTA YNEZ VALLEY

Post Office Box 689
400 W. Pueblo Street
Santa Barbara, CA 93102-0689
p: 805-682-7111
w: CottageHealth.org

September 16, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Cottage Health, our three hospitals and our 3,400 employees I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Ron Werft
President & Chief Executive Officer

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

The Cottage Health mission is to provide superior health care through a commitment to our communities and to our core values of excellence, integrity, and compassion.

Sutter Health
Sutter Auburn Faith Hospital
We Plus You

11815 Education Street
Auburn, CA 95602

September 18, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Sutter Auburn Faith Hospital I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Mitchell J. Hanna

Mitchell J. Hanna
Chief Executive Officer
Sutter Auburn Faith Hospital

cc: The Honorable Ed Hernandez, Member of the Senate ✓
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

Sutter Health
Sutter Coast Hospital
We Plus You

800 East Washington Blvd
Crescent City, CA 95531

September 18, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Sutter Coast Hospital I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section 11(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Mitchell J. Hamm

Mitchell J. Hamm
Chief Executive Officer
Sutter Coast Hospital

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

LOMPOC VALLEY MEDICAL CENTER
Lompoc Healthcare District

September 23, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Lompoc Valley Medical Center, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Jim Raggio, Chief Executive Officer
LOMPOC VALLEY MEDICAL CENTER

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

Sutter Health
Sutter Amador
Hospital
We Plus You

200 Mission Blvd
Jackson, CA 95642
(209) 223-7500

SEP 2 2

September 21, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Sutter Amador Hospital I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Many of our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Anne Platt, FACHE
CEO
Sutter Health Valley Area

cc: The Honorable Ed Hernandez, Member of the Senate ✓
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

SEP 22

El Camino Hospital®
THE HOSPITAL OF SILICON VALLEY

2500 Grant Road
Mountain View, CA 94040-4378
Phone: 650-940-7000
www.elcaminohospital.org

September 18, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Governor Brown:

On behalf of El Camino Hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Tomi Ryba

Tomi Ryba
President & CEO

cc: The Honorable Ed Hernandez, Member of the Senate ✓
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

SEP 2 2

SAN ANTONIO
REGIONAL HOSPITAL

September 17, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of San Antonio Regional Hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Harris F. Koenig
President and Chief Executive Officer

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

999 San Bernardino Road, Upland, CA 91786 909.985.2811 SARH.org

POMONA VALLEY HOSPITAL
MEDICAL CENTER

Expert care with a personal touch

Richard E. Yochum
President/CEO

September 21, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SEP 2 2

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Pomona Valley Hospital Medical Center, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Richard Yochum
President/CEO

1798 North Garey Avenue | Pomona, CA 91767 | 909.865.9500

Valley Children's HEALTHCARE

SEP 22

September 17, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Valley Children's Healthcare in Madera, I am writing to ask for your signature of SB 327. This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby adversely affecting our organization's ability to schedule 12-hour shifts.

For decades, our organization has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the organization and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our organization will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the organization that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we respectfully ask that you sign SB 327 (Hernandez).

Sincerely,

Todd A. Suntrapak
President & Chief Executive Officer

cc: The Honorable Ed Hernandez, Member of the Senate ✓
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

Office of the President
Valley Children's | HOSPITAL | MEDICAL GROUP | HOME CARE | FOUNDATION
9300 Valley Children's Place, Madera, CA 93636 • (559) 353-3000 • valleychildrens.org

Good Samaritan Hospital

SEP 22

September 19, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Good Samaritan Hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period or developing another option that the hospital and employees would not favor.

The decision in *Gerard* v. *Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Andrew B. Laska
President and CEO
Good Samaritan Hospital, Los Angeles

cc: The Honorable Ed Hernandez, Member of the Senate ✓
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

An Affiliated Hospital of the University of Southern California
1225 Wilshire Boulevard, Los Angeles, California 90017-2395 • Tel (213) 977-2121

Marina Del Rey Hospital

4650 Lincoln Boulevard • Marina Del Rey, CA 90292
310.823.8911 • www.mdrhospital.com

September 18, 2015

SEP 22

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Marina Del Rey Hospital, I am writing to ask for your signature on SB 327 (Hernandez). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001; even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section 11(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Sean Fowler
President
Marina Del Rey Hospital

cc: The Honorable Ed Hernandez, Member of the Senate ✓
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

AHMC ANAHEIM
Regional Medical Center

September 18, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SEP 22

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of AHMC Anaheim Regional Medical Center, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Patrick Petre
Chief Executive Officer\
AHMC Anaheim Regional Medical Center

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

1111 West La Palma Avenue • Anaheim, CA 92801-2881 • Phone: 714-774-1450

2080
Alvarado

KAISER PERMANENTE®

Kaiser Foundation Health Plan, Inc.

September 21, 2015

The Honorable Edmund G. Brown, Jr.
Governor, State of California
State Capitol, First Floor
Sacramento, CA 95814

SEP 22

RE: SB 327 (Hernandez) – REQUEST FOR SIGNATURE

Dear Governor Brown:

Kaiser Permanente is in strong support of SB 327 (Hernandez), which would clarify that employees in the healthcare industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. We request that you sign this important piece of legislation. A recent court ruling could jeopardize this option and therefore jeopardize a hospital's ability to schedule 12-hour shifts.

For decades our hospitals have offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by labor unions and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period. This option allows employees to go home earlier after working 12 hours, and without this option, we would need to change our scheduling practices.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes would occur. For decades, healthcare employers and employees have been able to utilize the special healthcare waiver provision in Wage Order 5, section (11)(D) and there has never been any question about its validity.

Absent clarification that Wage Order 5, section (11)(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, hospitals will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. Additionally, it will result in scheduling changes across hospitals that would negatively impact scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we urge your signature of SB 327 (Hernandez). If you have any questions, please do not hesitate to contact me at 916-448-9875.

Sincerely,

Angelica V. González
Director, Government Relations

cc: The Honorable Ed Hernandez, O.D.
Donna Campbell, Office of Governor Jerry Brown
Connie Delgado, California Hospital Association

Government Relations
1215 K Street, Suite 2030
Sacramento, CA 95814
Phone: 916-448-4912
Fax: 916-973-6476

010741-007 (REV. 4-12)

SENATE 126

JOHN C. FREMONT HEALTHCARE DISTRICT

SEP 21

September 16, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of John C. Fremont Healthcare District, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

A. Alan MacPhee, CEO

Alan G. MacPhee, Chief Executive Officer

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

5189 Hospital Road • P.O. Box 216 • Mariposa, CA 95338-0216 • (209) 966-3631 • Fax (209) 966-3776

CalChamber.
CALIFORNIA CHAMBER OF COMMERCE

September 22, 2015

The Honorable Edmund G. Brown, Jr.
Governor, State of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) INDUSTRIAL WELFARE COMMISSION: WAGE ORDERS: MEAL PERIODS
REQUEST FOR SIGNATURE

Dear Governor Brown:

The California Chamber of Commerce respectfully **REQUESTS** your **SIGNATURE** on **SB 327 (Hernandez)**, that clarifies the enforceability of meal period waivers contained in the Industrial Welfare Commission (IWC) Wage Orders for employees in the health care industry.

The IWC updated the Wage Orders in 2000 according to various industries, including Wage Orders 4 and 5 with regard to employees in the health care industry. Given the unique circumstances and working conditions of employees in the health care industry, including shifts that are typically 12-hours long, these Wage Orders include special rules with regard to waivers of meal periods.

SB 327 clarifies the enforceability of these meal period rules to eliminate any uncertainty that can lead to unnecessary litigation. This clarification benefits both employers and employees who requested the IWC to enact such waivers in order to preserve the working conditions in the health care industry.

For these reasons, we **REQUEST** your **SIGNATURE** on SB 327.

Sincerely,

Jennifer Barrera
Policy Advocate

cc: Camille Wagner Office of the Governor
The Honorable Ed Hernandez

1215 K Street, Suite 1400
Sacramento, CA 95814
916 444 6670
www.calchamber.com

TOTAL P.001

Dignity Health.
California Hospital
Medical Center

1401 South Grand Avenue
Los Angeles, CA 90015
direct 213-748-2411
fax 213-742-6405
chmcla.org

September 18, 2015

The Honorable Edmund G. Brown, Jr.
Governor of California
State Capitol
Sacramento, California 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Dignity Health California Hospital in Downtown Los Angeles, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, California Hospital respectfully asks that you sign SB 327.

Sincerely,

Margaret R. Peterson, PhD
Hospital President

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

St. Joseph's Behavioral Health Center.
A Dignity Health Member

2510 North California Street
Stockton, CA 95204
direct 209.461.2000
fax 209.467.8107
StJosephsCanHelp.org

Via Facsimile
916.558.3160

September 18, 2015

The Honorable Edmund G. Brown, Jr.
Governor of California
State Capitol
Sacramento, California 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of St. Joseph's Behavioral Health Center, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, St. Joseph's Behavioral Health Center, respectfully asks that you sign SB 327.

Sincerely,

Paul Rains,
President

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

JOHN MUIR HEALTH

September 17, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of John Muir Health, which represents approximately 5,500 employees and includes two of the largest medical centers in Contra Costa County, as well as a psychiatric hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Some of our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital's would likely be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Nancy Olson
Chief Governance and Government Affairs Officer

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

September 16, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

18

Dear Governor Brown:

On behalf of Southwest Healthcare System – Inland Valley and Rancho Springs Medical Centers, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor. .

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Bradley D Neet

Bradley D. Neet, CEO
Southwest Healthcare System

cc: The Honorable Ed Hernandez, Member of the Senate ✓
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

Southern California Region
20555 Earl Street
Torrance, CA 90503

california.providence.org

PROVIDENCE
Health & Services
Southern California

September 17, 2015

The Honorable Edmund G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SEP 18

SUBJECT: SB 327 (Hernandez) - REQUEST FOR VETO

Dear Governor Brown:

Providence Health & Services respectfully asks for your signature on SB 327 (Hernandez). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could eliminate this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

Providence operates six medical centers in Southern California: Providence Holy Cross in Mission Hills, Providence Little Company of Mary Medical Centers in San Pedro and Torrance, Providence Saint John's in Santa Monica, Providence Saint Joseph in Burbank and Providence Tarzana.

Providence has continuously offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Many of our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would have to change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327, our hospitals will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in significant costs, as well as scheduling changes across our hospitals that would result in the loss of scheduling flexibility for employees and adversely impact our continuity of care.

For these reasons, Providence respectfully asks that you sign SB 327.

Sincerely,

Pam Stahl

Pamela Stahl, MS, RN
Chief Human Resources Officer

ADMINISTRATION

PALOMAR HEALTH

September 17, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Palomar Health, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, hospitals have offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, hospitals would have to change scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or develop other options that the hospital and employees may not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327, Wage Order 5, section 11(D), which has been valid since it was adopted by the Industrial Welfare Commission in June 2000, hospitals may be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes for hospitals that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Bob Hemker
President and CEO
Palomar Health

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

456 W. Grand Ave., Escondido, CA 92025 Tel 760.740.6393 Web www.palomarhealth.org
A California Health Care District

SHARP

SEP 18

September 16, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Sharp HealthCare (Sharp), I request your signature on SB 327 (Hernandez, D-Azusa) which clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling jeopardizes this option, thereby endangering hospitals' ability to schedule 12-hour shifts.

For decades, Sharp has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Some Sharp employees are represented by a labor union, and the 12-hour shift schedule and option to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would be forced to implement scheduling that employees have indicated they do not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could interrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, Sharp will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, I respectfully ask that you sign SB 327.

Sincerely,

Michael W. Murphy
President and CEO

cc: The Honorable Ed Hernandez, Chair, Senate Health Committee ✓
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

SHARP ORGANIZATIONS
Sharp HealthCare ▪ Sharp Memorial Hospital ▪ Sharp Grossmont Hospital ▪ Sharp Chula Vista Medical Center
Sharp Coronado Hospital and Healthcare Center ▪ Sharp Mesa Vista Hospital ▪ Sharp Mary Birch Hospital for Women & Newborns
Sharp McDonald Center ▪ Sharp Rees-Stealy Medical Centers ▪ Sharp Health Plan
Sharp HealthCare Foundation ▪ Grossmont Hospital Foundation

8695 Spectrum Center Boulevard ▪ San Diego, California 92123-1489

Stanford Children's Health | Lucile Packard Children's Hospital Stanford

September 21, 2015

The Honorable Jerry Brown
Governor of California
State Capitol, Suite 1173
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ)

Dear Governor Brown:

I am writing on behalf of Lucile Packard Children's Hospital to urge you to sign SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, at the same time jeopardizing our hospital's ability to schedule 12-hour shifts.

For decades our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that in all likelihood neither the hospital nor employees would favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Without the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee

worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we respectfully ask for your signature on SB 327.

Sincerely,

Sherri R. Sager
Chief Government and Community Relations Officer

cc: Donna Campbell, Deputy Legislative Affairs Secretary, Office of Gov. Jerry Brown
Kiyomi Burchill, Deputy Secretary, Office of Legislative Affairs, HHS
Carol Gallegos, Deputy Director, Office of Legislative Affairs, DHCS
The Honorable Ed Hernandez ✓
Dawn Vicari, California Hospital Association
Sue Murphy, California Hospital Association

725 Welch Road, M/C 5524, Palo Alto, CA 94304

Sutter Health
We Plus You

2200 River Plaza Drive
Sacramento, CA 95833

September 21, 2015

The Honorable Jerry Brown
Governor, State of California
State Capitol
Sacramento, CA 95814

SUBJECT: REQUEST FOR SIGNATURE- SB 327 (HERNANDEZ)

Dear Governor Brown:

On behalf of Sutter Health and our 25 affiliated hospitals, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospitals have offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, we ask for you to sign SB 327 (Hernandez).

Sincerely,

Patrick E. Fry
President and CEO

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

Dignity Health.

St. John's Pleasant Valley Hospital
2309 Antonio Ave.
Camarillo, CA 93010
(805) 389-5800

St. John's Regional Medical Center
1600 N Rose Ave.
Oxnard, CA 93030
(805) 988-2500

Via Facsimile
916.558.3160

September 17, 2015

The Honorable Edmund G. Brown, Jr.
Governor of California
State Capitol
Sacramento, California 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of St. John's Regional Medical Center and St. John's Pleasant Valley Hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospitals have offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would

result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, St. John's Regional Medical Center and St. John's Pleasant Valley Hospital respectfully ask that you sign SB 327.

Sincerely,

Darren W. Lee
President and CEO

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

Tri-City Medical Center ADVANCE

SEP 2 2 1

September 18, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Tri-City Healthcare District, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Tri-City Medical Center ADVANCE

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Tim Moran

CEO

Tri-City Healthcare District

cc: The Honorable Ed Hernandez, Member of the Senate

Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

ORANGE COAST MEMORIAL
MEMORIALCARE HEALTH SYSTEM

SEP 18

September 16, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

As Chief Executive Officer of Orange Coast Memorial Medical Center, a member of the MemorialCare Health System, a nonprofit, integrated delivery system in Los Angeles and Orange Counties which represents over 11,000 employees, I am writing today to express strong support of SB 327 (Hernandez). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees at our three Long Beach hospitals are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, a claim could be made that the hospital is liable for a missed meal period premium equal to an extra hour of pay on any day an employee even one minute over the 12-hour mark.

9920 Talbert Avenue • Fountain Valley, CA 92708 | Phone: (714) 378-7000 | memorialcare.org/orangecoast

If such a claim were successful, it could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, Orange Cost Memorial Medical Center respectfully asks that you sign SB 327.

Sincerely,

Marcia Manker
Chief Executive Officer

Marcia

cc: The Honorable Ed Hernandez, Member of the Senate ✓
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

LONG BEACH MEMORIAL
COMMUNITY HOSPITAL LONG BEACH
Miller Children's & Women's Hospital Long Beach
MEMORIALCARE HEALTH SYSTEM

September 16, 2015

SEP 18

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

As Chief Executive Officer of **Long Beach Memorial, Miller Children's and Women's Hospital Long Beach and Community Hospital Long Beach**, members of **MemorialCare Health System**, a nonprofit, integrated delivery system in Los Angeles and Orange Counties which represents over 11,000 employees, I am writing today to express strong support of SB 327 (Hernandez). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees at our three Long Beach hospitals are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Additionally, **MemorialCare Health System** is acutely aware of the potential disruption in employee relations; **Orange Coast Memorial Medical Center** is one of our member facilities. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

MEMORIALCARE®
2801 Atlantic Avenue
Long Beach, CA 90806
562.933.5437
www.memorialcare.org

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

John Bishop
Chief Executive Officer
Long Beach Memorial
Miller Children's and Women's Hospital Long Beach
Community Hospital Long Beach

cc: The Hono[illegible] Hernandez, Member of the Senate
Camil[illegible], Secretary, Legislative Affairs, Office of the Governor

PALO VERDE HOSPITAL
Bringing Health & Care Together

250 North First Street
Blythe, CA 92225
760-921-5150

September 16, 2015327

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, California 95814

Subject: SB 327 [Hernandez]-Request for Signature

Dear Governor Brown:

On behalf of our facility, I am writing to ask for your signature on SB 327 [Hernandez, D-Azusa]. This bill clarifies that employees in the health care industry can voluntarily waive on of their two meal periods, pursuant to Wage Orders 4 and 5-20001, even when they work more than 12 hours. A recent court ruling could jeopardize this option and the hospital's ability to effectively schedule 12 hour shifts.

For decades, our hospital has offered 12 hour shifts with the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12 hour shifts voluntarily waive their second meal period because it allows them to go home earlier after working their assigned shift. As a rural facility, many of our employees are at least 90 miles away from the hospital. 12 hour shifts are a convenience for them and a change in the current practice of waiving the meal period would inhibit effective scheduling or our ability to accommodate the employee in a manner that meets their personal and professional needs.

The decision in *General v Orange Coast Memorial Medical Center* will disrupt scheduling and could have a negative impact on patient care if there are more shift changes, patient handoffs, and changes in personnel.

Sandra.Anaya@paloverdehospital.org

PALO VERDE HOSPITAL
Bringing Health & Care Together

250 North First Street
Blythe, CA 92225
760-921-5150

Very truly yours,

Sandra J. Anaya, MSHA, BSN, RN, CPHQ
Chief Executive Officer

Sandra.Anaya@paloverdehospital.org

LOMA LINDA UNIVERSITY

MEDICAL CENTER – MURRIETA

SEP 18

September 16, 2015
The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814
SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Loma Linda University Medical Center - Murrieta, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Greg Henderson
Administrator of Operations
Loma Linda University Medical Center - Murrieta

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner,

CORONA REGIONAL MEDICAL CENTER

Partners In Health and Healing

SEP 18

September 16, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Corona Regional Medical Center, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

Main Hospital 800 South Main Street, Corona, California 92882-3400 (951) 737-4343
Rehabilitation Hospital 730 Magnolia Avenue, Corona, California 92879-3150 (951) 736-7200
A Universal Health Services Facility • www.coronaregional.com

CORONA REGIONAL MEDICAL CENTER
Partners in Health and Healing

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Mark Uffer
CEO
Corona Regional Medical Center

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

Main Hospital 800 South Main Street, Corona, California 92882-3400 (951) 737-4343
Rehabilitation Hospital 730 Magnolia Avenue, Corona, California 92879-3190 (951) 736-7200
A Universal Health Services Facility • www.coronaregional.com

SEP 18

HEMET VALLEY MEDICAL CENTER

September 17, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Hemet Valley Medical Center, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in

Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Joel Bergenfeld
CEO
Hemet Valley Medical Center

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

Adventist Health
2100 Douglas Boulevard
Roseville, CA 95661
(916) 781-2000
AdventistHealth.org

SEP 18

LOMA LINDA UNIVERSITY HEALTH
11234 Anderson Street
Loma Linda, CA 92354
(909) 558-4300
LLUH.org

September 18, 2015

The Honorable Edmund G. Brown Jr.
Governor of California
State Capitol
Sacramento, CA 95814

RE: SB 327 (Hernandez) – Industrial Welfare Commission: Wage Orders: Meal Periods – Request for Signature

Dear Governor Brown

We write jointly, on behalf of Adventist Health and Loma Linda University Health, to respectfully request that you sign SB 327 into law. The measure will clarify that employees in the healthcare industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, therefore jeopardizing the hospital's ability to schedule 12-hour shifts.

Adventist Health is a faith-based, not-for-profit integrated health care delivery system serving communities in California, Hawaii, Oregon and Washington. Our workforce of 28,600 includes more than 20,500 employees; 4,500 medical staff physicians; and 3,600 volunteers. Founded on Seventh-day Adventist health values, Adventist Health provides compassionate care in 19 hospitals, more than 220 clinics (hospital-based, rural health and physician clinics), 14 home care agencies, seven hospice agencies and four joint-venture retirement centers.

Loma Linda University Health is a faith-based, not-for-profit, academic medical center in the Inland Empire region of Southern California. Our workforce of 16,131 includes 13,181employees; 921 attending physicians, and 2,029 volunteers at Loma Linda University Medical Center (LLUMC) and Children's Hospital, LLUMC – East Campus, Behavioral Medicine Center, Heart and Surgical Hospital, LLUMC-Murrieta and physician clinics. LLUMC is the only Level 1 trauma Center in the San Bernardino, Riverside, Inyo, and Mono counties, which covers over 40,000 square miles in Southern California. With a total of 1076 beds, Loma Linda University Health includes the only children's hospital in the region. Loma Linda University Medical Center sees over 30,000 inpatients and about 500,000 outpatient visits a year and is one of the largest private acute care Med-Cal providers in the state. It also serves as the primary teaching facility for Loma Linda University School of Medicine and conducts significant educational and research activities.

For decades our hospitals have offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period. This option allows employees to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to 8-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes would occur. For over 30 years, healthcare employers and employees have been able to utilize the special healthcare waiver provision in Wage Order 5, section (11)(D) and there has never been any question about its validity.

Absent clarification that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospitals will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even 1 minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across hospitals that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, we respectfully request that you approve SB 327. In the event that you or your staff have questions or need more information, please contact our legislative advocate, Nathan Manske at 916-552-2643.

Sincerely,

Scott Reiner
President & CEO
Adventist Health

Richard Hart, MD, DrPH
President & CEO
Loma Linda University | Health

cc: The Honorable Ed Hernandez, O.D.
Donna Campbell, Deputy Legislative Secretary, Governor's Office

MEMORIALCARE
HEALTH SYSTEM
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SEP 16

September 16, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

As President and Chief Executive Officer of **MemorialCare Health System**, a nonprofit, integrated delivery system in Los Angeles and Orange Counties which represents over 11,000 employees, I am writing today to express strong support of SB 327 (Hernandez). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees at our three Long Beach hospitals are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Additionally, **MemorialCare Health System** is acutely aware of the potential disruption in employee relations; **Orange Coast Memorial Medical Center** is one of our member facilities. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

17360 Brookhurst Street • Fountain Valley, CA 92708 | Phone: (714) 377-2900 | memorialcare.org

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Barry S. Arbuckle, Ph.D.
President and Chief Executive Officer
MemorialCare Health System

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

SADDLEBACK MEMORIAL
MEMORIALCARE HEALTH SYSTEM

SEP 16

September 16, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

As Chief Executive Officer of **Saddleback Memorial Medical Center,** a member of MemorialCare **Health System**, a nonprofit, integrated delivery system in Los Angeles and Orange Counties which represents over 11,000 employees, I am writing today to express strong support of SB 327 (Hernandez). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees at our three Long Beach hospitals are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Additionally, **MemorialCare Health System** is acutely aware of the potential disruption in employee relations; **Orange Coast Memorial Medical Center** is one of our member facilities. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

Laguna Hills 24451 Health Center Drive • Laguna Hills, CA 92653 | Phone: (949) 837-4500 | memorialcare.org
San Clemente 654 Camino de los Mares • San Clemente, CA 92673 | Phone: (949) 496-1122 | memorialcare.org

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Stephen B. Geldt. FACHE
Chief Executive Officer
Saddleback Memorial Medical Center

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

GLENN MEDICAL CENTER

Glenn Medical Center Inc., dba Glenn Medical Center
1133 West Sycamore Street • Willows, CA 95988
Human Resources • (530) 934-1881 • Fax (530) 934-1818
www.glennmed.org

September 15, 2015

SEP 16

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Glenn Medical Center, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

This institution is an equal opportunity provider and employer.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Deborah McMillan
Director of Human Resources
Glenn Medical Center

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

This institution is an equal opportunity provider and employer.

Adventist Health
2100 Douglas Boulevard
Roseville, CA 95661
(916) 781-2000
AdventistHealth.org

SEP 11

LOMA LINDA UNIVERSITY HEALTH
11234 Anderson Street
Loma Linda, CA 92354
(909) 558-4000
lluhealth.org

SENATE FLOOR ALERT

September 10th, 2015

TO: The Honorable Members of the State Senate
SUBJECT: SB 327 - Industrial Welfare Commission: wage orders: meal periods.
POSITION: Support

We write jointly, on behalf of Adventist Health and Loma Linda University Health, to express our support for SB 327. The measure will clarify that employees in the healthcare industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, therefore jeopardizing the hospital's ability to schedule 12-hour shifts.

Adventist Health is a faith-based, not-for-profit integrated health care delivery system serving communities in California, Hawaii, Oregon and Washington. Our workforce of 28,600 includes more than 20,500 employees; 4,500 medical staff physicians; and 3,600 volunteers. Founded on Seventh-day Adventist health values, Adventist Health provides compassionate care in 19 hospitals, more than 220 clinics (hospital-based, rural health and physician clinics), 14 home care agencies, seven hospice agencies and four joint-venture retirement centers.

Loma Linda University Health is a faith-based, not-for-profit, academic medical center in the Inland Empire region of Southern California. Our workforce of 16,131 includes 13,181employees; 921 attending physicians, and 2,029 volunteers at Loma Linda University Medical Center (LLUMC) and Children's Hospital, LLUMC – East Campus, Behavioral Medicine Center, Heart and Surgical Hospital, LLUMC-Murrieta and physician clinics. LLUMC is the only Level 1 trauma Center in the San Bernardino, Riverside, Inyo, and Mono counties, which covers over 40,000 square miles in Southern California. With a total of 1076 beds, Loma Linda University Health includes the only children's hospital in the region. Loma Linda University Medical Center sees over 30,000 inpatients and about 500,000 outpatient visits a year and is one of the largest private acute care Med-Cal providers in the state. It also serves as the primary teaching facility for Loma Linda University School of Medicine and conducts significant educational and research activities.

For decades our hospitals have offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period. This option allows employees to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to 8-hour shifts, lengthening the 12-hour shift by 30

CALIFORNIA HOSPITALS

ADVENTIST HEALTH
Adventist Medical Center – Hanford
Hanford, CA
Adventist Medical Center – Reedley
Reedley, CA
Adventist Medical Center – Selma
Selma, CA
Central Valley General Hospital
Hanford, CA
Feather River Hospital
Paradise, CA
Glendale Adventist Medical Center
Glendale, CA
Frank R. Howard Memorial Hospital
Willits, CA
Lodi Memorial Hospital
Lodi, CA
St. Helena Hospital Center for Behavioral Health
Vallejo, CA
St. Helena Hospital Clear Lake
Lakeport, CA
St. Helena Hospital Napa Valley
St. Helena, CA
San Joaquin Community Hospital
Bakersfield, CA
Simi Valley Hospital
Simi Valley, CA
Sonora Regional Medical Center
Sonora, CA
Ukiah Valley Medical Center
Ukiah, CA
White Memorial Medical Center
Los Angeles, CA

LOMA LINDA UNIVERSITY HEALTH
Loma Linda University Behavioral Medicine Center
Redlands, CA
Loma Linda University Children's Hospital
Loma Linda, CA
Loma Linda University Medical Center
Loma Linda, CA
Loma Linda University Heart Center – East Campus
Loma Linda, CA
Loma Linda University Medical Center Murrieta
Murrieta, CA
Loma Linda University Surgical Hospital
Redlands, CA

minutes to accommodate a second 30-minute unpaid meal period, or another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes would occur. For over 30 years, healthcare employers and employees have been able to utilize the special healthcare waiver provision in Wage Order 5, section (11)(D) and there has never been any question about its validity.

Absent clarification that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospitals will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even 1 minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across hospitals that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, we respectfully request your "YES" vote on SB 327 (Hernandez). In the event that you have questions or need more information, please contact our legislative advocates, Nathan Manske at 916-552-2643, or David Ford at 916-448-9777.

Sincerely,

Scott Reiner
President & CEO
Adventist Health

Richard Hart, MD, DrPH
President & CEO
Loma Linda University | Health

CC: The Honorable Ed Hernandez, OD
Gideon Baum, Chief Consultant, Senate Labor Committee
Cory Botts, Senate Republican Policy Consultant

CALIFORNIA HOSPITAL ASSOCIATION

Providing Leadership in Health Policy and Advocacy

September 9, 2015

The Honorable Tony Mendoza
Chair, Senate Labor and Industrial Relations Committee
State Capitol, Room 5061
Sacramento, CA 95814

SUBJECT: SB 327 (Ed Hernandez) - SUPPORT

Dear Senator Mendoza:

On behalf of over 400 California hospitals and health systems, the California Hospital Association is pleased to sponsor and support SB 327 (Hernandez). This bill will clarify that employees in the healthcare industry can continue to waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when their shift exceeds 12 hours. A recent court ruling, *Gerard v. Orange Coast Memorial Medical Center,* could jeopardize this option, thus jeopardizing the availability to 12-hour shifts. Absent clarification that Wage Orders 4 and 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, hospitals will be liable for a missed meal period premium on any day an employee worked even 1 minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes throughout the hospital industry. Thus, it is critically important for the Legislature to construe and clarify the meaning of and effect of existing law and to abrogate the court's decision on this issue in *Gerard.***

While the California Supreme Court recently accepted review of the *Gerard* case, it nonetheless poses a significant adverse impact on healthcare employers and employees, particularly those working 12-hour shifts who want to waive one of their meal periods so that they do not have to prolong their workday by 30 minutes. Because it is unclear when and how the Supreme Court will resolve the case, hospitals are faced with the decision whether to immediately and significantly change their scheduling practices, which may include extending the shift to 13 hours to accommodate a second, off-duty meal period, reverting to 8-hour shifts or taking some other action to minimize potential liability moving forward. Further, while the *Gerard* appellate decision has been de-published similar cases have already been filed and thus without clarification of the law, hospitals currently risk facing expensive class action litigation and potential retroactive liability in the millions of dollars. As the Supreme Court evaluates the legal issues raised in the *Gerard* case, clarification of the law by the legislature is extremely important to the Court's analysis. Thus, it is critically important for the Legislature to reject the Court of Appeal decision and the rationale on which it is based.

Since 1993, healthcare employers have been able to offer a meal period waiver that allows employees working more than 12 hours to voluntarily waive one of their two meal periods. 12-hour shifts are common in the healthcare industry, both in unionized and non-unionized environments. Employees who work 12-hour shifts may frequently work a few minutes more than 12 hours due to clocking in a couple of minutes early or clocking out a couple of minutes late.

In 1999, as part of AB 60, the California Legislature codified the meal period rules which had formerly only been included in the wage order. In Labor Code section 512, the Legislature expressly required that employees working more than 10 hours be provided a second meal period and also expressly provided that employees could voluntarily waive the second meal period so long as they did not work more than 12 hours.

1215 K Street, Suite 800, Sacramento, CA 95814 · *Telephone:* 916.443.7401 · *Facsimile:* 916.552.7596 · www.calhospital.org

At the same time, the Legislature specifically gave the Industrial Welfare Commission (IWC) authority to determine whether to continue to authorize 12-hour alternative workweek schedules, in Labor Code 517. In Labor Code 516, the Legislature also expressly authorized the IWC to adopt or amend the wage orders with respect to meal periods, notwithstanding the rules set forth in Labor Code 512.

After several hearings on the matter and significant negotiation between labor and hospital representatives, the IWC decided to maintain 12-hour shifts, with some variation, and to maintain the special healthcare meal period waiver rules, allowing employees in the healthcare industry to waive one of their meal periods even when a shift exceeded 12 hours.

This action was taken on June 30, 2000 — the deadline set by the Legislature for the IWC to determine whether to continue 12-hour shifts. These amendments went into effect on October 1, 2000. The time between the adoption date of June 30 and the effective date of October 1 was needed to accomplish administrative activity, such as updating the wage orders.

On September 16, 2000, the Governor signed urgency legislation, SB 88. That bill limited the IWC's authority to establish meal period rules that conflicted with Labor Code section 512. That law went into effect more than two months after the IWC adopted Wage Order 4 and 5, as well as other wage orders.

There is no evidence to suggest that SB 88 was intended to invalidate the action the IWC took on June 30, 2000 with respect to the healthcare meal period rules. In order to preserve the status quo preferred by both hospitals and their employees for over 20 years, as confirmed by the IWC in 2000, a legislative clarification is necessary.

Therefore, CHA respectfully request your YES vote on SB 327.

Sincerely,

Kathryn Austin Scott
Legislative Advocate

KAS:dlv

cc: The Honorable Ed Hernandez
The Honorable Members of Senate Labor and Employment Committee
Gideon Baum, Consultant, Senate Labor and Employment Committee
Cory Botts, Consultant, Senate Republican Caucus

Adventist Health
2100 Douglas Boulevard
Roseville, CA 95661
(916) 781-2000
AdventistHealth.org

SEP - 9

LOMA LINDA UNIVERSITY HEALTH
11234 Anderson Street
Loma Linda, CA 92354
(909) 558-4000
LLUHealth.org

ASSEMBLY FLOOR ALERT

September 9th, 2015

TO: The Honorable Members of the State Assembly
SUBJECT: SB 327 - Industrial Welfare Commission: wage orders: meal periods.
POSITION: Support

We write jointly, on behalf of Adventist Health and Loma Linda University Health, to express our support for SB 327. The measure will clarify that employees in the healthcare industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, therefore jeopardizing the hospital's ability to schedule 12-hour shifts.

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For decades our hospitals have offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period. This option allows employees to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to 8-hour shifts, lengthening the 12-hour shift by 30

minutes to accommodate a second 30-minute unpaid meal period, or another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes would occur. For over 30 years, healthcare employers and employees have been able to utilize the special healthcare waiver provision in Wage Order 5, section (11)(D) and there has never been any question about its validity.

Absent clarification that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospitals will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even 1 minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across hospitals that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, we respectfully request your "YES" vote on SB 327 (Hernandez). In the event that you have questions or need more information, please contact our legislative advocates, Nathan Manske at 916-552-2643, or David Ford at 916-448-9777.

Sincerely,

Scott Reiner
President & CEO
Adventist Health

Richard Hart, MD, DrPH
President & CEO
Loma Linda University Health

9/4/2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol
Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Kindred Hospital SFBA I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

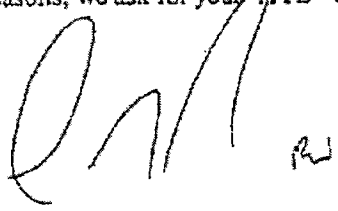
For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,



Mark R Brown RN
Chief Clinical Officer
Kindred Hospital
San Francisco Bay Area
Office (510) 357-8300 x4581
Cell (559) 217-4077
mark.brown3@kindred.com

LOS ROBLES
HOSPITAL & MEDICAL CENTER

215 West Janss Road | Thousand Oaks, California 91360
www.LosRoblesHospital.com

September 4, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Los Robles Hospital & Medical Center I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

LOS ROBLES
HOSPITAL & MEDICAL CENTER
www.LosRoblesHospital.com

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Adam Blackstone
Vice President, Marketing and Public Relations
Los Robles Hospital & Medical Center

CEDARS-SINAI

September 3, 2015

The Honorable Roger Hernandez, Chair
Assembly Labor Committee
State Capitol
Sacramento, CA 95814

RE: SB 327 (Support)

Dear Assemblymember Hernandez,

On behalf of Cedars-Sinai Medical Center, I am writing in strong support of SB 327 (Hernandez). This bill will clarify that employees in the healthcare industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, therefore jeopardizing the hospital's ability to schedule 12-hour shifts.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and thereby could disrupt patient care. **For over 30 years, healthcare employers and employees have been able to utilize the special healthcare waiver provision in Wage Order 5, section (11)(D) and there has never been any question about its validity.**

For decades, **in accordance with the Wage Orders cited above,** Cedars-Sinai has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive one meal period. This option allows employees to go home at the end of 12.5 hours; after working 12 hours, and taking a 30 minute unpaid meal period[1], in additional to paid breaks.

Absent clarification that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, Cedars-Sinai will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even 1 minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

Without the option of the waiver of a second meal period, in order to avoid these penalties, we would need to change our scheduling practices, and need to choose among scheduling options all of which would likely be very unpopular to our staff. Among our options would be: a) eliminating 12-hr shifts and implementing 8-hour shifts instead, or b) lengthening the workday

[1] It should be noted, that Cedars-Sinai provides a 45-minute meal period: 15 minutes paid, plus 30 minutes unpaid. We add the additional 15 minutes of pay at our own accord.

8700 Beverly Boulevard office 310.423.3277 cedars-sinai.edu
Los Angeles, CA 90048

for every 12-hour shift by 30 minutes (to a total of 13 hours, rather than 12.5 hours) in order to accommodate a second 30-minute unpaid meal period, or c) keeping the length of the workday 12.5 hours, which would result in total work and paid time of 11.5 rather than 12 hours. This results in a loss of 30 minutes of pay for every 12-hr shift. All of these options are likely to be very unpopular with our staff, detrimental to our staffing and therefore have a detrimental effect on our patient care.

For these reasons, we ask for your "YES" vote on SB 327 (Hernandez).

Sincerely,

Thomas M. Priselac

Thomas M. Priselac
President and CEO

Dignity Health.
St. John's Hospitals

1600 North Rose Avenue
Oxnard, CA 93030
direct 805-988-2518
fax 916-858-3395
dignityhealth.org

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assembly member Hernandez:

On behalf of St. John's Hospitals I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay

on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Amy J. Mantell

Amy J. Mantell
Director, Human Resources

LONG BEACH MEMORIAL
COMMUNITY HOSPITAL LONG BEACH
Miller Children's & Women's Hospital Long Beach
MEMORIALCARE HEALTH SYSTEM

September 3, 2015

The Honorable Roger Hernandez, Chair
Assembly Labor Committee
State Capitol
Sacramento, CA 95814

RE: SB 327 (Support) As Proposed to be Amended

Dear Assemblymember Hernandez,

As Chief Executive Officer of **Long Beach Memorial, Miller Children's and Women's Hospital Long Beach and Community Hospital Long Beach, members of MemorialCare Health System**, a not-for-profit, integrated delivery system in Los Angeles and Orange Counties which represents over 11,000 employees, I am writing today to express strong support of SB 327 (Hernandez) as proposed to be amended. This bill will clarify that employees in the healthcare industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, therefore jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades our hospitals have offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Employees in three of our six award-winning hospitals are represented by a labor union and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period. This option allows employees to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to 8-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes would occur. In fact, **our Long Beach facilities** are acutely aware of the potential disruption in employee relations; **Orange Coast Memorial Medical Center** is also a member of the **MemorialCare Health System.** For over 30 years, healthcare employers and employees have been able to utilize the special healthcare waiver provision in Wage Order 5, section (11) (D) and there has never been any question about its validity.

MEMORIALCARE®
2801 Atlantic Avenue
Long Beach, CA 90806
562.933.5437
www.memorialcare.org

Absent clarification that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, this hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even 1 minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, **Long Beach Memorial, Miller Children's and Women's Hospital Long Beach and Community Hospital Long Beach** asks for your "YES" vote on SB 327 (Hernandez) as proposed to be amended.

Sincerely,

John Bishop
Chief Executive Officer
Long Beach Memorial
Miller Children's and Women's Hospital Long Beach
Community Hospital Long Beach

PHYSICIANS FOR HEALTHY HOSPITALS

HEMET VALLEY MEDICAL CENTER MENIFEE VALLEY MEDICAL CENTER

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Physicians for Healthy Hospitals I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Michele Bird

Michele Bird, MHSA, PHR
Vice President, Human Resources
Physicians for Healthy Hospitals, INC. (PHH)
Hemet Valley Medical Center/Menifee Valley Medical Center

Direct line: 951-925-6397
Fax: 951-766-6415
michele.bird@phh.ms

NORTHBAY™ HEALTHCARE

September 22, 2015

The Honorable Edmund "Jerry" G. Brown Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of NorthBay Healthcare, the independent community-based system in Solano County, I write to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that our employees can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For more than 50 years our two hospitals have offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Nearly every employee working 12-hour shifts voluntarily waives a meal period because it allows them to go home earlier after working 12 hours.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Without the clarification SB 327 provides, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This huge financial liability, as well as scheduling changes that would be necessary throughout the hospitals, would cost employees the scheduling flexibility they desire. And this in no way would improve patient care.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Gary J. Passama
President and CEO

GJP:sds

Compassionate Care,
Advanced Medicine,
Close to Home.

4500 Business Center Drive
Fairfield, CA 94534

Quality Care...Close to Home

BARSTOW COMMUNITY HOSPITAL
820 E. Mountain View Street
Barstow, CA 92311
Phone: 760.256.1761
www.BarstowHospital.com

September 18th

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Barstow Community Hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Steven Foster
CEO
Barstow Community Hospital

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

RIVERSIDE
Community Hospital

September 18, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Riverside Community Hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health-care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section 11(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Patrick D. Brilliant

Patrick D. Brilliant
President and CEO

cc: The Honorable Ed Hernandez, Member of the Senate ✓
Camille Waner, Secretary, Legislative Affairs, Office of the Governor
Shaun Flanigan, Capitol Strategic Advisors
James Jack, Capitol Strategic Advisors
Rob Dyer, FWD SVP Strategy & Development
Frazer Rolan, HCA Corporate Government Affairs

4445 Magnolia Avenue, Riverside, CA 92501 • 951-788-3000 • Fax: 951-788-3201 • www.rchc.org
An Affiliate of Riverside Healthcare System, L.L.C.

Dignity Health.
St. Mary Medical Center

1050 Linden Avenue
Long Beach, CA 90813-3393
direct 562.491.9000
fax 562.436.6378
stmarymedicalcenter.org

September 17, 2015

Via Facsimile 916-558-3160

The Honorable Edmund G. Brown, Jr.
Governor of California
State Capitol
Sacramento, California 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Dignity Health St. Mary Medical Center Long Beach, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby putting at risk the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D), has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, Dignity Health St. Mary Medical Center Long respectfully asks that you sign SB 327.

Sincerely,

Joel P. Yuhas, FACHE
Hospital President / CEO

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

Mee Memorial Hospital

September 22, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Mee Memorial Hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section 11(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Beth Gardner RN MS

Beth Gardner, RN, MS
Chief Nursing Officer
Mee Memorial Hospital

cc: The Honorable Ed Hernandez, Member of the Senate ✓
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

100 Canal Street, King City, CA 93930 | (831) 385-6000 tel | (831) 385-3750 fax | www.meememorial.com

Mee Memorial Hospital

September 22, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Mee Memorial Hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section 11(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Ken Hritz,
Chief Operating Officer
Mee Memorial Hospital

cc: The Honorable Ed Hernandez, Member of the Senate ✓
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

300 Canal Street, King City, CA 93930 | (831) 385-6000 tel | (831) 385-3750 fax | www.meememorial.com

Dignity Health.
St. Mary Medical Center

1050 Linden Avenue
Long Beach, CA 90813-3393
direct 562.491.9000
fax 562.436.6378
stmarymedicalcenter.org

September 17, 2015

Via Facsimile 916-558-3160

The Honorable Edmund G. Brown, Jr.
Governor of California
State Capitol
Sacramento, California 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Dignity Health St. Mary Medical Center Long Beach, I am writing to ask for your signature on SB 327. (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby putting at risk the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D), has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, Dignity Health St. Mary Medical Center Long respectfully asks that you sign SB 327.

Sincerely,

Joel P. Yuhas, FACHE
Hospital President / CEO

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

Dignity Health.
California Hospital
Medical Center

1401 South Grand Avenue
Los Angeles, CA 90015
direct 213-748-2411
fax 213-742-6405
chmcla.org

September 18, 2015

The Honorable Edmund G. Brown, Jr.
Governor of California
State Capitol
Sacramento, California 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Dignity Health California Hospital in Downtown Los Angeles, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, California Hospital respectfully asks that you sign SB 327.

Sincerely,

Margaret R. Peterson, PhD
Hospital President

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

St. Joseph Health
St. Jude Medical Center
A member of the St. Joseph Hoag Health alliance

September 22, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of St. Jude Medical Center in Fullerton, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Lee Penrose
President and CEO
St. Jude Medical Center

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

101 E. Valencia Mesa Dr. • Fullerton, CA 92835-3875
T: (714) 871-3280

Kindred Hospital Riverside

Dedicated to [illegible]

September 16, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Kindred Hospital Riverside, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Jonathan Jean-Marie
CEO

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

2224 Medical Center Drive • Perris, California 92571
951.436.3535 • 951.657.3968 fax • 800.735.2922 TDD/TTY
www.khriverside.com

CONSUMER ATTORNEYS OF CALIFORNIA

Seeking Justice for All

President Brian D. Chase | CEO • Chief Lobbyist Nancy Drabble | Legislative Director Nancy Peverini | Legislative Counsel Jacqueline Serna Anguiano | Associate Staff Counsel Saweena K. Takhar | Political Director Lea-Ann Tratten

September 4, 2015

TO: SENATOR ED HERNANDEZ

FR: BRIAN CHASE, PRESIDENT
ADVOCATE CONTACT: JACQUELINE SERNA ANGUIANO

RE: SB 327 (HERNANDEZ) OPPOSE UNLESS AMENDED

Consumer Attorneys of California opposes SB 327, unless it is amended to be prospective only. Should this bill be enacted, it would impact pending litigation before the California Supreme Court, overturn a recent California Appellate Court decision, *Gerard v. Orange Coast Memorial Medical Center* 234 Cal. App. 4th 285 (2015), and affected workers could lose wages as a result of its passage.

CAOC has always opposed, and will continue to oppose, any effort to affect pending litigation. It is simply against public policy to legislatively affect a consumer's existing legal right in a manner that retroactively guts a claim that was already filed, in good faith, with the law of the date of filing applicable. We appreciate the author's frankness that this is their main concern, and have met with the author to express our concerns. However, it is largely unprecedented for the Legislature to pass legislation that guts pending litigation and retroactively affect a pending case; we respectfully argue that once the Legislature ignores this policy practice and goal, all cases will be open to such action, which would be a horrible result. We believe the legislature should think long and hard before opening this pandora's box.

Gerard holding. The plaintiffs in *Gerard* prevailed in an appellate court decision invalidating a health care worker wage order, Wage Order 5 Subdivision 11(D), which allowed for the waiver of second meal periods by healthcare workers who work over 12 hours. In finding for the workers, the *Gerard* court found that the wage order violated Labor Code sections 516 and 512 and applied its ruling retroactively. Now, the sponsors of this measure are introducing a last minute gut and amend aimed at abrogating that decision in order to avoid potential liability for past wages owed. These issues could be decided as early as next year. Rather than introduce a later gut and amend, we feel that the best action would be to wait for the Supreme Court to issue its ruling.

SB 327 Impacts Pending Litigation. The California Supreme Court granted review on May 20, 2015 so this is pending litigation. The Court stated the issues on review as follows: (1) Is the health care industry meal period waiver provision in section 11(D) of Industrial Wage Commission Order No. 5-2001 invalid under Labor Code section 512, subdivision (a)? (2) Should the decision of the Court of Appeal partially invalidating the Wage Order be applied retroactively? The proposed language would expressly make the invalidated wage order *valid* and would state that it is "declaratory of existing law." This bill is designed to impact this pending court case.

Legislative Department
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Fairness requires that employees get paid for the work performed and that employers are not unjustly enriched. In *Murphy v Kenneth Cole Productions, Inc.* (2007) 40 cal.4th 1094, 1113-1144, the California Supreme Court recognized that premium payments required by Labor Code section 226.7 for missed meal and rest periods are wages, not penalties. The term "wages" is defined by Labor Code section 200(a) to include "all amounts for labor performed by employees..." The effect of this legislation, granting hospitals retroactive relief from liability for unpaid wages, could be to deny workers past wages they have already earned. Again, the Court has already decided to issue a ruling on these issues and we think it is best to wait for the Court to issue its ruling in *Gerard*.

Contrary to its terms, the bill is not declarative of existing law, and violates the Constitutional separation of powers by usurping a judicial function. "Under fundamental principles of separation of powers, the legislative branch of government enacts laws. Subject to constitutional constraints, it may change the law. But interpreting the law is a judicial function. After the judiciary definitively and finally interprets a statute,...the Legislature may amend the statute to say something different. But if it does so, it changes the law; it does not merely state what the law always was. Any statement to the contrary is beyond the Legislature's power." (*McClung v Employment Development Department* (2004) 34 Cal.4th 467, 470.) The proposed legislation suffers from the identical constitutional defect as the law at issue in *McClung*. In response to a prior decision of the California Supreme Court interpreting certain provisions of the Fair Employment and Housing Act ("FEHA"), the legislature amended FEHA to impose personal liability on individual employees. The amended legislation contained a statement that its provisions were "declaratory of existing law." The Supreme Court concluded that the provisions of FEHA, as amended, could not be applied retroactively to impose liability on individual employees for conduct that occurred before the effective date of the amendments to FEHA.

SB 327 is designed to affect pending litigation. CAOC has always opposed, and will continue to oppose, any effort to affect pending litigation. For these reasons, we must respectfully oppose unless the bill is amended to apply its provisions prospectively only.

cc: Assembly Labor Committee
Senate Labor Committee
Assembly Judiciary Committee
Senate Judiciary Committee

770 L Street • Suite 1200 • Sacramento • CA 95814 • T (916) 442-6902 • F (916) 442-7734 • www.caoc.com

NOTE: The Internet version of this Industrial Welfare Commission Order may be posted as is required at places of employment. To obtain the official printed Order, you may call 415.703.5070 and it will be mailed to you free of charge. You may also request copies by writing to the Department of Industrial Relations, Public Information Office, P.O. Box 420603, San Francisco, CA 94142-0603.

INDUSTRIAL WELFARE COMMISSION ORDER NO. 5-2001 REGULATING WAGES, HOURS AND WORKING CONDITIONS IN THE PUBLIC HOUSEKEEPING INDUSTRY

(Effective January 1, 2002 as amended)

1. Applicability of Order This order shall apply to all persons employed in the public housekeeping industry whether paid on a time, piece rate, commission, or other basis, except that:

(A) Except as provided in Sections 1,2,4,10, and 20, the provisions of this order shall not apply to student nurses in a school accredited by the California Board of Registered Nursing or by the Board of Vocational Nurse and Psychiatric Technician Examiners are exempted by the provisions of sections 2789 or 2884 of the Business and Professions Code;

(B) Provisions of sections 3 through 12 shall not apply to persons employed in administrative, executive, or professional capacities. The following requirements shall apply in determining whether an employee's duties meet the test to qualify for an exemption to those sections:

(1) Executive Exemption. A person employed in an executive capacity means any employee:

(a) Whose duties and responsibilities involve the management of the enterprise in which he or she is employed or of a customarily recognized department or subdivision thereof; and

(b) Who customarily and regularly directs the work of two or more other employees therein; and

(c) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; and

(d) Who customarily and regularly exercises discretion and independent judgment; and

(e) Who is primarily engaged in duties which meet the test of the exemption. The activities constituting exempt work and non-exempt work shall be construed in the same manner as such

items are construed in the following regulations under the Fair Labor Standards Act effective as of the date of this order: 29 C.F.R. Sections 541.102, 541.104-111, and 541.115-116. Exempt work shall include, for example, all work that is directly and closely related to exempt work and work which is properly viewed as a means for carrying out exempt functions. The work actually performed by the employee during the course of the work week must, first and foremost, be examined and the amount of time the employee spends on such work, together with the employer's realistic expectations and the realistic requirements of the job, shall be considered in determining whether the employee satisfies this requirement.

(f) Such an employee must also earn a monthly salary equivalent to no less than two (2) times the state minimum wage for full-time employment. Full-time employment is defined in Labor Code Section 515(c) as 40 hours per week.

(2) Administrative Exemption. A person employed in an administrative capacity means any employee:

(a) Whose duties and responsibilities involve either:

(i) The performance of office or non-manual work directly related to management policies or general business operations of his employer or his employer's customers; or

(ii) The performance of functions in the administration of a school system, or educational establishment or institution, or of a department of subdivision thereof, in work directly related to the academic instruction or training carried on therein; and

(b) Who customarily and regularly exercises discretion and independent judgment; and

(c) Who regularly and directly assists a proprietor, or an employee employed in a bona fide executive or administrative capacity (as such terms are defined for purposes of this section); or

(d) Who performs under only general supervision work along specialized or technical lines requiring special training, experience, or knowledge; or

(e) Who executes under only general supervision special assignments and tasks; and

(f) Who is primarily engaged in duties which meet the test of the exemption. The activities constituting exempt work and non-exempt work shall be construed in the same manner as such

terms are construed in the following regulations under the Fair Labor Standards Act effective as of the date of this order: 29 C.F.R. Sections 541.201-205, 541.207-208, 541.210, and 541.215. Exempt work shall include, for example, all work that is directly and closely related to exempt work and work which is properly viewed as a means for carrying out exempt functions. The work actually performed by the employee during the course of the work week must, first and foremost, be examined and the amount of time the employee spends on such work, together with the employer's realistic expectations and the realistic requirements of the job, shall be considered in determining whether the employee satisfies this requirement; and

(g) Such employee must also earn a monthly salary equivalent to no less than two (2) times the state minimum wage for full-time employment. Full-time employment is defined in Labor Code Section 515(c) as 40 hours per week.

(3) Professional Exemption. A person employed in a professional capacity means any employee who meets all of the following requirements:

(a) Who is licensed or certified by the State of California and is primarily engaged in the practice of one of the following recognized professions: law, medicine, dentistry, optometry, architecture, engineering, teaching, or accounting; or

(b) Who is primarily engaged in an occupation commonly recognized as a learned or artistic profession. For the purposes of this subsection, "learned or artistic profession" means an employee who is primarily engaged in the performance of:

(i) Work requiring knowledge of an advanced type in a field or science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes, or work that is an essential part of or necessarily incident to any of the above work; or

(ii) Work that is original and creative in character in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the invention, imagination, or talent of the employee or work that is an essential part of or necessarily incident to any of the above work; and

(iii) Whose work is predominantly intellectual and

varied in character (as opposed to routine mental, manual, mechanical, or physical work) and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time.

(c) Who customarily and regularly exercises discretion and independent judgment in the performance of duties set forth in paragraph (a).

(d) Who earns a monthly salary equivalent to no less than two (2) times the state minimum wage for full-time employment. Full-time employment is defined in Labor Code Section 515 (c) as 40 hours per week.

(e) Subparagraph (b) above is intended to be construed in accordance with the following provisions of federal law as they existed as of the date of this Wage Order: 29 C.F.R. Sections 541.207, 541.301(a)-(d), 541.302, 541.306, 541.307, 541.308, and 541.310.

(f) Notwithstanding the provisions of this subparagraph, pharmacists employed to engage in the practice of pharmacy, and registered nurses employed to engage in the practice of nursing, shall not be considered exempt professional employees, nor shall they be considered exempt from coverage for the purposes of this subsection unless they individually meet the criteria established for exemption as executive or administrative employees.

(g) Subparagraph (f) above, shall not apply to the following advanced practice nurses:

(i) Certified nurse midwives who are primarily engaged in performing duties for which certification is required pursuant to Article 2.5 (commencing with Section 2746) of Chapter 6 of Division 2 of the Business and Professions Code.

(ii) Certified nurse anesthetists who are primarily engaged in performing duties for which certification is required pursuant to Article 7 (commencing with Section 2825) of Chapter 6 of Division 2 of the Business and Professions Code.

(iii) Certified nurse practitioners who are primarily engaged in performing duties for which certification is required pursuant to Article 8 (commencing with Section 2834) of Chapter 6 of Division 2 of the Business and Professions Code.

(v) Nothing in this subparagraph shall exempt the

occupations set forth in clauses (i), (ii), and (iii) from meeting the requirements of subsection 1(B)(3)(a)-(d), above.

(h) Except as provided in subparagraph (i), an employee in the computer software field who is paid on an hourly basis shall be exempt, if all of the following apply:

(I) The employee is primarily engaged in work that is intellectual or creative and requires the exercise of discretion and independent judgment.

(II) The employee is primarily engaged in duties that consist of one or more of the following:

- The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications.

- The design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to, user or system design specifications.

- The documentation, testing, creation, or modification of computer programs related to the design of software or hardware for computer operating systems.

(III) The employee is highly skilled and is proficient in the theoretical and practical application of highly specialized information to computer systems analysis, programming, and software engineering. A job title shall not be determinative of the applicability of this exemption.

(IV) The employee's hourly rate of pay is not less than forty-two dollars and sixty four cents ($42.64). The Division of Labor Statistics and Research shall adjust this pay rate on October 1 of each year to be effective on January 1 of the following year by an amount equal to the percentage increase in the California Consumer Price Index for Urban Wage Earners and Clerical Workers.

(i) The exemption provided in subparagraph (h) does not apply to an employee if any of the following apply:

(I) The employee is a trainee or employee in an entry-level position who is learning to become proficient in the theoretical and practical application of highly specialized information to computer systems analysis, programming, and software engineering.

(II) The employee is in a computer-related occupation but has not attained the level of skill and expertise necessary to work independently and without close supervision.

(III) The employee is engaged in the operation of computers or in the manufacture, repair, or maintenance of computer hardware and related equipment.

(iv) The employee is an engineer, drafter, machinist, or other professional whose work is highly dependent upon or facilitated by the use of computers and computer software programs and who is skilled in computer-aided design software, including CAD/CAM, but who is not in a computer systems analysis or programming occupation.

(v) The employee is a writer engaged in writing material, including box labels, product descriptions, documentation, promotional material, setup and installation instructions, and other similar written information, either for print or for onscreen media or who writes or provides content material intended to be read by customers, subscribers, or visitors to computer-related media such as the World Wide Web or CD-ROMs.

(vi) The employee is engaged in any of the activities set forth in subparagraph (h) for the purpose of creating imagery for effects used in the motion picture, television, or theatrical industry.

(C) Except as provided in Sections 1, 2, 4, 10, and 20, the provisions of this order shall not apply to any employees directly employed by the State or any political subdivision thereof, including any city, county, or special district.

(D) The provisions of this order shall not apply to outside salespersons. Provisions of this order shall not apply to any individual who is the parent, spouse, child, or legally adopted child of the employer.

(F) The provisions of this order shall not apply to any individual participating in a national service program, such as AmeriCorps, carried out using assistance provided under Section 12571 of Title 42 of the United States Code. (See Stats. 2000, ch. 365, amending Labor Code § 1171.)

2. Definitions

(A) An "alternative workweek schedule" means any regularly scheduled workweek requiring an employee to work more than eight (8) hours in a 24-hour period.

(B) "Commission" means the Industrial Welfare Commission of the State of California.

(C) "Division" means the Division of Labor Standards Enforcement of the State of California.

(D) "Emergency" means an unpredictable or unavoidable occurrence at unscheduled intervals requiring immediate action.

(E) "Employ" means to engage, suffer, or permit to work.

(F) "Employee" means any person employed by an employer, and includes any lessee who is charged rent, or who pays rent for a chair, booth, or space and

(1) who does not use his or her own funds to purchase requisite supplies, and

(2) who does not maintain an appointment book separate and distinct from that of the establishment in which the space is located, and

(3) who does not have a business license where applicable.

(G) "Employees in the Healthcare Industry" means any of the following:

(1) Employees in the healthcare industry providing patient care; or

(2) Employees in the healthcare industry working in a clinical or medical department, including pharmacists dispensing prescriptions in any practice setting; or

(3) Employees in the healthcare industry working primarily or regularly as a member of a patient care delivery team

(4) Licensed veterinarians, registered veterinary technicians and unregistered animal health technicians providing patient care.

(H) "Employer" means any person as defined in Section 18 of the Labor Code, who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of any person.

(I) "Healthcare Emergency" consists of an unpredictable or unavoidable occurrence at unscheduled intervals relating to healthcare delivery, requiring immediate action.

(J) "Healthcare Industry" is defined as hospitals, skilled nursing facilities, intermediate care and residential care facilities, convalescent care institutions, home health agencies, clinics operating twenty-four (24) hours per day, and clinics performing surgery, urgent care, radiology, anesthesiology, pathology, neurology or dialysis.

(K) "Hours worked" means the time during which an employee is subject to the control of an

employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so, and in the case of an employee who is required to reside on the employment premises, that time spent carrying out assigned duties shall be counted as hours worked. Within the health care industry, the term "hours worked" means the time during which an employee is suffered or permitted to work for the employer, whether or not required to do so, as interpreted in accordance with the provisions of the Fair Labor Standards Act.

(L) "Minor" means, for the purpose of this Order, any person under the age of 18 years.

(M) "Outside Salesperson" means any person, 18 years of age or over, who customarily and regularly works more than half the working time away from the employer's place of business selling tangible or intangible items or obtaining orders or contracts for products, services or use of facilities.

(N) "Personal attendant" includes baby sitters and means any person employed by a non-profit organization covered by this order to supervise, feed or dress a child or person who by reason of advanced age, physical disability or mental deficiency needs supervision. The status of "personal attendant" shall apply when no significant amount of work other than the foregoing is required.

(O) "Primarily" as used in Section 1, Applicability, means more than one-half the employee's work time.

(P) "Public Housekeeping Industry" means any industry, business, or establishment which provides meals, housing, or maintenance services whether operated as a primary business or when incidental to other operations in an establishment not covered by an industry order of the Commission, and includes, but is not limited to the following:

(1) Restaurants, night clubs, taverns, bars, cocktail lounges, lunch counters, cafeterias, boarding houses, clubs, and all similar establishments where food in either sold or liquid form is prepared and served to be consumed on the premises;

(2) Catering, banquet, box lunch service, and similar establishments which prepare food for consumption on or off the premises;

(3) Hotels, motels, apartment houses, rooming houses, camps, clubs, trailer parks, office or loft buildings, and similar establishments offering rental of living, business, or commercial quarters;

(4) Hospitals, sanitariums, rest homes, child nurseries, child care institutions, homes for the aged, and similar establishments offering board or lodging in addition to medical, surgical, nursing, convalescent, aged, or child care;

(5) Private schools, colleges, or universities, and similar establishments which provide board or lodging in additional to educational facilities;

(6) Establishments contracting for development, maintenance or cleaning of grounds; maintenance or cleaning of facilities and/or quarters of commercial units and living units; and

(7) Establishments providing veterinary or other animal care services.

(Q) "Shift" means designated hours of work by an employee, with a designated beginning time and quitting time.

(R) "Split shift" means a work schedule which is interrupted by non-paid non-working periods established by the employer, other than bona fide rest or meal periods.

(S) "Teaching" means, for the purpose of section 1 of this Order, the profession of teaching under a certificate from the Commission for Teacher Preparation and Licensing or teaching in an accredited college or university.

(T) "Wages" include all amounts of labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation.

(U) "Workday" and "day" mean any consecutive 24-hour period beginning at the same time each calendar day.

(V) "Workweek" and "week" mean any seven (7) consecutive days, starting with the same calendar day each week. "Workweek" is a fixed and regularly recurring period of 168 hours, seven (7) consecutive 24-hour periods.

3. **Hours and Days of Work**

(A) Daily Overtime- General Provisions

(1) The following overtime provisions are applicable to employees 18 years of age or over and to employees 16 or 17 years of age who are not required by law to attend school and are not otherwise prohibited by law from engaging in the subject work. Such employees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (1 ½) times such employee's regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day's work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:

(a) One and one-half (1 ½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including twelve (12) hours in any workday, and for the first eight (8) hours worked on the seventh (7^{th}) consecutive day of work in a workweek; and

(b) Double the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7^{th}) consecutive day of work in a workweek.

(c) The overtime rate of compensation required to be paid to a nonexempt full-time salaried employee shall be computed by using

the employee's regular hourly salary as one fortieth (1/40) of the employee's weekly salary.

(B) Alternative Workweek Schedules

(1) No employer shall be deemed to have violated the daily overtime provisions by instituting, pursuant to the election procedures set forth in this wage order, a regularly scheduled alternative workweek schedule of not more than ten (10) hours per day within a 40 hour workweek without the payment of an overtime rate of compensation. All work performed in any workday beyond the schedule established by the agreement up to twelve (12) hours a day or beyond 40 hours per week shall be paid at one and one-half (1 ½) times the employee's regular rate of pay. All work performed in excess of twelve (12) hours per day and any work in excess of eight (8) hours on those days worked beyond the regularly scheduled number of workdays established by the alternative workweek agreement shall be paid at double the employee's regular rate of pay. Any alternative workweek agreement adopted pursuant to this section shall provide for not less than four (4) hours of work in any shift. Nothing in this section shall prohibit an employer, at the request of the employee, to substitute one day of work for another day of the same length in the shift provided by the alternative workweek agreement on an occasional basis to meet the personal needs of the employee without the payment of overtime. No hours paid at either one and one-half (1 ½) or double the regular rate of pay shall be included in determining when 40 hours have been worked for the purpose of computing overtime compensation.

(2) If an employer, whose employees have adopted an alternative workweek agreement permitted by this order requires an employee to work fewer hours than those that are regularly scheduled by the agreement, the employer shall pay the employee overtime compensation at a rate of one and one-half (1 ½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours, and double the employee's regular rate of pay for all hours worked in excess of 12 hours for the day the employee is required to work the reduced hours.

(3) An employer shall not reduce an employee's regular rate of hourly pay as a result of the adoption, repeal or nullification of an alternative workweek schedule.

(4) An employer shall explore any available reasonable alternative means of accommodating the religious belief or observance of an affected employee that conflicts with an adopted alternative workweek schedule, in the manner provided by subdivision (j) of Section 12940 of the Government Code.

(5) An employer shall make a reasonable effort to find a work schedule not to exceed eight (8) hours in a workday, in order to accommodate any affected employee who was eligible to vote in an election authorized by this Section and who is unable to work the alternative workweek schedule established as the result of that election.

(6) An employer shall be permitted, but not required, to provide a work schedule not to exceed eight (8) hours in a workday to accommodate any employee who is hired after the date of the election and who is unable to work the alternative workweek schedule established by the election.

(7) Arrangements adopted in a secret ballot election held pursuant to this order prior to 1998, or under the rules in effect prior to 1998, and before the performance of the work, shall remain valid after July 1, 2000 provided that the results of the election are reported by the employer to the Division of Labor Statistics and Research by January 1, 2001, in accordance with the requirements of Section C below (Election Procedures). If an employee was voluntarily working an alternative workweek schedule of not more than ten (10) hours a day as of July 1, 1999, that alternative workweek was based on an individual agreement made after January 1, 1998 between the employee and employer, and the employee submitted, and the employer approved, a written request on or before May 30, 2000 to continue the agreement, the employee may continue to work that alternative workweek schedule without payment of an overtime rate of compensation for the hours provided in the agreement. An employee may revoke his or her voluntary authorization to continue such a schedule with 30 days written notice to the employer. New arrangements can only be entered into pursuant to the provisions of this section. Notwithstanding the foregoing, if a health care industry employer implemented a reduced rate for 12 hour shift employees in the last quarter of 1999 and desires to re-implement a flexible work arrangement that includes 12 hour shifts at straight time for the same work unit, the employer must pay a base rate to each affected employee in the work unit that is no less than that employee's base rate in 1999 immediately prior to the date of the rate reduction.

(8) Notwithstanding the above provisions regarding alternative workweek schedules, no employer of employees in the healthcare industry shall be deemed to have violated the daily overtime provisions by instituting, pursuant to the election procedures set forth in this wage order a regularly scheduled alternative workweek schedule that includes work days exceeding ten (10) hours but not more than 12 hours within a 40-hour workweek without the payment of overtime compensation, provided that:

(a) An employee who works beyond 12 hours in a workday shall be compensated at double the employee's regular rate of pay for all hours in excess of (12);

(b) An employee who works in excess of 40 hours in a workweek shall be compensated at one and one-half (1½) times the employee's regular rate of pay for all hours over 40 hours in the workweek;

(c) Any alternative workweek agreement adopted pursuant to this section shall provide for not less than four (4) hours of work in any shift.

(d) The same overtime standards shall apply to employees who are temporarily assigned to a work unit covered by this subsection;

(e) Any employer who instituted an alternative workweek schedule pursuant to this subsection shall make a reasonable effort to find another work assignment for any employee who participated in a valid election prior to 1998 pursuant to the provisions of Wage Orders 4 and 5 and who is unable to work the alternative workweek schedule established.

(f) An employer engaged in the operation of a licensed hospital or in providing personnel for the operation of a licensed hospital who institutes, pursuant to a valid order of the Commission, a regularly scheduled alternative workweek that includes no more than three (3) 12-hour workdays, shall make a reasonable effort to find another work assignment for any employee who participated in the vote which authorized the schedule and is unable to work the 12-hour shifts. An employer shall not be required to offer a different work assignment to an employee if such a work assignment is not available or if the employee was hired after the adoption of the 12 hour, three (3) day alternative workweek schedule.

(9) No employee assigned to work a 12 hour shift established pursuant to this Order shall be required to work more than 12 hours in any 24 hour period unless the Chief Nursing Officer or authorized executive declares that:

(a) A "healthcare emergency", as defined, exists in this Order, and

(b) All reasonable steps have been taken to provide required staffing, and

(c) Considering overall operational status needs, continued overtime is necessary to provide required staffing.

(10) Provided further that no employee shall be required to work more than 16 hours in a 24-hour period unless by voluntary mutual agreement of the employee and employer, and no employee shall work more than 24 consecutive hours until said employee receives not less than eight (8) consecutive hours off-duty immediately following the 24 consecutive hours of work.

(11) Notwithstanding subsection (B)(9) above, an employee may be required to work up to 13 hours in any 24-hour period if the employee scheduled to relieve the subject employee does not report for duty as scheduled and does not inform the employer more than two (2) hours in advance of that scheduled shift that he/she will not be appearing for duty as scheduled.

(C) Election Procedures

Election procedures for the adoption and repeal of alternative workweek schedules require the following:

(1) Each proposal for an alternative workweek schedule shall be in the form of a written agreement proposed by the employer. The proposed agreement must designate a regularly scheduled alternative workweek in which the specified number of work days and work hours are regularly recurring. The actual days worked

within that alternative workweek schedule need not be specified. The employer may propose a single work schedule that would become the standard schedule for workers in the work unit, or a menu of work schedule options, from which each employee in the unit would be entitled to choose. If the employer proposes a menu of work schedule options, the employee may, with the approval of the employer, move from one menu option to another.

(2) In order to be valid, the proposed alternative workweek schedule must be adopted in a secret ballot election, before the performance of work, by at least a two-thirds (2/3) vote of the affected employees in the work unit. The election shall be held during regular working hours at the employees' work site. For purposes of this subsection, "affected employees in the work unit" may include all employees in a readily identifiable work unit, such as a division, a department, a job classification, a shift, a separate physical location, or a recognized subdivision of any such work unit. A work unit may consist of an individual employee as long as the criteria for an identifiable work unit in this subsection is met.

(3) Prior to the secret ballot vote, any employer who proposed to institute an alternative workweek schedule shall have made a disclosure in writing to the affected employees, including the effects of the proposed arrangement on the employees' wages, hours, and benefits. Such a disclosure shall include meeting(s), duly noticed, held at least fourteen (14) days prior to voting, for the specific purpose of discussing the effects of the alternative workweek schedule. An employer shall provide that disclosure in a non-English language, as well as in English, if at least five (5) percent of the affected employees primarily speak that non-English language. The employer shall mail the written disclosure to employees who do not attend the meeting. Failure to comply with this paragraph shall make the election null and void.

(4) Any election to establish or repeal an alternative workweek schedule shall be held at the work site of the affected employees. The employer shall bear the costs of conducting any election held pursuant to this section. Upon a complaint by an affected employee, and after an investigation by the Labor Commissioner, the Labor Commissioner may require the employer to select a neutral third party to conduct the election.

(5) Any type of alternative workweek schedule that is authorized by the Labor Code may be repealed by the affected employees. Upon a petition of one-third (1/3) of the affected employees, a new secret ballot election shall be held and a two-thirds (2/3) vote of the affected employees shall be required to reverse the alternative workweek schedule. The election to repeal the alternative workweek schedule shall be held not more than 30 days after the petition is submitted to the employer, except that the election shall

be held not less than 12 months after the date that the same group of employees voted in an election held to adopt or repeal an alternative workweek schedule. However, where an alternative workweek schedule was adopted between October 1, 1999 and October 1, 2000, a new secret ballot election to repeal that alternative workweek schedule shall not be subject to the 12-month interval between elections. The election shall take place during regular working hours at the employees' work site. If the alternative workweek schedule is revoked, the employer shall comply within 60 days. Upon proper showing of undue hardship, the Division of Labor Standards Enforcement may grant an extension of time for compliance.

(6) Only secret ballots may be cast by affected employees in the work unit at any election held pursuant to this section. The results of any election conducted pursuant to this section shall be reported by the employer to the Division of Labor Statistics and Research within 30 days after the results are final, and the report of election results shall be a public document. The report shall include the final tally of the vote, the size of the unit, and the nature of the business of the employer.

(7) Employees affected by a change in the work hours resulting from the adoption of an alternative workweek schedule may not be required to work those new work hours for at least 30 days after the announcement of the final results of the election.

(8) Employers shall not intimidate or coerce employees to vote either in support of or in opposition to a proposed alternative workweek. No employees shall be discharged or discriminated against for expressing opinions concerning the alternative workweek election or for opposing or supporting its adoption or repeal. However, nothing in this section shall prohibit an employer from expressing his/her position concerning that alternative workweek to the affected employees. A violation of this subsection shall be subject to Labor Code section 98 et seq.

(D) No employer engaged in the operation of a hospital or an establishment which is an institution primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises shall be deemed to have violated any provision of this section if, pursuant to an agreement or understanding arrived at between the employer and employee before performance of work, a work period of 14 consecutive days is accepted in lieu of the workweek of seven (7) consecutive days for purposes of overtime computation and if, for any employment in excess of 80 hours in such 14 day period, the employee receives compensation at a rate not less than one and one-half (1 ½) times the regular rate at which the employee is employed.

(E) (1) This section does not apply to organized camp counselors who are not employed more than 54 hours and not more than six (6) days in any workweek except under the conditions set forth below. This section shall also not apply to personal attendants as defined

in Section 2 (N), ~~nor to adult employees or minors who are permitted to work as adults who have direct responsibility for children under eighteen (18) years of age receiving twenty-four (24) hour care,~~ nor to resident managers of homes for the aged having less than eight (8) beds; provided that persons employed in such occupations shall not be employed more than 40 hours nor more than six (6) days in any workweek, except under the following conditions:

In the case of emergency, employees may be employed in excess of forty (40) hours or six (6) days in any workweek provided the employee is compensated for all hours in excess of 40 hours and days in excess of six (6) days in the workweek at not less than one and one-half (1 ½) times the employee's regular rate of pay. However, regarding organized camp counselors, in case of emergency they may be employed in excess of 54 hours or six (6) days, provided that they are compensated at not less than one and one-half (1 ½) times the employee's regular rate of pay for all hours worked in excess of 54 hours and six (6) days in the workweek.

(2) Employees with direct responsibility for children who are under 18 years of age or who are not emancipated from the foster care system and who, in either case, are receiving 24 hour residential care, may, without violating any provision of this section, be compensated as follows:

(a) An employee who works in excess of 40 hours in a workweek shall be compensated at one and one-half (1-1/2) times the employee's regular rate of pay for all hours over 40 hours in the workweek.

(b) An employee shall be compensated at two (2) times the employee's regular rate of pay for all hours in excess of 48 hours in the workweek.

(c) An employee shall be compensated at two (2) times the employee's regular rate of pay for all hours in excess of 16 in a workday.

(d) No employee shall work more than 24 consecutive hours until said employee receives not less than eight (8) consecutive hours off-duty immediately following the 24 consecutive hours of work. Time spent sleeping shall not be included as hours worked.

(F) One and one-half (1 ½) times a minor's regular rate of pay shall be paid for all work over 40 hours in any workweek except minors sixteen (16) or 17 years old who are not required by law to attend school and may therefore be employed for the same hours as an adult are subject to subsection (A), (B), (C), or (D) above.

(VIOLATIONS OF CHILD LABOR LAWS are subject to civil penalties of from $500 to $10,000 as well as to criminal penalties. Refer to California Labor Code sections 1285 to 1312 and 1390 to 1399 for additional restrictions on the employment of minors and for descriptions of criminal and civil penalties for violation of the child labor laws. Employers should ask school districts about any required work permits.)

(G) An employee may be employed on seven (7) workdays in a workweek when the total hours of employment during such workweek do not exceed 30 and the total hours of employment in any one workday thereof do not exceed six (6).

(H) If a meal period occurs on a shift beginning or ending at or between the hours of 10 p.m. and 6 a.m.,

facilities shall be available for securing hot food and drink or for heating food or drink, and a suitable sheltered place shall be provided in which to consume such food or drink.

(I) The provisions of this section are not applicable to employees whose hours of service are regulated by:

(1) The United States Department of Transportation Code of Federal Regulations, title 49, sections 395.1 to 395.13, Hours of Service of Drivers, or

(2) Title 13 of the California Code of Regulations, subchapter 6.5, section 1200 and following sections, regulating hours or drivers.

(J) The daily overtime provisions of subsection (A) above shall not apply to ambulance drivers and attendants scheduled for 24 hours shifts of duty who have agreed in writing to exclude from daily time worked not more than three (3) meal periods of not more than one hour each and a regularly scheduled uninterrupted sleeping period of not more than eight (8) hours. The employer shall provide adequate dormitory and kitchen facilities for employees on such a schedule.

(K) The provisions of Labor Code Sections 551 and 552 regarding one (1) day's rest in seven (7) shall not be construed to prevent an accumulation of days of rest when the nature of the employment reasonably requires the employee to work seven (7) or more consecutive days; provided, however, that in each calendar month, the employee shall receive the equivalent of one (1) day's rest in seven (7).

(L) Except as provided in subsections (F) and (K), this section shall not apply to any employee covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work, and working conditions of the employees, and if the agreement provides premium wage rates for all overtime hours worked and a regular hourly rate of pay for those employees of not less than 30 percent more than the state minimum wage.

(M) Notwithstanding subsection (L) above, where the employer and a labor organization representing employees of the employer have entered into a valid collective bargaining agreement pertaining to the hours of work of the employees, the requirement regarding the equivalent of one (1) day's rest in seven (7) (see subsection (K) above) shall apply, unless the agreement expressly provides otherwise.

(N) If an employer approves a written request of an employee to make up work time that is or would be lost as a result of a personal obligation of the employee, the hours of that make up work time, if performed in the same workweek in which the work time was lost, may not be counted toward computing the total number of hours worked in a day for purposes of the overtime requirements, except for hours in excess of 11 hours of work in one (1) day or 40 hours of work in one (1) workweek. If an employee knows in advance that he or she will be requesting make up time for a personal obligation that will recur at a fixed time over a succession of weeks, the employee may request to make up work time for up to four (4) weeks in advance; provided, however, that the make up work must be performed in the same week that the work time was lost. An employee shall provide a signed written request for each occasion that the employee makes a request to make up work time pursuant to this Section. While an employer may inform an employee of this make up time option, the employer is prohibited from encouraging or otherwise soliciting an employee to request the employer's approval to take personal time off and make up the work hours within the same workweek pursuant to this Section.

4. Minimum Wages

(A) Every employer shall pay to each employee wages not less than six dollars and twenty

five cents ($6.25) per hour for all hours worked effective January 1, 2001, and not less than six dollars and seventy five cents ($6.75) per hour for all hours worked effective January 1, 2002, except:

LEARNERS. Employees during their first one hundred and sixty (160) hours of employment in occupations in which they have no previous similar or related experience, may be paid not less than 85per cent of the minimum wage rounded to the nearest nickel.

(B) Every employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.

(C) When an employee works a split shift, one hour's pay at the minimum wage shall be paid in addition to the minimum wage for that workday, except when the employee resides at the place of employment.

(D) The provisions of this section shall not apply to apprentices regularly indentured under the State Division of Apprenticeship Standards.

5. Reporting Time Pay

(A) Each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage.

(B) If an employee is required to report for work a second time in any one workday and is furnished less than two hours of work on the second reporting, said employee shall be paid for two hours at the employee's regular rate of pay, which shall not be less than the minimum wage.

(C) The foregoing reporting time pay provisions are not applicable when:

(1) Operations cannot commence or continue due to threats to employees or property; or when recommended by civil authorities; or

(2) Public utilities fail to supply electricity, water, or gas, or there is a failure in the public utilities, or sewer system; or

(3) The interruption of work is caused by an Act of God or other cause not within the employer's control.

This section shall not apply to an employee on paid standby status who is called to perform assigned work at a time other than the employee's scheduled reporting time.

6. Licenses for Disabled Workers

(A) A license may be issued by the Division authorizing employment of a person whose earning capacity is impaired by physical disability or mental deficiency at less than the minimum wage. Such licenses shall be granted only upon joint application of employer and employee and employee's representative if any.

(B) A special license may be issued to a nonprofit organization such as a sheltered workshop

or rehabilitation facility fixing special minimum rates to enable the employment of such persons without requiring individual licenses of such employees.

(C) All such licenses and special licenses shall be renewed on a yearly basis or more frequently at the discretion of the Division. (See California Labor Code, Sections 1191 and 1191.5.)

7. Records

(A) Every employer shall keep accurate information with respect to each employee including the following:

(1) Full name, home address, occupation and social security number.

(2) Birth date, if under 18 years, and designation as a minor.

(3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded. Meal periods during which operations cease and authorized rest periods need not be recorded.

(4) Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the employee.

(5) Total hours worked in the payroll period and applicable rates of pay. This information shall be made readily available to the employee upon reasonable request.

(6) When a piece rate or incentive plan is in operation, piece rates or an explanation of the incentive plan formula shall be provided to employees. An accurate production record shall be maintained by the employer.

(B) Every employer shall semimonthly or at the time of each payment of wages furnish each employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately, an itemized statement in writing showing: (1) all deductions; (2) the inclusive dates of the period for which the employee is paid; (3) the name of the employee or the employee's social security number; and (4) the name of the employer, provided all deductions made on written orders of the employee may be aggregated and shown as one item.

(C) All required records shall be in the English language and in ink or other indelible form, properly dated, showing month, day and year, and shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. An employee's records shall be available for inspection by the employee upon reasonable request.

Clocks shall be provided in all major work areas or within reasonable distance thereto insofar as practicable.

8. Cash Shortage and Breakage

No employer shall make any deduction from the wage or require any reimbursement from an employee for any cash shortage, breakage, or loss of equipment, unless it can be shown that the shortage, breakage, or loss is caused by a dishonest or willful act, or by the gross negligence of the employee.

9. Uniforms and Equipment

(A) When uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer. The term "uniform" includes wearing apparel and accessories of distinctive design or color.

NOTE: This section shall not apply to protective apparel regulated by the Occupational Safety and Health Standards Board.

(B) When tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft. Notwithstanding any other provision of this section, employees in beauty salons, schools of beauty culture offering beauty care to the public for a fee, and barber shops may be required to furnish their own manicure implements, curling irons, rollers, clips, haircutting scissors, combs, blowers, razors, and eyebrow tweezers. This subsection (B) shall not apply to apprentices regularly indentured under the State Division of Apprenticeship Standards.

NOTE: This section shall not apply to protective equipment and safety devices on tools regulated by the Occupational Safety and Health Standards Board.

(C) A reasonable deposit may be required as security for the return of the items furnished by the employer under provisions of subsections (A) and (B) of this section upon issuance of a receipt to the employee for such deposit. Such deposits shall be made pursuant to Section 400 and following of the Labor Code or an employer with the prior written authorization of the employee may deduct from the employee's last check the cost of an item furnished pursuant to (A) and (B) above in the event said item is not returned. No deduction shall be made at any time for normal wear and tear. All items furnished by the employer shall be returned by the employee upon completion of the job.

10. Meals and Lodging

(A)"Meal" means an adequate, well-balanced serving of a variety of wholesome, nutritious foods.

(B)"Lodging" means living accommodations available to the employee for full-time occupancy which are adequate, decent, and sanitary according to usual and customary standards. Employees shall not be required to share a bed.

(C) Meals or lodging may not be credited against the minimum wage without a voluntary written agreement between the employer and the employee. When credit for meals or lodging is used to meet part of the employer's minimum wage obligation, the amounts so credited may not be more than the following:

Effective Dates:	January 1, 2001	January 1, 2002
Lodging:		
Rooms occupied alone	$29.40 per week	$31.75 per week
Room shared	$24.25 per week	$26.20 per week
Apartment-two-thirds (2/3) of the ordinary rental value, and in no event more than	$352.95 per month	$381.20 per month
Where a couple are both employed by the employer, two-thirds (2/3) of the ordinary rental value, and in no event more than	$522.10 per month	$563.90 per month
Meals:		
Breakfast	$2.25	$2.45
Lunch	$3.10	$3.35
Dinner	$4.15	$4.50

(D) Meals evaluated, as part of the minimum wage, must be bona fide meals consistent with the employee's work shift. Deductions shall not be made for meals not received nor lodging not used.

(E) If, as a condition of employment, the employee must live at the place of employment or occupy quarters owned or under the control of the employer, then the employer may not charge rent in excess of the values listed herein.

11. Meal Periods

(A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and employee. Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. An "on duty" meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.

(B) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay

at the employee's regular rate of compensation for each work day that the meal period is not provided.

(C) In all places of employment where employees are required to eat on the premises, a suitable place for that purpose shall be designated.

(D) Notwithstanding any other provision of this order, employees in the health care industry who work shifts in excess of eight (8) total hours in a workday may voluntarily waive their right to one of their two meal periods. In order to be valid, any such waiver must be documented in a written agreement that is voluntarily signed by both the employee and the employer. The employee may revoke the waiver at any time by providing the employer at least one day's written notice. The employee shall be fully compensated for all working time, including any on-the-job meal period, while such a waiver is in effect.

(E) Employees with direct responsibility for children who are under 18 years of age or who are not emancipated from the foster care system and who, in either case, are receiving 24 hour residential care, and employees of 24 hour residential care facilities for the elderly, blind or developmentally disabled individuals may be required to work on-duty meal periods without penalty when necessary to meet regulatory or approved program standards and one of the following two conditions is met:

(1)(a) The residential care employees eats with residents during residents' meals and the employer provides the same meal at no charge to the employee; or

~~(2)~~(b) The employee is in sole charge of the resident(s) and , on the day shift, the employer provides a meal at no charge to the employee.

(2) An employee, except for the night shift, may exercise the right to have an off-duty meal period upon 30 days' notice to the employer for each instance where an off-duty meal is desired, provided that, there shall be no more than one off-duty meal period every two weeks.

12. Rest Periods

(A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 ½) hours. Authorized rest period time shall be counted, as hours worked, for which there shall be no deduction from wages.

(B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided.

(C) However, employees with direct responsibility for children who are under 18 years of age or who are not emancipated from the foster care system and who, in either case, are receiving 24 hour residential care and employees of 24 hour residential care facilities for elderly, blind or developmentally disabled individuals may, without

penalty, require an employee to remain on the premises and maintain general supervision of residents during rest periods if the employee is in sole charge of residents. Another rest period shall be authorized and permitted by the employer when an employee is affirmatively required to interrupt his/her break to respond to the needs of residents.

13. Change Rooms and Resting Facilities

(A) Employers shall provide suitable lockers, closets, or equivalent for the safekeeping of employees' outer clothing during working hours, and when required, for their work clothing during non-working hours. When the occupation requires a change of clothing, change rooms or equivalent space shall be provided in order that employees may change their clothing in reasonable privacy and comfort. These rooms or spaces may be adjacent to but shall be separate from toilet rooms and shall be kept clean.

NOTE: This section shall not apply to change rooms and storage facilities regulated by the Occupational Safety and Health Standards Board.

(B) Suitable resting facilities shall be provided in an area separate from the toilet rooms and shall be available to employees during work hours.

14. Seats

(A) All working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.

(B) When employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.

15. Temperature

(A) The temperature maintained in each work area shall provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed.

(B) If excessive heat or humidity is created by the work process, the employer shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort. Where the nature of the employment requires a temperature of less than 60° F., a heated room shall be provided to which employees may retire for warmth, and such room shall be maintained at not less than 68°.

(C) A temperature of not less than 68° shall be maintained in the toilet rooms, resting rooms, and change rooms during hours of use.

(D) Federal and State energy guidelines shall prevail over any conflicting provision of this section.

16. Elevators

Adequate elevator, escalator or similar service consistent with industry-wide standards for

the nature of the process and the work performed shall be provided when employees are employed four floors or more above or below ground level.

17. Exemptions

If, in the opinion of the Division after due investigation, it is found that the enforcement of any provision contained in Section 7, Records; Section 12, Rest Periods; Section 13, Change Rooms and Resting Facilities; Section 14, Seats; Section 15, Temperature; or Section 16, Elevators, would not materially affect the welfare or comfort of employees and would work an undue hardship on the employer, exemption may be made at the discretion of the Division. Such exemptions shall be in writing to be effective and may be revoked after reasonable notice is given in writing. Application for exemption shall be made by the employer or by the employee and/or the employee's representative to the Division in writing. A copy of the application shall be posted at the place of employment at the time the application is filed with the Division.

18. Filing Reports (See California Labor Code, Section 1174(a))

19. Inspection (See California Labor Code, Section 1174)

20. Penalties (See Labor Code, Section 1199)

(A) In addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty of:

(1) Initial Violation -- $50.00 for each underpaid employee for each pay period during which the employee was underpaid in addition to the amount which is sufficient to recover unpaid wages.

(2) Subsequent Violations -- $100.00 for each underpaid employee for each pay period during which the employee was underpaid in addition to an amount which is sufficient to recover unpaid wages.

(3) The affected employee shall receive payment of all wages recovered.

(B) The Labor Commissioner may also issue citations pursuant to Labor Code § 1197.1 for payment of wages for overtime work in violation of this order.

21. Separability

If the application of any provision of this Order, or any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Order should be held invalid or unconstitutional or unauthorized or prohibited by statute, the remaining provisions thereof shall not be affected thereby, but shall continue to be given full force and effect as if the part so held invalid or unconstitutional had not been included herein.

22. Posting of Order

Every employer shall keep a copy of this Order posted in an area frequented by employees where it may be easily read during the workday. Where the location of work or other conditions make this impractical, every employer shall keep a copy of this Order and make it available to every employee upon request.

NOTE: The Internet version of this Industrial Welfare Commission Order may be posted as is required at places of employment. To obtain the official printed Order, you may call 415.703.5070 and it will be mailed to you free of charge. You may also request copies by writing to the Department of Industrial Relations, Public Information Office, P.O. Box 420603, San Francisco, CA 94142-0603.

INDUSTRIAL WELFARE COMMISSION
ORDER NO. 4-2001
REGULATING
WAGES, HOURS AND WORKING CONDITIONS IN THE

PROFESSIONAL, TECHNICAL, CLERICAL, MECHANICAL AND SIMILAR OCCUPATIONS

(Effective January 1, 2001 as amended)

1. Applicability of Order. This order shall apply to all persons employed in professional, technical, clerical, mechanical, and similar occupations whether paid on a time, piece rate, commission, or other basis, except that:

(A) Provisions of Sections 3 through 12 shall not apply to persons employed in administrative, executive, or professional capacities. The following requirements shall apply in determining whether an employee's duties meet the test to qualify for an exemption from those sections:

(1) Executive Exemption. A person employed in an executive capacity means any employee:

(a) Whose duties and responsibilities involve the management of the enterprise in which he/she is employed or of a customarily recognized department or subdivision thereof; and

(b) Who customarily and regularly directs the work of two or more other employees therein; and

(c) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; and

(d) Who customarily and regularly exercises discretion and independent judgment; and

(e) Who is primarily engaged in duties which meet the test of the exemption. The activities constituting exempt work and non-exempt work shall be construed in the same manner as such items are construed in the following regulations under the Fair

Labor Standards Act effective as of the date of this order: 29 C.F.R. Sections 541.102, 541.104-111, and 541.115-116. Exempt work shall include, for example, all work that is directly and closely related to exempt work and work which is properly viewed as a means for carrying out exempt functions. The work actually performed by the employee during the course of the workweek must, first and foremost, be examined and the amount of time the employee spends on such work, together with the employer's realistic expectations and the realistic requirements of the job, shall be considered in determining whether the employee satisfies this requirement.

(f) Such an employee must also earn a monthly salary equivalent to no less than two (2) times the state minimum wage for full-time employment. Full-time employment is defined in Labor Code Section 515(c) as 40 hours per week.

(2) Administrative Exemption. A person employed in an administrative capacity means any employee:

(a) Whose duties and responsibilities involve either:

(i) The performance of office or non-manual work directly related to management policies or general business operations of his/her employer or his/her employer's customers; or

(ii) The performance of functions in the administration of a school system, or educational establishment or institution, or of a department or subdivision thereof, in work directly related to the academic instruction or training carried on therein; and

(b) Who customarily and regularly exercises discretion and independent judgment; and

(c) Who regularly and directly assists a proprietor, or an employee employed in a bona fide executive or administrative capacity (as such terms are defined for purposes of this section); or

(d) Who performs under only general supervision work along specialized or technical lines requiring special training, experience, or knowledge; or

(e) Who executes under only general supervision special assignments and tasks; and

(f) Who is primarily engaged in duties that meet the test of the exemption. The activities constituting exempt work and non-exempt work shall be construed in the same manner as such terms are construed in the following regulations under the Fair

Labor Standards Act effective as of the date of this order: 29 C.F.R. Sections 541.201-205, 541.207-208, 541.210, and 541.215. Exempt work shall include, for example, all work that is directly and closely related to exempt work and work which is properly viewed as a means for carrying out exempt functions. The work actually performed by the employee during the course of the workweek must, first and foremost, be examined and the amount of time the employee spends on such work, together with the employer's realistic expectations and the realistic requirements of the job, shall be considered in determining whether the employee satisfies this requirement.

(g) Such employee must also earn a monthly salary equivalent to no less than two (2) times the state minimum wage for full-time employment. Full-time employment is defined in Labor Code Section 515(c) as 40 hours per week.

(3) Professional Exemption. A person employed in a professional capacity means any employee who meets *all* of the following requirements:

(a) Who is licensed or certified by the State of California and is primarily engaged in the practice of one of the following recognized professions: law, medicine, dentistry, optometry, architecture, engineering, teaching, or accounting; or

(b) Who is primarily engaged in an occupation commonly recognized as a learned or artistic profession. For the purposes of this subsection, "learned or artistic profession" means an employee who is primarily engaged in the performance of:

(i) Work requiring knowledge of an advanced type in a field or science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes, or work that is an essential part of or necessarily incident to any of the above work; or

(ii) Work that is original and creative in character in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the invention, imagination, or talent of the employee or work that is an essential part of or necessarily incident to any of the above work; and

(iii) Whose work is predominantly intellectual and varied in character (as opposed to routine mental,

manual, mechanical, or physical work) and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time.

(c) Who customarily and regularly exercises discretion and independent judgment in the performance of duties set forth in subparagraphs (a) and (b).

(d) Who earns a monthly salary equivalent to no less than two (2) times the state minimum wage for full-time employment. Full-time employment is defined in Labor Code Section 515 (c) as 40 hours per week.

(e) Subparagraph (b) above is intended to be construed in accordance with the following provisions of federal law as they existed as of the date of this wage order: 29 C.F.R. Sections 541.207, 541.301(a)-(d), 541.302, 541.306, 541.307, 541.308, and 541.310.

(f) Notwithstanding the provisions of this subparagraph, pharmacists employed to engage in the practice of pharmacy, and registered nurses employed to engage in the practice of nursing, shall not be considered exempt professional employees, nor shall they be considered exempt from coverage for the purposes of this subparagraph unless they individually meet the criteria established for exemption as executive or administrative employees.

(g) Subparagraph (f) above shall not apply to the following advanced practice nurses:

(i) Certified nurse midwives who are primarily engaged in performing duties for which certification is required pursuant to Article 2.5 (commencing with Section 2746) of Chapter 6 of Division 2 of the Business and Professions Code.

(ii) Certified nurse anesthetists who are primarily engaged in performing duties for which certification is required pursuant to Article 7 (commencing with Section 2825) of Chapter 6 of Division 2 of the Business and Professions Code.

(iii) Certified nurse practitioners who are primarily engaged in performing duties for which certification is required pursuant to Article 8 (commencing with Section 2834) of Chapter 6 of Division 2 of the Business and Professions Code.

(iv) Nothing in this subparagraph shall exempt the occupations set forth in clauses (i), (ii), and (iii) from

meeting the requirements of subsection 1(A)(3)(a)–(d) above.

(h) Except, as provided in subparagraph (i), an employee in the computer software field who is paid on an hourly basis shall be exempt, if *all* of the following apply:

(i) The employee is primarily engaged in work that is intellectual or creative and that requires the exercise of discretion and independent judgment.

(ii) The employee is primarily engaged in duties that consist of one or more of the following:

- The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications.

- The design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications.

- The documentation, testing, creation, or modification of computer programs related to the design of software or hardware for computer operating systems.

(iii) The employee is highly skilled and is proficient in the theoretical and practical application of highly specialized information to computer systems analysis, programming, and software engineering. A job title shall not be determinative of the applicability of this exemption.

(iv) The employee's hourly rate of pay is not less than forty-one dollars and zero cents ($41.00). The Division of Labor Statistics and Research shall adjust this pay rate on October 1 of each year to be effective on January 1 of the following year by an amount equal to the percentage increase in the California Consumer Price Index for Urban Wage Earners and Clerical Workers.

(i) The exemption provided in subparagraph (h) does not apply to an employee if *any* of the following apply:

(i) The employee is a trainee or employee in an entry-level position who is learning to become proficient in the theoretical and practical application of highly specialized information to computer systems analysis, programming, and software engineering.

(ii) The employee is in a computer-related occupation but has not attained the level of skill and expertise necessary to work independently and without close supervision.

(iii) The employee is engaged in the operation of computers or in the manufacture, repair, or maintenance of computer hardware and related equipment.

(iv) The employee is an engineer, drafter, machinist, or other professional whose work is highly dependent upon or facilitated by the use of computers and computer software programs and who is skilled in computer-aided design software, including CAD/CAM, but who is not in a computer systems analysis or programming occupation.

(v) The employee is a writer engaged in writing material, including box labels, product descriptions, documentation, promotional material, setup and installation instructions, and other similar written information, either for print or for on screen media or who writes or provides content material intended to be read by customers, subscribers, or visitors to computer-related media such as the World Wide Web or CD-ROMs.

(vi) The employee is engaged in *any* of the activities set forth in subparagraph (h) for the purpose of creating imagery for effects used in the motion picture, television, or theatrical industry.

(B) Except as provided in Sections 1, 2, 4, 10, and 20, the provisions of this order shall not apply to any employees directly employed by the State or any political subdivision thereof, including any city, county, or special district.

(C) The provisions of this order shall not apply to outside salespersons.

(D) The provisions of this order shall not apply to any individual who is the parent, spouse, child, or legally adopted child of the employer.

(E) The provisions of this order shall not apply to any individual participating in a national service program, such as AmeriCorps, carried out using assistance provided under Section 12571 of Title 42 of the United States Code. (See Stats. 2000, ch. 365, amending Labor Code Section 1171.)

2. Definitions.

(A) An "alternative workweek schedule" means any regularly scheduled workweek requiring an employee to work more than eight (8) hours in a 24-hour period.

(B) "Commission" means the Industrial Welfare Commission of the State of California.

(C) "Division" means the Division of Labor Standards Enforcement of the State of California.

(D) "Emergency" means an unpredictable or unavoidable occurrence at unscheduled intervals requiring immediate action.

(E) "Employ" means to engage, suffer, or permit to work.

(F) "Employee" means any person employed by an employer.

(G) "Employees in the health care industry" means any of the following:

(1) Employees in the health care industry providing patient care; or

(2) Employees in the health care industry working in a clinical or medical department, including pharmacists dispensing prescriptions in any practice setting; or

(3) Employees in the health care industry working primarily or regularly as a member of a patient care delivery team; or

(4) Licensed veterinarians, registered veterinary technicians and unregistered animal health technicians providing patient care.

(H) "Employer" means any person as defined in Section 18 of the Labor Code, who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of any person.

(I) "Health care emergency" consists of an unpredictable or unavoidable occurrence at unscheduled intervals relating to health care delivery, requiring immediate action.

(J) "Health care industry" is defined as hospitals, skilled nursing facilities, intermediate care and residential care facilities, convalescent care institutions, home health agencies, clinics operating 24 hours per day, and clinics performing surgery, urgent care, radiology, anesthesiology, pathology, neurology or dialysis.

(K) "Hours worked" means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so. Within the health care industry, the term "hours worked" means the time during which an employee is suffered or permitted to work for the employer, whether or not required to do so, as interpreted in accordance with the provisions of the Fair Labor Standards Act.

(L) "Minor" means, for the purpose of this order, any person under the age of 18 years.

(M) "Outside salesperson" means any person, 18 years of age or over, who customarily and regularly works more than half the working time away from the employer's place of business selling tangible or intangible items or obtaining orders or contracts for products, services or use of facilities.

(N) "Primarily" as used in Section 1, Applicability, means more than one-half the employee's work time.

(O) "Professional, Technical, Clerical, Mechanical, and Similar Occupations" includes professional, semiprofessional, managerial, supervisorial, laboratory, research, technical, clerical, office work, and mechanical occupations. Said occupations shall include, but not be limited to, the following: accountants; agents; appraisers; artists; attendants; audio-visual technicians; bookkeepers; bundlers; billposters; canvassers; carriers; cashiers; checkers; clerks; collectors; communications and sound technicians; compilers; copy holders; copy readers; copy writers; computer programmers and operators; demonstrators and display representatives; dispatchers; distributors; door-keepers; drafters; elevator operators; estimators; editors; graphic arts technicians; guards; guides; hosts; inspectors; installers; instructors; interviewers; investigators; librarians; laboratory workers; machine operators; mechanics; mailers; messengers; medical and dental technicians and technologists; models; nurses; packagers; photographers; porters and cleaners; process servers; printers; proof readers; salespersons and sales agents; secretaries; sign erectors; sign painters; social workers; solicitors; statisticians; stenographers; teachers; telephone, radio-telephone, telegraph and call-out operators; tellers; ticket agents; tracers; typists; vehicle operators; x-ray technicians; their assistants and other related occupations listed as professional, semiprofessional, technical, clerical, mechanical, and kindred occupations.

(P) "Shift" means designated hours of work by an employee, with a designated beginning time and quitting time.

(Q) "Split shift" means a work schedule, which is interrupted by non-paid non-working periods established by the employer, other than bona fide rest or meal periods.

(R) "Teaching" means, for the purpose of Section 1 of this order, the profession of teaching under a certificate from the Commission for Teacher Preparation and Licensing or teaching in an accredited college or university.

(S) "Wages" includes all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation.

(T) "Workday" and "day" mean any consecutive 24-hour period beginning at the same time each calendar day.

(U) "Workweek" and "week" mean any seven (7) consecutive days, starting with the same calendar day each week. "Workweek" is a fixed and regularly recurring period of 168 hours, seven (7) consecutive 24-hour periods.

3. Hours and Days of Work.

(A) Daily Overtime - General Provisions

(1) The following overtime provisions are applicable to employees 18 years of age or over and to employees 16 or 17 years of age who are not required by law to attend school and are not otherwise prohibited by law from engaging in the subject work. Such employees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee

receives one and one-half (1 ½) times such employee's regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day's work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:

(a) One and one-half (1 ½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including 12 hours in any workday, and for the first eight (8) hours worked on the seventh (7^{th}) consecutive day of work in a workweek; and

(b) Double the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7^{th}) consecutive day of work in a workweek.

(c) The overtime rate of compensation required to be paid to a nonexempt full-time salaried employee shall be computed by using the employee's regular hourly salary as one-fortieth (1/40) of the employee's weekly salary.

(B) Alternative Workweek Schedules

(1) No employer shall be deemed to have violated the daily overtime provisions by instituting, pursuant to the election procedures set forth in this wage order, a regularly scheduled alternative workweek schedule of not more than ten (10) hours per day within a 40 hour workweek without the payment of an overtime rate of compensation. All work performed in any workday beyond the schedule established by the agreement up to 12 hours a day or beyond 40 hours per week shall be paid at one and one-half (1 ½) times the employee's regular rate of pay. All work performed in excess of 12 hours per day and any work in excess of eight (8) hours on those days worked beyond the regularly scheduled number of workdays established by the alternative workweek agreement shall be paid at double the employee's regular rate of pay. Any alternative workweek agreement adopted pursuant to this section shall provide for not less than four (4) hours of work in any shift. Nothing in this section shall prohibit an employer, at the request of the employee, to substitute one day of work for another day of the same length in the shift provided by the alternative workweek agreement on an occasional basis to meet the personal needs of the employee without the payment of overtime. No hours paid at either one and one-half (1 ½) or double the regular rate of pay shall be included in determining when 40 hours have been worked for the purpose of computing overtime compensation.

(2) If an employer whose employees have adopted an alternative workweek agreement permitted by this order requires an employee to work fewer hours than those that are regularly scheduled by the agreement, the employer shall pay the employee overtime compensation at a rate of one and one-half (1 ½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours, and double the employee's regular rate of pay for all hours worked in excess of 12 hours for the day the employee is required to work the reduced

hours.

(3) An employer shall not reduce an employee's regular rate of hourly pay as a result of the adoption, repeal or nullification of an alternative workweek schedule.

(4) An employer shall explore any available reasonable alternative means of accommodating the religious belief or observance of an affected employee that conflicts with an adopted alternative workweek schedule, in the manner provided by subdivision (j) of Section 12940 of the Government Code.

(5) An employer shall make a reasonable effort to find a work schedule not to exceed eight (8) hours in a workday, in order to accommodate any affected employee who was eligible to vote in an election authorized by this section and who is unable to work the alternative workweek schedule established as the result of that election.

(6) An employer shall be permitted, but not required, to provide a work schedule not to exceed eight (8) hours in a workday to accommodate any employee who is hired after the date of the election and who is unable to work the alternative workweek schedule established by the election.

(7) Arrangements adopted in a secret ballot election held pursuant to this order prior to 1998, or under the rules in effect prior to 1998, and before the performance of the work, shall remain valid after July 1, 2000 provided that the results of the election are reported by the employer to the Division of Labor Statistics and Research by January 1, 2001, in accordance with the requirements of subsection (C) below (Election Procedures). If an employee was voluntarily working an alternative workweek schedule of not more than ten (10) hours a day as of July 1, 1999, that alternative workweek schedule was based on an individual agreement made after January 1, 1998 between the employee and employer, and the employee submitted, and the employer approved, a written request on or before May 30, 2000 to continue the agreement, the employee may continue to work that alternative workweek schedule without payment of an overtime rate of compensation for the hours provided in the agreement. The employee may revoke his/her voluntary authorization to continue such a schedule with 30 days written notice to the employer. New arrangements can only be entered into pursuant to the provisions of this section. Notwithstanding the foregoing, if a health care industry employer implemented a reduced rate for 12-hour shift employees in the last quarter of 1999 and desires to reimplement a flexible work arrangement that includes 12-hour shifts at straight time for the same work unit, the employer must pay a base rate to each affected employee in the work unit that is no less than that employee's base rate in 1999 immediately prior to the date of the rate reduction.

(8) Notwithstanding the above provisions regarding alternative workweek schedules, no employer of employees in the health care industry shall be deemed to have violated the daily overtime provisions by instituting, pursuant to the election procedures set forth in this wage order a regularly scheduled alternative workweek schedule that includes workdays exceeding ten (10) hours

but not more than 12 hours within a 40 hour workweek without the payment of overtime compensation, provided that:

(a) An employee who works beyond 12 hours in a workday shall be compensated at double the employee's regular rate of pay for all hours in excess of 12;

(b) An employee who works in excess of 40 hours in a workweek shall be compensated at one and one-half (1½) times the employee's regular rate of pay for all hours over 40 hours in the workweek;

(c) Any alternative workweek agreement adopted pursuant to this section shall provide for not less than four (4) hours of work in any shift;

(d) The same overtime standards shall apply to employees who are temporarily assigned to a work unit covered by this subsection;

(e) Any employer who instituted an alternative workweek schedule pursuant to this subsection shall make a reasonable effort to find another work assignment for any employee who participated in a valid election prior to 1998 pursuant to the provisions of Wage Orders 4 and 5 and who is unable to work the alternative workweek schedule established;

(f) An employer engaged in the operation of a licensed hospital or in providing personnel for the operation of a licensed hospital who institutes, pursuant to a valid order of the Commission, a regularly scheduled alternative workweek that includes no more than three (3) 12-hour workdays, shall make a reasonable effort to find another work assignment for any employee who participated in the vote which authorized the schedule and is unable to work the 12-hour shifts. An employer shall not be required to offer a different work assignment to an employee if such a work assignment is not available or if the employee was hired after the adoption of the 12 hour, three (3) day alternative workweek schedule.

(9) No employee assigned to work a 12-hour shift established pursuant to this order shall be required to work more than 12 hours in any 24-hour period unless the chief nursing officer or authorized executive declares that:

(a) A "health care emergency", as defined above, exists in this order; and

(b) All reasonable steps have been taken to provide required staffing; and

(c) Considering overall operational status needs, continued overtime is necessary to provide required staffing.

(10) Provided further that no employee shall be required to work more than 16 hours in a 24-hour period unless by voluntary mutual agreement of the employee and the employer, and no employee shall work more than 24 consecutive hours until said employee receives not less than eight (8) consecutive hours off duty immediately following the 24 consecutive hours of work.

(11) Notwithstanding subsection (B)(9) above, an employee may be required to work up to 13 hours in any 24-hour period if the employee scheduled to relieve the subject employee does not report for duty as scheduled and does not inform the employer more than two (2) hours in advance of that scheduled shift that he/she will not be appearing for duty as scheduled.

(C) Election Procedures

Election procedures for the adoption and repeal of alternative workweek schedules require the following:

(1) Each proposal for an alternative workweek schedule shall be in the form of a written agreement proposed by the employer. The proposed agreement must designate a regularly scheduled alternative workweek in which the specified number of work days and work hours are regularly recurring. The actual days worked within that alternative workweek schedule need not be specified. The employer may propose a single work schedule that would become the standard schedule for workers in the work unit, or a menu of work schedule options, from which each employee in the unit would be entitled to choose. If the employer proposes a menu of work schedule options, the employee may, with the approval of the employer, move from one menu option to another.

(2) In order to be valid, the proposed alternative workweek schedule must be adopted in a secret ballot election, before the performance of work, by at least a two-thirds (2/3) vote of the affected employees in the work unit. The election shall be held during regular working hours at the employees' work site. For purposes of this subsection, "affected employees in the work unit" may include all employees in a readily identifiable work unit, such as a division, a department, a job classification, a shift, a separate physical location, or a recognized subdivision of any such work unit. A work unit may consist of an individual employee as long as the criteria for an identifiable work unit in this subsection are met.

(3) Prior to the secret ballot vote, any employer who proposed to institute an alternative workweek schedule shall have made a disclosure in writing to the affected employees, including the effects of the proposed arrangement on the employees' wages, hours, and benefits. Such a disclosure shall include meeting(s), duly noticed, held at least 14 days prior to voting, for the specific purpose of discussing the effects of the alternative workweek schedule. An employer shall provide that disclosure in a non-English language, as well as in English, if at least five (5) percent of the affected employees primarily speak that non-English language. The employer shall mail the written disclosure to employees who do not attend the meeting. Failure to comply with this paragraph

shall make the election null and void.

(4) Any election to establish or repeal an alternative workweek schedule shall be held at the work site of the affected employees. The employer shall bear the costs of conducting any election held pursuant to this section. Upon a complaint by an affected employee, and after an investigation by the labor commissioner, the labor commissioner may require the employer to select a neutral third party to conduct the election.

(5) Any type of alternative workweek schedule that is authorized by the Labor Code may be repealed by the affected employees. Upon a petition of one-third (1/3) of the affected employees, a new secret ballot election shall be held and a two-thirds (2/3) vote of the affected employees shall be required to reverse the alternative workweek schedule. The election to repeal the alternative workweek schedule shall be held not more than 30 days after the petition is submitted to the employer, except that the election shall be held not less than 12 months after the date that the same group of employees voted in an election held to adopt or repeal an alternative workweek schedule. However, where an alternative workweek schedule was adopted between October 1, 1999 and October 1, 2000, a new secret ballot election to repeal the alternative workweek schedule shall not be subject to the 12-month interval between elections. The election shall take place during regular working hours at the employees' work site. If the alternative workweek schedule is revoked, the employer shall comply within 60 days. Upon proper showing of undue hardship, the Division of Labor Standards Enforcement may grant an extension of time for compliance.

(6) Only secret ballots may be cast by affected employees in the work unit at any election held pursuant to this section. The results of any election conducted pursuant to this section shall be reported by the employer to the Division of Labor Statistics and Research within 30 days after the results are final, and the report of election results shall be a public document. The report shall include the final tally of the vote, the size of the unit, and the nature of the business of the employer.

(7) Employees affected by a change in the work hours resulting from the adoption of an alternative workweek schedule may not be required to work those new work hours for at least 30 days after the announcement of the final results of the election.

(8) Employers shall not intimidate or coerce employees to vote either in support of or in opposition to a proposed alternative workweek. No employees shall be discharged or discriminated against for expressing opinions concerning the alternative workweek election or for opposing or supporting its adoption or repeal. However, nothing in this section shall prohibit an employer from expressing his/her position concerning that alternative workweek to the affected employees. A violation of this paragraph shall be subject to Labor Code Section 98 *et seq.*

(D) The provisions of subsections (A), (B) and (C) above shall not apply to any employee whose earnings exceed one and one-half (1 ½) times the minimum wage if more than half of

that employee's compensation represents commissions.

(E) One and one-half (1 ½) times a minor's regular rate of pay shall be paid for all work over 40 hours in any workweek except minors 16 or 17 years old who are not required by law to attend school and may therefore be employed for the same hours as an adult are subject to subsection (A) or (B) and (C) above.

(VIOLATIONS OF CHILD LABOR LAWS are subject to civil penalties of from $500 to $10,000 as well as to criminal penalties. Refer to California Labor Code Sections 1285 to 1312 and 1390 to 1399 for additional restrictions on the employment of minors and for descriptions of criminal and civil penalties for violation of the child labor laws. Employers should ask school districts about any required work permits.)

(F) An employee may be employed on seven (7) workdays in one workweek when the total hours of employment during such workweek do not exceed 30 and the total hours of employment in any one workday thereof do not exceed six (6).

(G) If a meal period occurs on a shift beginning or ending at or between the hours of 10 p.m. and 6 a.m., facilities shall be available for securing hot food and drink or for heating food or drink, and a suitable sheltered place shall be provided in which to consume such food or drink.

(H) The provisions of Labor Code Sections 551 and 552 regarding one (1) day's rest in seven (7) shall not be construed to prevent an accumulation of days of rest when the nature of the employment reasonably requires the employee to work seven (7) or more consecutive days; provided, however, that in each calendar month, the employee shall receive the equivalent of one (1) day's rest in seven (7).

(I) Except as provided in subsections (E), (H) and (L), this section shall not apply to any employee covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work, and working conditions of the employees, and if the agreement provides premium wage rates for all overtime hours worked and a regular hourly rate of pay for those employees of not less than 30 percent more than the state minimum wage.

(J) Notwithstanding subsection (I) above, where the employer and a labor organization representing employees of the employer have entered into a valid collective bargaining agreement pertaining to the hours of work of the employees, the requirement regarding the equivalent of one (1) day's rest in seven (7) (see subsection (H) above) shall apply, unless the agreement expressly provides otherwise.

(K) The provisions of this section are not applicable to employees whose hours of service are regulated by:

(1) The United States Department of Transportation Code of Federal Regulations, Title 49, Sections 395.1 to 395.13, Hours of Service of Drivers; or

(2) Title 13 of the California Code of Regulations, subchapter 6.5, Section 1200 and following sections, regulating hours of drivers.

(L) No employee shall be terminated or otherwise disciplined for refusing to work more than

72 hours in any workweek, except in an emergency as defined in Section 2(D).

(M) If an employer approves a written request of an employee to make up work time that is or would be lost as a result of a personal obligation of the employee, the hours of that makeup work time, if performed in the same workweek in which the work time was lost, may not be counted toward computing the total number of hours worked in a day for purposes of the overtime requirements, except for hours in excess of 11 hours of work in one (1) day or 40 hours of work in one (1) workweek. If an employee knows in advance that he/she will be requesting makeup time for a personal obligation that will recur at a fixed time over a succession of weeks, the employee may request to make up work time for up to four (4) weeks in advance; provided, however, that the makeup work must be performed in the same week that the work time was lost. An employee shall provide a signed written request for each occasion that the employee makes a request to make up work time pursuant to this subsection. While an employer may inform an employee of this makeup time option, the employer is prohibited from encouraging or otherwise soliciting an employee to request the employer's approval to take personal time off and make up the work hours within the same workweek pursuant to this subsection.

4. Minimum Wages.

(A) Every employer shall pay to each employee wages not less than six dollars and twenty-five cents ($6.25) per hour for all hours worked, effective January 1, 2001, and not less than six dollars and seventy-five cents ($6.75) per hour for all hours worked, effective January 1, 2002, except:

> LEARNERS. Employees during their first 160 hours of employment in occupations in which they have no previous similar or related experience, may be paid not less than 85 percent of the minimum wage rounded to the nearest nickel.

(B) Every employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise.

(C) When an employee works a split shift, one (1) hour's pay at the minimum wage shall be paid in addition to the minimum wage for that workday, except when the employee resides at the place of employment.

(D) The provisions of this section shall not apply to apprentices regularly indentured under the State Division of Apprenticeship Standards.

5. Reporting Time Pay.

(A) Each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage.

(B) If an employee is required to report for work a second time in any one workday and is furnished less than two (2) hours of work on the second reporting, said employee shall be

paid for two (2) hours at the employee's regular rate of pay, which shall not be less than the minimum wage.

(C) The foregoing reporting time pay provisions are not applicable when:

(1) Operations cannot commence or continue due to threats to employees or property; or when recommended by civil authorities; or

(2) Public utilities fail to supply electricity, water, or gas, or there is a failure in the public utilities, or sewer system; or

(3) The interruption of work is caused by an Act of God or other cause not within the employer's control.

(D) This section shall not apply to an employee on paid standby status who is called to perform assigned work at a time other than the employee's scheduled reporting time.

6. Licenses for Disabled Workers.

(A) A license may be issued by the Division authorizing employment of a person whose earning capacity is impaired by physical disability or mental deficiency at less than the minimum wage. Such licenses shall be granted only upon joint application of employer and employee and employee's representative if any.

(B) A special license may be issued to a nonprofit organization such as a sheltered workshop or rehabilitation facility fixing special minimum rates to enable the employment of such persons without requiring individual licenses of such employees.

(C) All such licenses and special licenses shall be renewed on a yearly basis or more frequently at the discretion of the Division. (See California Labor Code, Sections 1191 and 1191.5)

7. Records.

(A) Every employer shall keep accurate information with respect to each employee including the following:

(1) Full name, home address, occupation and social security number.

(2) Birth date, if under 18 years, and designation as a minor.

(3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded. Meal periods during which operations cease and authorized rest periods need not be recorded.

(4) Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the employee.

(5) Total hours worked in the payroll period and applicable rates of pay. This information shall be made readily available to the employee upon reasonable request.

(6) When a piece rate or incentive plan is in operation, piece rates or an explanation of the incentive plan formula shall be provided to employees. An accurate production record shall be maintained by the employer.

(B) Every employer shall semimonthly or at the time of each payment of wages furnish each employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately, an itemized statement in writing showing: (1) all deductions; (2) the inclusive dates of the period for which the employee is paid; (3) the name of the employee or the employee's social security number; and (4) the name of the employer, provided all deductions made on written orders of the employee may be aggregated and shown as one item.

(C) All required records shall be in the English language and in ink or other indelible form, properly dated, showing month, day and year, and shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. An employee's records shall be available for inspection by the employee upon reasonable request.

(D) Clocks shall be provided in all major work areas or within reasonable distance thereto insofar as practicable.

8. Cash Shortage and Breakage.

No employer shall make any deduction from the wage or require any reimbursement from an employee for any cash shortage, breakage, or loss of equipment, unless it can be shown that the shortage, breakage, or loss is caused by a dishonest or willful act, or by the gross negligence of the employee.

9. Uniforms and Equipment.

(A) When uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer. The term "uniform" includes wearing apparel and accessories of distinctive design or color.

NOTE: This section shall not apply to protective apparel regulated by the Occupational Safety and Health Standards Board.

(B) When tools or equipment are required by the employer or are necessary to the performance of a job, such tools and equipment shall be provided and maintained by the employer, except that an employee whose wages are at least two (2) times the minimum wage provided herein may be required to provide and maintain hand tools and equipment customarily required by the trade or craft. This subsection (B) shall not apply to apprentices regularly indentured under the State Division of Apprenticeship Standards.

NOTE: This section shall not apply to protective equipment and safety devices on tools regulated by the Occupational Safety and Health Standards Board.

(C) A reasonable deposit may be required as security for the return of the items furnished by the employer under provisions of subsections (A) and (B) of this section upon issuance of a receipt to the employee for such deposit. Such deposits shall be made pursuant to Section 400 and following of the Labor Code or an employer with the prior written authorization of

the employee may deduct from the employee's last check the cost of an item furnished pursuant to (A) and (B) above in the event said item is not returned. No deduction shall be made at any time for normal wear and tear. All items furnished by the employer shall be returned by the employee upon completion of the job.

10. Meals and Lodging.

(A) "Meal" means an adequate, well-balanced serving of a variety of wholesome, nutritious foods.

(B) "Lodging" means living accommodations available to the employee for full-time occupancy which are adequate, decent, and sanitary according to usual and customary standards. Employees shall not be required to share a bed.

(C) Meals or lodging may not be credited against the minimum wage without a voluntary written agreement between the employer and the employee. When credit for meals or lodging is used to meet part of the employer's minimum wage obligation, the amounts so credited may not be more than the following:

Effective Dates:	January 1, 2001	January 1, 2002
Lodging:		
Room occupied alone	$29.40 per week	$31.75 per week
Room shared	$24.25 per week	$26.20 per week
Apartment - two-thirds (2/3) of the ordinary rental value, and in no event more than	$352.95 per month	$381.20 per month
Where a couple are both employed by the employer, two-thirds (2/3) of the ordinary rental value, and in no event more than	$522.10 per month	$563.90 per month

Meals:		
Breakfast	$2.25	$2.45
Lunch	$3.10	$3.35
Dinner	$4.15	$4.50

(D) Meals evaluated as part of the minimum wage must be bona fide meals consistent with the employee's work shift. Deductions shall not be made for meals not received or lodging not used.

(E) If, as a condition of employment, the employee must live at the place of employment or occupy quarters owned or under the control of the employer, then the employer may not charge rent in excess of the values listed herein.

11. Meal Periods.

(A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee. Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an "on duty" meal period and counted as time worked. An "on duty" meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.

(B) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.

(C) In all places of employment where employees are required to eat on the premises, a suitable place for that purpose shall be designated.

(D) Notwithstanding any other provision of this order, employees in the health care industry who work shifts in excess of eight (8) total hours in a workday may voluntarily waive their right to one of their two meal periods. In order to be valid, any such waiver must be documented in a written agreement that is voluntarily signed by both the employee and the employer. The employee may revoke the waiver at any time by providing the employer at least one (1) day's written notice. The employee shall be fully compensated for all working time, including any on-the-job meal period, while such a waiver is in effect.

12. Rest Periods.

(A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 ½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.

(B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided.

13. Change Rooms and Resting Facilities.

(A) Employers shall provide suitable lockers, closets, or equivalent for the safekeeping of employees' outer clothing during working hours, and when required, for their work clothing during non-working hours. When the occupation requires a change of clothing, change rooms or equivalent space shall be provided in order that employees may change their clothing in reasonable privacy and comfort. These rooms or spaces may be adjacent to but shall be separate from toilet rooms and shall be kept clean.

NOTE: This section shall not apply to change rooms and storage facilities regulated by the Occupational Safety and Health Standards Board.

(B) Suitable resting facilities shall be provided in an area separate from the toilet rooms and shall be available to employees during work hours.

14. Seats.

(A) All working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.

(B) When employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.

15. Temperature.

(A) The temperature maintained in each work area shall provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed.

(B) If excessive heat or humidity is created by the work process, the employer shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort. Where the nature of the employment requires a temperature of less than 60° F., a heated room shall be provided to which employees may retire for warmth, and such room shall be maintained at not less than 68°.

(C) A temperature of not less than 68° shall be maintained in the toilet rooms, resting rooms, and change rooms during hours of use.

(D) Federal and State energy guidelines shall prevail over any conflicting provision of this section.

16. Elevators.

Adequate elevator, escalator or similar service consistent with industry-wide standards for the nature of the process and the work performed shall be provided when employees are employed four floors or more above or below ground level.

17. Exemptions.

If, in the opinion of the Division after due investigation, it is found that the enforcement of any provision contained in Section 7, Records; Section 12, Rest Periods; Section 13, Change Rooms and Resting Facilities; Section 14, Seats; Section 15, Temperature; or Section 16, Elevators, would not materially affect the welfare or comfort of employees and would work an undue hardship on the employer, exemption may be made at the discretion of the Division. Such exemptions shall be in writing to be effective and may be revoked after reasonable notice is given in writing. Application for exemption shall be made by the employer or by the employee and/or the employee's representative to the Division in writing. A copy of the application shall be posted at the place of employment at the time the application is filed with the Division.

18. Filing Reports. (See California Labor Code, Section 1174(a))

19. Inspection. (See California Labor Code, Section 1174)

20. Penalties. (See California Labor Code, Section 1199)

(A) In addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates, or causes to be violated, the provisions of this order, shall be subject to the civil penalty of:

(1) Initial Violation -- $50.00 for each underpaid employee for each pay period during which the employee was underpaid in addition to the amount which is sufficient to recover unpaid wages.

(2) Subsequent Violations -- $100.00 for each underpaid employee for each pay period during which the employee was underpaid in addition to an amount which is sufficient to recover unpaid wages.

(3) The affected employee shall receive payment of all wages recovered.

(B) The labor commissioner may also issue citations pursuant to California Labor Code Section 1197.1 for non-payment of wages for overtime work in violation of this order.

21. Separability.

If the application of any provision of this order, or any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this order should be held invalid or

unconstitutional or unauthorized or prohibited by statute, the remaining provisions thereof shall not be affected thereby, but shall continue to be given full force and effect as if the part so held invalid or unconstitutional had not been included herein.

22. Posting of Order.

Every employer shall keep a copy of this order posted in an area frequented by employees where it may be easily read during the workday. Where the location of work or other conditions make this impractical, every employer shall keep a copy of this order and make it available to every employee upon request.

STATE CAPITOL
ROOM 2083
SACRAMENTO, CA 95814
TEL (916) 651-4022
FAX (916) 651-4922

California State Senate

SENATOR
ED HERNANDEZ, O.D.
TWENTY-SECOND SENATE DISTRICT

100 S. VINCENT AVENUE
SUITE 401
WEST COVINA, CA 91790
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SB 327 (Hernandez)
Nurses Meal Period

Purpose

A recent California Court of Appeal decision invalidated a meal period regulation adopted over 20 years ago by the Industrial Welfare Commission (IWC) for employees in the healthcare industry. The court also applied its ruling retroactively which means that hospitals which relied on the regulation are at risk for significant wage and hour class action litigation with a four year statute of limitations. CHA estimates current potential liability is in the billions of dollars.

While the California Supreme Court recently accepted review of the case, it nonetheless poses a significant adverse impact on healthcare employers and employees, particularly those working 12-hour shifts who want to waive one of their meal periods so that they do not have to prolong their workday by 30 minutes. Because it is unclear when and how the Supreme Court will resolve the case, hospitals are faced with the decision whether to immediately and significantly change their scheduling practices, which may include extending the shift to 13 hours to accommodate a second, off-duty meal period, reverting to 8-hour shifts or taking some other action to minimize potential liability.

Background

On February 10, 2015, the California Court of Appeal for the 4th District concluded that Wage Order 5, section 11(D) was partially invalid to the extent it conflicts with Labor Code section 512 (*Gerard v. Orange Coast Memorial Medical Center*). Specifically, Labor Code section 512 prohibits waiver of the second meal period when an employee works more than 12 hours. Wage Orders 4 and 5, section 11(D) has allowed such waivers for employees in the healthcare industry since 1993. The Court also concluded that its ruling should be applied retroactively.

Since 1993, healthcare employers have been able to offer a meal period waiver that allows employees working 12-hour shifts to voluntarily waive one of their two meal periods. 12-hour shifts are common in the healthcare industry, both in unionized and non-unionized environments. Employees who work 12-hour shifts may frequently work a few minutes more than 12 hours due to clocking in a couple of minutes early or clocking out a couple of minutes late.

In 1999, as part of AB 60, the California Legislature codified the meal period rules which had formerly only been included in the wage order. In Labor Code section 512, the Legislature expressly required that employees working more than 10 hours be provided a second meal period and also expressly provided that employees could voluntarily waive the second meal period so long as they did not work more than 12 hours.

At the same time, the Legislature specifically gave the Industrial Welfare Commission (IWC) authority to determine whether to continue to authorize 12-hour alternative workweek schedules, in Labor Code 517. In Labor Code 516, the Legislature also expressly authorized the IWC to adopt or amend the wage orders with respect to meal periods, notwithstanding the rules set forth in Labor Code 512.

After several hearings on the matter and significant negotiation between labor and hospital representatives, the IWC decided to maintain 12-hour shifts, with some variation, and to maintain the special healthcare meal period waiver rules, allowing employees in the healthcare industry to waive one of their meal periods even when a shift exceeded 12 hours. This action was taken on June 30, 2000 — the deadline set by the Legislature for the IWC to determine whether to continue 12-hour shifts. These amendments went into effect on October 1, 2000. The time between the adoption date of June 30 and the effective date of October 1 was needed to accomplish administrative activity, such as updating the wage orders.

On September 16, 2000, the Governor signed urgency legislation, SB 88. That bill limited the IWC's authority to establish meal period rules that conflicted with Labor Code section 512. That law went into effect more than two months after the IWC adopted Wage Order 5 and 14 other wage orders.

There is no evidence to suggest that SB 88 was intended to invalidate the action the IWC took on June 30, 2000 with respect to the healthcare meal period rules. In order to preserve the status quo preferred by both hospitals and their employees for over 20 years, as confirmed by the IWC in 2000, a legislative clarification is necessary.

This bill

SB 327 would amend the Labor Code to clarify that that Industrial Welfare Commission's adoption of meal period regulations on June 30, 2000 was valid.

Contact

Tim Valderrama / tim.valderrama@sen.ca.gov / 916-651-4022

UNAC/UHCP

United Nurses Associations of California/Union of Health Care Professionals

UNAC/UHCP is affiliated with NUHHCE, AFSCME and the AFL-CIO

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September 2, 2015

The Honorable Assembly Member Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Rm. 5016
Sacramento, CA 95814
Fax: (916) 319-2148

RE: SB 327 (Hernandez)—Sponsor

Dear Assembly Member Hernandez:

The United Nurses Associations of California/Union of Health Care Professionals (UNAC/UHCP) is pleased to sponsor SB 327, which would allow nurses to continue having the option to waive their second unpaid meal period a choice they have had—and gladly exercised—for many years. UNAC/UHCP – a proud affiliate of NUHHCE and the American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO – represents 25,000 RNs and health care professionals in California, including PAs, NPs, and CNMs.

This bill is necessary because a recent Court of Appeal decision upset years of established practice regarding the voluntary waiver of the second meal period by employees in the health care industry and would lead to staffing disarray at hospitals, where most RNs work 12-hour shifts and sometimes must extend their shifts to provide necessary patient care. Current law entitles employees who work a shift of longer than 10 hours to a second meal period and allows employees to waive their second meal period if the shift does not exceed 12 hours. A special provision in IWC Wage Order No. 5-2001 (Cal. Code Regs., tit. 8, § 11050) provides that health care industry employees who work shifts in excess of eight total hours in a workday may voluntarily waive their right to one of their two meal periods, even if the shift exceeds 12 hours. This provision, which is Section 11(D) to Wage Order No. 5, recognizes the special scheduling needs of health care industry employees who provide patient care.

Under this wage order provision, UNAC members have for years enjoyed the flexibility of alternate work schedules, which allows for greater staffing flexibility and better patient care. Patient outcomes are dramatically improved in environments where the nurses and other health care professionals can place priority on the needs of their patients without interruption by an arbitrary meal period when the shift runs long. (RNs are generally able to eat during work time in break rooms.) In addition, allowing health care workers the option of working longer shifts enables them to take extra days off during the work week, which in turn ensures that they are fully rested when they return to work to provide better patient care. Moreover, hospitals have enjoyed the ability to have fewer shift changeovers.

However, in a recent decision, the appellate court declared Section 11(D) invalid because it authorized second meal waivers for shifts longer than 12 hours. This decision completely upends well-established staffing schedules and will result in a severe disruption of the lives of our members, many of whom have built a schedule of work, child care, and other obligations around the ability to waive a second meal period.

This bill is intended to clarify existing law to abrogate the holding invalidating the voluntary waiver of the second meal period even when the RN works over 12 hours from the appellate court decision in *Gerard v. Orange Coast Medical Center* (2015) 234 Cal.App.4th 285.

Please contact UNAC/UHCP's contract advocate, Brooks Ellison of Ellison Wilson Advocacy, LLC at (916) 448-2187 with any questions.

Sincerely,

Eric Robles
Political and Legislative Director, UNAC/UHCP

cc: Honorable Members, Assembly Labor and Employment Committee
Senator Ed Hernandez
Brian Allison, Political and Legislative Director, AFSCME Int.
Brooks Ellison, Ellison Wilson Advocacy, LLC

CELC
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September 4, 2015

VIA OVERNIGHT COURIER

Sen. Tony Mendoza, Chair
Senate Labor and Industrial Relations Committee
1020 N Street, Room 545
Sacramento, California 95814

Re: Support for SB 327 (Hernandez) As Amended September 4, 2015

Dear Senator Mendoza,

CELC and The Employers Group are writing in support of SB 327. This bill is critical as it helps to restore stability and certainty in an important area of employment law.

CELC is a voluntary, nonprofit organization that works to foster reasonable, equitable, and progressive rules of employment law. CELC's membership includes more than 85 private sector employers, including representatives from many different sectors of the nation's economy (health care, aerospace, automotive, banking, technology, construction, energy manufacturing, telecommunications, and others). CELC's members include some of the nation's most prominent companies, and collectively they employ hundreds of thousands of Californians.

The Employers Group is the nation's oldest and largest human resources management organization for employers. It represents nearly 3,500 California employers of all sizes and every industry, which collectively employ nearly three million employees. The Employers Group has a vital interest in legislation that provides clarification and guidance for the benefit of its employer members and the millions of individuals they employ. As part of this effort, Employers Group seeks to enhance the predictability and fairness of the laws and decisions regulating employment relationships.

Because of their collective experience in employment matters, CELC and the Employers Group are uniquely able to assess both the impact and implications of the issues presented by the *Gerard v. Orange Coast Memorial Medical Center* case, which are addressed in SB 327.

For more than 20 years, the Industrial Welfare Commission (IWC) has permitted healthcare employees to waive a second meal period, even when an employee's shift exceeded 12 hours. Both employers and employees lobbied for the waiver provision when the IWC in 1993 initially included it in Wage Orders 4 and 5. Both health care employers and employees have justifiably relied for more than 20 years upon this provision of the Wage Orders.

Against this background, CELC and the Employers Group were shocked and disappointed by the Court of Appeal's opinion invalidating the waiver. The Court of Appeal's opinion is even more disturbing because it applies retroactively as to a health care employer's liability for premium pay. In mid-1999, the Legislature enacted a special procedure whereby, instead of requiring the IWC to convene wage boards, it directed the IWC to hold public hearings and to promulgate wage orders, including a "review of wages, hours, and working conditions in the ... health care industry" that would be "final and conclusive for all purposes." The IWC did so, and its new Orders became effective, in accordance with the Legislature's directive, "notwithstanding any other provision of law." Between 2002 and 2006, the IWC amended Wage Order 5 six times. Each time the IWC included and retained the meal period waiver at issue. Years later, the Court of Appeal abruptly changed the rules, reaching a conclusion that is contrary to the plain meaning of the relevant statutes and their legislative history, and to sound public policy.

Since 1993, the IWC has required health care employers to abide by and post Wage Orders 4 and 5, including the meal period waiver for shifts longer than 12 hours. No earlier published opinion from a reviewing court put employers "on notice" that Wage Order 5 was partially invalid.

In these circumstances, the Court of Appeal decision raises questions for all employers as to their ability to rely on regulations promulgated by the IWC or other state agency. Thus, it is essential that the Legislature pass SB 327, as it rejects the Court of Appeal's reasoning in *Gerard*, and provides certainty and stability for employers.

For these reasons, CELC and the Employers Group respectfully ask for your "YES" vote on SB 327.

Respectfully submitted,

CALIFORNIA EMPLOYMENT LAW COUNCIL

By: _____

Paul Grossman
General Counsel

September 8, 2015

NORTHBAY™ HEALTHCARE

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of NorthBay Healthcare, the independent community-based system in Solano County, I write to urge your support of SB 327. This bill clarifies that our employees can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours.

A recent court ruling could jeopardize this option, possibly obstructing our ability to schedule 12-hour shifts.

For more than 50 years our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Nearly every employee working 12-hour shifts gas voluntarily waived a meal period because it allows them to go home earlier after working 12 hours.

Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our two hospitals will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark.

This huge financial liability, as well as scheduling changes that would have to be implemented, would affect the way patient care is delivered, and not for the better. For employees, the loss of scheduling flexibility would also be a detriment.

Please add your support and an aye vote SB 327 (Hernandez).

Sincerely,

Gary J. Passama
President and C.E.O.

cc: Senator Lois Wolk
Assemblymember Jim Frazier

Compassionate Care,
Advanced Medicine,
Close to Home.

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Fairfield, CA 94534

College Hospital
10802 College Place, Cerritos, CA 90703
Phone: (562) 924-9581 ❖ Fax: (562) 865-8432

September 8, 2015

Senator Tony Mendoza
Chair, Senate Labor and Industrial Relations Committee
1020 N Street, Room 545
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS AMENDED 9/4/15

Dear Senator Mendoza:

On behalf of College Hospital I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For many years, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in

KAISER PERMANENTE®

Kaiser Foundation Hospitals
Kaiser Foundation Health Plan, Inc.

Gregory A. Adams
President
Northern California Region

September 8, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Kaiser Foundation Health Plan and Hospitals, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

1950 Franklin Street, 20th Floor
Oakland, CA 94612
Phone: (510) 987-3699
Fax: (510) 987-4419
E-mail: gregory.a.adams@kp.org

PIH HEALTH

12401 Washington Blvd.
Whittier, CA 90602-1068
T: 562.698.0811

Hearing Impaired
TDD: 562.696.9287
PIHHealth.org

September 4, 2015

Senator Tony Mendoza
Chair, Senate Labor and Industrial Relations Committee
1020 N Street, Room 545
Sacramento, CA. 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Senator Mendoza:

On behalf of PIH Health I am writing in strong support of SB 327. This bill will clarify that employees in the healthcare industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in Gerard v. Orange Coast Memorial Medical Center will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, healthcare employers and employees have been able to utilize the special healthcare waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Sherri Hollingsworth

Sherri Hollingsworth
Chief Human Resource Officer
PIH Health

250 San Air Road, Greenbrae, CA 94904
t: 415-925-7000

September 4, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assembly Member Hernandez:

On behalf of Marin General Hospital I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Lee Domanico, Chief Executive Officer
Marin General Hospital

WHITTIER HOSPITAL
MEDICAL CENTER, AHMC

September 4, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Whittier Hospital Medical Center, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Richard Castro
Chief Executive Officer
Whittier Hospital Medical Center

9080 Colima Road, Whittier, CA 90605
Tel: (562) 945-3561

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SIDLEY

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BEIJING
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SAN FRANCISCO
SHANGHAI
SINGAPORE
SYDNEY
TOKYO
WASHINGTON, D.C.

FOUNDED 1866

September 7, 2015

By Email

Sen. Tony Mendoza, Chair
Senate Labor Committee
1020 N Street, Room 545
Sacramento, CA 95814

Re: SB 327 (Ed Hernandez) - SUPPORT

Dear Senator Mendoza:

On behalf of our healthcare clients throughout California, we write in strong support of SB 327, which will clarify and confirm longstanding law regarding California's meal period law as applied to healthcare workers in a manner entirely beneficial to workers, healthcare employers, and patients. By way of brief introduction, we both specialize exclusively in employment and labor law. Douglas Hart is one of the state's preeminent healthcare employment law attorneys, having represented hospitals and other healthcare clients for more than thirty years. Geoffrey DeBoskey is the head of the Los Angeles Employment and Labor Group, and he specializes in advising clients regarding wage/hour issues such as those implicated by SB 327.

Hospitals, healthcare institutions, and innumerable employment law practitioners were shocked by the California Court of Appeal's ruling in *Gerard v. Orange Coast Memorial Medical Center (2015)* 234 Cal.App.4th 285. From a legal perspective, the *Gerard* decision is flatly wrong. The Wage Order provisions at issue were adopted by the Industrial Welfare Commission on June 30, 2000, which was the deadline set by the legislature. SB 88, signed by the Governor several months later, limited the Industrial Welfare Commission's authority to establish meal period rules that conflicted with Labor Code Section 512, but there is no indication whatsoever that the legislature intended to void any prior actions taken by the Industrial Welfare Commission.

Thus, the *Gerard* court incorrectly found that the Industrial Welfare Commission exceeded its authority, retroactively invalidating an employee's waiver of his or her second meal period for any day in which the employee worked more than twelve hours. In so doing, the court invalidated a waiver provision that employers and employees had reasonably relied upon for

would need to force some of the employees to take their meal period much earlier in their shift. For larger departments, that means some 12-hour shift employees would need to take their meal period at the second or third hour.

The provisions of Wage Order 5 that the *Gerard* court invalidated are beneficial to employees, who can choose whether to waive their second meal period and go home earlier or take a second meal period even if it means their shift will be lengthened. The provisions are beneficial to employers because health care institutions need to be able to know with certainty whether an employee does or does not have a valid waiver so that they can plan accordingly. And, the provisions are beneficial to patients. The Wage Order's provisions permit employees to spend the time necessary administering health care as well as communicating with patients, patient's families, and other healthcare workers. Additionally, for many well documented reasons, 12-hour shifts benefit patients because, for instance, they allow for continuity of care and less personnel transitions.

The wage order provisions invalidated by *Gerard* are wonderfully situated within California's laws because they operate only with the express agreement of both management and the employee, they are overwhelmingly beneficial to employees, and they also help facilitate the provision of quality health care throughout California. We strongly endorse and support SB 327, which will clarify and confirm that the waiver provisions in the wage order have always been and will continue to validly reflective of California law

Very truly yours,

/s/ Douglas R. Hart

Douglas R. Hart
Geoffrey D. DeBoskey

Adventist Health

Feather River Hospital

5974 Pentz Road
Paradise, CA 95969
530-877-9361

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Feather River Hospital I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Kevin R. Erich, MBA, FACHE
President & CEO

Recipient of the Gold CAPE Award for Performance Excellence 2008 & 2010

RIVERSIDE
Community Hospital

September 8, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol
Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Riverside Community Hospital I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard vs. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Patrick D. Brilliant
President and CEO

4445 Magnolia Avenue, Riverside, CA 92501 • 951-788-3000 • Fax: 951-788-3201 • www.rche.org
An Affiliate of Riverside Healthcare System, L.L.C.

METHODIST HOSPITAL
The Next Generation of Care

September 8, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Methodist Hospital of Southern California, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Dan Ausman
President & Chief Executive Officer
Methodist Hospital of Southern California

Saint Louise Regional Hospital

[illegible]
Gilroy, California 95020-1328
408 [illegible]

September 4, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol
Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assembly member Hernandez:

On behalf of Saint Louise Regional Hospital, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Lori Katterhagen, DNP,RN, CENP
Vice President of Patient of Patient Care and Clinical Services/Chief Nurse Executive
Saint Louise Regional Hospital

[illegible]

cjac
Civil Justice Association of CALIFORNIA
1201 K Street, Suite 1850 | Sacramento, CA 95814 www.cjac.org T 916-443-4900 F 916-443-4306 E cjac@cjac.org

September 8, 2015

TO: Members of the California State Assembly

FROM: Katherine Pettibone, Legislative Director
Kim Stone, President

RE: SB 327 (Hernandez) As Amended September 4

FLOOR ALERT
CJAC POSITION: SUPPORT

The Civil Justice Association of California is pleased to support SB 327 (Hernandez) as amended September 4, a bill that will help protect healthcare employers from unjustified lawsuits when they relied on the Industrial Welfare Commission's Wage Orders 4 and 5, section 11(D) regarding meal period rules.

In 1999 the Legislature empowered the Industrial Welfare Commission (IWC) to adopt or amend wage orders with respect to meal periods. After hearings and stakeholder involvement, the IWC maintained various provisions for healthcare workers, including allowing employees in the healthcare industry to waive one of their meal periods even when a shift exceeded 12 hours.

Employers and employees have been relying on the wage orders in good faith. However, a recent appellate court ruling, *Gerard v. Orange Coast Memorial Medical Center*, brought these orders into question. Absent clarification that Wage Orders 4 and 5, section 11(D) has been valid since 2000, healthcare employers will be subject to crushing liability for a missed meal period, as well as throwing employees scheduling into disarray.

Senate Bill 327 will clarify that employees in the healthcare industry can continue to waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when their shift exceeds 12 hours. Similar to other bills that CJAC has supported, this bill would provide some assurances that companies relying on government agencies' interpretation of the law will not result in unjustified litigation.

California employers already face great uncertainty regarding the correct application of California's numerous labor and employment laws. Providing certainty produces a better business environment, growth in the economy, and an improved work environment for employees.

For these reasons, we support SB 327 (Hernandez) and urge an "aye" vote.

LOMA LINDA UNIVERSITY
HEALTH

September 8, 2015

Senator Tony Mendoza
Chair, Senate Labor and Industrial Relations Committee
1020 N Street, Room 545
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS AMENDED 9/4/15

Dear Senator Mendoza:

On behalf of Loma Linda University Medical Center I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Mesega A. Thomas
Director, Employment & Employee Relations
Talent Management Services

A Seventh-day Adventist Institution
DEPARTMENT OF TALENT MANAGEMENT SERVICES
101 E. Redlands Blvd., San Bernardino, CA 92408
(909) 651-4001 * careers.llu.edu

METHODIST HOSPITAL
The Next Generation of Care

September 8, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Methodist Hospital of Southern California, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

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Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

B.S. Chandrasekhar, M.D.
Chief Medical Officer
Methodist Hospital of Southern California

METHODIST HOSPITAL
The Next Generation of Care

September 8, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Methodist Hospital of Southern California, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

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For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Steven Sisto
Senior Vice-President & Chief Operations Officer
Methodist Hospital of Southern California

METHODIST HOSPITAL
The Next Generation of Care

September 8, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Methodist Hospital of Southern California, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

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For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

David Neal
Vice-President/Chief Nursing Officer
Methodist Hospital of Southern California

METHODIST HOSPITAL
The Next Generation of Care

September 8, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Methodist Hospital of Southern California, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

William Grigg
Senior Vice-President & Chief Financial Officer
Methodist Hospital of Southern California

College Hospital
10802 College Place, Cerritos, CA 90703
Phone: (562) 924-9581 ❖ Fax: (562) 865-8432

September 8, 2015

Senator Tony Mendoza
Chair, Senate Labor and Industrial Relations Committee
1020 N Street, Room 545
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS AMENDED 9/4/15

Dear Senator Mendoza:

On behalf of College Hospital I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For many years, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in

liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernández).

Sincerely,

Holly McKittrick
Human Resources Director

CELC
CALIFORNIA EMPLOYMENT LAW COUNCIL
BOARD OF DIRECTORS
Executive Committee
President
Ann M. O'Regan
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Christine Kurek
Activision Blizzard, Inc.
Mike Marino
Warner Bros.
Deborah L. Martin
Sempra Energy
Judy McLeod
Kelly Services, Inc.
G. Alan McNamee
In-N-Out Burger
Mia Mormon
Disney
Terry O'Loughlin
AT&T
James R. Phillips
Automobile Club of So. Calif.
Kristi Stoddard
Petroleum Suppliers, Inc.
Justin Sukr
DaVita HealthCare Partners Inc.
Karen E. G. Sullivan
McKesson Corp.
Legislative Counsel
Michael Belote
California Advocates, Inc.
General Counsel
Paul Grossman
Paul Hastings LLP
515 SO. FLOWER ST.
25TH FLOOR
LOS ANGELES
CALIFORNIA 90071
(213) 683-5586
www.caemploymentlaw.org

September 4, 2015

VIA OVERNIGHT COURIER

Sen. Tony Mendoza, Chair
Senate Labor and Industrial Relations Committee
1020 N Street, Room 545
Sacramento, California 95814

Re: Support for SB 327 (Hernandez) As Amended
September 4, 2015

Dear Senator Mendoza,

CELC and The Employers Group are writing in support of SB 327. This bill is critical as it helps to restore stability and certainty in an important area of employment law.

CELC is a voluntary, nonprofit organization that works to foster reasonable, equitable, and progressive rules of employment law. CELC's membership includes more than 85 private sector employers, including representatives from many different sectors of the nation's economy (health care, aerospace, automotive, banking, technology, construction, energy manufacturing, telecommunications, and others). CELC's members include some of the nation's most prominent companies, and collectively they employ hundreds of thousands of Californians.

The Employers Group is the nation's oldest and largest human resources management organization for employers. It represents nearly 3,500 California employers of all sizes and every industry, which collectively employ nearly three million employees. The Employers Group has a vital interest in legislation that provides clarification and guidance for the benefit of its employer members and the millions of individuals they employ. As part of this effort, Employers Group seeks to enhance the predictability and fairness of the laws and decisions regulating employment relationships.

Because of their collective experience in employment matters, CELC and the Employers Group are uniquely able to assess both the impact and implications of the issues presented by the *Gerard v. Orange Coast Memorial Medical Center* case, which are addressed in SB 327.

bcc: Gail M. Blanchard-Saiger (California Hospital Association)
Jeffrey A. Berman
George S. Howard, Jr.

LEGAL_US_W # 82912566.1

Kindred Hospital
Rancho

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assembly member Hernandez:

On behalf of Kindred - Ontario / Rancho Cucamonga, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Vincent Trac
Market CEO
Kindred - Ontario / Rancho Cucamonga

Margaret Montleon
4101 Torrance Blvd
Torrance, CA 90503

9/8/2015

Senator Tony Mendoza
Chair, Senate Labor and Industrial Relations Committee
1020 N Street, Room 545
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS AMENDED 9/4/15

Dear Senator Mendoza:

I am a Registered Nurse employed for 30 years at Providence Little Company of Mary Medical Center in Torrance, California. I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Margaret M. Montleon, RN

Margaret M. Montleon
Registered Nurse
Providence Little Company of Mary Medical Center Torrance

CALIFORNIA RETAILERS ASSOCIATION
980 NINTH STREET, SUITE 2100 SACRAMENTO, CA 95814
(916) 443-1975 CALRETAILERS.COM

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

I am writing today in my role of the Chair of the Industrial Welfare Commission from 2000 through 2004 and in strong support of SB 327. In my role of Chair of the IWC in 2000, I was personally involved in the development of, and negotiations related to, continuation of the special healthcare meal period waiver rules found in Wage Orders 4 and 5, section 11(D). At the IWC public hearing on June 30, 2000, the IWC unanimously adopted section 11(D), which was part and parcel of the unanimous IWC vote to authorize employees in the healthcare industry to continue to have the option to work 12-hour alternative workweek schedules.

The IWC Commissioners and staff were aware that the Governor later signed SB 88 as urgency legislation on September 19, 2000. However, it was generally understood that SB 88 had prospective application only and did not impact any Wage Order provisions adopted prior to that date, including Wage Orders 4 & 5, section 11(D).

When I reviewed the Gerard v. Orange Coast Memorial Medical Center decision, I was surprised by the ruling that Wage Order 5, section 11(D) was invalid and disagreed with that conclusion. I am pleased to see the legislature clarify the law to confirm the IWC's adoption of Wage Orders 4 & 5, section 11(D) was valid and continues to be valid.

Sincerely,

Bill Dombrowski
President & CEO

Cc: The Honorable Members of Assembly Labor & Employment Committee
Ben Ebbink, Consultant, Assembly Labor & Employment Committee
Anthony Archie, Consultant, Assembly Republican Caucus

LONG BEACH MEMORIAL
COMMUNITY HOSPITAL LONG BEACH
Miller Children's & Women's Hospital Long Beach
MEMORIALCARE HEALTH SYSTEM

September 3, 2015

The Honorable Roger Hernandez, Chair
Assembly Labor Committee
State Capitol
Sacramento, CA 95814

RE: SB 327 (Support) As Proposed to be Amended

Dear Assemblymember Hernandez,

As Chief Executive Officer of **Long Beach Memorial, Miller Children's and Women's Hospital Long Beach and Community Hospital Long Beach, members of MemorialCare Health System**, a not-for-profit, integrated delivery system in Los Angeles and Orange Counties which represents over 11,000 employees, I am writing today to express strong support of SB 327 (Hernandez) as proposed to be amended. This bill will clarify that employees in the healthcare industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, therefore jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades our hospitals have offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Employees in three of our six award-winning hospitals are represented by a labor union and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period. This option allows employees to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to 8-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes would occur. In fact, our **Long Beach facilities** are acutely aware of the potential disruption in employee relations; **Orange Coast Memorial Medical Center** is also a member of the **MemorialCare Health System.** For over 30 years, healthcare employers and employees have been able to utilize the special healthcare waiver provision in Wage Order 5, section (11) (D) and there has never been any question about its validity.

MEMORIALCARE
2801 Atlantic Avenue
Long Beach, CA 90806
562.933.5437
www.memorialcare.org

COMMUNITY
MEDICAL CENTERS

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of nonprofit Community Medical Centers, I am writing in strong support of SB 327. This bill will clarify that employees in the healthcare industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, healthcare employers and employees have been able to utilize the special healthcare waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Tim A. Joslin
President and Chief Executive Officer
Community Medical Centers

CEDARS-SINAI

September 3, 2015

The Honorable Roger Hernandez, Chair
Assembly Labor Committee
State Capitol
Sacramento, CA 95814

RE: SB 327 (Support)

Dear Assemblymember Hernandez,

On behalf of Cedars-Sinai Medical Center, I am writing in strong support of SB 327 (Hernandez). This bill will clarify that employees in the healthcare industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, therefore jeopardizing the hospital's ability to schedule 12-hour shifts.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and thereby could disrupt patient care. **For over 30 years, healthcare employers and employees have been able to utilize the special healthcare waiver provision in Wage Order 5, section (11)(D) and there has never been any question about its validity.**

For decades, **in accordance with the Wage Orders cited above,** Cedars-Sinai has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive one meal period. This option allows employees to go home at the end of 12.5 hours; after working 12 hours, and taking a 30 minute unpaid meal period[1], in additional to paid breaks.

Absent clarification that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, Cedars-Sinai will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even 1 minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

Without the option of the waiver of a second meal period, in order to avoid these penalties, we would need to change our scheduling practices, and need to choose among scheduling options all of which would likely be very unpopular to our staff. Among our options would be: a) eliminating 12-hr shifts and implementing 8-hour shifts instead, or b) lengthening the workday

[1] It should be noted, that Cedars-Sinai provides a 45-minute meal period: 15 minutes paid, plus 30 minutes unpaid. We add the additional 15 minutes of pay at our own accord.

8700 Beverly Boulevard Office 310-423-3277 cedars-sinai.edu
Los Angeles, CA 90048

Saint Agnes Medical Center
1303 East Herndon Avenue
Fresno, California 93720
www.samc.com

September 3, 2015

The Honorable Roger Hernández
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Saint Agnes Medical Center I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Stacy Vaillancourt
Chief Administrative Officer
Saint Agnes Medical Center

cc: The Honorable Members of the Assembly Labor and Employment Committee

Dignity Health.

251 S. Lake Avenue, Suite 800
Pasadena, CA 91101
direct (626) 774-2300
fax (626) 395-0498
dignityhealth.org

VIA FACSIMILE
(916) 319-2191

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Chair Hernandez:

On behalf of Dignity Health and our 32 hospitals (see attached list), I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. For our employees represented by a labor union, the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over

the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Rachelle Reyes Wenger
Director, Public Policy & Community Advocacy

cc: The Honorable Members of the Assembly Labor and Employment Committee

Dignity Health Acute Care Facilities

- Arroyo Grande Community Hospital, Arroyo Grande
- Bakersfield Memorial Hospital, Bakersfield
- California Hospital Medical Center, Los Angeles
- Community Hospital of San Bernardino, San Bernardino
- Dominican Hospital, Santa Cruz
- French Hospital Medical Center, San Luis Obispo
- Glendale Memorial Hospital & Health Center, Glendale
- Marian Regional Medical Center, Santa Maria
- Marian Regional Medical Center – West, Santa Maria
- Mark Twain St. Joseph's Hospital, San Andreas
- Mercy General Hospital, Sacramento
- Mercy Hospital of Folsom, Folsom
- Mercy Hospital, Bakersfield
- Mercy Medical Center Merced, Merced
- Mercy Medical Center Mt. Shasta, Mt. Shasta
- Mercy Medical Center Redding, Redding
- Mercy San Juan Medical Center, Carmichael
- Mercy Southwest Hospital, Bakersfield
- Methodist Hospital of Sacramento, Sacramento
- Northridge Hospital Medical Center, Northridge
- Saint Francis Memorial Hospital, San Francisco
- Sequoia Hospital, Redwood City
- Sierra Nevada Memorial Hospital, Grass Valley
- St. Bernardine Medical Center, San Bernardino
- St. Elizabeth Community Hospital, Red Bluff
- St. John's Pleasant Valley Hospital, Camarillo
- St. John's Regional Medical Center, Oxnard
- St. Joseph's Behavioral Health Center, Stockton
- St. Joseph's Medical Center, Stockton
- St. Mary Medical Center, Long Beach
- St. Mary's Medical Center, San Francisco
- Woodland Healthcare, Woodland

Scripps Health Public Affairs
Office of the President
4275 Campus Point Court
San Diego, CA 92121-1513
Tel 858-678-6892
Fax 858-678-6131

Scripps

September 4, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assembly Member Hernandez:

On behalf of Scripps Health I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods.. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes**

TORRANCE MEMORIAL
MEDICAL CENTER

September 4, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assembly Member Hernandez:

On behalf of Torrance Memorial Medical Center I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

ENLOE MEDICAL CENTER

September 3, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Enloe Medical Center I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Sincerely,

Mike Wiltermood
Chief Executive Officer
Enloe Medical Center

1201 K Street, Suite 1850 | Sacramento, CA 95814 www.cjac.org T 916-443-4900 F 916-443-4306 E cjac@cjac.org

CIVIL JUSTICE ASSOCIATION of CALIFORNIA

September 4, 2015

TO: The Honorable Roger Hernández, Chair, Assembly Labor and Employment Committee
The Honorable Matthew Harper, Vice-Chair, Assembly Labor and Employment Committee
Members, Assembly Labor and Employment Committee

FROM: Katherine Pettibone, Legislative Director
Kim Stone, President

RE: SB 327 (Hernandez)

CJAC POSITION: SUPPORT

The Civil Justice Association of California is pleased to support SB 327 (Hernandez) a bill that will help protect healthcare employers from unjustified lawsuits when they relied on the Industrial Welfare Commission's Wage Orders 4 and 5, section 11(D) regarding meal period rules.

In 1999 the Legislature empowered the Industrial Welfare Commission (IWC) to adopt or amend wage orders with respect to meal periods. After hearings and stakeholder involvement, the IWC maintained various provisions for healthcare workers, including allowing employees in the healthcare industry to waive one of their meal periods even when a shift exceeded 12 hours.

Employers and employees have been relying on the wage orders in good faith. However, a recent appellate court ruling, *Gerard v. Orange Coast Memorial Medical Center*, brought these orders into question. Absent clarification that Wage Orders 4 and 5, section 11(D) has been valid since 2000, healthcare employers will be subject to crushing liability for a missed meal period, as well as throwing employees scheduling into disarray.

Senate Bill 327 will clarify that employees in the healthcare industry can continue to waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when their shift exceeds 12 hours. Similar to other bills that CJAC has supported, this bill would provide some assurances that companies relying on government agencies' interpretation of the law will not result in unjustified litigation.

California employers already face great uncertainty regarding the correct application of California's numerous labor and employment laws. Providing certainty produces a better business environment, growth in the economy, and an improved work environment for employees.

For these reasons, we support SB 327 (Hernandez) and urge an "aye" vote.

cc: The Honorable Ed Hernandez
Graciela Castillo-Krings, Deputy Legislative Secretary, Office of the Governor
Ben Ebbink, Consultant, Assembly Labor and Employment Committee
Anthony Archie, Consultant, Assembly Republican Caucus

Adventist Health
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September 4, 2015

The Honorable Tony Mendoza, Chair
Senate Labor and Industrial Relations Committee
State Capitol
Sacramento, CA 95814

RE: SB 327 (Hernandez) – SUPPORT – AS PROPOSED TO BE AMENDED

Dear Senator Mendoza,

We write jointly, on behalf of Adventist Health and Loma Linda University Health, to express our support for SB 327. The measure will clarify that employees in the healthcare industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, therefore jeopardizing the hospital's ability to schedule 12-hour shifts.

Adventist Health is a faith-based, not-for-profit integrated health care delivery system serving communities in California, Hawaii, Oregon and Washington. Our workforce of 28,600 includes more than 20,500 employees; 4,500 medical staff physicians; and 3,600 volunteers. Founded on Seventh-day Adventist health values, Adventist Health provides compassionate care in 19 hospitals, more than 220 clinics (hospital-based, rural health and physician clinics), 14 home care agencies, seven hospice agencies and four joint-venture retirement centers.

Loma Linda University Health is a faith-based, not-for-profit, academic medical center in the Inland Empire region of Southern California. Our workforce of 16,131 includes 13,181 employees; 921 attending physicians, and 2,029 volunteers at Loma Linda University Medical Center (LLUMC) and Children's Hospital, LLUMC – East Campus, Behavioral Medicine Center, Heart and Surgical Hospital, LLUMC-Murrieta and physician clinics. LLUMC is the only Level 1 trauma Center in the San Bernardino, Riverside, Inyo, and Mono counties, which covers over 40,000 square miles in Southern California. With a total of 1076 beds, Loma Linda University Health includes the only children's hospital in the region. Loma Linda University Medical Center sees over 30,000 inpatients and about 500,000 outpatient visits a year and is one of the largest private acute care Med-Cal providers in the state. It also serves as the primary teaching facility for Loma Linda University School of Medicine and conducts significant educational and research activities.

September 8, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assembly member Hernandez:

On behalf of Orchard Hospital in Gridley, CA I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. The 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

P.O. Box 97 | 240 Spruce Street | Gridley, California 95948
(530) 846-9000 | Fax (530) 797-3522
www.OrchardHospital.com

HOLLYWOOD
PRESBYTERIAN
MEDICAL CENTER

September 8, 2015

Senator Tony Mendoza
Chair, Senate Labor and Industrial Relations Committee
1020 N Street, Room 545
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS AMENDED 9/4/15

Dear Senator Mendoza:

On behalf of Hollywood Presbyterian Medical Center I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in Gerard v. Orange Coast Memorial Medical Center will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

Ridgecrest
REGIONAL HOSPITAL

September 4, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

On behalf of Ridgecrest Regional Hospital I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.**

City of Hope

1500 East Duarte Road
Duarte, CA 91010-3000
Phone (626) 218-0123
www.cityofhope.org

September 4, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol, Room 5016
Sacramento, CA 95814

RE: SB 327 (HERNANDEZ): SUPPORT
AS PROPOSED TO BE AMENDED

Dear Chairman Hernandez:

On behalf of City of Hope National Medical Center, a leading cancer research and treatment institution, I am writing in strong support of SB 327 (Hernandez). This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital, like many others, has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option to waive a meal period during a 12-hour shift, we would have to change our scheduling practices by reducing shift lengths—resulting in more frequent shift changes, less flexibility in employee schedules, and decreased continuity in patient care.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt our scheduling practices and could impact our ability to provide the level of patient care we have been providing for decades. For more than 20 years, health care employers and employees have been able to use the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

The California Supreme Court has granted review of the *Gerard* decision, but it is unclear when and how the Supreme Court will resolve the case. Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital faces enormous uncertainty about its scheduling practices, past and future.

GARDENS REGIONAL
HOSPITAL & MEDICAL CENTER

September 7, 2015

Senator Tony Mendoza
Chair, Senate Labor and Industrial Relations Committee
1020 N Street, Room 545
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS AMENDED 9/4/15

Dear Senator Mendoza:

On behalf of Gardens Regional Hospital and Medical Center, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Many of our employees are represented by a labor union, and it is imperative that we retain the 12-hour shift schedule and opportunity to waive a meal period as we negotiate our first contract. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

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September 4, 2015

The Honorable Tony Mendoza, Chair
Senate Labor and Industrial Relations Committee
State Capitol
Sacramento, CA 95814

RE: SB 327 (Hernandez) – SUPPORT – AS PROPOSED TO BE AMENDED

Dear Senator Mendoza,

We write jointly, on behalf of Adventist Health and Loma Linda University Health, to express our support for SB 327. The measure will clarify that employees in the healthcare industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, therefore jeopardizing the hospital's ability to schedule 12-hour shifts.

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C 3001

September 4, 2015

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol - Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB 327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

Dear Assemblymember Hernandez:

I am writing this letter to you on behalf of the 70 healthcare employees that report to me as a Director of ICU and DOU at San Gorgonio Memorial Hospital (SGMH) in Banning California. I am also voicing the concerns of many other nurses and healthcare employees that I have spoken with about 30 minute Mandated Meal Breaks in the first five hours, of a 12 hour shift. It seems unreasonable to mandate break times in healthcare. Some of the reasons a mandated 30 Minute Meal Break is difficult or sometimes almost impossible are as follows:

1. A nurses daily duties in caring for her/his patients includes a detailed report from the previous shift RN. This process is approximately 30 minutes.
2. The next step in nursing requires a detailed assessment of each of the patients assigned to the nurse. This assessment include in no particular order, nor is limited to:
    a. patient history
    b. the course of the present problem/illness
    c. family history
    d. patient's overall health
    e. psychological health/intellectual/emotional
    f. religion and cultural beliefs
    g. cognitive assessment
    h. head to toe physical assessment
    i. assessing skin for breakdown
    j. alertness of patient
    k. temperature
    l. blood pressure
    m. respiratory issues/palpation/auscultation/percussion
    n. pulse
    o. cardiovascular
    p. musculoskeletal systems

    The list goes on.....
3. Patient's labs must be reviewed and any issues addressed with abnormal or critical lab values.
4. Physicians round in the morning typically between 6am and 9am, sometimes earlier and sometimes later. The physicians want to talk to the nurses caring for the patients who have completed the assessments. The physicians don't want to talk to the nurse that is covering while the patient's nurse is on their 30 minute Mandated Meal Break.
5. Medication administration is scheduled for this time in the morning. Depending on the patient a nurse may have to administer five, ten or more medications via oral, IV, or other routes. Some of these medications are time sensitive and need to be held to a schedule.
6. Patients need their breakfast and many need assistance being fed.
7. Patient's need to be bathed, beds made/changed, assisted to a chair.

This list doesn't contain everything a nurse does in the morning but gives you a good idea of how busy a morning can be. Is every morning like this? The answer is no. However, many of them are and nurses choose to take their breaks when it is convenient for them and for their patient's. Do nurses/healthcare workers get breaks in the morning? Sometimes they do get 15 minutes and other times they can take 30 minutes. But

nurses/healthcare workers want the freedom to choose when they eat and take their breaks. Nurses/healthcare workers don't want to be forced to follow a time line for breaks. Nurses/healthcare workers want to take their 30 minute lunch break when they feel they need it and when they feel they can. Not one nurse/healthcare worker I have talked to wants to be forced to take a Mandated Meal Break at a certain time. Most of the nurses/healthcare workers that work 12 hours want to take their meal breaks in the afternoon, not in the morning.

When someone applies for a job or chooses a career, one must consider the responsibilities that go along with that chosen position. This includes the hours scheduled to work, their travel time, the amount of time off between shifts, the balance with family time, how much free time they will have, whether there is a possibility for fatigue, etc. Nurses/healthcare workers are professionals and it is our responsibility as nurses and healthcare workers to act as such. We knew the job required long hours and sometimes breaks would be few and far between, but we chose to be a nurse/healthcare worker anyway. Nurses/healthcare workers love what they do or they wouldn't/shouldn't be doing the job. We all chose the field that we work in and most of us enjoy what we do and wouldn't have it any other way. We are all adults and know when we need a break, if we really need a break we can ask our coworkers to help us out. But we don't want to be told when we have to do our breaks and meal periods.

These are a few of the reasons that I am writing in strong support of SB 327. This bill will clarify that "employees" in the healthcare industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, healthcare employers and employees have been able to utilize the special healthcare waiver provision in Wage Order 5, section (11)(D), and there has never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in the loss of scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, I ask for your "AYE" vote on behalf of my staff and others in healthcare on SB 327 (Hernandez).

Respectfully,

Patricia I. Gillespie

Patricia I. Gillespie RN, MSN, MBA/HCA
Director of ICU & DOU
San Gorgonio Memorial Hospital
600 North Highland Springs Avenue
Banning, CA 92220
951-769-4818

SAN GORGONIO
MEMORIAL HOSPITAL

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol
Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

On behalf of San Gorgonio Memorial Hospital, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12 hours shifts.

All of our employees working 12 hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight hours shifts, lengthening the 12 hours shift by 30 minutes to accommodate this unwanted second unpaid meal period.

The decision in the *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special healthy care waiver provision in Wage Order 5, section (11)(D), and there was never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11 (D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over a 12 hours mark. This could result in millions of dollars in liability as well as scheduling challenges that would result in the loss of schedule flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Thank you, LILEENA STACKHOUSE LVN

LILEENA STACKHOUSE LVN

San Gorgonio Memorial Hospital

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol
Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

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For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Thank you,

San Gorgonio Memorial Hospital

LUCAS CHAMBERS RN

SAN GORGONIO
MEMORIAL HOSPITAL

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol
Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

On behalf of San Gorgonio Memorial Hospital, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12 hours shifts.

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For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Thank you,

Jean Kiellold R.D.
JEAN KIELHOLD R.D.
San Gorgonio Memorial Hospital

SAN GORGONIO
MEMORIAL HOSPITAL

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol
Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

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For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Thank you,

Amanda Kecskes CRT RRT
Amanda Kecskes
San Gorgonio Memorial Hospital

SAN GORGONIO
MEMORIAL HOSPITAL

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol
Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

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For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Thank you,

C-DERENS pp

San Gorgonio Memorial Hospital

SAN GORGONIO
MEMORIAL HOSPITAL

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol
Room 5016
Sacramento, CA 95814

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On behalf of San Gorgonio Memorial Hospital, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12 hours shifts.

All of our employees working 12 hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight hours shifts, lengthening the 12 hours shift by 30 minutes to accommodate this unwanted second unpaid meal period.

The decision in the *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special healthy care waiver provision in Wage Order 5, section (11)(D), and there was never been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11 (D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over a 12 hours mark. This could result in millions of dollars in liability as well as scheduling challenges that would result in the loss of schedule flexibility for employees and affect the way patient care is delivered.

For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Thank you,

N. Ramos

N. Ramos, R.N.
San Gorgonio Memorial Hospital

SAN GORGONIO
MEMORIAL HOSPITAL

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol
Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

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For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Thank you,

Rochelle Reynoldson RN
San Gorgonio Memorial Hospital

SAN GORGONIO
MEMORIAL HOSPITAL

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol
Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

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For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Thank you,

Mike Jenny Inoc R.N.

San Gorgonio Memorial Hospital

SAN GORGONIO
MEMORIAL HOSPITAL

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol
Room 5016
Sacramento, CA 95814

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For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Thank you,

San Gorgonio Memorial Hospital
LORI RUEHLE SECRETARY

SAN GORGONIO
MEMORIAL HOSPITAL

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol
Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

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For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Thank you,

Bruce Keller
San Gorgonio Memorial Hospital

SAN GORGONIO
MEMORIAL HOSPITAL

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol
Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

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For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Thank you,

Ann Sandoval, RN

ANN SANDOVAL
San Gorgonio Memorial Hospital

SAN GORGONIO
MEMORIAL HOSPITAL

The Honorable Roger Hernandez
Chair, Assembly Labor and Employment Committee
State Capitol
Room 5016
Sacramento, CA 95814

SUBJECT: SUPPORT SB327 (HERNANDEZ) AS PROPOSED TO BE AMENDED

On behalf of San Gorgonio Memorial Hospital, I am writing in strong support of SB 327. This bill will clarify that employees in the health care industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12 hours shifts.

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For these reasons, we ask for your "AYE" vote on SB 327 (Hernandez).

Thank you,

San Gorgonio Memorial Hospital

Michael Hernandez CWA

GARDENS REGIONAL
HOSPITAL & MEDICAL CENTER

September 18, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Gardens Regional Hospital and Medical Center, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Many of our employees are represented by a labor union, and it is imperative that we retain the 12-hour shift schedule and opportunity to waive a meal period as we negotiate our first contract. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

21530 S. PIONEER BLVD., HAWAIIAN GARDENS, CA 90716
Administration: Phone (562) 860-0401 Ext. 3175 • Fax (562) 924-5871
Medical Staff: Phone (562) 860-0401 Ext. 3375 • Fax (562) 860-6642

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Gregg Yost. CHHR
Chief Human Resources Officer
Gardens Regional Hospital and Medical Center

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

Senator Ed Hernandez
State Capitol, Room 2080

cjac
Civil Justice Association of CALIFORNIA
1201 K Street, Suite 1850 | Sacramento, CA 95814 www.cjac.org t 916.443.4900 f 916.443.4306

SEP 16

September 15, 2015

The Honorable Jerry Brown
Governor, State of California
State Capitol, Sacramento, CA 95814

RE: SB 327 (Hernandez) – Request for Signature

Dear Governor Brown:

The Civil Justice Association of California respectfully requests you sign SB 327 (Hernandez), a bill that will help protect healthcare employers from unjustified lawsuits when they relied on the Industrial Welfare Commission's Wage Orders 4 and 5, section 11(D) regarding meal period rules.

In 1999, the Legislature empowered the Industrial Welfare Commission (IWC) to adopt or amend wage orders with respect to meal periods. After hearings and stakeholder involvement, the IWC maintained various provisions for healthcare workers, including allowing employees in the healthcare industry to waive one of their meal periods even when a shift exceeded 12 hours.

Employers and employees have been relying on the wage orders in good faith. However, a recent appellate court ruling, *Gerard v. Orange Coast Memorial Medical Center*, brought these orders into question. Absent clarification that Wage Orders 4 and 5, section 11(D) has been valid since 2000, healthcare employers will be subject to crushing liability for a missed meal period, as well as throwing employees' scheduling into disarray.

Senate Bill 327 will clarify that employees in the healthcare industry can continue to waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when their shift exceeds 12 hours. Similar to other bills that CJAC has supported, this bill would provide some assurances that companies relying on government agencies' interpretation of the law will not result in unjustified litigation.

California employers already face great uncertainty regarding the correct application of California's numerous labor and employment laws. Providing certainty produces a better business environment, growth in the economy, and an improved work environment for employees.

For these reasons, we support SB 327 (Hernandez) and urge you to sign the bill into law.

Sincerely,

Kim Stone

Kim Stone
President

cc: Camille Wagner, Legislative Affairs Secretary, Office of the Governor
The Honorable Senator Ed Hernandez

Dignity Health.
Sequoia Hospital

SEP 17

Via Facsimile
916.558.3160

September 17, 2015

The Honorable Edmund G. Brown, Jr.
Governor of California
State Capitol
Sacramento, California 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Sequoia Hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling**

170 Alameda de las Pulgas
Redwood City, CA 94062-2799
650.369.5811
sequoiahospital.org

Dignity Health.
Sequoia Hospital

changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, Sequoia Hospital respectfully asks that you sign SB 327.

Sincerely,

Bill Graham
Hospital President

BG/bim

c: The Honorable Ed Hernandez, Member of the Senate (916.651.4922)
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

170 Alameda de las Pulgas
Redwood City, CA 94062-2799
650.369.5811
sequoiahospital.org

SEP 16

CALIFORNIA HOSPITAL ASSOCIATION

Providing Leadership in Health Policy and Advocacy

September 16, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (Ed Hernandez) – REQUEST FOR SIGNATURE

Dear Governor Brown:

The California Hospital Association (CHA), on behalf of over 400 California hospitals and health systems, requests your signature on SB 327 (Hernandez). Supported by a broad coalition of labor and management, this bill clarifies that employees in the health care industry can continue to waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when their shift exceeds 12 hours. A recent court ruling, *Gerard v. Orange Coast Memorial Medical Center*, could jeopardize this option, thus jeopardizing the availability of 12-hour shifts.

Absent clarification that Wage Orders 4 and 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, hospitals will be liable for a missed meal period premium on any day an employee worked even 1 minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes throughout the hospital industry. Thus, it is critically important for the Legislature's effort to abrogate *Gerard* and clarify existing law to be codified.**

While the California Supreme Court recently accepted review of the *Gerard* case, it nonetheless poses a significant adverse impact on health care employers and employees, particularly those working 12-hour shifts who want to waive one of their meal periods so that they do not have to prolong their workday by 30 minutes. Because it is unclear when and how the Supreme Court will resolve the case, hospitals are faced with the decision whether to immediately and significantly change their scheduling practices, which may include extending the shift to 13 hours to accommodate a second, off-duty meal period, reverting to 8-hour shifts or taking some other action to minimize potential liability moving forward. Further, while the *Gerard* appellate decision has been de-published similar cases have already been filed and thus without clarification of the law, hospitals currently risk facing expensive class action litigation and potential retroactive liability in the millions of dollars. As the Supreme Court evaluates the legal issues raised in the *Gerard* case, SB 327's legislative clarification and rejection of the Court's rationale is extremely important to the Court's analysis.

Since 1993, health care employers have been able to offer a meal period waiver that allows employees working more than 12 hours to voluntarily waive one of their two meal periods. These 12-hour shifts are common in the health care industry, both in unionized and non-unionized environments. Employees who work 12-hour shifts may frequently work a few minutes more than 12 hours due to clocking in a couple of minutes early or clocking out a couple of minutes late.

In 1999, as part of AB 60, the California Legislature codified the meal period rules which had formerly only been included in the wage order. In Labor Code section 512, the Legislature expressly required that employees working more than 10 hours be provided a second meal period and also expressly provided

1215 K Street, Suite 800, Sacramento, CA 95814 • *Telephone:* 916.443.7401 • *Facsimile:* 916.552.7596 • www.calhospital.org
Corporate Members: Hospital Council of Northern and Central California, Hospital Association of Southern California, and Hospital Association of San Diego and Imperial Counties

that employees could voluntarily waive the second meal period so long as they did not work more than 12 hours.

At the same time, the Legislature specifically gave the Industrial Welfare Commission (IWC) authority to determine whether to continue to authorize 12-hour alternative workweek schedules, in Labor Code 517. In Labor Code 516, the Legislature also expressly authorized the IWC to adopt or amend the wage orders with respect to meal periods, notwithstanding the rules set forth in Labor Code 512.

After several hearings on the matter and significant negotiation between labor and hospital representatives, the IWC decided to maintain 12-hour shifts, with some variation, and to maintain the special health care meal period waiver rules, allowing employees in the health care industry to waive one of their meal periods even when a shift exceeded 12 hours.

This action was taken on June 30, 2000 — the deadline set by the Legislature for the IWC to determine whether to continue 12-hour shifts. These amendments went into effect on October 1, 2000. The time between the adoption date of June 30 and the effective date of October 1 was needed to accomplish administrative activity, such as updating the wage orders.

On September 16, 2000, then Governor Davis signed urgency legislation, SB 88 (Chapter 492, Statues of 2000). That bill limited the IWC's authority to establish meal period rules that conflicted with Labor Code section 512. That law went into effect more than two months after the IWC adopted Wage Order 4 and 5, as well as other wage orders.

In order to preserve the status quo preferred by both hospitals and their employees for over 20 years, as confirmed by the IWC in 2000, this clarification is necessary. The Legislature recognized the importance of this issue and thus SB 327 passed out of the Legislature with no "NO" votes.

For these reasons, CHA respectfully asks for your signature on SB 327.

Sincerely,

C. Duane Dauner
President/CEO

CDD:dlv
Attachment

cc: The Honorable Ed Hernandez, O.D. ✓
Camille Wagner, Legislative Affairs Secretary, Office of the Governor

MICHAEL M. HONDA
17TH DISTRICT, CALIFORNIA
WASHINGTON OFFICE:
1713 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
PHONE: (202) 225-2631
FAX: (202) 225-2699
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2001 GATEWAY PLACE
SUITE 570W
SAN JOSE, CA 95110
PHONE: (408) 436-2720
(888) 980-3769
FAX: (408) 436-2721

OCT 12

COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEES:
COMMERCE, JUSTICE, SCIENCE
LABOR, HEALTH AND HUMAN SERVICES, EDUCATION
SENIOR WHIP
CONGRESSIONAL ASIAN PACIFIC AMERICAN CAUCUS, CHAIR EMERITUS
SUSTAINABLE ENERGY AND ENVIRONMENT COALITION, VICE CHAIR
LGBT EQUALITY CAUCUS, VICE CHAIR

Congress of the United States
House of Representatives

October 7, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

RE: SB 327 (Hernandez) – Request for Signature

Dear Governor Brown:

I write today as a principal co-author of SB 88 that was passed by the Legislature and signed by the Governor in 2000. As the principal co-author of SB 88 I have personal knowledge as to the intent of that bill. I am aware of the court's decision in *Gerard v. Orange Coast Memorial Medical Center*, and disagree with its conclusion that SB 88 invalidated the Industrial Welfare Commission's ("IWC") adoption of the healthcare meal period waiver rules in Wage Orders 4 and 5, section 11(D). Thus, I am writing in support of SB 327 that is intended to maintain the status quo, as it existed before the uncertainty created by the *Gerard* decision.

The two primary purposes of SB 88 were to immediately address two significant issues that had arisen after passage of AB 60. The first purpose was to create a computer professional exemption such that highly compensated computer professionals could continue to qualify as exempt even if they were paid on an hourly basis. The second purpose was to authorize the IWC to establish exemptions to the overtime obligation for certain certified nurses. This was necessary because AB 60 created Labor Code 515(f), which precluded registered nurses from qualifying as exempt under the professional exemption. Both of those changes were cited in support of the justification for urgency legislation.

While it was clear that SB 88 amended Labor Code § 516 to limit the IWC's authority to adopt new meal period rules after SB 88 was enacted that were inconsistent with Labor Code § 512, there was no discussion or intent to impact any Wage Order provisions adopted prior to that date, including Wage Orders 4 & 5, section 11(D). In other words, the intent was to limit the IWC's authority only prospectively. Of note, this change was not cited as a justification for the urgency clause.

I am pleased to see the legislature clarify the law to confirm the IWC's adoption of Wage Orders 4 & 5, section 11(D) in June 2000 was valid and continues to be valid. Thus, I ask for your signature on SB 327.

Sincerely,

Michael M. Honda
Member of Congress

OCT - 1

MARIN GENERAL HOSPITAL

250 Bon Air Road, Greenbrae, CA 94904
t n 415-925-7000

September 21, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California, State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) - REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Marin General Hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Lee Domanico
Chief Executive Officer
Marin General Hospital

Cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairsrs, Office of the Governor

OCT - 1

Kenneth D. McFarland
President & Chief Executive Officer

St. Joseph Health

Mission • Mission Laguna Beach

September 22, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Mission Hospital in Mission Viejo and Mission Hospital Laguna Beach, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospitals have offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Kenneth D. McFarland

Kenneth McFarland
President and Chief Executive Officer
Mission Hospital and Mission Hospital Laguna Beach

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

Henry Mayo
Newhall Hospital

September 25, 2015

SEP 30

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Henry Mayo Newhall Hospital , I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section 11(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327..

Sincerely,

Roger E. Seaver

Roger E. Seaver
President & CEO

THIS IS VERY IMPORTANT TO OUR HOSPITAL!

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

WATSONVILLE
COMMUNITY HOSPITAL

September 25th, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Watsonville Community Hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Audra Earle

Audra Earle, FACHE
Chief Executive Officer

cc: The Honorable Ed Hernandez, Member of the Senate ✓
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

HOLLYWOOD
PRESBYTERIAN
MEDICAL CENTER

September 17, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Hollywood Presbyterian Medical Center, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by a labor union, and the 12-hour shift schedule and opportunity to waive a meal period have been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Allen G. Stefanek
President & CEO
Hollywood Presbyterian Medical Center

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

1300 North Vermont Ave.
Los Angeles, CA 90027
www.hollywoodpresbyterian.com
213.413.3000

METHODIST HOSPITAL
The Next Generation of Care

September 17, 2016

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Methodist Hospital of Southern California, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Dan Ausman
President & Chief Executive Officer
Methodist Hospital of Southern California

cc: The Honorable Ed Hernandez, Member of the Senate ✓
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

Redlands Community Hospital

350 Terracina Blvd.
P.O. Box 3391
Redlands, CA 92373-0742
909-335-5500
Fax 909-335-6497

September 16, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Redlands Community Hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section 11(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

James R. Holmes
President/CEO
Redlands Community Hospital

cc: The Honorable Ed Hernandez, Member of the Senate
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

MCH
Madera Community Hospital

September 28, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Madera Community Hospital, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section (11)(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Evan J. Rayner
Chief Executive Officer
Madera Community Hospital

cc: The Honorable Ed Hernandez, Member of the Senate ✓
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

1250 EAST ALMOND AVENUE • MADERA, CALIFORNIA 93637 • TELEPHONE (559) 675-5555

KAISER PERMANENTE®

Kaiser Foundation Health Plan, Inc.

September 21, 2015

The Honorable Edmund G. Brown, Jr.
Governor, State of California
State Capitol, First Floor
Sacramento, CA 95814

RE: SB 327 (Hernandez) – REQUEST FOR SIGNATURE

Dear Governor Brown:

Kaiser Permanente is in strong support of SB 327 (Hernandez), which would clarify that employees in the healthcare industry can voluntarily waive one of their two meal periods pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. We request that you sign this important piece of legislation. A recent court ruling could jeopardize this option and therefore jeopardize a hospital's ability to schedule 12-hour shifts.

For decades our hospitals have offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Our employees are represented by labor unions and the 12-hour shift schedule and opportunity to waive a meal period has been authorized since the inception of the 12-hour shifts. Virtually all employees working 12-hour shifts voluntarily waive a meal period. This option allows employees to go home earlier after working 12 hours, and without this option, we would need to change our scheduling practices.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes would occur. For decades, healthcare employers and employees have been able to utilize the special healthcare waiver provision in Wage Order 5, section (11)(D) and there has never been any question about its validity.

Absent clarification that Wage Order 5, section (11)(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, hospitals will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee worked even one minute over the 12-hour mark. Additionally, it will result in scheduling changes across hospitals that would negatively impact scheduling flexibility for employees and affect the way patient care is delivered.

For these reasons, we urge your signature of SB 327 (Hernandez). If you have any questions, please do not hesitate to contact me at 916-448-9875.

Sincerely,

Angelica V. González
Director, Government Relations

cc: The Honorable Ed Hernandez, O.D. ✓
Donna Campbell, Office of Governor Jerry Brown
Connie Delgado, California Hospital Association

Government Relations
1215 K Street, Suite 2030
Sacramento, CA 95814
Phone: 916-448-4912
Fax: 916-973-6476

PIONEERS MEMORIAL Healthcare District

207 West Legion Road, Brawley, CA 92227 voice 760.351.3250 ~ fax 760.351.4489

September 17, 2015

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

SUBJECT: SB 327 (HERNANDEZ) – REQUEST FOR SIGNATURE

Dear Governor Brown:

On behalf of Pioneers Memorial Healthcare District, I am writing to ask for your signature on SB 327 (Hernandez, D-Azusa). This bill clarifies that employees in the health care industry can voluntarily waive one of their two meal periods, pursuant to Wage Orders 4 and 5-2001, even when they work more than 12 hours. A recent court ruling could jeopardize this option, thereby jeopardizing the hospital's ability to schedule 12-hour shifts.

For decades, our hospital has offered employees working 12-hour shifts the opportunity to voluntarily waive one of their two meal periods. Virtually all employees working 12-hour shifts voluntarily waive a meal period because it allows them to go home earlier after working 12 hours. Without the option, we would change our scheduling practices, either moving to eight-hour shifts, lengthening the 12-hour shift by 30 minutes to accommodate a second 30-minute unpaid meal period, or developing another option that the hospital and employees would not favor.

The decision in *Gerard v. Orange Coast Memorial Medical Center* will disrupt scheduling and could disrupt patient care if more shift changes occur. For more than 20 years, health care employers and employees have been able to utilize the special health care waiver provision in Wage Order 5, section 11(D), and there has never before been any question about its validity.

Absent the clarification provided by SB 327 that Wage Order 5, section 11(D) has been valid since it was adopted by the Industrial Welfare Commission in June 2000, our hospital will be liable for a missed meal period premium equal to an extra hour of pay on any day an employee who waived a meal period worked even one minute over the 12-hour mark. **This could result in millions of dollars in liability, as well as scheduling changes across the hospital that would result in a loss of employee scheduling flexibility, and affect the way patient care is delivered.**

For these reasons, we respectfully ask that you sign SB 327.

Sincerely,

Lawrence E. Lewis
Chief Executive Officer
Pioneers Memorial Healthcare District

cc: The Honorable Ed Hernandez, Member of the Senate ✓
Camille Wagner, Secretary, Legislative Affairs, Office of the Governor

Personally, We Care For You

PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 2029 Century Park East, Suite 3500, Los Angeles, California 90067-3021. On December 22, 2017, I served the following document:

MOTION OF *AMICUS CURIAE* CALIFORNIA HOSPITAL ASSOCIATION FOR JUDICIAL NOTICE IN SUPPORT OF AMICUS BRIEF

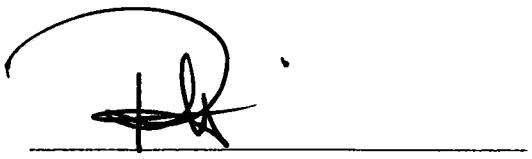
by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California, addressed as set forth below.

SEE ATTACHED SERVICE LIST

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on December 22, 2017, at Los Angeles, California.



Rachel D. Victor

SERVICE LIST

Gerard v. Orange Coast Memorial Medical Center
Case No. S225205

Mark Yablonovich, Esq. Neda Roshanian, Esq. Michael Coats, Esq. LAW OFFICES OF MARK YABLONOVICH 1875 Century Park East, Suite 700 Los Angeles, California 90067	*Attorneys for Plaintiffs and Appellants*
Glenn A. Danas, Esq. Robert Friedl, Esq. CAPSTONE LAW APC 1875 Century Park East, Suite 1000 Los Angeles, California 90067	*Attorneys for Plaintiffs and Appellants*
Richard J. Simmons, Esq. Derek R. Havel, Esq. Daniel J. McQueen, Esq. SHEPPARD, MULLIN, RICHTER & HAMPTON, LLP 650 Town Center Drive, 4th Floor Costa Mesa, California 92626-1993	*Attorneys for Defendant and Respondent Orange Coast Memorial Medical Center*
Robert J. Stumpf, Jr., Esq. Karin Dougan Vogel, Esq. SHEPPARD, MULLIN, RICHTER & HAMPTON, LLP Four Embarcadero Center, 17th Floor San Francisco, California 94111	*Attorneys for Defendant and Respondent Orange Coast Memorial Medical Center*
Attorney General -- Los Angeles Office Consumer Law Section 300 South Spring Street Fifth Floor, North Tower Los Angeles, CA 900131-1230	*Interested Party Office of the Attorney General*

Santa Ana District Attorney
Office of the District Attorney
Law and Motion Unit
401 Civic Center Drive West
Santa Ana, CA 92701-4515

Interested Party Office of the District Attorney

The Hon. Nancy Wieben Stock
Department CX-105
Orange County Superior Court
Complex Civil Litigation
751 West Santa Ana Boulevard
Santa Ana, CA 92701

Superior Court

Fourth District Court of Appeal
Division 3
Office of the Clerk
601 West Santa Ana Boulevard
Santa Ana, CA 92701