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7 Attorneys for the State of California

8 Before the Public Employment Relations Board  
9

10	SERVICE EMPLOYEES INTERNATIONAL	)	PERB Unfair Practice Charge No.
11	UNION, Local 1000, on behalf of	)	SA-CE-2184-S
	affected Health Facility	)	
	Evaluator Nurses,	)	
12		)	<b>STIPULATION FOR SETTLEMENT AND</b>
	Charging Party,	)	<b>RELEASE</b>
13	v.	)	
		)	
14	STATE OF CALIFORNIA (CALIFORNIA	)	
15	DEPARTMENT OF PUBLIC HEALTH),	)	
		)	
	Respondent.	)	
16		)	
		)	
17		)	

18 This SETTLEMENT AGREEMENT AND RELEASE is entered into by and  
19 between the Service Employees International Union, Local 1000  
20 (hereinafter "SEIU" or "Charging Party"), on behalf of Bargaining  
21 Unit (BU) 17 Health Facilities Evaluator Nurses (HFENS), the  
22 California Department of Public Health ("CDPH" or "Respondent"),  
23 and the State of California, California Department of Human  
24 Resources (hereinafter "CalHR" or "Employer").

25 SEIU filed the instant Unfair Practice Charge (UPC), SA-CE-  
26 2184-S, with the Public Employment Relations Board (PERB) on behalf  
27 of affected BU17 HFENS on or about August 28, 2020.

28 / / /

1 SEIU alleges in the instant PERB UPC, SA-CE-2184-S, that  
2 Respondent CDPH unilaterally changed the duty statement of its BU17  
3 HFENs in violation of Dills Act section 3519, subsection (c). As  
4 well as interfered with the rights of BU17 HFENs to be represented  
5 by Charging Party and the rights of Charging Party to represent  
6 BU17 HFENs in violation of Dills Act section 3519, subsections (a)  
7 and (b), respectively.

8 WHEREAS, in the interest of harmonious labor relations, the  
9 parties to the matters herein desire to avoid the expense,  
10 inconvenience, uncertainty and delay inherent in litigation; and

11 WHEREAS, SEIU, affected BU17 HFENs, Respondent CDPH, and  
12 CalHR, on behalf of the State of California, have agreed on a  
13 settlement of these matters in dispute between them and hereby  
14 adopt this Settlement Agreement and Release as its final  
15 disposition;

16 NOW, THEREFORE, THE PARTIES DO STIPULATE AS FOLLOWS:

17 1. Respondent CDPH agrees to withdraw its updated HFEN duty  
18 statement noticed and forwarded to SEIU on June 12, 2020, and  
19 agrees to operate under the prior HFEN duty statement in settlement  
20 of the instant charge, PERB No. SA-CE-2184-S. (A copy of which is  
21 attached as exhibit A.) The parties agree that Respondent CDPH is  
22 not prohibited from continuing to exercise its management right to  
23 make changes to the duties and responsibilities of CDPH HFENs in  
24 alignment with the classification specification consistent with  
25 law. Any such changes that impact the terms and conditions of  
26 employment will be noticed to SEIU and subject to meet and confer  
27 over impact upon request by SEIU at such time that CDPH may propose  
28 such changes consistent with law.

1           2.    SEIU agrees to and hereby does voluntarily withdraw, with  
2 prejudice, its instant PERB UPC No. SA-CE-2184-S, currently re-set  
3 for a (telephonic) PERB Informal Conference on April 14, 2021 at 10  
4 a.m. with PERB Regional Attorney, Yaron Partovi.

5           3.    Nothing herein shall be deemed precedential in any other  
6 case or matter.

7           4.    Nothing in this stipulated Settlement Agreement and  
8 Release shall be considered an admission of any breach of contract,  
9 violation of law, or any other unlawful conduct by the State of  
10 California, CDPH, CalHR or a concession by SEIU concerning the  
11 merits of this dispute.

12          5.    This Settlement Agreement and Release represents a full  
13 and final resolution of all disputes between the parties relating  
14 to the matters herein now settled.

15          6.    Nothing contained in this Settlement Agreement and  
16 Release shall constitute or be treated as an admission of liability  
17 or wrongdoing by the State of California, CDPH, CalHR, its  
18 predecessors, successors, related entities, affiliates, officers,  
19 agents, employees, attorneys and/or assigns (current or former) in  
20 either their official or individual capacities. Any and all  
21 liability or wrongdoing is hereby expressly denied. This  
22 Settlement Agreement and Release is the result of a good faith  
23 compromise.

24          7.    This Settlement Agreement and Release contains the entire  
25 agreement between the parties. The terms of this Agreement are  
26 contractual and not a mere recital. This Settlement Agreement and  
27 Release is executed without reliance upon any representation by any  
28 / / /

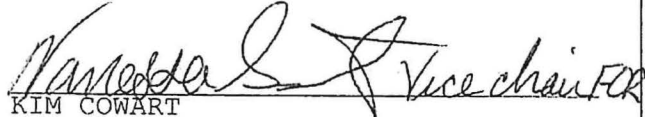
1 person concerning the nature or extent of injuries or legal  
2 liability therefor.

3 8. The attorneys whose signatures are set forth below  
4 represent that their clients have authorized the settlement set  
5 forth in this Settlement Agreement and Release.


6 9. This settlement agreement may be signed by facsimile, e-  
7 mail, scanned, and/or in counterparts, which, when all necessary  
8 signatures are obtained, shall have the same force and effect as  
9 though all signatures were executed on one document.

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Dated: 4/14/2021

  
KIM COWART  
Chairperson  
Bargaining Unit 17

Dated: April 14, 2021

  
ANNE GIESE  
Chief Counsel  
Service Employees International  
Union, Local 1000

Dated: \_\_\_\_\_

Kristanna Rivera  
Digitally signed by  
Kristanna Rivera  
Date: 2021.04.14  
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KRISTANNA RIVERA  
Deputy Director  
Human Resources Division  
California Department of Public  
Health

Dated: \_\_\_\_\_

Lily Cervantes  
Digitally signed by Lily  
Cervantes  
Date: 2021.04.14  
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LILY CERVANTES  
Labor Relations Officer  
Bargaining Unit 17  
California Department of Human  
Resources

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Dated: 4/14/21

Gail Onodera  
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GAIL T. ONODERA  
Labor Relations Counsel IV  
California Department of Human Resources

# **Exhibit A**

## DUTY STATEMENT

Employee Name: <b>TBD</b>	
Classification: <b>Health Facilities Evaluator Nurse</b>	Position Number: <b>580-XXX-8011-XXX</b>
Working Title: <b>Nursing Surveyor</b>	Work Location:
Collective Bargaining Unit: <b>Bargaining Unit 17</b>	Tenure/Time Base: <b>Permanent/Fulltime</b>
Center/Office/Division: <b>Center for Health Care Quality, Licensing and Certification</b>	Branch/Section/Unit: <b>Field Operations Regions: I, II, III, IV, V, VI, &amp; VII; District Offices Statewide</b>

All employees shall possess the general qualifications, as described in California Code of Regulations Title 2, Section 172, which include, but are not limited to integrity, honesty, dependability, thoroughness, accuracy, good judgment, initiative, resourcefulness, and the ability to work cooperatively with others.

This position requires the incumbent to maintain consistent and regular attendance; communicate effectively (orally and in writing) in dealing with the public and/or other employees; develop and maintain knowledge and skill related to specific tasks, methodologies, materials, tools, and equipment; complete assignments in a timely and efficient manner; and, adhere to departmental policies and procedures.

### Job Summary

The Health Facilities Evaluator Nurse (HFEN) conducts inspections, investigations, surveys, and evaluations of health facilities for conformity with licensing and certification requirements of the California Department of Public Health (CDPH) and for compliance with state and federal laws, rules, and regulations relating to medical care. Advises healthcare facility administrators and community agencies regarding State health facilities inspection, licensing, and certification programs. Primary responsibility is for uniform application and enforcement of state and federal laws, rules, and regulations pertaining to areas affecting total patient care such as nursing, physician, restorative, pharmacy, social, dental, and related services. Extensive travel will be required.

### Special Requirements

- None
- Supervision Exercised
- Conflict of Interest (COI)
- Background Check and/or Fingerprinting Clearance
- Medical Clearance
- Travel:
- Bilingual: Pass a State written and/or verbal proficiency exam in
- License/Certification: RN License
- Other:

### Essential Functions (including percentage of time)



- 35% Travels to and conducts in-depth surveys of healthcare facilities, individually or as part of a team, to determine compliance with state licensing and federal certification requirements. Conducts and documents interviews of healthcare facilities’ residents, staff, and other relevant personnel. Requests and reviews resident medical files for relevant patient information, documenting necessary information for legal action while ensuring patient confidentiality. Independently, or as part of a team, makes a determination of healthcare facilities’ compliance with state and federal laws and regulations based on survey findings and observations. Prepares written comprehensive narrative reports of findings including conclusions and recommendations and prepares written statements of deficiencies when deemed appropriate.
- 35% In response to complaints submitted to the CDPH regarding patient care and healthcare delivery in licensed healthcare facilities, the incumbent travels to and conducts investigations of facilities, documenting fully for legal actions all evidence relating to non-compliance. Conducts and documents interviews of healthcare facilities’ residents, staff, and other relevant personnel. Requests and reviews resident medical files for relevant patient information, documenting necessary information while ensuring patient confidentiality. Independently makes a determination of healthcare facilities’ compliance with state and federal regulations and prepares written comprehensive narrative reports of investigations including conclusions and recommendations, and prepares written statements of deficiencies when deemed appropriate.
- 10% Develops and presents both written and verbal testimony to provide support for civil monetary penalties at informal conferences, citation review conferences, evidentiary hearings, informal dispute resolutions, municipal or superior court proceedings, and arbitration procedures. Responds to these legal actions as an expert witness on matters relating to State and federal laws and regulations pertaining to patient care and the healthcare delivery system.
- 10% Attends meetings and participates in local programs to improve uniform compliance in licensed health care facilities. Attends training sessions in order to keep abreast of trends in the healthcare delivery system and industries.
- 5% Advises and assists healthcare facility administrators in matters relating to the State requirements for inspections, licensing, construction, and operation of healthcare facilities.

**Marginal Functions (including percentage of time)**

- 5% Other duties as required, including, but not limited to, collecting data required for special studies and preparing licensing and complaint packets for staff.

I certify this duty statement represents an accurate description of the essential functions of this position. I have discussed the duties and have provided a copy of this duty statement to the employee named above.		I have read and understand the duties and requirements listed above, and am able to perform these duties with or without reasonable accommodation. (If you believe reasonable accommodation may be necessary, or if unsure of a need for reasonable accommodation, inform the hiring supervisor.)	
Supervisor's Name	Date	Employee's Name	Date
Supervisor's Signature	Date	Employee's Signature	Date
HRB Use Only:		Date	
Approved By: Heather Hylton		10/17/17	