



ATTACHMENT A


RESPONDENT'S PETITION FOR RECONSIDERATION


Fax Cover Page


Attachment A


 **Recipient:** +1 (916) 795-3659
Mathew G. Jacobs


 **Date Sent:** 02/09/2023


 **Number of Pages:** 11 (including cover page)


 **Sender:** Michelle Montano -

 **Reply-to Email:**

 **Reply-to Phone:** +1 (559) 269-9644

 **Reply-to Fax:**

 **Subject:** Petition for Reconsideration

 **Message:** **ATTENTION:**

Mathew G. Jacobs
General Counsel

Petition for Reconsideration

February 8, 2023

Via Certified Mail and Facsimile

Board Services Unit Coordinator
California Public Employees' Retirement System
Post Office Box 942701
Sacramento, Ca. 94229-2701
Email: Board@CalPERS.ca.gov
Facsimile: (916)795-3972

**RE: In the Matter of Appeal of Reinstatement from Industrial Disability Retirement
Michelle L. Montano. Ref. No. 2022-0218**

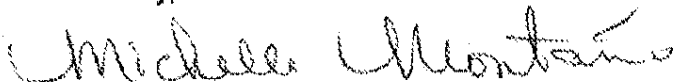
Board Services Unit Coordinator,

Please accept this as my Petition for Reconsideration in the matter of the Appeal of Reinstatement from Industrial Disability Retirement.

As previously stated, I have lifetime care through Worker's Compensation and permanent restrictions because of the injury sustained as an employee at Valley State Prison, Chowchilla, Ca. to my right shoulder. Even though I have had two surgeries on my right shoulder, there has been little to no change in my ability to use my right arm according to Dr. Diego Allende, who sees and evaluates me every 30-45 days.

Enclosed for your review will be a Work Status Report from Dr. Allende, Duty Statement Which includes Special Physical Characteristics, CNA Job Description, CNA Essential Functions List which includes Physical Functions, and Physical Requirements of Position/Occupational Title for Valley State Prison, Chowchilla, Ca.

Sincerely,



Michelle L. Montano

Enclosure

CC: Mathew G. Jacobs, General Counsel
Facsimile: (916)795-3659

PERSONAL
CONFIDENTIAL

RETURN TO WORK STATUS

Faxed: _____
Date: _____
Time: _____
Initial: _____

DIEGO ALLENDE, D.O.
6234 N. FIRST STREET
FRESNO, CA 93710
(559) 435-5727

Attn: _____

Patient Acct: Michelle Montano

Employer: _____

Date Of Injury: 7.7.14

Injuries:

- Acromioclavicular Capsulitis
 - Acute Rotator Cuff Tear
- Complicated: SP @ Shoulder

NECK	MID BACK	SHOULDER	ELBOW	WRIST/HAND
LOW BACK	HIP	KNEE	ANKLE/FOOT	OTHER

Return to work WITHOUT RESTRICTIONS on 1/1/23

Safe TRANSITIONAL WORK if available (see below) start on 1/23/23 through 3/16/2023

CANNOT return to work at this time. Off from 1/1/23 through 1/1/23

Single lifting limited to _____ lbs.	(No/Limited) walking on uneven ground for distance of _____ feet
Limited repeated lifting to _____ lbs. (_____ times/ _____ Hour)	(No/Limited) use of foot control/repetitive movements with feet
No reaching above shoulder level <u>(2) Arm</u>	No forceful +/- repetitive grasping: R L Both
Lifting above shoulder level limited to _____ lbs.	(No / limited) keyboarding _____ minutes/ _____ min/hr
No lifting from below knee level (floor)	Sitting limited to _____ minutes/ _____ (min/hr)
Limited lifting from below knee level (floor) up to _____ lbs	Requires a _____ minute stretch break every _____ hr (s)
Keep working/lifting between mid-thigh to shoulder level and within _____ inches from the trunk.	Required/Optional _____ sling/brace at work
(No /limited) bending of the trunk _____ degrees	Requires a _____ minute ice break every _____ hr (s)
(No / limited) twisting of trunk	Working shifts limited to _____ hrs per day
(N of limited) squatting/ kneeling/ stooping	No working at heights
(No / limited) climbing / crawling	No working in excessive heat / cold
(No / limited) Carrying _____ lbs. from shoulder to feet	Medication of _____ may cause drowsiness
(No / limited) pushing / pulling up to _____ lbs of force	*No use of machinery and / or driving*
(Right) Left Both Hands	Required _____ Recommended *Job Rotation*
	Other: _____

REVIEW Work Status on: 1/1/23 Re-Evaluation 3/16/2023 Time: 11:15 am/pm

Plan: _____ Continue Rehab _____ change of treatment plan: _____

Prognosis: _____ No residuals expected & anticipated discharge in _____ weeks.

_____ Guarded- anticipated "Permanent and Stationary" status in _____ weeks.

Test / Consultation requested: _____

PLEASE CALL TO DISCUSS

Initial Visit: _____ F/U _____

Poss 1st aide: _____

Determined 1st aide: _____ Ctm: _____

Fit for duty _____ P&S (report to follow) _____

Discharged: _____

[Signature]
(Physician's Signature)

1.23.23
(Date)

Time In: _____ am/pm

Time out: _____ am/pm

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION
DIVISION OF CORRECTIONAL HEALTH CARE SERVICES

SHADED AREA TO REFLECT RECLASS POSITION NUMBER ONLY

DUTY STATEMENT

RPAJ647#-

EFFECTIVE DATE

CDCR INSTITUTION OR DEPARTMENT Valley State Prison for Women/CCHCS	CLASS TITLE Certified Nursing Assistant- CDCR
UNIT NAME AND CITY LOCATED HEALTH CARE SERVICES, Chowchilla	SPECIFIC LOCATION ASSIGNED TO Family A Pop MD
WORKING DAYS AND WORKING HOURS Monday thru Friday, 0800 - 1600 Hours	CURRENT POSITION NUMBER (Agency Unit Class Serial) 919-213-8182-902
PROPOSED INCUMBENT (if known) Michelle Montano	

YOU ARE A VALUED MEMBER OF THE DEPARTMENT'S TEAM YOU ARE EXPECTED TO WORK COOPERATIVELY WITH TEAM MEMBERS AND OTHERS TO ENABLE THE DEPARTMENT TO PROVIDE THE HIGHEST LEVEL OF SERVICE POSSIBLE YOUR CREATIVITY AND INGENUITY ARE ENCOURAGED YOUR EFFORTS TO TREAT OTHERS FAIRLY HONESTLY AND WITH RESPECT ARE CRITICAL TO THE SUCCESS OF THE DEPARTMENT'S MISSION

Assigned as a permanent intermittent employee under the direction of the Supervising Registered Nurse II the Certified Nursing Assistant provides nursing care, assists the provider or nurse examination and treatments of patients motivate and assist patients in developing and utilizing their maximum potential for self-care Certified Nursing Assistant must provide care within the parameters of the certification Duties include but are not limited to the following

ESSENTIAL FUNCTIONS

- 60% Provides care and tends to physical needs of inmate patients, takes and records blood pressure, takes and records oral and temperature, pulse, and respiration, takes and records weight and height, assists in the collection of laboratory specimen, reports patients clinical symptoms behavior, and treatment administered to Registered Nurse
- 30% Prepares patient for examination by physician, assists medical or licensed nursing staff before, during, and after patient's treatment program, escorts patient to and from clinics and other housing units, administers life support in emergency situations, assists activity program for patients, i.e. bed sitting, muscle tone and range motion to increase ability to perform activities of daily living, assists and encourages patients in accepting and utilizing special devices and equipment prescribed for physical comfort and/or rehabilitation, assists in serving meals and special diets, sorts, counts and distributes linen.
- 10% Performs other tasks as required and as defined by the California Code of Regulations, Title 22, Division 5 Chapter 2 5 Article 3, 71835 through 71841, maintain order and supervise the conduct of persons committed to the California Department of Corrections and Rehabilitation Attends all training meetings, and seminars as needed or required Performs other related duties

POOR QUALITY ORIGINAL

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STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION
DIVISION OF CORRECTIONAL HEALTH CARE SERVICES

DUTY STATEMENT

RPA/647

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EN1A 13

KNOWLEDGE AND ABILITIES

Knowledge of Routine techniques for bathing, feeding, lifting and transporting inmate patients, making beds, and caring for inmate patients, clothing and other property, hospital routine and procedure, appropriate methods and attitudes for meeting the physical and psychosocial needs of physically ill and/or disabled patients, and basic first aid

Ability to Develop skills in the performance of routine hospital techniques of bathing, feeding, lifting and transporting patients, making beds, and caring for patients' clothing and other property, assist medically trained personnel, communicate at the level required for successful job performance, keep simple records, follow oral and written directions and analyze situations accurately and participate in an appropriate course of action

DESIRABLE QUALIFICATIONS

Special Personal Characteristics Empathic understanding of patients in a State correctional facility, willingness to work in a correctional facility in the California Department of Corrections and Rehabilitation and comply with safety and security procedures, and willingness to interact with staff and inmates from a wide range of cultural backgrounds in a professional manner

Interpersonal Skills Work independently and in a team setting

* SPECIAL PHYSICAL CHARACTERISTICS

Persons appointed to this position must possess and maintain sufficient strength, agility and endurance to perform during physically, mentally and emotionally during stressful and emergency situations encountered on the job without endangering their own health and well-being or that of their fellow employees, inmates, or the public

The statements contained in this duty statement reflect general details as necessary to describe the principal functions of this job. It should not be considered an all inclusive listing of work requirements. Individuals may perform other duties as assigned including work in other functional areas to cover absence of relief, to equalize peak work periods or otherwise balance the workload

CNA
Job Description
Page 3

The following is a definition of on-the-job time spent in physical activities

Constantly Involves 2/3 or more of a workday
Frequently Involves 1/3 to 2/3 of a workday
Occasionally Involves 1/3 or less of a workday
N/A Activity or condition is not applicable

Standing Frequently – stands for periods of time to file, at the copy machine, and other office machines

Walking Frequently – has to walk throughout Institution on uneven, sometimes rough terrain – including walking up and down ramps and slopes

Sitting Constantly – at a desk or computer table There is a flexibility for movement on a frequent basis to break sitting with standing and walking

Lifting Frequently – lifts files weighing a few ounces and rarely files weighing up to 20 lbs

Carrying Frequently – this activity can be considered to require the same physical demands as lifting

Stooping/Bending/Kneeling/Crouching Frequently – stretches, stoops/bends, kneels, and crouches to pull/file documents from the lower shelves in filing cabinets

Reaching In Front of Body Frequently – will be utilizing a keyboard and reaching for items such as the telephone, files and supply boxes

Reaching Overhead Occasionally – reaches overhead to retrieve objects from the top shelf of the file cabinet

Climbing Frequently – climbs when using the step stool to reach objects Climbs steps throughout the institution during performance of regular work responsibilities

Balancing Occasionally – balances when using the step stool stairs or lifts

Pushing/Pulling Frequently – has to push/pull to open file drawers, desk drawers, carts and racks

Fine Finger Dexterity Constantly – will use fine-finger dexterity to write information onto documents and to type information into the computer, manipulate equipment such as a fax machine or telephone

Hand/Wrist Movement Constantly – uses hands and wrists in the handling of documents and files, typing, data entry and writing

Crawling N/A

Driving Occasionally

Sight/Hearing/Speech/Writing Ability Adequate vision and hearing as well as the ability to write and speak clearly are required to effectively perform the essential job duties The CNA will frequently use hearing, speech and written language to interface with staff, visitors, patients and community

WORK ENVIRONMENT The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions

The CNA works in an office with his/her own desk area and computer, with florescent lighting and a thermostatically controlled environment

MACHINES, TOOLS, EQUIPMENT, AND WORK-AIDS The CNA utilizes a computer, a printer, a telephone vertical filing cabinets copy machines shredder fax machine, typewriter, and the usual office supplies



CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES

**POOR QUALITY
ORIGINAL**

Certified Nursing Assistant, CF (8182) Essential Functions List

Under the direction of the Supervisor/Manager/Designee, the Certified Nursing Assistant, CF, provides ancillary nursing care by assisting the provider or nurse with examination and treatment of patients. The CNA must be able to work in conditions that require all of the following essential functions. While some functions may be performed infrequently or occasionally, the need to perform them may arise at any time with or without prior notice. Essential functions are the fundamental job duties that an employee must be able to perform, with or without reasonable accommodation. The Certified Nursing Assistant, CF must *always* be ready, willing and able to perform *all* of the essential functions.

The following skills are ones that you will be expected to perform as a Certified Nursing Assistant, CF. If after reviewing these essential functions you become aware that you may need reasonable accommodation(s) to successfully perform all of the essential functions for the position, you may contact either your manager/supervisor or the Return to Work Coordinator assigned to your institution/program. It is your responsibility to provide necessary medical documentation to the Department as required.

Administrative Functions

- Must be able to work number of hours according to the timebase at time of hire, during any work shift as assigned, change work shift hours as assigned, respond to call on short notice, work any post or assignment as directed, and work weekends and holidays as the needs of the institution/program dictate
- Work voluntary and mandatory overtime as required to meet the needs of the institution/program
- Maintain regular and reliable attendance, be punctual, and complete the workday and workweek in accordance with the position requirements
- Maintain certifications as required by job specification and certifying body
- Perform all duties within the scope of certification
- Work in any correctional institution regardless of level of security, acuity, or population gender including, but not limited to, inside housing units, clinical environments
- Be supervised or directed by assigned manager or supervisor
- Maintain cooperative working relationships with members of staff, public officials, wardens, institutional and administrative staff, legal, public agencies, interested community/professional groups, inmates and inmate families
- Function professionally under highly stressful circumstances, get along well and interact with co-workers, managers/supervisors, occasionally to frequently, in person and through electronic means of communication, in a professional and courteous manner to accomplish common tasks
- Interpret and apply appropriate laws, rules, regulations, policies, etc. in order to gather and provide information and respond to inquiries from within and outside the Department to ensure compliance
- Communicate effectively, intelligibly, and professionally, by way of verbal, written, or electronic communication disseminate information, respond to inquiries, provide direction and training, and document appropriate information
- Legibly and intelligibly document, prepare, report, and maintain clinical records of treatment of patients using word processor (e.g. MS Word), spreadsheet (e.g. MS Excel), and database (e.g. Electronic Health Records System) programs, write responses to patient's complaints, provide medical care statistics
- Inspect, observe, lock, and secure clinical areas and medical materials

Page 1 of 3

Certified Nursing Assistant, CF (8182)

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- Observe and report contraband, such as weapons or illegal drugs
- Observe and report the conduct of inmates to prevent self injurious behavior by inmates, or behavior by inmates which has or is likely to lead to injury to other inmates or staff members, when at the institution
- Work under pressure and under tight deadlines
- Solve problems, reason, and make sound clinical judgements in patient observations, planning, and provision of patient care
- Comprehend, retain, integrate, synthesize and apply information to meet departmental demands
- Follow verbal and written instructions
- Accept appropriate suggestions and constructive criticism and if necessary, respond by modification of behavior
- Manage the use of time effectively and prioritize actions to complete assigned tasks within expected time constraints
- Exercise good judgment and ethical behavior at all times
- Possess reading and writing skills sufficient to meet departmental demands
- Identify and communicate limits of one's own knowledge and skills to others when appropriate
- Multitask and deal with changing priorities



Physical Functions

- Ability to respond quickly and appropriately during an emergency situation Ability to maneuver or respond quickly over varying surfaces including uneven grass, dirt areas, pavement, cement, etc , sometimes in inclement weather conditions Responding/maneuvering can also include stairs or several flights of stairs Maneuvering up or down
- Access all floors of facilities with multiple levels separated by flights of stairs
- Have and maintain sufficient strength, agility, and endurance in order to respond during stressful or emergency (physical, mental, and emotional) situations without compromising the health and well-being of self or others
- Have mental capacity to recall an incident in order to accurately document it in writing
- Maintain and ensure confidentiality of all information, records, documents, concerns, issues, etc
- Remain conscious, alert and focused to effectively evaluate and respond to dangerous or emergency situations in order to maintain a safe and secure environment for self and others, and anticipate problems (e.g., harm to self or others, escapes, change in an inmate's mental functioning)
- Lift and carry occasionally to frequently, in the light (up to 20 pound maximum) to medium (up to 50 pound maximum) range from the ground to an overhead position
- Push, pull, and grip occasionally to frequently to constantly
- Sit and stand occasionally to frequently to continuously
- Stoop, bend, kneel, reach, squat, climb, crawl, twist and stretch, occasionally to frequently to continuously, to sufficiently inspect, observe, manipulate, and move objects 360 degrees horizontally, from floor through overhead levels
- Walk occasionally to frequently to continuously on a wide range of surfaces for varying distances, indoors or outdoors, in various weather conditions, which may become slippery due to the weather or spillage of liquids or which may be uneven or rough
- Properly wear all types of personal protective equipment or clothing including safety vests, eye protection, footwear, ear plugs, gloves and respirators, masks, or breathing apparatuses to prevent injury or exposure to blood and/or air borne pathogens Work indoors or outside in direct sunlight while wearing full protective gear
- Observe and react to hazards, warnings, alarms, sirens, flashing lights, voice commands and hand signals Be aware of safe working practices
- Withstand periodic exposure to chemical agents, including cleaning agents and solvents, and excessive noise
- Use fingers and hands steadily, occasionally to frequently

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- Use and operate common office machines/equipment including telephones, cellular telephones, photocopiers, fax machines, personal computers, laptops, keyboards, video display terminals, printers, mail machines/scales/meters, calculators, and similar equipment to complete assigned duties
- Attend and participate in various training courses (e.g., orientation, staff meetings, in-service training, on-the-job training, conferences) to comply with departmental policies, procedures, or supervisory directive, as needed or required
- Manipulate patient-utilized equipment (e.g. durable medical equipment) in a safe manner
- Work under a variety of adverse weather conditions such as extreme heat, cold, rain, wind, and dust, possibly for extended periods of time
- Perform required tasks in various lighting conditions, including dim or bright light
- Tolerate exposure to extremely loud or chaotic environments

Program	
[REDACTED]	[REDACTED]
Human Resources	[REDACTED]
Human Resources	[REDACTED]
Legal Affairs	[REDACTED]

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Physical Requirements of Position/Occupational Title

Section 1

This form must be completed by the member and their employer to supplement the physical requirements listed on the member's job duty statement/job description

Member Information

Michelle L Montano
Name of Member (First Name Middle Initial Last Name)

Serial Security Number of CalPERS ID

CERTIFIED NURSING ASSISTANT
Position/Occupational Title

VALLEY STATE PRISON/CDPR
Name of Employer

P.O. BOX 99
Worksite Street Address

CHOWCHILLA, CA
City

State 93610
ZIP

Section 2

Indicate with a check mark (✓) the frequency required for each activity listed at the right

Physical Requirements Information

Activity	Never	Occasionally Up to 3 hours	Frequently 3-6 hours	Constantly Over 6 hours	Distance/Height
Sitting		X	X	X	
Standing		X	X	X	
Running		X			
Walking		X	X	X	
Crawling		X	X	X	
Kneeling		X	X	X	
Climbing		X	X	X	
Squatting		X	X	X	
Bending (neck)		X	X	X	
Bending (waist)		X	X	X	
Twisting (neck)		X	X	X	
Twisting (waist)		X	X	X	
Reaching (above shoulder)		X	X	X	
Reaching (below shoulder)		X	X	X	
Pushing & Pulling		X	X	X	
Fine Manipulation		X	X	X	
Power Grasping		X	X	X	
Simple Grasping		X	X	X	
Repetitive use of hand(s)		X	X	X	
Keyboard Use		X	X	X	
Mouse Use		X	X	X	
Lifting/Carrying					
0 - 10 lbs		X	X		
11 - 25 lbs		X	X		
26 - 50 lbs		X	X		
51 - 75 lbs	X				
76 - 100 lbs	X				
100 + lbs	X				

Continued on page 2

Put your name and Social Security number or CalPERS ID at the top of every page

MICHELLE L MONTANO

Your Name

Social Security Number or CalPERS ID

Section 2 (continued)

Physical Requirements, continued

Indicate with a check mark (✓) the frequency required for each activity listed at the right

If there is not enough space to enter all your additional requirements or comments attach a separate sheet. Be sure to use a label or clearly write your name and Social Security number on each attachment

Activity	Never	Occasionally Up to 3 hours	Frequently 3-6 hours	Constantly Over 6 hours	Distance/ Height
Walking on uneven ground		X	X	X	
Driving		X			
Working with heavy equipment		X			
Exposure to excessive noise		X			
Exposure to extreme temperature humidity wetness		X	X		
Exposure to dust gas fumes or chemicals		X			
Working at heights		X	X		
Operation of foot controls or repetitive movement		X			
Use of special visual or auditory protective equipment		X	X	X	
Working with bio hazards (e.g. blood borne pathogens sewage hospital waste etc.)		X	X	X	

Section 3

Signature of Employer and Member

This form must be completed and signed by you and your employer and sent to a medical specialist along with other documentation

If you are a Disability Retirement Election applicant your employer must provide you a copy of this completed form. Your employer must send the signed original to CalPERS

Also you must attach your current job duty statement/job description and a copy of the *Physical Requirements of Position/Occupational Title* form to the *Physician's Report on Disability* form prior to sending them to a medical specialist. Complete document submittal requirements are described in *A Guide to Completing Your CalPERS Disability Retirement Election Application*

The medical specialist must be the treating physician specializing in your disabling condition

If you are a Request to Work While Receiving Disability/Industrial Disability Benefits applicant or a Reinstatement from Disability/Industrial Disability Retirement applicant you must attach the job duty statement/job description of the prospective job to a copy of the completed *Physical Requirements of Position/Occupational Title* form prior to sending them to a medical specialist. You must submit the resulting medical report and other required documents to CalPERS. The *Physician's Report on Disability* form is not required

[Redacted Signature Area]

Mail to:

[Redacted Mail Address]