

Requested by Representative NOSSE

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2697**

1 On page 1 of the printed A-engrossed bill, line 3, delete “441.175 and
2 441.177” and insert “441.171, 441.173, 441.175, 441.177 and 653.261”.

3 Delete lines 10 through 19 and delete pages 2 through 9.

4 On page 10, delete line 1 and insert:

5 **“SECTION 1.** ORS 441.151 is amended to read:

6 “441.151. As used in ORS 441.152 to 441.177[,]:

7 **“(1) ‘Charge nurse’ means a direct care registered nurse who coor-
8 dinates patient care responsibilities among nurses in a hospital unit.**

9 **“(2) ‘Clinical care staff’ means individuals who are licensed or cer-
10 tified by the state and who provide direct care.**

11 **“(3) ‘Direct care’ means any care provided by a licensed or certified
12 member of the hospital staff that is within the scope of the license or
13 certification of the member.**

14 **“(4) ‘Direct care staff’ means any of the following who are routinely
15 assigned to patient care and are replaced when they are absent:**

16 **“(a) Registered nurses, including registered nurses that do not as-
17 sume primary responsibility for a patient’s care but have responsibility
18 for consulting on patient care;**

19 **“(b) Licensed practical nurses; or**

20 **“(c) Certified nursing assistants.**

21 **“(5) ‘Exclusive representative’ means a labor organization that is:**

1 **“(a) Certified as an exclusive representative by the National Labor**
2 **Relations Board; or**

3 **“(b) Certified as an exclusive representative by the Employment**
4 **Relations Board under ORS 243.650 to 243.809.**

5 **“(6) ‘Hospital’ includes a hospital as described in ORS 442.015 and an**
6 **acute inpatient care facility as defined in ORS 442.470.**

7 **“(7) ‘Intensive care unit’ means a unit of a hospital that provides**
8 **care to critically ill patients who require advanced treatments such**
9 **as mechanical ventilation, vasoactive infusions or continuous renal**
10 **replacement treatment or who require frequent assessment and mon-**
11 **itoring.**

12 **“(8) ‘Intermediate care unit’ means a unit of a hospital that pro-**
13 **vides progressive care, intensive specialty care or step-down care.**

14 **“(9) ‘Licensed independent practitioner’ has the meaning given that**
15 **term in ORS 426.005.**

16 **“(10) ‘Medical-surgical unit’ means an inpatient unit in which gen-**
17 **eral medical or post-surgical level of care is provided, excluding crit-**
18 **ical care units and any units referred to in sections 6, 7 and 9 of this**
19 **2023 Act.**

20 **“(11) ‘Professional staff’ means professional workers as defined in**
21 **a collective bargaining agreement or, if no collective bargaining**
22 **agreement exists, by the chief executive officer of the hospital or the**
23 **chief executive officer’s designee, consistent with National Labor Re-**
24 **lations Board regulations.**

25 **“(12) ‘Progressive care’ means care provided to hospital patients**
26 **who need more monitoring and assessment than patients on the**
27 **medical-surgical units but whose conditions are not so unstable that**
28 **they require care in an intensive care unit.**

29 **“(13) ‘Service staff’ means service workers as defined by a collective**
30 **bargaining agreement or, if no collective bargaining agreement exists,**

1 by the chief executive officer of the hospital or the chief executive
2 officer's designee, consistent with National Labor Relations Board
3 regulations.

4 “(14) ‘Step-down care’ means care for patients transitioning out of
5 the intensive care unit who require more care and attention than pa-
6 tients in a hospital’s medical-surgical units.

7 “(15) ‘Technical staff’ means technical workers as defined in a col-
8 lective bargaining agreement or, if no collective bargaining agreement
9 exists, by the chief executive officer of the hospital or the chief exec-
10 utive officer’s designee, consistent with National Labor Relations
11 Board regulations.

12 “SECTION 2. Sections 3 to 9, 12 and 28 of this 2023 Act are added
13 to and made a part of ORS 441.152 to 441.177.

14 “SECTION 3. (1)(a) For each hospital there shall be established a
15 hospital professional and technical staffing committee. A hospital
16 professional and technical staffing committee shall consist of an equal
17 number of hospital professional and technical managers and profes-
18 sional and technical staff who work at the hospital.

19 “(b) If the professional and technical staff who work at the hospital
20 have an exclusive representative, the exclusive representative shall
21 select the staff members of the hospital professional and technical
22 staffing committee.

23 “(c) If none of the professional and technical staff who work at the
24 hospital have an exclusive representative, the professional and tech-
25 nical managers shall select the professional and technical staff mem-
26 bers of the hospital professional and technical staffing committee.

27 “(2) A hospital professional and technical staffing committee shall
28 develop a written hospital-wide professional and technical staffing plan
29 in accordance with subsection (5) of this section. In developing the
30 staffing plan, the primary goal of the committee shall be to ensure

1 that the hospital is staffed sufficiently to meet the health care needs
2 of the patients in the hospital. The committee shall review and modify
3 the staffing plan, as needed, in accordance with this section.

4 “(3) A majority of the members of the hospital professional and
5 technical staffing committee constitutes a quorum for the transaction
6 of business.

7 “(4) A hospital professional and technical staffing committee must
8 have two cochair. One cochair shall be a professional or technical
9 manager elected by the members of the committee who are profes-
10 sional or technical managers. The other cochair shall be a professional
11 or technical staff person elected by the members of the committee who
12 are professional and technical staff.

13 “(5)(a) A hospital professional and technical staffing committee
14 shall develop a professional and technical staffing plan that is con-
15 sistent with the approved nurse staffing plan for the hospital and that
16 takes into account the hospital service staffing plan for the hospital
17 developed under section 4 of this 2023 Act.

18 “(b) The hospital professional and technical staffing committee
19 shall consider the following criteria when developing the professional
20 and technical staffing plan:

21 “(A) The hospital’s census;

22 “(B) Location of the patients;

23 “(C) Patient types and patient acuity;

24 “(D) National standards, if any;

25 “(E) The size of the hospital and square footage of the hospital;

26 “(F) Ensuring patient access to care; and

27 “(G) Feedback received during committee meetings from staff.

28 “(6)(a) A hospital professional and technical staffing committee
29 must adopt a professional and technical staffing plan by a majority
30 vote of the members of the committee. If a quorum of members pres-

1 ent at a meeting comprises an unequal number of professional and
2 technical staff and professional and technical managers, only an equal
3 number of staff and managers may vote. A staffing plan adopted by
4 the committee must include a summary of the committee's consider-
5 ation of the criteria in subsection (5) of this section and how the plan:

6 “(A) Is consistent with the approved nurse staffing plan for the
7 hospital; and

8 “(B) Takes into account the hospital service staffing plan for the
9 hospital that was developed in accordance with section 4 of this 2023
10 Act.

11 “(b) If the hospital professional and technical staffing committee
12 does not adopt a professional and technical staffing plan or adopts only
13 a part of the staffing plan, either cochair may invoke the commence-
14 ment of a 60-day period during which the committee shall continue to
15 develop the staffing plan. If, by the end of the 60-day period, the
16 committee does not adopt a staffing plan or adopts only part of a
17 staffing plan, the committee shall submit the disputed plan or parts
18 of the plan, as applicable, including a summary of the committee's
19 consideration of the criteria in subsection (5) of this section, to the
20 chief executive officer of the hospital. No later than 60 days after re-
21 ceiving the submission from the committee, the chief executive officer
22 or the chief executive officer's designee shall decide the disputed plan
23 or parts of the plan, as applicable, considering the summary of the
24 committee's consideration of the criteria in subsection (5) of this sec-
25 tion, and adopt the staffing plan or parts of the staffing plan that were
26 not adopted by the committee. The chief executive officer or the chief
27 executive officer's designee shall provide to the committee:

28 “(A) A written explanation of the staffing plan or the parts of the
29 staffing plan that were in dispute;

30 “(B) The final written proposals of the members of the committee

1 and the members' rationales for their proposals and the committee's
2 summary of the committee's consideration of the criteria in sub-
3 section (5) of this section; and

4 “(C) A summary of the consideration by the chief executive officer
5 or the chief executive officer's designee of the criteria in subsection
6 (5) of this section.

7 “(c) If the hospital professional and technical staffing committee is
8 unable to reach an agreement on the professional and technical staff-
9 ing plan during the 60-day period invoked under paragraph (b) of this
10 subsection, the members of the committee may extend deliberations
11 for one additional 60-day period before the disputed plan or parts of
12 the plan must be submitted to the chief executive officer or the chief
13 executive officer's designee in accordance with paragraph (b) of this
14 subsection. The deliberations may be extended under this paragraph
15 only by a majority vote of the members of the committee. If a quorum
16 of members present at a meeting comprises an unequal number of
17 professional and technical staff and professional and technical man-
18 agers, only an equal number of staff and managers may vote.

19 “(d) A professional and technical staffing plan adopted by a hospital
20 professional and technical staffing committee, a chief executive officer
21 or the chief executive officer's designee must include any staffing-
22 related terms and conditions that were previously adopted through any
23 applicable collective bargaining agreement, including any meal break
24 and rest break requirements, unless a term or condition is in direct
25 conflict with an applicable statute or administrative rule.

26 “(7) A hospital professional and technical staffing committee must
27 meet three times each year and at the call of either cochair, at a time
28 and place specified by the cochairs.

29 “(8)(a) Except as provided in paragraph (b) of this subsection, a
30 hospital professional and technical staffing committee meeting must

1 be open to:

2 “(A) The hospital’s professional and technical staff, who shall be
3 offered the opportunity to provide feedback to the committee during
4 the committee’s meetings; and

5 “(B) Other observers or presenters invited by either cochair.

6 “(b) While the committee is deliberating or voting during a meet-
7 ing, either cochair may exclude individuals described in paragraph (a)
8 of this subsection.

9 “(9) Minutes must be taken at every hospital professional and
10 technical staffing committee meeting and the minutes must:

11 “(a) Include all motions made and the outcome of all votes taken;

12 “(b) Include a summary of all discussions; and

13 “(c) Be made available in a timely manner to any of the hospital
14 staff upon request.

15 “(10) A manager shall release from their duties staff and managers
16 who serve on the hospital professional and technical staffing commit-
17 tee and compensate the staff and managers who serve on the com-
18 mittee for time spent attending committee meetings.

19 “(11) The hospital shall submit the professional and technical
20 staffing plan adopted under subsection (6) of this section to the Oregon
21 Health Authority no later than 30 days after adoption of the staffing
22 plan and shall submit any subsequent changes to the authority no
23 later than 30 days after the changes are adopted.

24 “(12) Each hospital unit, as defined by the chief executive officer
25 or the chief executive officer’s designee, may deviate from the profes-
26 sional and technical staffing plan within a period of 12 consecutive
27 hours, no more than six times during a rolling 30-day period, without
28 being in violation of the staffing plan. The unit manager must notify
29 the hospital professional and technical staffing committee cochairs no
30 later than 10 days after each deviation. Each subsequent deviation

1 during the 30-day period constitutes a separate violation under section
2 20 of this 2023 Act.

3 **“SECTION 4. (1)(a) For each hospital there shall be established a**
4 **hospital service staffing committee. A hospital service staffing com-**
5 **mittee shall consist of an equal number of service staff managers and**
6 **service staff who work at the hospital.**

7 **“(b) If the service staff who work at the hospital have an exclusive**
8 **representative, the exclusive representative shall select the service**
9 **staff members of the hospital service staffing committee.**

10 **“(c) If none of the service staff who work at the hospital have an**
11 **exclusive representative, the service staff managers shall select the**
12 **service staff members of the hospital service staffing committee.**

13 **“(2) A hospital service staffing committee shall develop a written**
14 **hospital-wide hospital service staffing plan in accordance with sub-**
15 **section (5) of this section. The committee shall review and modify the**
16 **staffing plan as needed in accordance with this section.**

17 **“(3) A majority of the members of the hospital service staffing**
18 **committee constitutes a quorum for the transaction of business.**

19 **“(4) A hospital service staffing committee must have two cochairs.**
20 **One cochair shall be a service staff manager elected by the members**
21 **of the committee who are service staff managers. The other cochair**
22 **shall be a service staff person elected by the members of the commit-**
23 **tee who are service staff.**

24 **“(5) A hospital service staffing committee shall develop a hospital**
25 **service staffing plan that is consistent with the approved nurse staff-**
26 **ing plan for the hospital and that takes into account the professional**
27 **and technical staffing plan for the hospital developed under section 3**
28 **of this 2023 Act. The committee shall consider the following criteria**
29 **in developing the staffing plan:**

30 **“(a) The hospital’s census;**

1 **“(b) Location of the patients;**

2 **“(c) Patient types and patient acuity;**

3 **“(d) National standards, if any;**

4 **“(e) The size of the hospital and square footage of the hospital;**

5 **“(f) Ensuring patient access to care; and**

6 **“(g) Feedback received during committee meetings from staff.**

7 **“(6)(a) A hospital service staffing committee must adopt a hospital**
8 **service staffing plan by a majority vote of the members of the com-**
9 **mittee. If a quorum of members present at a meeting comprises an**
10 **unequal number of service staff and service staff managers, only an**
11 **equal number of staff and managers may vote. A staffing plan adopted**
12 **by the committee must include a summary of the committee’s con-**
13 **sideration of the criteria in subsection (5) of this section and how the**
14 **plan:**

15 **“(A) Is consistent with the approved nurse staffing plan for the**
16 **hospital; and**

17 **“(B) Takes into account the professional and technical staffing plan**
18 **for the hospital that was developed in accordance with section 3 of this**
19 **2023 Act.**

20 **“(b) If the hospital service staffing committee does not adopt a**
21 **hospital service staffing plan or adopts only a part of the staffing plan,**
22 **either cochair may invoke the commencement of a 60-day period dur-**
23 **ing which the committee shall continue to develop the staffing plan.**
24 **If, by the end of the 60-day period, the committee does not adopt a**
25 **staffing plan or adopts only part of a staffing plan, the committee**
26 **shall submit the disputed plan or parts of the plan, as applicable, in-**
27 **cluding a summary of the committee’s consideration of the criteria in**
28 **subsection (5) of this section, to the chief executive officer of the**
29 **hospital. No later than 60 days after receiving the submission from the**
30 **committee, the chief executive officer or the chief executive officer’s**

1 designee shall decide the disputed plan or parts of the plan, as appli-
2 cable, considering the summary of the committee's consideration of
3 the criteria in subsection (5) of this section, and adopt the staffing
4 plan or parts of the staffing plan that were not adopted by the com-
5 mittee. The chief executive officer or the chief executive officer's
6 designee shall provide to the committee:

7 “(A) A written explanation of the staffing plan or the parts of the
8 staffing plan that were in dispute;

9 “(B) The final written proposals of the members of the committee
10 and the members' rationales for their proposals and the committee's
11 summary of the committee's consideration of the criteria in sub-
12 section (5) of this section; and

13 “(C) A summary of the consideration by the chief executive officer
14 or the chief executive officer's designee of the criteria in subsection
15 (5) of this section.

16 “(c) If the hospital service staffing committee is unable to reach
17 an agreement on the hospital service staffing plan during the 60-day
18 period invoked under paragraph (b) of this subsection, the members
19 of the committee may extend deliberations for one additional 60-day
20 period before the disputed plan or parts of the plan must be submitted
21 to the chief executive officer or the chief executive officer's designee
22 in accordance with paragraph (b) of this subsection. The deliberations
23 may be extended under this paragraph only by a majority vote of the
24 members of the committee. If a quorum of members present at a
25 meeting comprises an unequal number of hospital service staff and
26 hospital service managers, only an equal number of staff and manag-
27 ers may vote.

28 “(d) A hospital service staffing plan adopted by a hospital service
29 staffing committee, a chief executive officer or the chief executive
30 officer's designee must include any staffing-related terms and condi-

1 tions that were previously adopted through any applicable collective
2 bargaining agreement, including any meal break and rest break re-
3 quirements, unless a term or condition is in direct conflict with an
4 applicable statute or administrative rule.

5 “(7) A hospital service staffing committee must meet three times
6 each year and at the call of either cochair, at a time and place speci-
7 fied by the cochairs.

8 “(8)(a) Except as provided in paragraph (b) of this subsection, a
9 hospital service staffing committee meeting must be open to:

10 “(A) The hospital’s service staff, who shall be offered the opportu-
11 nity to provide feedback to the committee during the committee’s
12 meetings; and

13 “(B) Other observers or presenters invited by either cochair.

14 “(b) While the committee is deliberating or voting during a meet-
15 ing, either cochair may exclude individuals described in paragraph (a)
16 of this subsection.

17 “(9) Minutes must be taken at every hospital service staffing com-
18 mittee meeting and the minutes must:

19 “(a) Include all motions made and the outcome of all votes taken;

20 “(b) Include a summary of all discussions; and

21 “(c) Be made available in a timely manner to any of the hospital
22 staff upon request.

23 “(10) A manager shall release from their duties staff and managers
24 who serve on the hospital service staffing committee and compensate
25 the staff and managers who serve on the committee for time spent
26 attending committee meetings.

27 “(11) The hospital shall submit the hospital service staffing plan
28 adopted under subsection (6) of this section to the Oregon Health Au-
29 thority no later than 30 days after adoption of the staffing plan and
30 shall submit any subsequent changes to the authority no later than

1 30 days after the changes are adopted.

2 “(12) Each hospital unit, as defined by the chief executive officer
3 or the chief executive officer’s designee, may deviate from the hospital
4 service staffing plan within a period of 12 consecutive hours, no more
5 than six times during a rolling 30-day period, without being in vio-
6 lation of the staffing plan. The unit manager must notify the hospital
7 service staffing committee cochairs no later than 10 days after each
8 deviation. Each subsequent deviation during the 30-day period consti-
9 tutes a separate violation under section 20 of this 2023 Act.

10 **“SECTION 5. (1) A hospital nurse staffing committee, a professional
11 and technical staffing committee and a hospital service staffing com-
12 mittee may, by mutual agreement, combine two or more of the staff-
13 ing committees into one committee if:**

14 **“(a) The structures of the committees to be combined meet the re-
15 quirements of ORS 441.154 and section 3 or 4 of this 2023 Act, as ap-
16 plicable; and**

17 **“(b) The members of the combined committee are selected from
18 each committee by an exclusive representative or otherwise as pro-
19 vided in ORS 441.154 (1)(b) and (c), section 3 (1)(b) and (c) of this 2023
20 Act and section 4 (1)(b) and (c) of this 2023 Act.**

21 **“(2) A majority of members of each staffing committee constitutes
22 a quorum for the transaction of the business of the combined com-
23 mittee. If there is an unequal number of staff and management from
24 each committee present at a meeting of the combined committee, only
25 an equal number of staff and managers from each committee may
26 vote.**

27 **“(3) Disputes arising in combined committees shall be resolved us-
28 ing the applicable dispute resolution processes under section 3, 4 or 9
29 of this 2023 Act.**

30 **“SECTION 6. (1) As used in this section, ‘unit’ means a hospital**

1 unit as defined by the chief executive officer of the hospital or the
2 chief executive officer's designee.

3 “(2) With respect to direct care registered nurses, a nurse staffing
4 plan must ensure that at all times:

5 “(a) In an emergency department:

6 “(A) A direct care registered nurse is assigned to not more than one
7 trauma patient; and

8 “(B) The ratio of direct care registered nurses to patients averages
9 no more than one to four over a 12-hour shift and a single direct care
10 registered nurse may not be assigned more than five patients at one
11 time. Direct care registered nurses assigned to trauma patients may
12 not be taken into account in determining the average ratio.

13 “(b) In an intensive care unit, a direct care registered nurse is as-
14 signed to no more than two patients.

15 “(c) In a labor and delivery unit, a direct care registered nurse is
16 assigned to no more than:

17 “(A) Two patients if the patients are not in active labor or experi-
18 encing complications; or

19 “(B) One patient if the patient is in active labor or if the patient is
20 at any stage of labor and is experiencing complications.

21 “(d) In a postpartum, antepartum and well-baby nursery, a direct
22 care registered nurse is assigned to no more than six patients, count-
23 ing mother and baby each as separate patients.

24 “(e) In a mother-baby unit, a direct care registered nurse is as-
25 signed to no more than eight patients, counting mother and baby each
26 as separate patients.

27 “(f) In an operating room, a direct care registered nurse is assigned
28 to no more than one patient.

29 “(g) In an oncology unit, a direct care registered nurse is assigned
30 to no more than four patients.

1 “(h) In a post-anesthesia care unit, a direct care registered nurse
2 is assigned to no more than two patients.

3 “(i) In an intermediate care unit, a direct care registered nurse is
4 assigned to no more than three patients.

5 “(j) In a medical-surgical unit, a direct care registered nurse is as-
6 signed to no more than five patients.

7 “(k) In a cardiac telemetry unit, a direct care registered nurse is
8 assigned to no more than four patients.

9 “(L) In a pediatric unit, a direct care registered nurse is assigned
10 to no more than four patients.

11 “(3) Notwithstanding subsection (2) of this section, the direct care
12 registered nurse-to-patient ratio for an individual patient shall be
13 based on a licensed independent practitioner’s classification of the
14 patient, as indicated in the patient’s medical record, regardless of the
15 unit where the patient is being cared for.

16 “(4) With the approval of a majority of the members of the hospital
17 nurse staffing committee, a unit can deviate from the direct care
18 registered nurse-to-patient ratios in subsection (2) of this section, in
19 pursuit of innovative care models that were considered by the com-
20 mittee, by allowing other clinical care staff to constitute up to 50
21 percent of the registered nurses needed to comply with the applicable
22 nurse-to-patient ratio. The staffing in an innovative care model must
23 be reapproved by the committee every two years.

24 “(5) A hospital shall provide for meal breaks and rest breaks in ac-
25 cordance with ORS 653.261, and rules implementing ORS 653.261, and
26 any applicable collective bargaining agreement.

27 “(6) Each hospital unit may deviate from a nurse staffing plan, ex-
28 cept with respect to meal breaks and rest breaks, including the appli-
29 cable registered nurse-to-patient ratios under this section, within a
30 period of 12 consecutive hours, no more than six times during a rolling

1 30-day period, without being in violation of the nurse staffing plan.
2 The unit manager must notify the hospital nurse staffing committee
3 no later than 10 days after each deviation. Each subsequent deviation
4 during the 30-day period constitutes a separate violation under section
5 20 of this 2023 Act.

6 “(7) A hospital may not require a direct care registered nurse to be
7 assigned to more patients than as specified in this section or in the
8 nurse staffing plan approved by the hospital nurse staffing committee,
9 as applicable.

10 “(8) A charge nurse may:

11 “(a) Take patient assignments, including patient assignments taken
12 for the purpose of covering staff who are on meal breaks or rest
13 breaks, in units with 10 or fewer beds;

14 “(b) Take patient assignments, including patient assignments taken
15 for the purpose of covering staff who are on meal breaks or rest
16 breaks, in units with 11 or more beds with the approval of the hospital
17 nurse staffing committee; and

18 “(c) Be taken into account in determining the direct care registered
19 nurse-to-patient ratio during periods when the charge nurse is taking
20 patient assignments under this subsection.

21 SECTION 7. (1) As used in this section, ‘psychiatric unit’ includes:

22 “(a) Inpatient psychiatric units;

23 “(b) Psychiatric geriatric units;

24 “(c) Psychiatric pediatric units;

25 “(d) Emergency departments that provide psychiatric emergency
26 service, as defined by the Oregon Health Authority by rule; and

27 “(e) The Oregon State Hospital.

28 “(2) A psychiatric unit shall create a multidisciplinary subcommit-
29 tee of the hospital nurse staffing committee consisting of staff from
30 the unit. The subcommittee shall adopt the staffing plan for the psy-

1 **chiatric unit and shall be considered a hospital nurse staffing com-**
2 **mittee for purposes of:**

3 **“(a) The adoption of a nurse staffing plan under ORS 441.154 and**
4 **441.155; and**

5 **“(b) Provisions of section 9 of this 2023 Act related to:**

6 **“(A) Dispute resolution through mandatory arbitration; and**

7 **“(B) Determining the circumstances when the nurse-to-patient ra-**
8 **tios in section 6 of this 2023 Act will not apply.**

9 **“SECTION 8. A hospital may not assign a certified nursing assistant**
10 **to more than seven patients at a time during a day or evening shift**
11 **or to more than 11 patients at a time during a night shift.**

12 **“SECTION 9. (1) Direct care registered nurse-to-patient staffing**
13 **ratios under section 6 of this 2023 Act do not apply to the care of:**

14 **“(a) Patients in intensive care or critical units in circumstances**
15 **prescribed by the hospital nurse staffing committee;**

16 **“(b) Emergency department patients who are in critical condition,**
17 **until they are stable;**

18 **“(c) Patients in swing beds, as defined by the Centers for Medicare**
19 **and Medicaid Services;**

20 **“(d) Patients, in inpatient units, who are ready for discharge but**
21 **are facing a barrier to discharge, as indicated by a licensed independ-**
22 **ent practitioner in each patient’s medical record;**

23 **“(e) Patients, including patients in an emergency department, who**
24 **are located in adjacent rooms or the same room in the hospital and**
25 **who are ready for discharge but are facing a barrier to discharge, as**
26 **indicated by a licensed independent practitioner in each patient’s**
27 **medical record;**

28 **“(f) Patients in outpatient units that operate under a hospital’s li-**
29 **cence; or**

30 **“(g) Patients in psychiatric units.**

1 **“(2) For patients described in subsection (1) of this section, the**
2 **hospital nurse staffing committee established under ORS 441.154 shall**
3 **adopt a nurse staffing plan that is:**

4 **“(a) Consistent with nationally recognized nurse staffing standards**
5 **or benchmarks;**

6 **“(b) Consistent with a tool that measures patient acuity and inten-**
7 **sity and that has been calibrated to the applicable unit; or**

8 **“(c) Approved after the committee has considered:**

9 **“(A) The specialized qualifications and competencies of the staff in**
10 **the unit;**

11 **“(B) Historic acuity and intensity of the patients in the unit;**

12 **“(C) Nationally recognized nurse staffing standards, if any; and**

13 **“(D) Ensuring patient access to care.**

14 **“(3)(a)(A) If the hospital nurse staffing committee does not adopt**
15 **a nurse staffing plan under subsection (2) of this section, either**
16 **cochair of the committee may invoke the commencement of a 60-day**
17 **period during which the committee shall continue to develop the**
18 **staffing plan.**

19 **“(B) If by the end of the 60-day period, the hospital nurse staffing**
20 **committee does not adopt a nurse staffing plan, the members of the**
21 **committee may extend deliberations for one additional 60-day period**
22 **only by a majority vote of the members of the committee.**

23 **“(C) If a quorum of members present at a meeting comprises an**
24 **unequal number of nursing staff and managers, only an equal number**
25 **of staff and managers may vote.**

26 **“(b) If by the end of the initial 60-day period of deliberations or by**
27 **the end of the second 60-day period of deliberations, if deliberations**
28 **are extended under subsection (3)(a)(B) of this section, the hospital**
29 **nurse staffing committee does not adopt a nurse staffing plan, the**
30 **cochairs of the committee shall submit the disputed plan or parts of**

1 the plan, as applicable, to the Oregon Health Authority, and the au-
2 thority shall initiate expedited binding arbitration.

3 “(c) The arbitrator shall be selected using alternating strikes by the
4 cochairs or their designees from a list of seven drawn from the inter-
5 est arbitrator panel maintained by the State Conciliation Service.

6 “(d) Arbitration must be scheduled by mutual agreement no later
7 than 30 calendar days after the cochairs submit the disputed nurse
8 staffing plan or the disputed parts of the plan to the authority except
9 as, by mutual agreement, the time may be extended.

10 “(e) The arbitrator shall issue a decision on the nurse staffing plan
11 or the disputed parts of the plan, as applicable, based on the written
12 submissions of evidence and arguments and may not conduct an
13 evidentiary hearing or allow discovery. The arbitrator’s decision must
14 be based on and within the parameters of the versions of the plan or
15 the disputed parts of the plan submitted by the cochairs and must be
16 within the staffing parameters.

17 “(f) The arbitrator shall issue a decision no later than 60 days after
18 the submission of evidence and written arguments.

19 “(g) The hospital shall pay for the cost of the arbitrator.

20 “SECTION 10. Section 11 of this 2023 Act is added to and made a
21 part of ORS 653.010 to 653.261.

22 “SECTION 11. (1) As used in this section:

23 “(a)(A) ‘Employee’ includes the following:

24 “(i) Registered nurses who provide direct care as defined in ORS
25 441.151;

26 “(ii) Professional staff as defined in ORS 441.151;

27 “(iii) Technical staff, as defined in ORS 441.151; and

28 “(iv) Service staff, as defined in ORS 441.151.

29 “(B) ‘Employee’ does not include an individual described in sub-
30 paragraph (A) of this paragraph if the individual is covered by a col-

1 lective bargaining agreement that includes a monetary remedy for
2 missed meal periods and missed rest periods.

3 “(b) ‘Exclusive representative’ has the meaning given that term in
4 ORS 441.151.

5 “(2) An employee or an exclusive representative of an employee may
6 enforce requirements for meal periods and rest periods adopted by rule
7 by the Commissioner of the Bureau of Labor and Industries under ORS
8 653.261 by electing to file a complaint in one of the following ways:

9 “(a) With the Oregon Health Authority in accordance with section
10 12 of this 2023 Act; or

11 “(b) With the Commissioner of the Bureau of Labor and Industries
12 in accordance with rules adopted pursuant to ORS 653.261.

13 “(3) Upon the receipt of a complaint forwarded by the authority to
14 the commissioner under section 12 of this 2023 Act, the commissioner
15 shall proceed on the complaint in accordance with this section.

16 “(4) The commissioner shall deem a complaint filed under sub-
17 section (2) of this section to be withdrawn if notified by an employer
18 that:

19 “(a) The employer received a grievance filed by the employee or an
20 exclusive representative of the employee alleging the same violation
21 as the violation alleged in a complaint filed under subsection (2) of this
22 section; or

23 “(b) The employee or the exclusive representative of the employee
24 has filed a civil complaint against the employer alleging the same vi-
25 olation as the violation alleged in a complaint filed under subsection
26 (2) of this section.

27 “(5) If the commissioner receives a complaint under subsection
28 (2)(a) of this section that was filed with the authority more than 60
29 days after the date of the missed meal period or missed rest period
30 alleged in the complaint, the commissioner:

1 “(a) Shall dismiss the complaint; and
2 “(b) May not investigate the complaint or take any enforcement
3 action with respect to the complaint.
4 “(6)(a) Following an investigation of a complaint filed under sub-
5 section (2)(a) of this section, if the commissioner determines that a
6 civil penalty is appropriate, the commissioner shall provide to the
7 hospital, to the cochairs of the relevant staffing committee and to the
8 exclusive representative, if any, of the complainant a notice, in ac-
9 cordance with ORS 183.415, 183.417 and 183.745, of the commissioner’s
10 intent to assess a civil penalty of \$200.
11 “(b) A civil penalty imposed under this section:
12 “(A) Constitutes the liquidated damages of the complainant for the
13 missed meal period or rest period;
14 “(B) May not be combined with a penalty assessed under ORS
15 653.256;
16 “(C) Precludes any other penalty or remedy provided by law for the
17 violation found by the commissioner; and
18 “(D) Becomes final if an application for hearing is not requested in
19 a timely manner.
20 “(7)(a) The liquidated damages imposed under this section shall be
21 paid to the complainant no later than 15 business days after the date
22 on which the order becomes final by operation of law or 15 days after
23 the issuance of a decision on appeal.
24 “(b) A hospital shall provide to the commissioner proof of the pay-
25 ment of liquidated damages under paragraph (a) of this subsection no
26 later than 30 days after making the payment.
27 “(8) An employee’s failure to file a complaint under subsection (2)
28 of this section does not preclude the employee from pursuing any
29 other remedy otherwise available to the employee under any provision
30 of law.

1 **“(9) Nothing in this section creates a private cause of action.**

2 **“SECTION 12. (1) As used in this section, ‘employee’ and ‘exclusive**
3 **representative’ have the meanings given those terms in section 11 of**
4 **this 2023 Act.**

5 **“(2) The Oregon Health Authority shall implement a process for an**
6 **employee or an employee’s exclusive representative to file a complaint**
7 **against a hospital under section 11 (2)(a) of this 2023 Act for missed**
8 **meal periods and rest periods.**

9 **“(3) The authority shall forward to the Commissioner of the Bureau**
10 **of Labor and Industries any complaint filed under this section no later**
11 **than 14 days after the complaint is filed.**

12 **“(4) No later than 30 days after receiving a complaint under this**
13 **section, the authority shall provide notice of the filing of the com-**
14 **plaint to the following:**

15 **“(a) The hospital;**

16 **“(b) The cochairs of the relevant staffing committee established**
17 **pursuant to ORS 441.154 or section 3 or 4 of this 2023 Act; and**

18 **“(c) The exclusive representative, if any, of the employee filing the**
19 **complaint.”.**

20 In line 2, delete “12” and insert “13”.

21 In line 4, after “Each” insert “hospital”.

22 In line 34, delete “9, 10 and 11” and insert “7, 8 and 9”.

23 On page 11, delete lines 32 through 45 and delete page 12.

24 On page 13, delete lines 1 through 12 and insert:

25 **“SECTION 14. ORS 441.155 is amended to read:**

26 **“441.155. (1) Each hospital shall implement [the] a written hospital-wide**
27 **staffing plan for nursing services that:**

28 **“(a) Meets the requirements of this section and ORS 441.154 and**
29 **441.156 and sections 6, 7, 8 and 9 of this 2023 Act;**

30 **“(b) Includes any staffing-related terms and conditions that were**

1 **previously adopted through any applicable collective bargaining**
2 **agreement, including meal breaks and rest breaks, unless a term or**
3 **condition is in direct conflict with an applicable statute or adminis-**
4 **trative rule; and**

5 “(c) Has been developed and approved by the hospital nurse staffing
6 committee under ORS 441.154.

7 “(2) *[The staffing plan]* **If the nurse-to-patient ratios in section 6 of**
8 **this 2023 Act apply, the hospital nurse staffing committee:**

9 “(a) **May consider:**

10 “[a] (A) *[Must be based on]* The specialized qualifications and compe-
11 tencies of the nursing staff and *[provide for]* the skill mix and level of com-
12 petency *[necessary]* **needed** to ensure that the hospital is staffed to meet the
13 health care needs of patients;

14 “[b] (B) *[Must be based on]* **The size of the hospital and** a measure-
15 ment of hospital unit activity that quantifies the rate of admissions, dis-
16 charges and transfers for each hospital unit and the time required for a
17 direct care registered nurse belonging to a hospital unit to complete admis-
18 sions, discharges and transfers for that hospital unit;

19 “[c] *Must be based on total diagnoses for each hospital unit and the*
20 *nursing staff required to manage that set of diagnoses;*]

21 “(C) **The unit’s general and predominant patient population as de-**
22 **finied by the Medicare Severity Diagnosis-Related Groups adopted by**
23 **the Centers for Medicare and Medicaid Services, or by other measures**
24 **for patients who are not classified in the Medicare Severity**
25 **Diagnosis-Related Groups;**

26 “[d] (D) *[Must be consistent with]* Nationally recognized evidence-based
27 standards and guidelines established by professional nursing specialty or-
28 ganizations, **if any;**

29 “[e] (E) *[Must recognize]* Differences in patient acuity; **and**

30 “[f] *Must establish minimum numbers of nursing staff, including licensed*

1 *practical nurses and certified nursing assistants, required on specified shifts,*
2 *provided that at least one registered nurse and one other nursing staff member*
3 *is on duty in a unit when a patient is present;]*

4 “[(g) *Must include a formal process for evaluating and initiating limita-*
5 *tions on admission or diversion of patients to another hospital when, in the*
6 *judgment of a direct care registered nurse or a nurse manager, there is an*
7 *inability to meet patient care needs or a risk of harm to patients;]*

8 “[*(h)*] **(F)** [*Must consider*] Tasks not related to providing direct care[, *in-*
9 *cluding meal breaks and rest breaks*]; and

10 “[*(i)* *May not base nursing staff requirements solely on external*
11 *benchmarking data.*]

12 “**(b) Must comply with section 6 of this 2023 Act.**

13 “(3) A hospital must maintain and post, **in a physical location or on-**
14 **line**, a list of on-call nursing staff or staffing agencies to provide replace-
15 ment nursing staff in the event of a vacancy. The list of on-call nursing staff
16 or staffing agencies must be sufficient to provide for replacement nursing
17 staff.

18 “(4)(a) An employer may not impose upon unionized nursing staff any
19 changes in wages, hours or other terms and conditions of employment pur-
20 suant to a staffing plan unless the employer first provides notice to and,
21 upon request, bargains with the union as the exclusive collective bargaining
22 representative of the nursing staff in the bargaining unit.

23 “(b) A staffing plan does not create, preempt or modify a collective bar-
24 gaining agreement or require a union or employer to bargain over the staff-
25 ing plan while a collective bargaining agreement is in effect.

26 “**(5) A hospital shall submit to the Oregon Health Authority a nurse**
27 **staffing plan adopted in accordance with this section and section 9 of**
28 **this 2023 Act and submit any changes to the plan no later than 30 days**
29 **after approval of the changes by the hospital nurse staffing committee.**

30 “**(6) A type A or a type B hospital may vary from the requirements**

1 of section 6 of this 2023 Act if the hospital nurse staffing committee
2 of the hospital has voted to approve the variance. A type A hospital
3 or type B hospital shall notify the authority of the variance through
4 the authority’s website. The notification to the authority shall include
5 a statement signed by the cochairs of the committee, confirming that
6 the committee voted to approve the variance. The variance becomes
7 effective upon the submission of the notification to the authority and
8 remains in effect for two years. A type A or type B hospital may renew
9 a variance or notify the authority of a new variance as provided in this
10 subsection.

11 **“SECTION 15. Notwithstanding ORS 441.155, prior to June 1, 2024,**
12 **a hospital nurse staffing committee established under ORS 441.154 may**
13 **approve a staffing plan that is:**

14 **“(1) Consistent with nationally recognized nurse staffing standards**
15 **or benchmarks;**

16 **“(2) Consistent with a tool that measures patient acuity and inten-**
17 **sity and that has been calibrated to the hospital unit, as defined by the**
18 **hospital nurse staffing committee; or**

19 **“(3) Approved after the hospital nurse staffing committee has con-**
20 **sidered:**

21 **“(a) The specialized qualifications and competencies of the staff in**
22 **the unit;**

23 **“(b) The historic acuity and intensity of the patients in the unit;**

24 **“(c) Nationally recognized nurse staffing standards, if any; and**

25 **“(d) Patients’ access to care.”.**

26 In line 13, delete “15” and insert “16”.

27 In line 29, after “meal” insert “breaks”.

28 Delete lines 37 through 45 and delete page 14.

29 On page 15, delete lines 1 through 6 and insert:

30 **“SECTION 17. Section 6 of this 2023 Act is amended to read:**

1 **“Sec. 6.** (1) As used in this section, ‘unit’ means a hospital unit as defined
2 by the chief executive officer of the hospital or the chief executive officer’s
3 designee.

4 “(2) With respect to direct care registered nurses, a nurse staffing plan
5 must ensure that at all times:

6 “(a) In an emergency department:

7 “(A) A direct care registered nurse is assigned to not more than one
8 trauma patient; and

9 “(B) The ratio of direct care registered nurses to patients averages no
10 more than one to four over a 12-hour shift and a single direct care registered
11 nurse may not be assigned more than five patients at one time. Direct care
12 registered nurses assigned to trauma patients may not be taken into account
13 in determining the average ratio.

14 “(b) In an intensive care unit, a direct care registered nurse is assigned
15 to no more than two patients.

16 “(c) In a labor and delivery unit, a direct care registered nurse is assigned
17 to no more than:

18 “(A) Two patients if the patients are not in active labor or experiencing
19 complications; or

20 “(B) One patient if the patient is in active labor or if the patient is at
21 any stage of labor and is experiencing complications.

22 “(d) In a postpartum, antepartum and well-baby nursery, a direct care
23 registered nurse is assigned to no more than six patients, counting mother
24 and baby each as separate patients.

25 “(e) In a mother-baby unit, a direct care registered nurse is assigned to
26 no more than eight patients, counting mother and baby each as separate
27 patients.

28 “(f) In an operating room, a direct care registered nurse is assigned to
29 no more than one patient.

30 “(g) In an oncology unit, a direct care registered nurse is assigned to no

1 more than four patients.

2 “(h) In a post-anesthesia care unit, a direct care registered nurse is as-
3 signed to no more than two patients.

4 “(i) In an intermediate care unit, a direct care registered nurse is assigned
5 to no more than three patients.

6 “(j) In a medical-surgical unit, a direct care registered nurse is assigned
7 to no more than [*five*] **four** patients.

8 “(k) In a cardiac telemetry unit, a direct care registered nurse is assigned
9 to no more than four patients.

10 “(L) In a pediatric unit, a direct care registered nurse is assigned to no
11 more than four patients.

12 “(3) Notwithstanding subsection (2) of this section, the direct care regis-
13 tered nurse-to-patient ratio for an individual patient shall be based on a li-
14 censed independent practitioner’s classification of the patient, as indicated
15 in the patient’s medical record, regardless of the unit where the patient is
16 being cared for.

17 “(4) With the approval of a majority of the members of the hospital nurse
18 staffing committee, a unit can deviate from the direct care registered nurse-
19 to-patient ratios in subsection (2) of this section, in pursuit of innovative
20 care models that were considered by the committee, by allowing other clin-
21 ical care staff to constitute up to 50 percent of the registered nurses needed
22 to comply with the applicable nurse-to-patient ratio. The staffing in an in-
23 novative care model must be reapproved by the committee every two years.

24 “(5) A hospital shall provide for meal breaks and rest breaks in accord-
25 ance with ORS 653.261, and rules implementing ORS 653.261, and any appli-
26 cable collective bargaining agreement.

27 “(6) Each hospital unit may deviate from a nurse staffing plan, except
28 with respect to meal breaks and rest breaks, including the applicable regis-
29 tered nurse-to-patient ratios under this section, within a period of 12 con-
30 secutive hours, no more than six times during a rolling 30-day period,

1 without being in violation of the nurse staffing plan. The unit manager must
2 notify the hospital nurse staffing committee no later than 10 days after each
3 deviation. Each subsequent deviation during the 30-day period constitutes a
4 separate violation under section 20 of this 2023 Act.

5 “(7) A hospital may not require a direct care registered nurse to be as-
6 signed to more patients than as specified in this section or in the nurse
7 staffing plan approved by the hospital nurse staffing committee, as applica-
8 ble.

9 “(8) A charge nurse may:

10 “(a) Take patient assignments, including patient assignments taken for
11 the purpose of covering staff who are on meal breaks or rest breaks, in units
12 with 10 or fewer beds;

13 “(b) Take patient assignments, including patient assignments taken for
14 the purpose of covering staff who are on meal breaks or rest breaks, in units
15 with 11 or more beds with the approval of the hospital nurse staffing com-
16 mittee; and

17 “(c) Be taken into account in determining the direct care registered
18 nurse-to-patient ratio during periods when the charge nurse is taking patient
19 assignments under this subsection.

20

21 “(Enforcement)

22

23 “**SECTION 18.** ORS 441.171 is amended to read:

24 “441.171. *[(1) For purposes of ensuring compliance with ORS 441.152 to*
25 *441.177, the Oregon Health Authority shall:]*

26 “*[(a) Within 60 days after receiving a complaint against a hospital for vio-*
27 *lating a provision of ORS 441.152 to 441.177, conduct an on-site investigation*
28 *of the hospital; and]*

29 “*[(b) Within 60 days after issuing an order requiring a hospital to imple-*
30 *ment a plan to correct a violation of ORS 441.152 to 441.177, conduct an in-*

1 *vestigation of the hospital to ensure compliance with the plan.]*

2 *“(2) When conducting an investigation of a hospital to ensure compliance*
3 *with ORS 441.152 to 441.177, the authority shall, if the authority provides no-*
4 *tice of the investigation to the hospital, provide notice of the investigation to*
5 *the cochairs of the hospital nurse staffing committee established pursuant to*
6 *ORS 441.154.]*

7 *“(3) Following an investigation conducted pursuant to this section, the*
8 *authority shall provide in writing a report of the authority’s findings to the*
9 *hospital and the cochairs of the hospital nurse staffing committee.]*

10 *“(4) When conducting an investigation of a hospital to ensure compliance*
11 *with ORS 441.152 to 441.177, the authority may:]*

12 *“(a) Take evidence;]*

13 *“(b) Take the depositions of witnesses in the manner provided by law in*
14 *civil cases;]*

15 *“(c) Compel the appearance of witnesses in the manner provided by law in*
16 *civil cases;]*

17 *“(d) Require answers to interrogatories; and]*

18 *“(e) Compel the production of books, papers, accounts, documents and tes-*
19 *timony pertaining to the matter under investigation.]*

20 **“(1) As used in this section, ‘valid complaint’ means a complaint**
21 **containing an allegation that, if assumed to be true, is a violation**
22 **listed in section 20 of this 2023 Act.**

23 **“(2) To ensure compliance with ORS 441.152 to 441.177, the Oregon**
24 **Health Authority shall:**

25 **“(a) Establish a method by which a hospital staff person or an ex-**
26 **clusive representative of a hospital staff person may submit a com-**
27 **plaint through the authority’s website regarding any violation listed**
28 **in section 20 of this 2023 Act;**

29 **“(b) No later than 14 days after receiving a complaint, send a copy**
30 **of the complaint to the exclusive representative, if any, of the staff**

1 person or staff persons who filed the complaint;

2 “(c) No later than 30 days after receiving a valid complaint of a vi-
3 olation listed in section 20 of this 2023 Act, open an investigation of
4 the hospital and provide a notice of the investigation to the hospital
5 and the cochairs of the relevant staffing committee established pur-
6 suant to ORS 441.154 or section 3 or 4 of this 2023 Act, and to the ex-
7 clusive representative, if any, of the staff person or staff persons filing
8 the complaint. The notice must include a summary of the complaint
9 that does not include the complainant’s name or the specific date,
10 shift or unit but does include the calendar week in which the com-
11 plaint arose;

12 “(d) Not later than 80 days after opening the investigation, conclude
13 the investigation and provide a written report on the complaint to the
14 hospital, the cochairs of the hospital staffing committee and the ex-
15 clusive representative, if any, of the staff person or staff persons filing
16 the complaint. The report:

17 “(A) Shall include a summary of the complaint;

18 “(B) Shall include the nature of the alleged violation or violations;

19 “(C) Shall include the authority’s findings and factual bases for the
20 findings;

21 “(D) Shall include other information the authority determines is
22 appropriate to include in the report; and

23 “(E) May not include the name of any complainant, the name of
24 any patient or the names of any individuals that the authority inter-
25 viewed in investigating the complaint;

26 “(e) If the authority issues a warning or imposes one or more civil
27 penalties based on the report described in paragraph (d) of this sub-
28 section, provide a notice of the civil penalty that complies with ORS
29 183.415, 183.745 and 441.175 to the hospital, the cochairs of the applica-
30 ble hospital staffing committee and the exclusive representative, if

1 any, of the staff person or staff persons who filed the complaint; and

2 “(f) In determining whether to impose a civil penalty, consider all
3 relevant evidence, including but not limited to witness testimony,
4 written documents and the observations of the investigator.

5 “(3) A hospital subject to a valid complaint shall provide to the
6 authority, no later than 20 days after receiving the notice under sub-
7 section (1)(c) of this section:

8 “(a) The staffing plan that is the subject of the complaint;

9 “(b) If relevant to the complaint, documents that show the sched-
10 uled staffing and the actual staffing on the unit that is the subject of
11 the complaint during the period of time specified in the complaint; and

12 “(c) Documents that show the actions described in ORS 441.175 (4),
13 if any, that the hospital took to comply with the staffing plan or to
14 address the issue raised by the complaint.

15 “(4) In conducting an investigation, the authority shall review any
16 document:

17 “(a) Related to the complaint that is provided by the exclusive rep-
18 resentative that filed the complaint or by the hospital staff person who
19 filed the complaint and the person’s exclusive representative, if any;
20 and

21 “(b) Provided by the hospital in response to the complaint.

22 “(5) In conducting an investigation, the authority may:

23 “(a) Make an on-site inspection of the unit that is the subject of the
24 complaint;

25 “(b) Interview a manager for the unit and any other staff persons
26 with information relevant to the complaint;

27 “(c) Interview the cochairs of the relevant staffing committee;

28 “(d) Interview the staff person or staff persons who filed the com-
29 plaint unless the individual declines to be interviewed; and

30 “(e) Compel the production of books, papers, accounts, documents

1 and testimony pertaining to the complaint, other than documents that
2 are privileged or not otherwise subject to disclosure.

3 “(6) A complaint by a hospital staff person or the staff person’s
4 exclusive representative must be filed no later than 60 days after the
5 date of the violation alleged in the complaint. The authority may not
6 investigate a complaint or take any enforcement action with respect
7 to a complaint that has not been filed timely.”.

8 In line 7, delete “17” and insert “19”.

9 In line 10, delete “18” and insert “20”.

10 In line 15, delete “18” and insert “20”.

11 In line 20, delete “hospital”.

12 In line 24, delete “staff” and insert “employees”.

13 Delete lines 33 through 45 and delete page 16.

14 On page 17, delete lines 1 through 7 and insert:

15 **“SECTION 20. (1) Following the receipt of a complaint and com-
16 pletion of an investigation described in ORS 441.171, for a violation
17 described in subsection (2) of this section, the Oregon Health Author-
18 ity shall:**

19 **“(a) Issue a warning for the first violation in a four-year period;**

20 **“(b) Impose a civil penalty of \$1,750 for the second violation of the
21 same provision in a four-year period;**

22 **“(c) Impose a civil penalty of \$2,500 for the third violation of the
23 same provision in a four-year period; and**

24 **“(d) Impose a civil penalty of \$5,000 for the fourth and subsequent
25 violations of the same provision in a four-year period.**

26 **“(2) The authority shall take the actions described in subsection (1)
27 of this section for the following violations by a hospital of ORS 441.152
28 to 441.177:**

29 **“(a) Failure to establish a hospital professional and technical staff-
30 ing committee or a hospital service staffing committee;**

1 **“(b) Failure to create a professional and technical staffing plan or**
2 **a hospital service staffing plan;**

3 **“(c) Failure to adopt a nurse staffing plan by agreement or after**
4 **binding arbitration;**

5 **“(d) Failure to comply with the staffing level in the nurse staffing**
6 **plan, including the nurse-to-patient staffing ratios prescribed in sec-**
7 **tion 6 of this 2023 Act, if applicable, and the failure to comply is not**
8 **an allowed deviation described in section 6 (6) of this 2023 Act;**

9 **“(e) Failure to comply with the staffing level in the professional and**
10 **technical staffing plan or the hospital service staffing plan and the**
11 **failure to comply is not an allowed deviation as described in section 3**
12 **(12) or 4 (12) of this 2023 Act;**

13 **“(f) Failure to comply with the staffing requirements for certified**
14 **nursing assistants in section 8 of this 2023 Act and the failure is not**
15 **an allowed deviation under section 4 (12) of this 2023 Act; or**

16 **“(g) Requiring a nursing staff, except as allowed by ORS 441.166, to**
17 **work:**

18 **“(A) Beyond an agreed-upon prearranged shift regardless of the**
19 **length of the shift;**

20 **“(B) More than 48 hours in any hospital-defined work week;**

21 **“(C) More than 12 hours in a 24-hour period; or**

22 **“(D) During the 10-hour period immediately following the 12th hour**
23 **worked during a 24-hour period.**

24 **“(3) If a staff person at a hospital is unable to attend a staffing**
25 **committee meeting because the staff person was not released from**
26 **other hospital duties to attend the meeting, in violation of ORS 441.154**
27 **(9) or section 3 (10) or 4 (10) of this 2023 Act, the authority shall:**

28 **“(a) Issue a warning for the first violation; and**

29 **“(b) Impose a civil penalty of \$500 for a second and each subsequent**
30 **violation.**

1 “(4) A direct care staff person, a hospital professional or technical
2 staff person or a hospital service staff person, or an exclusive repre-
3 sentative of a direct care staff person, a hospital professional or tech-
4 nical staff person or a hospital service staff person, may elect to
5 enforce meal break and rest break violations under ORS 653.261 by
6 filing a complaint with the authority in accordance with ORS
7 441.171.”.

8 In line 8, delete “19” and insert “21”.

9 In line 12, delete “section 16 (1)(d) of this 2023 Act” and insert “ORS
10 441.171 (2)(d)”.

11 In line 14, delete “18” and insert “20”.

12 In line 21, delete “20” and insert “22”.

13 On page 18, line 42, delete “21” and insert “23”.

14 On page 19, line 1, delete “22” and insert “24”.

15 In line 26, delete “23” and insert “25”.

16 On page 20, line 5, delete “and section 16 of this 2023 Act”.

17 In line 9, delete “and section 16 of this 2023 Act”.

18 Delete lines 30 through 45.

19 On page 21, delete lines 1 through 21 and insert:

20 “**SECTION 26.** ORS 441.173 is amended to read:

21 “441.173. A hospital shall keep and maintain records necessary to demon-
22 strate compliance with ORS 441.152 to 441.177. [*For purposes of this section,*
23 *the Oregon Health Authority shall adopt rules specifying the content of the*
24 *records and the form and manner of keeping, maintaining and disposing of the*
25 *records.*] A hospital must provide records kept and maintained under this
26 section to the **Oregon Health** Authority upon request.

27 “**SECTION 27.** ORS 653.261 is amended to read:

28 “653.261. (1)(a) The Commissioner of the Bureau of Labor and Industries
29 may adopt rules prescribing such minimum conditions of employment, ex-
30 cluding minimum wages, in any occupation as may be necessary for the

1 preservation of the health of employees. The rules may include, but are not
2 limited to, minimum meal periods and rest periods, and maximum hours of
3 work, but not less than eight hours per day or 40 hours per workweek;
4 however, after 40 hours of work in one workweek overtime may be paid, but
5 in no case at a rate higher than one and one-half times the regular rate of
6 pay of the employees when computed without benefit of commissions, over-
7 rides, spiffs and similar benefits.

8 “(b) As used in this subsection, ‘workweek’ means a fixed period of time
9 established by an employer that reflects a regularly recurring period of 168
10 hours or seven consecutive 24-hour periods. A workweek may begin on any
11 day of the week and any hour of the day and need not coincide with a cal-
12 endar week. The beginning of the workweek may be changed if the change
13 is intended to be permanent and is not designed to evade overtime require-
14 ments.

15 “(2) Rules adopted by the commissioner pursuant to subsection (1) of this
16 section do not apply to individuals employed by this state or a political
17 subdivision or quasi-municipal corporation thereof if other provisions of law
18 or collective bargaining agreements prescribe rules pertaining to conditions
19 of employment referred to in subsection (1) of this section, including meal
20 periods, rest periods, maximum hours of work and overtime.

21 “(3) **Except as provided in section 11 (2)(a) of this 2023 Act**, rules
22 adopted by the commissioner pursuant to subsection (1) of this section re-
23 garding meal periods and rest periods do not apply to nurses who provide
24 acute care in hospital settings if provisions of collective bargaining agree-
25 ments entered into by the nurses prescribe rules concerning meal periods and
26 rest periods.

27 “(4)(a) The commissioner shall adopt rules regarding meal periods for
28 employees who serve food or beverages, receive tips and report the tips to
29 the employer.

30 “(b) In rules adopted by the commissioner under paragraph (a) of this

1 subsection, the commissioner shall permit an employee to waive a meal pe-
2 riod. However, an employer may not coerce an employee into waiving a meal
3 period.

4 “(c) Notwithstanding ORS 653.256 (1), in addition to any other penalty
5 provided by law, the commissioner may assess a civil penalty not to exceed
6 \$2,000 against an employer that the commissioner finds has coerced an em-
7 ployee into waiving a meal period in violation of this subsection. Each vio-
8 lation is a separate and distinct offense. In the case of a continuing
9 violation, each day’s continuance is a separate and distinct violation.

10 “(d) Civil penalties authorized by this subsection shall be imposed in the
11 manner provided in ORS 183.745. All sums collected as penalties under this
12 subsection shall be applied and paid over as provided in ORS 653.256 (4).

13

14

“IMPLEMENTATION

15

16 **“SECTION 28. (1) The Oregon Health Authority may adopt rules**
17 **necessary to carry out ORS 441.152 to 441.177 only with respect to:**

18 **“(a) The processing of complaints under ORS 441.171;**

19 **“(b) The processing of complaints regarding meal breaks and rest**
20 **breaks under section 12 of this 2023 Act;**

21 **“(c) The requirements for nurse-to-patient ratios in emergency de-**
22 **partments under section 6 (2)(a) of this 2023 Act; and**

23 **“(d) The provisions of ORS 441.166 (1) and (8)(b).**

24 **“(2) The authority shall convene a subcommittee of the Nurse**
25 **Staffing Advisory Board established in ORS 441.152 to advise the au-**
26 **thority in the adoption of rules under this section. The subcommittee**
27 **must have equal representation of hospital employees and hospital**
28 **managers and shall include individuals representing labor organiza-**
29 **tions and organizations representing hospitals.**

30 **“SECTION 29. (1)(a) A nurse staffing plan that is in effect on the**

1 effective date of this 2023 Act that does not comply with ORS 441.152
2 to 441.177 continues in force until a hospital nurse staffing committee
3 revises the plan or develops a new plan. The committee shall revise
4 the plan, or develop a new plan, to comply with ORS 441.152 to 441.177
5 no later than June 1, 2024.

6 “(b) A hospital must be in compliance with section 6 of this 2023
7 Act no later than June 1, 2024.

8 “(c) A nurse staffing plan that is in effect on the effective date of
9 this 2023 Act and that complies with ORS 441.152 to 441.177 remains in
10 effect until revised in accordance with ORS 441.154.

11 “(2) A hospital must establish a hospital professional and technical
12 staffing committee and a hospital service staffing committee in ac-
13 cordance with sections 3 and 4 of this 2023 Act no later than December
14 31, 2024.

15 “(3)(a) Except as provided in subsection (4) of this section, the
16 Oregon Health Authority may begin the enforcement of:

17 “(A) Sections 3 and 4 of this 2023 Act on the date specified in sub-
18 section (2) of this section;

19 “(B) Section 6 of this 2023 Act on the date specified in subsection
20 (1) of this section; and

21 “(C) The amendments to ORS 441.020, 441.151, 441.152, 441.154,
22 441.155, 441.156, 441.164, 441.165, 441.171, 441.173, 441.175 and 441.177 by
23 sections 1, 13, 14, 16, 18, 19 and 21 to 26 of this 2023 Act on the effective
24 date of this 2023 Act.

25 “(b) The authority shall adopt rules to implement the process for
26 receiving complaints under ORS 441.171 and section 12 of this 2023 Act
27 no later than January 1, 2024. Complaints may be filed for any vio-
28 lation occurring on or after the effective date of this 2023 Act.

29 “(4) The authority may not impose civil penalties under section 20
30 of this 2023 Act for violations that occur before June 1, 2025.

1 "FINANCING

2
3 **"SECTION 30.** Notwithstanding any other provision of law, the
4 General Fund appropriation made to the Bureau of Labor and Indus-
5 tries by section 1, chapter ____, Oregon Laws 2023 (Enrolled Senate
6 Bill 5515), for the biennium beginning July 1, 2023, is increased by
7 \$188,577 for the implementation and staffing costs to enforce meal
8 break and rest break violations under section 18 of this 2023 Act.

9 **"SECTION 31.** In addition to and not in lieu of any other appropri-
10 ation, there is appropriated to the Oregon Health Authority, for the
11 biennium beginning July 1, 2023, out of the General Fund, the amount
12 of \$1,980,571, which may be expended to investigate complaints and
13 support the Oregon State Hospital staffing committees.

14
15 "REPEALS

16
17 **"SECTION 32.** (1) ORS 441.157 is repealed.

18 **"(2)** Section 15 of this 2023 Act is repealed on June 2, 2024.

19
20 "OPERATIVE DATE

21
22 **"SECTION 33.** (1) The amendments to section 6 of this 2023 Act by
23 section 17 of this 2023 Act become operative on July 1, 2026.

24 **"(2)(a)** Section 11 of this 2023 Act and the amendments to ORS
25 653.261 by section 27 of this 2023 Act become operative on June 1, 2025.

26 **"(b)** The Commissioner of the Bureau of Labor and Industries may
27 take any action before the operative date specified in this subsection
28 that is necessary for the commissioner to exercise, on and after the
29 operative date specified in this subsection, the duties, functions and
30 powers conferred on the commissioner by section 11 of this 2023 Act

1 **and the amendments to ORS 653.261 by section 27 of this 2023 Act.”.**

2 In line 25, delete “27” and insert “34”.

3 In line 31, delete “28” and insert “35”.

4 _____