

To: Members of the Senate Health Care Committee

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This document summarizes the components of SB 469, including amendments that are in the process of being drafted.

The Oregon Nurses Association (ONA) and the Oregon Association of Hospitals and Health Systems (OAHHS) support an amended version of SB 469, which would update Oregon's hospital nurse staffing law to the following:

## **SB 469 with amendments:**

### **Section 1: Hospital Nurse Staffing Committees** *(SB 469 and amendments modify existing law)*

- Each hospital will have a Hospital Nurse Staffing Committee (staffing committee) that is 50 percent direct care staff and 50 percent nurse managers.
- Committee will include at least one direct care registered nurse from each hospital nurse specialty unit
- The staffing committee shall develop a written hospital wide staffing plan to ensure hospital is adequately staffed to meet patient needs.
- Each hospital will provide a process for staff nurses to select the direct-care registered nurse members of the staffing committee
  - Where registered nurses in a hospital are represented by a collective bargaining agreement, the bargaining unit shall be responsible for conducting the selection process for direct care representatives on the staffing committee.
- Adds a staff member whose services are covered by the staffing plan, but who is not a registered nurse, as a voting member of the Hospital Nurse Staffing Committee. This person is part of the 50 percent of the committee composed of direct care nurses.
  - if these workers have a collective bargaining agreement, the bargaining unit shall be responsible for conducting the selection process for that person, if not represented, the nurses will select that person according to the same process for selection of nurse members of the staffing committee.
- If uneven attendance from direct care and nurse managers, each side will carry an equal number of votes
- One direct care nurse and one nurse manager will serve as co-chairs of the staffing committee
- Staffing committee meetings are open to any nursing staff of the hospital to attend as observers. Either co-chair of the committee may invite observers and presenters
- Staffing committee may enter into executive session and only allow voting members of the committee in the room for deliberation and voting.
- Staffing committee meets quarterly or at the call of either co-chair
- Minutes must include motions made, votes taken, and summary of discussion
- Minutes must be available to hospital staff upon request in a timely fashion
- Direct care staff on staffing committee will be released from their patient care assignment and provided with paid time to attend staffing committee meetings

### **Section 1: Impasse and Mediation Process** *(amendments replace triggered ratio described in SB 469 with a mediation process. Mediation is currently a voluntary process described in administrative rule)*

- At any point where the Hospital Nurse Staffing Committee cannot approve a staffing plan, they may invoke a 30 day pre-impasse period during which the Hospital Nurse Staffing Committee will continue to work at resolution of the outstanding issues to approve a plan

- The hospital shall respond in a timely manner to reasonable requests from members of the staffing committee for any data needed to reach resolution
- If the Hospital Nurse Staffing Committee remains unable to approve a plan at the end of the 30 day period, either co-chair shall notify the Oregon Health Authority (OHA) of the impasse.
  - This triggers a mandatory mediation, which must be resolved within 90 days
  - OHA must supply mediator
  - Agreement reached with help of the mediator must be based on requirements for the staffing plan (sections 4 & 5)
  - If mediation is not resolved within 90 days OHA may levy a fine (consistent with existing authority to fine)

**Section 2 & 3: Nurse Staffing Advisory Board** (Nurse Staffing Advisory Board would be created by SB 469. Amendments modify the composition and duties of the advisory board.)

- A 12 member Nurse Staffing Advisory Board is created within OHA
- The board is made up of 6 direct care nurses, and 6 nurse managers
- One of the direct care RN positions may be held by a direct care hospital staff member who is not an RN but whose services are covered by the Nurse Staffing Plan.
- Members are appointed by the Governor. Governor will select a direct care nurse and a nurse manager to serve as co-chairs.
- In selecting the members of the Nurse Staffing Advisory Board, the Governor shall consider members from organized and non-organized hospitals of different sizes, types and geographic location.
- OHA shall staff the Nurse Staffing Advisory Board.
- The Nurse Staffing Advisory Board will
  - advise OHA on compliance with the nurse staffing law
  - It will identify trends, opportunities and concerns related to nurse staffing and make recommendations to the Oregon Health Authority (OHA).
  - review and make recommendations about the OHA nurse staffing complaint process and auditing process
  - report annually to the legislature
- OHA shall provide the Nurse Staffing Advisory Board with nurse staffing plans, annual reviews, findings from and information relating to audits, complaints filed and complaints investigated. Data will be presented without identifying specific hospitals.
- The Nurse Staffing Advisory Board meets quarterly, or as mutually agreed to by co-chairs.

**Section 4: Staffing Plans** (SB 469 and amendments modify criteria that must inform staffing plans. Amendments identify limited exemptions to the requirement that the hospital implement the plan as approved by the staffing committee.)

- The staffing plan developed and approved by the staffing committee shall be implemented by the hospital.
- limited exemptions to the requirement that the hospital implement the plan: In the event of a national or state emergency circumstances requiring the implementation of a facility disaster plan; or in the event of sudden unforeseen adverse weather conditions, or infectious disease epidemic of staff
- either co-chair may bring the plan back to the hospital nurse staffing committee for review in the event of other unforeseen emergency circumstances.
- staffing plans must:
  - be based on individual and aggregate patient needs and requirement for nursing care
  - be based on specialized qualifications and competencies of the nursing staff
  - be consistent with nationally recognized evidence-based standards and guidelines established by professional nursing specialty organizations
  - recognize difference in patient acuity

- ensure hospital is staffed to meet needs of patients
- be based on unit activity measure that quantifies the rate of admissions, discharges, and transfers on that unit and the time required for the nurse to complete admissions, discharges, and transfers
- be based on total diagnoses present on each nursing unit, and the nursing care required to manage that set of diagnoses
- consider needs for non-direct care tasks including meal and rest breaks
- may not be based solely on external benchmarking measures

**Section 5: Annual Review of Staffing Plan** (SB 469 and amendments clarify content of annual review of staffing plans)

- The Hospital Nurse Staffing Plan shall be reviewed by the staffing committee at least annually to determine the effectiveness of the plan to meet the needs of patients.
- Such review shall consider:
  - patient outcomes,
  - complaints related to staffing, including complaints about a delay in direct care nursing or an absence of direct care nursing,
  - hours per patient day,
  - voluntary and mandatory overtime (aggregate),
  - the percentage of shifts for each unit staffed differently than required by plan and why staffed differently, and
  - other factors determined by staffing committee

**Section 6: Replacement Staff/Mandatory Overtime**

- All provisions related only to mandatory overtime
- With limited exceptions, a hospital may not require a nurse to work beyond the agreed-upon and prearranged shift, regardless of the length of shift
- A hospital must provide 10 hour rest period after nurse works 12 hours in a 24 hour period.
- If a pattern of overtime utilization develops for non-emergent care this issue shall be referred to the staffing committee.
- a staff nurse who accepts an extended assignment is accountable for his/her competency in practice during the extended assignment and must be able to recognize when his/her ability to safely provide care is compromised, and has the responsibility of reporting this inability to his/her supervisor.

**Section 7: Posting** (SB 469 and amendments modify requirements to notify staff and public about the staffing law)

- Hospital shall post in a space that is clearly visible to the public on each unit a summary notice of the staffing law that includes a phone number where complaints can be filed

**Section 8: Records**

- Hospital shall keep records necessary to demonstrate compliance with law. OHA to adopt rules.

**Section 9, 10 & 11: Enforcement** (SB 469 and amendments increase frequency of required audits and add timelines to complaint investigations. Specifies additional requirements for required state oversight)

- OHA shall audit each hospital every 3 years concurrent with hospital licensure process
- Co-chairs of HNSC interviewed as part of audit or complaint investigation
- Investigations begin no more than 60 days after complaint received

- OHA provide report of findings to hospital within 60 days of investigation
- OHA conduct follow up investigation no more than 60 days after approved plan of correction
- OHA has authority to review any hospital records and conduct any interview or visit to verify compliance
- OHA has authority to take evidence, compel appearance of witnesses, and compel production of documentation and testimony, as part of investigations
- OHA shall post on website reports of audits, complaints, plans of correction, penalties, and other issues agreed on by Nurse Staffing Advisory Board