

**PROPOSED AMENDMENTS TO
SENATE BILL 469**

1 On page 1 of the printed bill, delete lines 5 through 28 and delete pages
2 2 through 11 and insert:

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4

“HOSPITAL NURSE STAFFING COMMITTEES

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**“SECTION 1. (1)(a) For each hospital there shall be established a
7 hospital nurse staffing committee. Each committee shall:**

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**“(A) Consist of an equal number of hospital nurse managers and
9 direct care staff;**

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**“(B) For that portion of the committee composed of direct care
staff, consist entirely of direct care registered nurses, except for one
position to be filled by a direct care staff member who is not a regis-
tered nurse and whose services are covered by a written hospital-wide
staffing plan that meets the requirements of ORS 441.162; and**

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**“(C) Include at least one direct care registered nurse from each
hospital nurse specialty or unit.**

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**“(b) If the direct care registered nurses who work at a hospital are
represented under a collective bargaining agreement, the bargaining
unit shall conduct a selection process by which the direct care regis-
tered nurses who work at the hospital select the members of the
committee who are direct care registered nurses.**

22

“(c) If the direct care staff member who is not a registered nurse

1 who works at a hospital is represented under a collective bargaining
2 agreement, the bargaining unit shall use the selection process con-
3 ducted pursuant to paragraph (b) of this subsection to select that
4 member of the committee.

5 “(d) If the direct care registered nurses who work at a hospital are
6 not represented under a collective bargaining agreement, the direct
7 care registered nurses belonging to a hospital nurse specialty or unit
8 shall select each member of the committee who is a direct care regis-
9 tered nurse from that specialty or unit.

10 “(2) A hospital nurse staffing committee shall develop a written
11 hospital-wide staffing plan in accordance with ORS 441.162. The
12 committee’s primary goals in developing the staffing plan shall be to
13 ensure that the hospital is staffed to meet the health care needs of
14 patients. The committee shall review and modify the staffing plan in
15 accordance with section 5 of this 2015 Act.

16 “(3) A majority of the members of a hospital nurse staffing com-
17 mittee constitutes a quorum for the transaction of business.

18 “(4) A hospital nurse staffing committee shall have two cochairs.
19 One cochair shall be a hospital nurse manager elected by the members
20 of the committee who are hospital nurse managers and one cochair
21 shall be a direct care registered nurse elected by the members of the
22 committee who are direct care staff.

23 “(5)(a) A decision made by a hospital nurse staffing committee must
24 be made by a vote of a majority of the members of the committee. If
25 a quorum of members comprises an unequal number of hospital nurse
26 managers and direct care staff, only an equal number of hospital nurse
27 managers and direct care staff may vote.

28 “(b) If the committee is unable to reach an agreement on the
29 staffing plan, either cochair of the committee may invoke a 30-day
30 period during which the committee shall continue to develop the

1 staffing plan. During the 30-day period, the hospital shall respond in
2 a timely manner to reasonable requests from members of the com-
3 mittee for data that will enable the committee to reach a resolution.
4 If at the end of the 30-day period, the committee remains unable to
5 reach an agreement on the staffing plan, one of the cochairs shall
6 notify the Oregon Health Authority of the impasse.

7 “(c) Upon receiving notification under paragraph (b) of this sub-
8 section, the authority shall provide the committee with a mediator to
9 assist the committee in reaching an agreement on the staffing plan.
10 Mediation conducted under this paragraph must be consistent with the
11 requirements for implementing and reviewing staffing plans under
12 section 5 of this 2015 Act and ORS 441.162.

13 “(d) If the committee is unable to reach an agreement on the
14 staffing plan after 90 days of mediation, the authority may impose a
15 penalty against the hospital as described in ORS 441.170.

16 “(6) A hospital nurse staffing committee shall meet:

17 “(a) At least once every three months; and

18 “(b) At any time and place specified by either cochair.

19 “(7)(a) Subject to paragraph (b) of this subsection, a hospital nurse
20 staffing committee meeting must be open to:

21 “(A) The hospital nursing staff as observers; and

22 “(B) Upon invitation by either cochair, other observers or
23 presenters.

24 “(b) At any time, either cochair may exclude persons described in
25 paragraph (a) of this subsection from a committee meeting for pur-
26 poses related to deliberation and voting.

27 “(8) Minutes of hospital nurse staffing committee meetings must:

28 “(a) Include motions made and outcomes of votes taken;

29 “(b) Summarize discussions; and

30 “(c) Be made available in a timely manner to hospital nursing staff

1 and other hospital staff upon request.

2 “(9) A hospital shall release a member of a hospital nurse staffing
3 committee described in subsection (1)(a) of this section from the
4 member’s assignment, and provide the member with paid time, to at-
5 tend committee meetings.

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7 **“NURSE STAFFING ADVISORY BOARD**

8
9 **“SECTION 2. (1)(a) The Nurse Staffing Advisory Board is estab-**
10 **lished within the Oregon Health Authority, consisting of 12 members**
11 **appointed by the Governor.**

12 **“(b) Of the 12 members of the board:**

13 **“(A) Six must be hospital nurse managers;**

14 **“(B) Five must be direct care registered nurses who work in hospi-**
15 **tals; and**

16 **“(C) One must be either a direct care registered nurse who works**
17 **in a hospital or a direct care staff member who is not a registered**
18 **nurse and whose services are covered by a written hospital-wide**
19 **staffing plan that meets the requirements of ORS 441.162.**

20 **“(c) To the extent practicable, board members shall be appointed**
21 **to ensure that the board is represented by members from hospitals**
22 **where direct care staff are represented under a collective bargaining**
23 **agreement and hospitals where direct care staff are not represented**
24 **by a collective bargaining agreement and by hospitals of different**
25 **sizes, types and geographic location.**

26 **“(d) The term of office of each board member is three years, but a**
27 **member serves at the pleasure of the Governor. Before the expiration**
28 **of the term of a member, the Governor shall appoint a successor**
29 **whose term begins January 1 next following. A member is eligible for**
30 **reappointment, but may not serve more than two consecutive terms.**

1 **If there is a vacancy for any cause, the Governor shall make an ap-**
2 **pointment to become immediately effective for the unexpired term.**

3 **“(2) The board shall:**

4 **“(a) Provide advice to the authority on the administration of ORS**
5 **441.162 to 441.170;**

6 **“(b) Identify trends, opportunities and concerns related to nurse**
7 **staffing;**

8 **“(c) Make recommendations to the authority on the basis of those**
9 **trends, opportunities and concerns; and**

10 **“(d) Review the authority’s enforcement powers and processes un-**
11 **der sections 9, 10 and 11 of this 2015 Act.**

12 **“(3)(a) Upon request, the authority shall provide the board with**
13 **written hospital-wide staffing plans implemented under ORS 441.162,**
14 **reviews conducted under section 5 of this 2015 Act, information ob-**
15 **tained during an audit under section 9 of this 2015 Act and complaints**
16 **filed and investigations conducted as described in section 10 of this**
17 **2015 Act.**

18 **“(b) The authority may not provide the board with any information**
19 **under paragraph (a) of this subsection that is identifiable with a spe-**
20 **cific hospital unless the information is publicly available.**

21 **“(c) Hospital-wide staffing plans provided to the board under this**
22 **section are confidential and not subject to public disclosure.**

23 **“(4) A majority of the members of the board constitutes a quorum**
24 **for the transaction of business.**

25 **“(5) The board shall have two cochairs selected by the Governor.**
26 **One cochair shall be a hospital nurse manager and one cochair shall**
27 **be a direct care registered nurse.**

28 **“(6) Official action by the board requires the approval of a majority**
29 **of the members of the board.**

30 **“(7) The board shall meet:**

1 “(a) At least once every three months; and

2 “(b) At any time and place specified by the call of both cochairs.

3 “(8) The board may adopt rules necessary to for the operation of the
4 board.

5 “(9) The board shall submit a report on the administration of ORS
6 441.162 to 441.170 in the manner provided in ORS 192.245 to an interim
7 committee of the Legislative Assembly related to health no later than
8 September 15 of each year. The board may include in its report rec-
9 ommendations for legislation.

10 “(10) Members of the board are not entitled to compensation, but
11 may be reimbursed for actual and necessary travel and other expenses
12 incurred by them in the performance of their official duties in the
13 manner and amounts provided for in ORS 292.495. Claims for expenses
14 shall be paid out of funds appropriated to the authority for purposes
15 of the board.

16 “SECTION 3. Notwithstanding the term of office specified by sec-
17 tion 2 of this 2015 Act, of the members first appointed to the Nurse
18 Staffing Advisory Board:

19 “(1) Four shall serve for a term ending January 1, 2017;

20 “(2) Four shall serve for a term ending January 1, 2018; and

21 “(3) Four shall serve for a term ending January 1, 2019.

22

23 “STAFFING PLANS

24

25 “SECTION 4. ORS 441.162 is amended to read:

26 “441.162. (1) [A] **Each** hospital shall [*be responsible for the implementation*
27 *of a*] **implement the** written hospital-wide staffing plan for nursing services
28 **that has been developed and approved by the hospital nurse staffing**
29 **committee under section 1 of this 2015 Act.** [*The staffing plan shall be*
30 *developed, monitored, evaluated and modified by a hospital staffing plan com-*

1 *mittee. To the extent possible, the committee shall:]*

2 *“(a) Include equal numbers of hospital nurse managers and direct care*
3 *registered nurses;]*

4 *“(b) Include at least one direct care registered nurse from each hospital*
5 *nurse specialty or unit, to be selected by direct care registered nurses from the*
6 *particular specialty or unit. The hospital shall define its own specialties or*
7 *units; and]*

8 *“(c) Have as its primary consideration the provision of safe patient care*
9 *and an adequate nursing staff pursuant to ORS chapter 441.]*

10 *“(2) The hospital shall evaluate and monitor the staffing plan for effec-*
11 *tiveness and revise the staffing plan as necessary as part of the hospital’s*
12 *quality assurance process. The hospital shall maintain written documentation*
13 *of these quality assurance activities.]*

14 *“(3) (2) The [written] staffing plan [shall]:*

15 *“(a) **Must** be based on an accurate description of individual and aggregate*
16 *patient needs and requirements for nursing care [and include a periodic*
17 *quality evaluation process to determine whether the staffing plan is appropri-*
18 *ately and accurately reflecting patient needs over time.];*

19 *“(b) **Must** be based on the specialized qualifications and competencies of*
20 *the nursing staff]. The skill mix and the competency of the staff shall ensure*
21 *that the nursing care needs of the patients are met and shall ensure patient*
22 *safety.] **and provide for the skill mix and level of competency necessary***
23 ***to ensure that the hospital is staffed to meet the health care needs of***
24 ***patients;***

25 *“(c) **Must be based on a measurement of hospital unit activity that***
26 ***quantifies the rate of admissions, discharges and transfers for each***
27 ***hospital unit and the time required for a direct care registered nurse***
28 ***belonging to a hospital unit to complete admissions, discharges and***
29 ***transfers for that hospital unit;***

30 *“(d) **Must be based on total diagnoses for each hospital unit and the***

1 **nursing staff required to manage that set of diagnoses;**

2 “[c] **(e) Must** be consistent with nationally recognized evidence-based
3 standards and guidelines established by professional nursing specialty or-
4 ganizations *[and]*;

5 “**(f) Must** recognize differences in patient *[acuteness.] acuity;*

6 “[d] **(g) Must** establish minimum numbers of nursing staff, including
7 licensed practical nurses and certified nursing assistants, required on speci-
8 fied shifts*[,]*, **provided that** at least one registered nurse and one other
9 nursing staff member *[must be]* **is** on duty in a unit when a patient is
10 present*[,]*;

11 “[e] **(h) Must** include a formal process for evaluating and initiating
12 limitations on admission or diversion of patients to another *[acute care fa-*
13 *cility]* **hospital** when, in the judgment of *[the]* **a** direct care registered nurse
14 **or a nurse manager**, there is an inability to meet patient care needs or a
15 risk of harm to *[existing and new]* patients*[,]*;

16 “**(i) Must consider tasks not related to providing direct care, in-**
17 **cluding meal breaks and rest breaks; and**

18 “**(j) May not base nursing staff requirements solely on external**
19 **benchmarking data.**

20 “**(3) A hospital must maintain and post a list of on-call nursing staff**
21 **or staffing agencies to provide replacement nursing staff in the event**
22 **of a vacancy. The list of on-call nursing staff or staffing agencies must**
23 **be sufficient to provide for replacement nursing staff.**

24 “*[(4) The hospital shall maintain and post a list of on-call nursing staff*
25 *or staffing agencies to provide replacement for nursing staff in the event of*
26 *vacancies. The list of on-call nurses or agencies must be sufficient to provide*
27 *replacement staff.]*

28 “[5)(a)] **(4)(a)** An employer may not impose upon unionized nursing staff
29 any changes in wages, hours or other terms and conditions of employment
30 pursuant to a staffing plan *[developed or modified under subsection (1) of this*

1 section] unless the employer first provides notice to and, [on] **upon** request,
2 bargains with the union as the exclusive collective bargaining representative
3 of the nursing staff in the bargaining unit.

4 “(b) A staffing plan [*developed or modified under subsection (1) of this*
5 *section*] does not create, preempt or modify a collective bargaining agreement
6 or require a union or employer to bargain over the staffing plan while a
7 collective bargaining agreement is in effect.

8 **“SECTION 5. (1) A hospital nurse staffing committee established**
9 **pursuant to section 1 of this 2015 Act shall review the written**
10 **hospital-wide staffing plan developed by the committee under ORS**
11 **441.162:**

12 **“(a) At least once every year; and**

13 **“(b) At any other date and time specified by either cochair of the**
14 **committee.**

15 **“(2) In reviewing a staffing plan, a hospital nurse staffing commit-**
16 **tee shall consider:**

17 **“(a) Patient outcomes;**

18 **“(b) Complaints regarding staffing, including complaints about a**
19 **delay in direct care nursing or an absence of direct care nursing;**

20 **“(c) The number of hours of nursing care provided through a hos-**
21 **pital unit compared with the number of patients served by the hospital**
22 **unit during a 24-hour period;**

23 **“(d) The aggregate hours of mandatory overtime worked by the**
24 **nursing staff;**

25 **“(e) The aggregate hours of voluntary overtime worked by the**
26 **nursing staff;**

27 **“(f) The percentage of shifts for each hospital unit for which staff-**
28 **ing differed from what is required by the staffing plan; and**

29 **“(g) Any other matter determined by the committee to be necessary**
30 **to ensure that the hospital is staffed to meet the health care needs of**

1 patients.

2 “(3) Upon reviewing a staffing plan, a hospital nurse staffing com-
3 mittee shall:

4 “(a) Report whether the staffing plan ensures that the hospital is
5 staffed to meet the health care needs of patients; and

6 “(b) Modify the staffing plan as necessary to ensure that the hos-
7 pital is staffed to meet the health care needs of patients.

8 “SECTION 5a. (1) For purposes of this subsection, ‘epidemic’ means
9 the occurrence of a group of similar conditions of public health im-
10 portance in a community or region that are in excess of normal ex-
11 pectancy and that are from a common or propagated source.

12 “(2) Notwithstanding ORS 441.162 and section 5 of this 2015 Act, a
13 hospital is not required to follow a written hospital-wide staffing plan
14 developed and approved by the hospital nurse staffing committee un-
15 der section 1 of this 2015 Act upon the occurrence of a national or state
16 emergency requiring the implementation of a facility disaster plan, or
17 upon the occurrence of sudden unforeseen adverse weather conditions
18 or an infectious disease epidemic suffered by hospital staff.

19 “(3) Upon the occurrence of an emergency circumstance not de-
20 scribed in subsection (2) of this section, either cochair of the hospital
21 nurse staffing committee may require the hospital nurse staffing
22 committee to meet to review and potentially modify the staffing plan
23 in response to the emergency circumstance.

24

25 “REPLACEMENT STAFF

26

27 “SECTION 6. ORS 441.166 is amended to read:

28 “441.166. (1) For purposes of this section, “nursing staff” includes
29 registered nurses, licensed practical nurses and certified nursing as-
30 sistants.

1 “[(1)] **(2)** When a hospital learns about the need for replacement staff, the
2 hospital shall make every reasonable effort to obtain [*registered nurses, li-*
3 *censed practical nurses or certified nursing assistants*] **nursing staff** for un-
4 filled hours or shifts before requiring a [*registered nurse, licensed practical*
5 *nurse or certified nursing assistant*] **nursing staff member** to work over-
6 time.

7 “[(2)] **(3)(a)** **Except as provided in subsection (4) of this section,** a
8 hospital may not require a [*registered nurse, licensed practical nurse or cer-*
9 *tified nursing assistant*] **nursing staff member** to work:

10 “[(a)] **(A)** Beyond the agreed-upon **and prearranged** shift, **regardless of**
11 **the length of the shift;**

12 “[(b)] **(B)** More than 48 hours in any hospital-defined work week; [*or*]

13 “[(c)] **(C)** More than 12 [*consecutive*] hours in a 24-hour [*time*] period[,
14 *except that a hospital may require an additional hour of work beyond the 12*
15 *hours if:]; or*

16 “[(A) A staff vacancy for the next shift becomes known at the end of the
17 *current shift; or*]

18 “[(B) *There is a potential harm to an assigned patient if the registered*
19 *nurse, licensed practical nurse or certified nursing assistant leaves the as-*
20 *signment or transfers care to another.*]

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

23 “**(b)** **For purposes of paragraph (a)(D) of this subsection, a nursing**
24 **staff member begins to work when the nursing staff member begins a**
25 **shift.**

26 “**(4)** **A hospital may require an additional hour of work beyond the**
27 **work authorized under subsection (3) of this section if:**

28 “**(a)** **A staff vacancy for the next shift becomes known at the end**
29 **of the current shift; or**

30 “**(b)** **There is a potential harm to an assigned patient if the nursing**

1 **staff member leaves the assignment or transfers care to another**
2 **nursing staff member.**

3 **“(5) If a nursing staff member agrees to work overtime, the nursing**
4 **staff member is accountable for the nursing staff member’s compe-**
5 **tency in practice and is responsible for notifying the nursing staff**
6 **member’s supervisor when the nursing staff member’s ability to safely**
7 **provide care is compromised.**

8 “[~~(3)(a)~~] **(6)(a)** Time spent in required meetings or receiving education or
9 training shall be included as hours worked for purposes of subsection [~~(2)~~]
10 **(3)** of this section.

11 “[~~(b)~~] *Time spent on call but away from the premises of the employer may*
12 *not be included as hours worked for purposes of subsection (2) of this*
13 *section.*]

14 “[~~(c)~~] **(b)** Time spent on call or on standby when the [*registered nurse, li-*
15 *censed practical nurse or certified nursing assistant*] **nursing staff member**
16 is required to be at the premises of the employer shall be included as hours
17 worked for purposes of subsection [~~(2)~~] **(3)** of this section.

18 **“(c) Time spent on call but away from the premises of the employer**
19 **may not be included as hours worked for purposes of subsection (3)**
20 **of this section.**

21 **“(7) If a nursing staff member believes that a hospital unit is en-**
22 **gaging in a pattern of requiring direct care nursing staff to work**
23 **overtime for nonemergency care, the nursing staff member may report**
24 **that information to the hospital nurse staffing committee established**
25 **for the hospital pursuant to section 1 of this 2015 Act. The hospital**
26 **nurse staffing committee shall consider the information when review-**
27 **ing the written hospital-wide staffing plan as required by section 5 of**
28 **this 2015 Act.**

29 “[~~(4)~~] **(8)** The provisions of this section do not apply to nursing staff
30 needs:

1 “(a) In the event of a national or state emergency or circumstances re-
2 quiring the implementation of a facility disaster plan; **or**

3 “(b) In emergency circumstances identified by the Oregon Health Au-
4 thority by rule. [; or]

5 “[c) *If a hospital has made reasonable efforts to contact all of the on-call*
6 *nursing staff or staffing agencies on the list described in ORS 441.162 and is*
7 *unable to obtain replacement staff in a timely manner.*]

8
9 **“HOSPITAL POSTINGS**

10
11 **“SECTION 7. On each hospital unit, a hospital shall post a notice**
12 **summarizing the provisions of ORS 441.162 to 441.170 in a place that**
13 **is clearly visible to the public that includes a phone number for pur-**
14 **poses of reporting a violation of the laws.**

15
16 **“RECORDS**

17
18 **“SECTION 8. A hospital shall keep and maintain records necessary**
19 **to demonstrate compliance with ORS 441.162 to 441.170. For purposes**
20 **of this section, the Oregon Health Authority shall adopt rules speci-**
21 **ifying the content of the records and the form and manner of keeping,**
22 **maintaining and disposing of the records. A hospital must provide re-**
23 **ords kept and maintained under this section to the authority upon**
24 **request.**

25
26 **“ENFORCEMENT**

27
28 **“SECTION 9. (1) For the sole purpose of verifying compliance with**
29 **the requirements of ORS 441.162 to 441.170 and 441.192, the Oregon**
30 **Health Authority shall audit each hospital in this state once every**

1 three years, at the time of conducting an on-site inspection of the
2 hospital under ORS 441.025.

3 “(2) When conducting an audit pursuant to this section, the au-
4 thority shall:

5 “(a) If the authority provides notice of the audit to the hospital,
6 provide notice of the audit to the cochairs of the hospital nurse staff-
7 ing committee established pursuant to section 1 of this 2015 Act;

8 “(b) Interview both cochairs of the hospital nurse staffing commit-
9 tee; and

10 “(c) Review any other hospital record and conduct any other inter-
11 view or site visit that is necessary to verify that the hospital is in
12 compliance with the requirements of ORS 441.162 to 441.170 and 441.192.

13 “(3) The authority shall compile and maintain for public inspection
14 an annual report of audits conducted pursuant to this section.

15 “(4) The costs of audits required by this section may be paid out of
16 funds from licensing fees paid by hospitals under ORS 441.020.

17 **“SECTION 10. (1) For purposes of ensuring compliance with ORS**
18 **441.162 to 441.170, the Oregon Health Authority shall:**

19 “(a) Within 60 days of receiving a complaint against a hospital for
20 violating a provision of ORS 441.162 to 441.170, conduct an on-site in-
21 vestigation of the hospital; and

22 “(b) Within 60 days of issuing an order requiring a hospital to im-
23 plement a plan to correct a violation of ORS 441.162 to 441.170, conduct
24 an investigation of the hospital to ensure compliance with the plan.

25 “(2) When conducting an investigation of a hospital to ensure
26 compliance with ORS 441.162 to 441.170, the authority shall, if the au-
27 thority provides notice of the investigation to the hospital, provide
28 within 60 days notice of the investigation to the cochairs of the hos-
29 pital nurse staffing committee established pursuant to section 1 of this
30 2015 Act.

1 **“(3) When conducting an investigation of a hospital to ensure**
2 **compliance with ORS 441.162 to 441.170, the authority may:**

3 **“(a) Take evidence;**

4 **“(b) Take the depositions of witnesses in the manner provided by**
5 **law in civil cases;**

6 **“(c) Compel the appearance of witnesses in the manner provided by**
7 **law in civil cases;**

8 **“(d) Require answers to interrogatories; and**

9 **“(e) Compel the production of books, papers, accounts, documents**
10 **and testimony pertaining to the matter under investigation.**

11 **“SECTION 11. The Oregon Health Authority shall post on a website**
12 **maintained by the authority:**

13 **“(1) Reports of audits described in section 9 of this 2015 Act;**

14 **“(2) Any report made pursuant to an investigation of whether a**
15 **hospital is in compliance with ORS 441.162 to 441.170;**

16 **“(3) Any order requiring a hospital to implement a plan to correct**
17 **a violation of ORS 441.162 to 441.170;**

18 **“(4) Any order imposing a civil penalty against a hospital or sus-**
19 **pending or revoking the license of a hospital pursuant to ORS 441.170;**
20 **and**

21 **“(5) Any other matter recommended by the Nurse Staffing Advisory**
22 **Board established under section 2 of this 2015 Act.**

23

24 **“CONFORMING AMENDMENTS**

25

26 **“SECTION 12. ORS 441.164 is amended to read:**

27 **“441.164. Upon request of a hospital, the Oregon Health Authority may**
28 **grant [*variances in*] a variance to the written hospital-wide staffing plan**
29 **requirements [*based on patient care needs or the nursing practices of the***
30 ***hospital*] described in ORS 441.162 if the variance is necessary to ensure**

1 **that the hospital is staffed to meet the health care needs of patients.**

2 **“SECTION 13.** ORS 441.170 is amended to read:

3 “441.170. (1) The Oregon Health Authority may impose civil penalties in
4 the manner provided in ORS 183.745 or suspend or revoke a license of a
5 hospital for a violation of any provision of ORS 441.162 [*or 441.166*] **to**
6 **441.170**. The authority shall adopt by rule a schedule establishing the amount
7 of civil penalty that may be imposed for [*any*] **a** violation of ORS 441.162
8 [*or 441.166*] **to 441.170** when there is a reasonable belief that safe patient care
9 has been or may be negatively impacted[. A], **except that a** civil penalty
10 [*imposed under this subsection*] may not exceed \$5,000. Each violation of a
11 [*nursing staff*] **written hospital-wide staffing** plan shall be considered a
12 separate violation. Any license that is suspended or revoked under this sub-
13 section shall be suspended or revoked as provided in ORS 441.030.

14 “(2) The authority shall maintain for public inspection records of any
15 civil penalties or license suspensions or revocations imposed on hospitals
16 penalized under subsection (1) of this section.

17 “[*(3) The authority shall conduct an annual random audit of not less than*
18 *seven percent of all hospitals in this state solely to verify compliance with the*
19 *requirements of ORS 441.162, 441.166 and 441.192. Surveys made by private*
20 *accrediting organizations may not be used in lieu of the audit required under*
21 *this subsection. The authority shall compile and maintain for public in-*
22 *spection an annual report of the audit conducted under this subsection.*]

23 “[*(4) The costs of the audit required under subsection (3) of this section*
24 *may be paid out of funds from licensing fees paid by hospitals under ORS*
25 *441.020.*]

26 **“SECTION 14.** ORS 441.030 is amended to read:

27 “441.030. (1) The Oregon Health Authority or the Department of Human
28 Services may assess a civil penalty and, pursuant to ORS 479.215, shall deny,
29 suspend or revoke a license, in any case where the State Fire Marshal, or
30 the representative of the State Fire Marshal, certifies that there is a failure

1 to comply with all applicable laws, lawful ordinances and rules relating to
2 safety from fire.

3 “(2) The authority may:

4 “(a) Assess a civil penalty or deny, suspend or revoke a license of a health
5 care facility other than a long term care facility in any case where it finds
6 that there has been a substantial failure to comply with ORS 441.015 to
7 441.063 or the rules or minimum standards adopted under ORS 441.015 to
8 441.063.

9 “(b) Assess a civil penalty or suspend or revoke a license issued under
10 ORS 441.025 for failure to comply with an authority order arising from a
11 health care facility’s substantial lack of compliance with the provisions of
12 ORS 441.015 to 441.063[,] **or** 441.162 [*or 441.166*] **to 441.170** or the rules
13 adopted under ORS 441.015 to 441.063[,] **or** 441.162 [*or 441.166*] **to 441.170**.

14 “(c) Suspend or revoke a license issued under ORS 441.025 for failure to
15 pay a civil penalty imposed under ORS 441.170.

16 “(3) The department may:

17 “(a) Assess a civil penalty or deny, suspend or revoke a long term care
18 facility’s license in any case where it finds that there has been a substantial
19 failure to comply with ORS 441.015 to 441.063 or 441.087 or the rules or
20 minimum standards adopted under ORS 441.015 to 441.063 or 441.087.

21 “(b) Assess a civil penalty or suspend or revoke a long term care facility’s
22 license issued under ORS 441.025 for failure to comply with a department
23 order arising from a long term care facility’s substantial lack of compliance
24 with the provisions of ORS 441.015 to 441.063, 441.084 or 441.087 or the rules
25 adopted under ORS 441.015 to 441.063, 441.084 or 441.087.

26 “(c) Suspend or revoke a license issued under ORS 441.025 for failure to
27 pay a civil penalty imposed under ORS 441.710.

28 “(d) Order a long term care facility licensed under ORS 441.025 to restrict
29 the admission of patients when the department finds an immediate threat to
30 patient health and safety arising from failure of the long term care facility

1 to be in compliance with ORS 441.015 to 441.063, 441.084 or 441.087 and the
2 rules adopted under ORS 441.015 to 441.063, 441.084 or 441.087.

3 “(4) Any long term care facility that has been ordered to restrict the ad-
4 mission of patients pursuant to subsection (3)(d) of this section shall post a
5 notice of the restriction, provided by the department, on all doors providing
6 ingress to and egress from the facility, for the duration of the restriction.

7 **“SECTION 15.** ORS 441.180 is amended to read:

8 “441.180. (1) A hospital shall post a notice summarizing the provisions of
9 ORS [~~441.162, 441.166, 441.168,~~] 441.174, 441.176, 441.178 and 441.192 in a con-
10 spicuous place on the premises of the hospital. The notice must be posted
11 where notices to employees and applicants for employment are customarily
12 displayed.

13 “(2) Any hospital that willfully violates this section is subject to a civil
14 penalty not to exceed \$500. Civil penalties under this section shall be im-
15 posed by the Oregon Health Authority in the manner provided by ORS
16 183.745.

17

18 “SERIES PLACEMENT

19

20 **“SECTION 16.** Sections 1, 2, 5, 5a and 7 to 11 of this 2015 Act are
21 added to and made a part of ORS 441.162 to 441.170.

22

23 “IMPLEMENTATION

24

25 **“SECTION 17.** (1) For purposes of this section, ‘hospital’ has the
26 meaning given that term in ORS 441.160.

27 “(2) A hospital nurse staffing committee shall be established for
28 each hospital in accordance with section 1 of this 2015 Act on or before
29 January 1, 2016.

30 “(3) Each hospital shall post material as described in section 7 of

1 this 2015 Act on or before January 1, 2016.

2 “(4) The Oregon Health Authority shall adopt rules required by
3 section 8 of this 2015 Act on or before July 1, 2016.

4 “(5) Each hospital nurse staffing committee established pursuant
5 to section 1 of this 2015 Act shall develop a written hospital-wide
6 staffing plan in accordance with ORS 441.162 as amended by section 4
7 of this 2015 Act on or before January 1, 2017.

8
9 “APPLICABILITY

10
11 “SECTION 18. Notwithstanding section 1 of this 2015 Act and the
12 amendments to ORS 441.162 by section 4 of this 2015 Act:

13 “(1) A hospital staffing plan committee established before the ef-
14 fective date of this 2015 Act shall continue to have the duties, func-
15 tions and powers of a hospital staffing plan committee as described in
16 ORS 441.162 immediately before the effective date of this 2015 Act until
17 a hospital nurse staffing committee is established under section 1 of
18 this 2015 Act; and

19 “(2) A hospital-wide staffing plan for nursing services implemented
20 under ORS 441.162 before the effective date of this 2015 Act shall con-
21 tinue to be in effect until a hospital nurse staffing committee estab-
22 lished under section 1 of this 2015 Act implements a new written
23 hospital-wide staffing plan for nursing services pursuant to ORS
24 441.162 as amended by section 4 of this 2015 Act.

25
26 “UNIT CAPTIONS

27
28 “SECTION 19. The unit captions used in this 2015 Act are provided
29 only for the convenience of the reader and do not become part of the
30 statutory law of this state or express any legislative intent in the

1 enactment of this 2015 Act.

2

3

“EMERGENCY CLAUSE

4

5 **“SECTION 20. This 2015 Act being necessary for the immediate**
6 **preservation of the public peace, health and safety, an emergency is**
7 **declared to exist, and this 2015 Act takes effect on its passage.”.**

8
