



OREGON HEALTH
CARE ASSOCIATION

11740 SW 68th Parkway, Suite 250
Portland, OR 97223
Office: 503.726.5260
Fax: 503.726.5259
www.ohca.com

Oregon's Voice for Long Term Care & Senior Housing

February 9, 2022

Oregon State Legislature
Senate Committee on Business & Labor

Senator Kathleen Taylor, Chair
Senator Tim Knopp, Vice-Chair
Senator Kate Lieber
Senator Bill Hansell
Senator Kayse Jama

Re: Responses to questions from public hearing on SB 1549

Chair Taylor, Vice-Chair Knopp, and members of the committee,

The Oregon Health Care Association was asked to follow up in writing with the committee on a couple of key questions about the substance and implementation of SB 1549 with the -2 amendment.

Please do not hesitate to reach out with additional questions or comments. Thank you!

1) How would the rate-setting process work under SB 1549?

Implementation Timeline

With the -2 amendment, temporary staffing agencies will not be subject to any new regulation, licensure or quality standards, or rate mechanism until July 1, 2023. This means staffing agencies, long term care providers, hospitals and other providers will continue to operate in the existing market, charging and paying unrestricted rates for temporary staff.

Rate-Setting

SB 1549 does *not* set rates or caps on health care personnel wages. The bill is structured to only establish reasonable regulation between providers and staffing agencies themselves. It requires

OHA to adopt rules to establish annual maximum rates a temporary staffing agency may charge to or receive from an entity they contract with. The bill provides broad authority to OHA to determine what criteria and process will be used to set the rate to provide sufficient flexibility in implementation and establishing reasonable rates.

The bill requires OHA to consider *at least* the following factors when setting an annual rate:

- Industry standard personnel hourly wages (this could include average market wages outside of the State of Oregon)
- Relevant geographic factors (this addresses if different rates may be appropriate for urban vs. rural communities).
- Personnel education, qualification, and settings (this allows OHA to address the need for different rates for different kinds of licensed and unlicensed personnel).

Maximum Rate Waiver Process

SB 1549 requires the OHA to establish criteria under which a temporary staffing agency may apply to use a rate higher than the rates established by the authority. This provides an important relief valve in times of crisis that can be easily accessed. Other states have used a waiver of maximum rates during the COVID-19 pandemic. Here is an example of **Minnesota's waiver [application form](#)** and requirements, which allows its Department of Human Services to set new maximum charge amounts on a case by case basis and must be consistent with the COVID Emergency Response. The waiver process also requires that the higher charges are being paid to the employee.

Oregon's waiver law would be similar based on a process determined by OHA in rulemaking. This will allow staffing agencies to demonstrate the need for higher pricing to secure staff in times of acute workforce shortages such as the pandemic. It will also ensure accountability that the higher rates are going to the health care personnel.

2) What has the experience in other state's been with temporary staffing agencies operating under a similar regulatory mechanism?

SB 1549-2 is modeled after Minnesota and Massachusetts laws that have proven to be fair and effective. Both states have had both licensing and pricing regulations in place for several years. We are not aware that either state has experienced severe supply-side loss nor challenges due to these regulations.

In addition to existing states, this year, more than a dozen states around the country are considering legislation to establish regulations of temporary staffing agencies because of

experiences during the pandemic. **The American Hospital Association and American Health Care Association sent a [joint letter](#) imploring the Federal government to investigate staffing agencies for price gouging practices**, and the Congress held hearings on this issue recently in response to a bipartisan letter signed by more than 200 members of Congress.

Minnesota: A supplemental nursing services agency must not bill or receive payments from a nursing home at a rate higher than 150 percent of the sum of the weighted average wage rate, plus a factor determined to incorporate payroll taxes. The maximum rate must include all charges for administrative fees, contract fees, or other special charges in addition to the hourly rates for the temporary nursing pool personnel supplied to a nursing home. **Read Minnesota's rate statute [here](#).**

Massachusetts: Massachusetts' law sets a maximum agency price for a service provided to a nursing facility or hospital based on several factors. **Read detail on MA's rate provisions [here](#).**

SNSA Maximum Charges 2022

Statewide Maximum Allowed Charges Effective January 1, 2022 - December 31, 2022

RN	\$62.36
LPN	\$50.75
CNA	\$34.10
TMA	\$36.57

Statewide Maximum Allowed Charges Effective January 1, 2021 - December 31, 2021

RN	\$58.08
LPN	\$46.46
CNA	\$30.57
TMA	\$32.88

Statewide Maximum Allowed Holiday Charges Effective January 1, 2022 - December 31, 2022

RN	\$107.25
LPN	\$89.31
CNA	\$59.33
TMA	\$66.20

Statewide Maximum Allowed Holiday Charges Effective January 1, 2021 - December 31, 2021

RN	\$99.90
LPN	\$81.77
CNA	\$53.19
TMA	\$59.52

Minnesota Department of Health
Health Regulation Division
P.O. Box 64900
St. Paul, Minnesota 55164-0900
651-201-4200
health.SNSA.email.box@state.mn.us

12/2021

To obtain this information in a different format, call: 651-201-4200.

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

345.03: continued

(2) Maximum Prices, Nursing Facilities.

(a) Registered Nurse (RN) – Nursing Facility.

Shift	HSA 1 Western	HSA 2 Central	HSA 3 Merrimack Valley	HSA 4 Greater Boston	HSA 5 Southeastern	HSA 6 North Shore
Weekday 1	\$71.03	\$68.84	\$69.49	\$71.37	\$69.80	\$70.51
Weekday 2	\$75.29	\$73.10	\$73.75	\$75.63	\$74.06	\$74.76
Weekday 3	\$77.42	\$75.22	\$75.88	\$77.76	\$76.18	\$76.89
Weekend 1	\$76.35	\$74.16	\$74.81	\$76.69	\$75.12	\$75.83
Weekend 2	\$78.48	\$76.29	\$76.94	\$78.82	\$77.25	\$77.96
Weekend 3	\$78.48	\$76.29	\$76.94	\$78.82	\$77.25	\$77.96

(b) Licensed Practical Nurse (LPN) – Nursing Facility.

Shift	HSA 1 Western	HSA 2 Central	HSA 3 Merrimack Valley	HSA 4 Greater Boston	HSA 5 Southeastern	HSA 6 North Shore
Weekday 1	\$60.06	\$58.77	\$59.93	\$63.24	\$61.28	\$63.15
Weekday 2	\$64.32	\$63.03	\$64.19	\$67.50	\$65.54	\$67.41
Weekday 3	\$66.44	\$65.15	\$66.32	\$69.63	\$67.67	\$69.54
Weekend 1	\$65.38	\$64.09	\$65.25	\$68.57	\$66.60	\$68.47
Weekend 2	\$67.51	\$66.22	\$67.38	\$70.69	\$68.73	\$70.60
Weekend 3	\$67.51	\$66.22	\$67.38	\$70.69	\$68.73	\$70.60

(c) Certified Nurse Aide (CNA) – Nursing Facility.

Shift	HSA 1 Western	HSA 2 Central	HSA 3 Merrimack Valley	HSA 4 Greater Boston	HSA 5 Southeastern	HSA 6 North Shore
Weekday 1	\$32.43	\$32.86	\$33.45	\$33.33	\$32.89	\$34.00
Weekday 2	\$34.56	\$34.99	\$35.58	\$35.46	\$35.02	\$36.12
Weekday 3	\$35.62	\$36.06	\$36.64	\$36.53	\$36.08	\$37.19
Weekend 1	\$35.62	\$36.06	\$36.64	\$36.53	\$36.08	\$37.19
Weekend 2	\$36.69	\$37.12	\$37.70	\$37.59	\$37.14	\$38.25
Weekend 3	\$37.22	\$37.65	\$38.24	\$38.12	\$37.68	\$38.78

(3) Maximum Prices, Hospitals.

(a) Registered Nurse (RN) – Hospital.

Shift	HSA 1 Western	HSA 2 Central	HSA 3 Merrimack Valley	HSA 4 Greater Boston	HSA 5 Southeastern	HSA 6 North Shore
Weekday 1	\$96.76	\$102.35	\$100.28	\$105.00	\$100.21	\$100.08
Weekday 2	\$106.81	\$112.40	\$110.33	\$115.05	\$110.27	\$110.13
Weekday 3	\$110.49	\$116.08	\$114.01	\$118.73	\$113.94	\$113.81
Weekend 1	\$107.16	\$112.75	\$110.68	\$115.40	\$110.61	\$110.48
Weekend 2	\$110.99	\$116.57	\$114.51	\$119.23	\$114.44	\$114.31
Weekend 3	\$112.74	\$118.32	\$116.26	\$120.98	\$116.19	\$116.06

101 CMR: EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

345.03: continued

(b) Registered Nurse Specialist (RN-Specialist) – Hospital.

Shift	HSA 1 Western	HSA 2 Central	HSA 3 Merrimack Valley	HSA 4 Greater Boston	HSA 5 Southeastern	HSA 6 North Shore
Weekday 1	\$106.75	\$108.12	\$111.73	\$113.62	\$103.50	\$109.16
Weekday 2	\$131.09	\$132.46	\$136.07	\$137.97	\$127.84	\$133.51
Weekday 3	\$134.60	\$135.96	\$139.58	\$141.47	\$131.34	\$137.01
Weekend 1	\$133.21	\$134.58	\$138.19	\$140.08	\$129.96	\$135.63
Weekend 2	\$134.19	\$135.55	\$139.16	\$141.06	\$130.93	\$136.60
Weekend 3	\$135.87	\$137.24	\$140.85	\$142.74	\$132.62	\$138.29

(c) Licensed Practical Nurse (LPN) – Hospital.

Shift	HSA 1 Western	HSA 2 Central	HSA 3 Merrimack Valley	HSA 4 Greater Boston	HSA 5 Southeastern	HSA 6 North Shore
Weekday 1	\$63.35	\$61.66	\$63.93	\$64.24	\$65.47	\$62.72
Weekday 2	\$71.66	\$69.96	\$72.24	\$72.54	\$73.77	\$71.02
Weekday 3	\$73.91	\$72.21	\$74.48	\$74.79	\$76.02	\$73.27
Weekend 1	\$72.37	\$70.67	\$72.95	\$73.25	\$74.49	\$71.73
Weekend 2	\$75.53	\$73.83	\$76.11	\$76.41	\$77.65	\$74.89
Weekend 3	\$76.33	\$74.63	\$76.91	\$77.21	\$78.45	\$75.69

(d) Certified Nurse Aide (CNA) – Hospital.

Shift	HSA 1 Western	HSA 2 Central	HSA 3 Merrimack Valley	HSA 4 Greater Boston	HSA 5 Southeastern	HSA 6 North Shore
Weekday 1	\$35.76	\$35.31	\$36.03	\$36.61	\$36.10	\$37.26
Weekday 2	\$44.32	\$43.87	\$44.59	\$45.17	\$44.66	\$45.82
Weekday 3	\$46.18	\$45.73	\$46.45	\$47.03	\$46.52	\$47.68
Weekend 1	\$45.53	\$45.08	\$45.81	\$46.38	\$45.87	\$47.03
Weekend 2	\$49.58	\$49.13	\$49.85	\$50.42	\$49.92	\$51.08
Weekend 3	\$50.38	\$49.93	\$50.65	\$51.22	\$50.72	\$51.88

(4) Rates for Temporary Nursing Services Related to COVID-19. Temporary nursing services related to COVID-19 may be purchased by governmental units at individually considered rates that exceed the maximum rates established in 101 CMR 345.00, and governmental units may enter into contracts for the provision of these services in alternate service locations other than a hospital or nursing facility. A governmental unit, in its sole discretion, may determine whether a rate above the maximum rates established in 101 CMR 345.00 is necessary and appropriate, as well as the appropriate rate for services provided in a service location other than a hospital or nursing facility.

345.04: General Rate Provisions

- (1) The rates determined in accordance with 101 CMR 345.00 are full compensation for temporary nursing services rendered to a nursing facility or hospital, including any related administrative or supervising duties provided by the agency in connection with patient care.
- (2) An agency may charge a nursing facility or hospital less than the rate determined by 101 CMR 345.00.
- (3) An agency may not bill, receive payments, or propose to do business with a nursing facility or hospital at a rate greater than the rate established by EOHHS, and such acts constitute an unfair or deceptive act or practice in violation of M.G.L. c. 93A. If an agency violates this requirement, EOHHS or the nursing facility or hospital may