

A-Engrossed House Bill 2697

Ordered by the House April 10
Including House Amendments dated April 10

Sponsored by Representative NOSSE, Senator MANNING JR, Representative NELSON, Senator PATTERSON; Representatives BOWMAN, CHAICHI, DEXTER, GAMBA, HOLVEY, HUDSON, Senator CAMPOS (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires hospitals to establish **professional and technical staff and service staff staffing committees, meeting specified criteria**, to develop staffing plans, in addition to nurse staffing committee. **Prescribes methods for resolving disputes arising in development of staffing plans.** Establishes minimum *[standards for staffing plans]* **nurse-to-patient staffing ratios** for direct care registered nurses **and provides exceptions.** Imposes penalties for failure to adopt hospital staffing plans or to comply with staffing plans **or requirements for development of staffing plans.** Requires Oregon Health Authority to post staffing plans to authority's website and to establish *[online portal]* **method** for filing complaints **through authority's website** regarding hospital's failure to adopt or to comply with staffing plans. **Prescribes complaint process.** Adds enforcement tools for authority to enforce nurse staffing requirements. *[Creates private cause of action for hospital failure to adopt or to comply with staffing plans.]* **Prohibits imposition of new provisions regarding civil penalties for violations occurring before June 1, 2025.**

[Requires home health agencies to establish home health nurse staffing committees. Specifies membership and duties of committees. Creates new requirements to enforce home health nurse staffing provisions.]

Declares emergency, effective September 1, 2023.

A BILL FOR AN ACT

1
2 Relating to staffing plans for health care provider entities; creating new provisions; amending ORS
3 441.020, 441.151, 441.152, 441.154, 441.155, 441.156, 441.164, 441.165, 441.175 and 441.177; repealing
4 ORS 441.157; and declaring an emergency.

5 **Be It Enacted by the People of the State of Oregon:**

HOSPITAL STAFFING PLANS

(Staffing Committees)

6
7
8
9
10 **SECTION 1.** ORS 441.151 is amended to read:

11 441.151. As used in ORS 441.152 to 441.177[]:

12 (1) **"Charge nurse" means a direct care registered nurse who coordinates patient care**
13 **responsibilities among nurses in a hospital unit.**

14 (2) **"Clinical care staff" means individuals who are licensed or certified by the state and**
15 **who provide direct care.**

16 (3) **"Direct care" means any care provided by a licensed or certified member of the hos-**
17 **pital staff that is within the scope of the license or certification of the member.**

18 (4) **"Direct care staff" means any of the following who are routinely assigned to patient**
19 **care and are replaced when they are absent:**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

- 1 (a) Registered nurses;
 - 2 (b) Licensed practical nurses;
 - 3 (c) Certified nursing assistants; or
 - 4 (d) Specialty care staff such as care managers and intravenous therapy nurses.
- 5 (5) “Exclusive representative” means a labor organization that is:

- 6 (a) Certified as an exclusive representative by the National Labor Relations Board; or
- 7 (b) Certified as an exclusive representative by the Employment Relations Board under
- 8 ORS 243.650 to 243.809.

9 (6) “Hospital” includes a hospital as described in ORS 442.015 and an acute inpatient care fa-
10 cility as defined in ORS 442.470.

11 (7) “Intensive care unit” means a unit of a hospital that provides care to critically ill
12 patients who require advanced treatments such as mechanical ventilation, vasoactive in-
13 fusions or continuous renal replacement treatment or who require frequent assessment and
14 monitoring.

15 (8) “Intermediate care unit” means a unit of a hospital that provides progressive care,
16 intensive specialty care or step-down care.

17 (9) “Medical-surgical unit” means an inpatient unit in which general medical or post-
18 surgical level of care is provided, excluding critical care units and any units referred to in
19 sections 6, 9 and 11 of this 2023 Act.

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

24 (11) “Progressive care” means care provided to hospital patients who need more moni-
25 toring and assessment than patients on the medical-surgical units but whose conditions are
26 not so unstable that they require care in an intensive care unit.

27 (12) “Service staff” means service workers as defined by a collective bargaining agree-
28 ment or, if no collective bargaining agreement exists, by the chief executive officer of the
29 hospital or the chief executive officer’s designee, consistent with National Labor Relations
30 Board regulations.

31 (13) “Step-down care” means care for patients transitioning out of the intensive care unit
32 who require more care and attention than patients in a hospital’s medical-surgical units.

33 (14) “Technical staff” means technical workers as defined in a collective bargaining
34 agreement or, if no collective bargaining agreement exists, by the chief executive officer of
35 the hospital or the chief executive officer’s designee, consistent with National Labor Re-
36 lations Board regulations.

37 **SECTION 2.** Sections 3 to 6, 9 to 11 and 16 of this 2023 Act are added to and made a part
38 of ORS 441.152 to 441.177.

39 **SECTION 3.** (1)(a) For each hospital there shall be established a hospital professional and
40 technical staffing committee. A hospital professional and technical staffing committee shall
41 consist of an equal number of hospital professional and technical managers and professional
42 and technical staff who work at the hospital.

43 (b) If the professional and technical staff who work at the hospital have an exclusive
44 representative, the exclusive representative shall select the staff members of the committee.

45 (c) If none of the professional and technical staff who work at the hospital have an ex-

1 **clusive representative, the professional and technical managers shall select the professional**
2 **and technical staff members of the committee.**

3 **(2) A hospital professional and technical staffing committee shall develop a written**
4 **hospital-wide professional and technical staffing plan in accordance with subsection (5) of**
5 **this section. In developing the professional and technical staffing plan, the primary goal of**
6 **the committee shall be to ensure that the hospital is staffed sufficiently to meet the health**
7 **care needs of the patients in the hospital. The committee shall review and modify the staffing**
8 **plan, as needed, in accordance with this section.**

9 **(3) A majority of the members of the committee constitutes a quorum for the transaction**
10 **of business.**

11 **(4) A hospital professional and technical staffing committee must have two cochair. One**
12 **cochair shall be a professional or technical manager elected by the members of the com-**
13 **mittee who are professional or technical managers. The other cochair shall be a professional**
14 **or technical staff person elected by the members of the committee who are professional and**
15 **technical staff.**

16 **(5)(a) A hospital professional and technical staffing committee shall develop a profes-**
17 **sional and technical staffing plan that is consistent with the approved nurse staffing plan for**
18 **the hospital and that takes into account the hospital service staffing plan for the hospital**
19 **developed under section 4 of this section.**

20 **(b) The professional and technical staffing committee shall consider the following criteria**
21 **when developing the professional and technical staffing plan:**

22 **(A) The hospital's census;**

23 **(B) Location of the patients;**

24 **(C) Patient types and patient acuity;**

25 **(D) National standards, if any;**

26 **(E) The size of the hospital and square footage of the hospital;**

27 **(F) Ensuring patient access to care; and**

28 **(G) Feedback received during committee meetings from staff.**

29 **(6)(a) A hospital professional and technical staffing committee must adopt a staffing plan**
30 **by a majority vote of the members of the hospital professional and technical staffing com-**
31 **mittee. If a quorum of members present at a meeting comprises an unequal number of pro-**
32 **fessional and technical staff and professional and technical managers, only an equal number**
33 **of staff and managers may vote. A staffing plan adopted by the professional and technical**
34 **staffing committee must include a summary of the committee's consideration of the criteria**
35 **in subsection (5) of this section.**

36 **(b) If the hospital professional and technical staffing committee does not adopt a staffing**
37 **plan or adopts only a part of the plan after 60 days of deliberations, the committee shall**
38 **submit the disputed plan or parts of the plan, as applicable, including a summary of the**
39 **committee's consideration of the criteria in subsection (5) of this section, to the chief exec-**
40 **utive officer of the hospital. The chief executive officer or the chief executive officer's**
41 **designee shall decide the disputed plan or parts of the plan, as applicable, considering the**
42 **summary of the committee's consideration of the criteria in subsection (5) of this section,**
43 **and adopt the staffing plan or parts of the plan that were not adopted by the committee. The**
44 **chief executive officer or the chief executive officer's designee shall provide to the staffing**
45 **committee:**

1 (A) A written explanation of the staffing plan or the parts of the staffing plan that were
2 in dispute;

3 (B) The final written proposals of the members of the staffing committee and the
4 members' rationales for their proposals and the committee's summary of the committee's
5 consideration of the criteria in subsection (5) of this section; and

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

8 (c) If the professional and technical staffing committee is unable to reach an agreement
9 on the staffing plan after 60 days of deliberations, the members of the professional and
10 technical staffing committee, by agreement, may extend deliberations up to 60 additional
11 days before the disputed plan or parts of the plan must be submitted to the chief executive
12 officer or the chief executive officer's designee in accordance with paragraph (b) of this
13 subsection.

14 (d) A plan adopted by a chief executive officer or the chief executive officer's designee
15 must include any staffing-related terms and conditions that were previously adopted through
16 any applicable collective bargaining agreement, including any meal and rest break require-
17 ments.

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

20 (8)(a) Except as provided in paragraph (b) of this subsection, a hospital professional and
21 technical staffing committee meeting must be open to:

22 (A) The hospital's professional and technical staff, who shall be offered the opportunity
23 to provide feedback to the committee during the committee's meetings; and

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

25 (b) While the committee is deliberating or voting during a meeting, either cochair may
26 exclude individuals described in paragraph (a) of this subsection.

27 (9) Minutes must be taken at every committee meeting and the minutes must:

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

29 (b) Include a summary of all discussions; and

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

31 (10) A manager shall release staff and managers who serve on the hospital professional
32 and technical staffing committee from their duties and compensate the staff and managers
33 who serve on the committee for time spent attending the professional and technical staffing
34 committee meetings.

35 (11) The hospital shall submit the staffing plan adopted under subsection (6) of this sec-
36 tion to the Oregon Health Authority no later than 30 days after adoption of the staffing plan
37 and shall submit any subsequent changes to the authority no later than 30 days after the
38 changes are adopted.

39 (12) Each hospital unit, as defined by the professional and technical staffing committee,
40 may deviate from the staffing plan developed by the professional and technical staffing
41 committee for up to 12 hours, no more than six times during a rolling 30-day period without
42 being in violation of the professional and technical staffing plan. The unit manager must
43 notify the hospital professional and technical staffing committee cochairs no later than 10
44 days after each deviation. Each subsequent deviation during the 30-day period constitutes a
45 separate violation under section 18 of this 2023 Act.

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

4 (b) If the service staff who work at the hospital have an exclusive representative, the
5 exclusive representative shall select the service staff members of the committee.

6 (c) If none of the service staff who work at the hospital have an exclusive representative,
7 the service staff managers shall select the service staff members of the committee.

8 (2) A hospital service staffing committee shall develop a written hospital-wide staffing
9 plan in accordance with subsection (5) of this section. The committee shall review and modify
10 the staffing plan as needed in accordance with this section.

11 (3) A majority of the members of the hospital service staffing committee constitutes a
12 quorum for the transaction of business.

13 (4) A hospital service staffing committee must have two cochair. One cochair shall be
14 a service staff manager elected by the members of the committee who are service staff
15 managers. The other cochair shall be a service staff person elected by the members of the
16 committee who are service staff.

17 (5) A hospital service staffing committee shall develop a hospital service staffing plan
18 that is consistent with the approved nurse staffing plan for the hospital and that takes into
19 account the professional and technical staffing plan for the hospital developed under section
20 3 of this 2023 Act. The hospital service staffing committee shall consider the following cri-
21 teria in developing the hospital service staffing plan:

- 22 (a) The hospital's census;
- 23 (b) Location of the patients;
- 24 (c) Patient types and patient acuity;
- 25 (d) National standards, if any;
- 26 (e) The size of the hospital and square footage of the hospital;
- 27 (f) Ensuring patient access to care; and
- 28 (g) Feedback received during committee meetings from staff.

29 (6)(a) A hospital service staffing committee must adopt a staffing plan by a majority vote
30 of the members of the hospital service staffing committee. If a quorum of members present
31 at a meeting comprises an unequal number of service staff and service staff managers, only
32 an equal number of staff and managers may vote. A staffing plan adopted by the hospital
33 service staffing committee must include a summary of the committee's consideration of the
34 criteria in subsection (5) of this section.

35 (b) If the hospital service staffing committee does not adopt a staffing plan or adopts only
36 a part of the staffing plan after 60 days of deliberations, the committee shall submit the
37 disputed plan or parts of the plan, as applicable, including a summary of the committee's
38 consideration of the criteria in subsection (5) of this section, to the chief executive officer
39 of the hospital. The chief executive officer or the chief executive officer's designee shall de-
40 cide the disputed plan or parts of the plan, as applicable, considering the summary of the
41 committee's consideration of the criteria in subsection (5) of this section, and adopt the
42 staffing plan or parts of the plan that were not adopted by the committee. The chief execu-
43 tive officer or the designee of the chief executive officer shall provide to the hospital service
44 staffing committee:

- 45 (A) A written explanation of the parts of the staffing plan that were in dispute;

1 (B) The final written proposals of the members of the staffing committee and the
2 members' rationales for their proposals and the committee's summary of the committee's
3 consideration of the criteria in subsection (5) of this section; and

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

6 (c) If the hospital service staffing committee is unable to reach an agreement on the
7 hospital service staffing plan after 60 days of deliberations, the members of the hospital
8 service staffing committee, by agreement, may extend deliberations up to 60 additional days
9 before the disputed plan or parts of the plan must be submitted to the chief executive officer
10 or the chief executive officer's designee in accordance with paragraph (b) of this subsection.

11 (d) A plan adopted by a chief executive officer or the chief executive officer's designee
12 must include any staffing-related terms and conditions that were previously adopted through
13 any applicable collective bargaining agreement, including any meal and rest break require-
14 ments.

15 (7) A hospital service staffing committee must meet three times each year and at the call
16 of either cochair, at a time and place specified by the cochairs.

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

19 (A) The hospital's service staff, who shall be offered the opportunity to provide feedback
20 to the committee during the committee's meetings; and

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

22 (b) While the committee is deliberating or voting during a meeting, either cochair may
23 exclude individuals described in paragraph (a) of this subsection.

24 (9) Minutes must be taken at every committee meeting and the minutes must:

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

26 (b) Include a summary of all discussions; and

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

28 (10) A manager shall release from their duties service staff and service staff managers
29 who serve on the hospital service staffing committee and compensate the service staff and
30 service staff managers who serve on the committee for time spent attending committee
31 meetings.

32 (11) The hospital shall submit the hospital service staffing plan adopted under subsection
33 (6) of this section to the Oregon Health Authority no later than 30 days after adoption of the
34 staffing plan and shall submit any subsequent changes to the authority no later than 30 days
35 after the changes are adopted.

36 (12) Each hospital unit, as defined by the hospital service staffing committee, may deviate
37 from the hospital service staffing plan for up to 12 hours, no more than six times during a
38 rolling 30-day period without being in violation of the hospital service staffing plan. The unit
39 manager must notify the hospital services staffing committee cochairs no later than 10 days
40 after each deviation. Each subsequent deviation during the 30-day period constitutes a sepa-
41 rate violation under section 18 of this 2023 Act.

42 **SECTION 5.** (1) In a hospital that has an exclusive bargaining representative, labor and
43 management may agree to combine two or more of the hospital professional and technical
44 staffing committee, the hospital service staffing committee and the nurse staffing committee
45 into one committee if:

1 (a) The structure of the committees to be combined meet the requirements of ORS
2 441.154 or section 3 or 4 of this 2023 Act; and

3 (b) Each nonmanagement committee member is represented by an exclusive represen-
4 tative.

5 (2) Disputes arising in combined committees shall be resolved using the applicable dispute
6 resolution processes under section 3, 4 or 11 of this 2023 Act.

7 **SECTION 6.** (1) As used in this section, “unit” means a hospital unit as defined by the
8 nurse staffing committee.

9 (2) With respect to direct care registered nurses, a hospital nurse staffing plan must
10 ensure that at all times:

11 (a) In an emergency department:

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

13 (B) The ratio of direct care registered nurses to patients must average no more than one
14 to four over a 12-hours shift and a single direct care registered nurse may not be assigned
15 more than five patients at one time. Direct care registered nurses assigned to trauma pa-
16 tients may not be taken into account in determining the average ratio.

17 (b) In an intensive care unit a direct care registered nurse is assigned to not more than
18 two patients.

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

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

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

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

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

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

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

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

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

37 (j) In a medical-surgical unit, a direct care registered nurse is assigned to no more than
38 four patients.

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

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

43 (3) Notwithstanding subsection (2) of this section, the direct care registered nurse-to-
44 patient ratio for an individual patient shall be based on the patient’s needed level of care
45 regardless of the unit where the patient is being cared for.

1 (4) With the approval of a majority of the members of the nurse staffing committee, a
2 unit can deviate from the direct care registered nurse-to-patient ratios in subsection (2) of
3 this section, in pursuit of innovative care models that were considered by the nurse staffing
4 committee by allowing other clinical care staff to constitute up to 50 percent of the regis-
5 tered nurses needed to comply with the applicable nurse-to-patient ratio. The staffing in an
6 innovative care model must be reapproved by the nurse staffing committee every two years.

7 (5) A hospital shall provide for meal and rest breaks in accordance with ORS 653.261, and
8 rules implementing ORS 653.261, and any applicable collective bargaining agreement.

9 (6) Each hospital unit may deviate from a nurse staffing plan, except with respect to
10 meal breaks and rest breaks, including the applicable registered nurse-to-patient ratios un-
11 der this section, for up to 12 hours, no more than six times during a rolling 30-day period
12 without being in violation of the nurse staffing plan. The unit manager must notify the hos-
13 pital nurse staffing committee no later than 10 days after each deviation. Each subsequent
14 deviation during the 30-day period constitutes a separate violation under section 18 of this
15 2023 Act.

16 (7) A hospital may not require a direct care registered nurse to be assigned to more pa-
17 tients than as specified in this section or in the nurse staffing plan approved by the hospital
18 nurse staffing committee, as applicable.

19 (8) A charge nurse may:

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

22 (b) Take patient assignments, including patient assignments taken for the purpose of
23 covering staff who are on meal or rest breaks, in units with 11 or more beds with the ap-
24 proval of the nurse staffing committee; and

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

27 **SECTION 7.** Notwithstanding section 6 of this 2023 Act, in a medical-surgical unit of a
28 hospital, a direct care registered nurse may be assigned to up to five patients.

29 **SECTION 8.** Section 7 of this 2023 Act is repealed on June 30, 2026.

30 **SECTION 9.** (1) As used in this section, “psychiatric unit” includes:

31 (a) Inpatient psychiatric units;

32 (b) Psychiatric geriatric units;

33 (c) Psychiatric pediatric units;

34 (d) Emergency departments that provide psychiatric emergency service; and

35 (e) The Oregon State Hospital.

36 (2) A psychiatric unit shall create a multi-disciplinary subcommittee of the nurse staffing
37 committee consisting of staff from the unit. The subcommittee shall adopt the staffing plan
38 for the psychiatric unit and shall be considered a nurse staffing committee for purposes of:

39 (a) The adoption of a nurse staffing plan under ORS 441.154 and 441.155; and

40 (b) Provisions of section 11 of this 2023 Act related to:

41 (A) Dispute resolution through mandatory arbitration; and

42 (B) Determining the circumstances when the nurse-to-patient ratios in section 6 of this
43 2023 Act will not apply.

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

1 a night shift.

2 **SECTION 11.** (1) As used in this section, “licensed independent practitioner” has the
3 meaning given that term in ORS 426.005.

4 (2) Direct care registered nurse-to-patient staffing ratios do not apply to the care of:

5 (a) Patients in intensive care or critical units in circumstances prescribed by the nurse
6 staffing committee;

7 (b) Emergency department patients who are in critical condition, until they are stable;

8 (c) Patients in swing beds, as defined by the Centers for Medicare and Medicaid Services;

9 (d) Patients, in inpatient units, who are ready for discharge, as indicated in the medical
10 record by a licensed independent practitioner, but are facing a barrier to discharge;

11 (e) Patients, including patients in an emergency department, who are located in rooms
12 near one another in the hospital and who are ready for discharge, as indicated in each
13 patient’s medical record by a licensed independent practitioner, but who face a barrier to
14 discharge;

15 (f) Patients in outpatient units that operate under a hospital’s license; or

16 (g) Patients in psychiatric units.

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

19 (a) Consistent with nationally recognized nurse staffing standards or benchmarks;

20 (b) Consistent with a tool that measures patient acuity and intensity and that has been
21 calibrated to the applicable unit; or

22 (c) Approved after the committee has considered:

23 (A) The specialized qualifications and competencies of the staff in the unit;

24 (B) Historic acuity and intensity of the patients in the unit;

25 (C) Nationally recognized nurse staffing standards, if any; and

26 (D) Ensuring patient access to care.

27 (4)(a) If the hospital nurse staffing committee does not adopt a nurse staffing plan under
28 subsection (3) of this section by the 60th day of deliberations, the cochairs of the staffing
29 committee shall submit the disputed nurse staffing plan or disputed parts of the nurse
30 staffing plan to the Oregon Health Authority and the authority shall initiate expedited bind-
31 ing arbitration.

32 (b) The arbitrator shall be selected using alternating strikes by the cochairs or their
33 designees from a list of seven drawn from the interest arbitrator panel maintained by the
34 State Conciliation Service.

35 (c) Arbitration must be scheduled by mutual agreement no later than 30 calendar days
36 after the cochairs submit the disputed nurse staffing plan or the disputed parts of the
37 staffing plan to the authority except, by mutual agreement, the time may be extended.

38 (d) The arbitrator shall issue a decision on the nurse staffing plan or the disputed parts
39 of the nurse staffing plan, as applicable, based on the written submissions of evidence and
40 arguments and may not conduct an evidentiary hearing or allow discovery. The arbitrator’s
41 decision must be based on and within the parameters of the versions of the staffing plan or
42 the disputed parts of the staffing plan submitted by the cochairs and must be within the
43 staffing parameters.

44 (e) The arbitrator shall issue a decision no later than 60 days after the submission of
45 evidence and written arguments.

1 **(f) The hospital shall pay for the cost of the arbitrator.**

2 **SECTION 12.** ORS 441.154 is amended to read:

3 441.154. (1)(a) For each hospital there shall be established a hospital nurse staffing committee.
4 Each **nurse staffing** committee shall:

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

6 (B) For *[that]* **the** portion of the committee composed of direct care staff, consist entirely of di-
7 rect care registered nurses, except for one position to be filled by a direct care staff member who
8 is not a registered nurse and whose services are covered by a written hospital-wide **nurse** staffing
9 plan *[that meets the requirements of ORS 441.155]*; and

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

11 (b) If **any of** the direct care registered nurses who work at a hospital *[are represented under a*
12 *collective bargaining agreement, the bargaining unit shall conduct a selection process by which the*
13 *direct care registered nurses who work at the hospital select the members of the committee who are*
14 *direct care registered nurses]* **have an exclusive representative, the exclusive representative**
15 **shall select the direct care registered nurse members of the committee.**

16 (c) If the direct care staff member who is not a registered nurse who works at a hospital *[is*
17 *represented under a collective bargaining agreement, the bargaining unit shall use the selection process*
18 *conducted pursuant to paragraph (b) of this subsection to select that member of the committee]* **has an**
19 **exclusive representative, the exclusive representative shall select the direct care staff**
20 **member of the committee who is not a registered nurse.**

21 **(d) If none of the direct care registered nurses who work at a hospital are represented**
22 **by an exclusive representative, the direct care registered nurses belonging to a hospital**
23 **nurse specialty or unit shall select the members of the committee who are direct care reg-**
24 **istered nurses from the specialty or unit to serve on the committee.**

25 **(e) If none of the direct care staff working at the hospital who are not registered nurses**
26 **are represented by an exclusive representative, the direct care registered nurses who are**
27 **members of the staffing committee shall select the direct care staff who are not registered**
28 **nurses to serve on the committee.**

29 *[(d) If the direct care registered nurses who work at a hospital are not represented under a col-*
30 *lective bargaining agreement, the direct care registered nurses belonging to a hospital nurse specialty*
31 *or unit shall select each member of the committee who is a direct care registered nurse from that spe-*
32 *cialty or unit.]*

33 (2) A hospital nurse staffing committee shall develop a written hospital-wide **nurse** staffing plan
34 in accordance with **this section and ORS 441.155 and 441.156 and sections 6, 9, 10 and 11 of this**
35 **2023 Act.** The committee's primary goals in developing the staffing plan shall be to ensure that the
36 hospital is staffed to meet the health care needs of patients. The committee shall review and modify
37 the staffing plan in accordance with ORS 441.156.

38 (3) A majority of the members of a hospital nurse staffing committee constitutes a quorum for
39 the transaction of business.

40 (4) A hospital nurse staffing committee shall have two cochair. One cochair shall be a hospital
41 nurse manager elected by the members of the committee who are hospital nurse managers and one
42 cochair shall be a direct care registered nurse elected by the members of the committee who are
43 direct care staff.

44 (5)*[(a)]* A decision made by a hospital nurse staffing committee must be made by a vote of a
45 majority of the members of the committee. If a quorum of members **present at a meeting** comprises

1 an unequal number of hospital nurse managers and direct care staff, only an equal number of hos-
2 pital nurse managers and direct care staff may vote.

3 *[(b) If the committee is unable to reach an agreement on the staffing plan, either cochair of the*
4 *committee may invoke a 30-day period during which the committee shall continue to develop the staffing*
5 *plan. During the 30-day period, the hospital shall respond in a timely manner to reasonable requests*
6 *from members of the committee for data that will enable the committee to reach a resolution. If at the*
7 *end of the 30-day period, the committee remains unable to reach an agreement on the staffing plan, one*
8 *of the cochairs shall notify the Oregon Health Authority of the impasse.]*

9 *[(c) Upon receiving notification under paragraph (b) of this subsection, the authority shall provide*
10 *the committee with a mediator to assist the committee in reaching an agreement on the staffing plan.*
11 *Mediation conducted under this paragraph must be consistent with the requirements for implementing*
12 *and reviewing staffing plans under ORS 441.155 and 441.156.]*

13 *[(d) If the committee is unable to reach an agreement on the staffing plan after 90 days of medi-*
14 *ation, the authority may impose a penalty against the hospital as described in ORS 441.175.]*

15 (6) A hospital nurse staffing committee shall meet:

16 (a) At least once every [*three*] **four** months; and

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

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

20 (A) The hospital nursing staff as observers; and

21 (B) Upon invitation by either cochair, other observers or presenters.

22 (b) At any time, either cochair may exclude persons described in paragraph (a) of this subsection
23 from a committee meeting for purposes related to deliberation and voting.

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

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

26 (b) Summarize discussions; and

27 (c) Be made available in a timely manner to hospital nursing staff and other hospital staff upon
28 request.

29 (9) A hospital shall release a member of a hospital nurse staffing committee described in sub-
30 section (1)(a) of this section from the member's assignment, and provide the member with paid time,
31 to attend committee meetings.

32 **SECTION 13.** ORS 441.155 is amended to read:

33 441.155. (1) Each hospital shall implement [*the*] **a** written hospital-wide staffing plan for nursing
34 services that **meets the requirements of this section and ORS 441.154 and 441.156 and sections**
35 **6, 9, 10 and 11 of this 2023 Act and that** has been developed and approved by the hospital nurse
36 staffing committee under ORS 441.154.

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

39 **(a) May consider:**

40 [(a)] **(A)** [*Must be based on*] The specialized qualifications and competencies of the nursing staff
41 and [*provide for*] the skill mix and level of competency [*necessary*] **needed** to ensure that the hospital
42 is staffed to meet the health care needs of patients;

43 [(b)] **(B)** [*Must be based on*] **The size of the hospital and** a measurement of hospital unit ac-
44 tivity that quantifies the rate of admissions, discharges and transfers for each hospital unit and the
45 time required for a direct care registered nurse belonging to a hospital unit to complete admissions,

1 discharges and transfers for that hospital unit;

2 [(c)] (C) [*Must be based on total diagnoses for each hospital unit and the nursing staff required*
3 *to manage that set of diagnoses*] **The unit's general and predominant patient population as de-**
4 **defined by the Medicare Severity Diagnosis-Related Groups adopted by the Centers for Medi-**
5 **care and Medicaid Services, or by other measures for patients who are not classified in the**
6 **Medicare Severity Diagnosis-Related Groups;**

7 [(d)] (D) [*Must be consistent with*] Nationally recognized evidence-based standards and guidelines
8 established by professional nursing specialty organizations, **if any;**

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

10 [(f) *Must establish minimum numbers of nursing staff, including licensed practical nurses and*
11 *certified nursing assistants, required on specified shifts, provided that at least one registered nurse and*
12 *one other nursing staff member is on duty in a unit when a patient is present;*]

13 [(g) *Must include a formal process for evaluating and initiating limitations on admission or di-*
14 *version of patients to another hospital when, in the judgment of a direct care registered nurse or a*
15 *nurse manager, there is an inability to meet patient care needs or a risk of harm to patients;*]

16 [(h)] (F) [*Must consider*] Tasks not related to providing direct care[, *including meal breaks and*
17 *rest breaks*]; and

18 [(i) *May not base nursing staff requirements solely on external benchmarking data*]

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

20 **(3) The nurse staffing plan developed and approved by the hospital nurse staffing com-**
21 **mittee must include a formal process for evaluating and initiating limitations on admitting**
22 **patients or diverting patients to another hospital when, in the judgment of a direct care**
23 **registered nurse or a nurse manager, the staff are unable to meet patient care needs or if**
24 **there is a risk of harm to patients.**

25 [(3)] (4) A hospital must maintain and post, **in a physical location or online**, a list of on-call
26 nursing staff or staffing agencies to provide replacement nursing staff in the event of a vacancy.
27 The list of on-call nursing staff or staffing agencies must be sufficient to provide for replacement
28 nursing staff.

29 [(4)(a)] (5)(a) An employer may not impose upon unionized nursing staff any changes in wages,
30 hours or other terms and conditions of employment pursuant to a staffing plan unless the employer
31 first provides notice to and, upon request, bargains with the union as the exclusive collective bar-
32 gaining representative of the nursing staff in the bargaining unit.

33 (b) A staffing plan does not create, preempt or modify a collective bargaining agreement or re-
34 quire a union or employer to bargain over the staffing plan while a collective bargaining agreement
35 is in effect.

36 **(6) A hospital shall submit to the Oregon Health Authority a nurse staffing plan adopted**
37 **in accordance with this section and section 11 of this 2023 Act and submit any changes to**
38 **the plan no later than 30 days after approval of the changes by the hospital nurse staffing**
39 **committee.**

40 **(7) A type A or a type B hospital may request from the Oregon Health Authority a two-**
41 **year variance from the requirements of section 6 of this 2023 Act if the nurse staffing com-**
42 **mittee of the hospital has voted to approve the variance. The authority shall allow for a type**
43 **A hospital or type B hospital to apply for the variance through the authority's website. The**
44 **authority shall approve a type A or type B hospital's request for a two-year variance under**
45 **this subsection if the request includes a statement signed by the cochairs of the hospital**

1 **nurse staffing committee of the hospital, confirming that the nurse staffing committee voted**
2 **to approve the variance.**

3 **SECTION 14. Notwithstanding ORS 441.155, prior to June 1, 2024, a hospital nurse staffing**
4 **committee established under ORS 441.154, may approve a staffing plan that is:**

5 (1) **Consistent with nationally recognized nurse staffing standards or benchmarks;**

6 (2) **Consistent with a tool that measures patient acuity and intensity and that has been**
7 **calibrated to the hospital unit, as defined by the nurse staffing committee; or**

8 (3) **Approved after the nurse staffing committee has considered:**

9 (a) **The specialized qualifications and competencies of the staff in the unit;**

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

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

12 (d) **The assurance of the patients' access to care.**

13 **SECTION 15. ORS 441.156 is amended to read:**

14 441.156. (1) A hospital nurse staffing committee established pursuant to ORS 441.154 [*shall re-*
15 *view the written hospital-wide staffing plan developed by the committee under ORS 441.155*] **shall re-**
16 **view the nurse staffing plan:**

17 (a) **At least once every year; and**

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

19 (2) **In reviewing a staffing plan, a hospital nurse staffing committee shall consider:**

20 (a) **Patient outcomes;**

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

23 (c) **The number of hours of nursing care provided through a hospital unit compared with the**
24 **number of patients served by the hospital unit during a 24-hour period;**

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

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

27 (f) **The percentage of shifts for each hospital unit for which staffing differed from what is re-**
28 **quired by the staffing plan; [*and*]**

29 **(g) The number of meal and rest breaks missed by direct care staff; and**

30 [(g)] (h) **Any other matter determined by the committee to be necessary to ensure that the**
31 **hospital is staffed to meet the health care needs of patients.**

32 (3) **Upon reviewing a staffing plan, a hospital nurse staffing committee [*shall:*]**

33 [(a) *Report whether the staffing plan ensures that the hospital is staffed to meet the health care*
34 *needs of patients; and*]

35 [(b) **may** modify the staffing plan [*as necessary to ensure that the hospital is staffed to meet the*
36 *health care needs of patients*].

37
38 **(Enforcement)**
39

40 **SECTION 16. (1) To ensure compliance with ORS 441.152 to 441.177, the Oregon Health**
41 **Authority shall:**

42 (a) **Establish a method by which a hospital staff person or an exclusive representative**
43 **of a hospital staff person may submit a complaint through the authority's website regarding**
44 **any violation listed in section 18 of this 2023 Act;**

45 (b) **No later than 14 days after receiving a complaint, send a copy of the complaint to the**

1 exclusive representative, if any, of the staff person or staff persons who filed the complaint;

2 (c) No later than 30 days after receiving a complaint of a violation listed in section 18 of
3 this 2023 Act, open an investigation of the hospital and provide a notice of the investigation
4 to the hospital and the cochairs of the relevant staffing committee established pursuant to
5 ORS 441.154 or section 3 or 4 of this 2023 Act, and to the exclusive representative, if any, of
6 the staff person or staff persons filing the complaint. The notice must include a summary
7 of the complaint that does not include the complainant's name or the specific date, shift or
8 unit but does include the calendar week in which the complaint arose;

9 (d) Not later than 60 days after opening the investigation, conclude the investigation and
10 provide a written report on the complaint to the cochairs of the hospital staffing committee,
11 and the exclusive representative, if any, of the staff person or staff persons filing the com-
12 plaint. The report:

13 (A) Shall include a summary of the complaint;

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

15 (C) Shall include the authority's findings and factual bases for the findings;

16 (D) Shall include other information the authority determines is appropriate to include in
17 the report;

18 (E) May not include the name of any complainant who is a patient or the names of any
19 individuals that the authority interviewed in investigating the complaint; and

20 (F) Shall, if the authority imposes one or more civil penalties, include a notice of the civil
21 penalties that complies with ORS 183.415, 183.745 and 441.175; and

22 (e) In determining whether to impose a civil penalty, the authority shall consider all
23 relevant evidence, including but not limited to witness testimony, written documents and the
24 observations of the investigator.

25 (2) A hospital subject to a complaint described in subsection (1) of this section shall
26 provide to the authority, no later than 20 days after receiving the notice under subsection
27 (1)(c) of this section:

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

29 (b) If relevant to the complaint, documents that show the scheduled staffing and the
30 actual staffing on the unit that is the subject of the complaint during the period of time
31 specified in the complaint; and

32 (c) Documents that show the actions described in ORS 441.175 (4), if any, that the hos-
33 pital took to comply with the staffing plan or to address the issue raised by the complaint.

34 (3) In conducting an investigation, the authority shall review any document:

35 (a) Related to the complaint that is provided by the exclusive representative that filed
36 the complaint or by the hospital staff person who filed the complaint and the person's ex-
37 clusive representative, if any; and

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

39 (4) In conducting an investigation, the authority may:

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

41 (b) Interview a manager for the unit and any other staff persons with information rele-
42 vant to the complaint;

43 (c) Interview the cochairs of the relevant staffing committee;

44 (d) Interview the staff person or staff persons who filed the complaint unless the indi-
45 vidual declines to be interviewed; and

1 (e) **Compel the production of books, papers, accounts, documents and testimony pertain-**
2 **ing to the complaint.**

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

7 **SECTION 17.** ORS 441.175 is amended to read:

8 441.175. (1) The Oregon Health Authority [*may*] **shall** impose civil penalties in the manner pro-
9 vided in ORS 183.745 [*or suspend or revoke a license of a hospital*] for a violation [*of any provision*
10 *of ORS 441.152 to 441.177*] **listed in section 18 of this 2023 Act.** [*The authority shall adopt by rule*
11 *a schedule establishing the amount of civil penalty that may be imposed for a violation of ORS 441.152*
12 *to 441.177 when there is a reasonable belief that safe patient care has been or may be negatively im-*
13 *acted, except that a civil penalty may not exceed \$5,000.*]

14 (2) **The authority may suspend or revoke the license of a hospital, in the manner provided**
15 **in ORS 441.030, for a violation described in section 18 of this 2023 Act.**

16 (3) Each violation of a written hospital-wide staffing plan shall be considered a separate vio-
17 lation **and there is no cap on the times that a penalty may be imposed for a repeat of a vio-**
18 **lation.** [*Any license that is suspended or revoked under this subsection shall be suspended or revoked*
19 *as provided in ORS 441.030.*]

20 (4) **The authority may not impose a civil penalty for a violation of a hospital nurse**
21 **staffing plan, a hospital professional and technical staffing plan or a hospital service staffing**
22 **plan if the hospital took the following actions:**

23 (a) **Scheduled staff in accordance with the staffing plan;**

24 (b) **Sought volunteers from all available qualified staff to work extra time;**

25 (c) **Contacted qualified employees who made themselves available to work extra time;**

26 (d) **Solicited per diem staff to work; and**

27 (e) **Contacted contracted temporary agencies, that the hospital regularly uses, if tempo-**
28 **rary staff from such agencies are permitted to work in the hospital by law or any applicable**
29 **collective bargaining agreement.**

30 [(2)] (4) The authority shall maintain for public inspection records of any civil penalties or li-
31 cense suspensions or revocations imposed on hospitals penalized under subsection (1) **or (2)** of this
32 section.

33 **SECTION 18.** (1) **Following the receipt of a complaint and completion of an investigation**
34 **described in section 16 of this 2023 Act, for a violation described in subsection (2) of this**
35 **section, the Oregon Health Authority shall:**

36 (a) **Issue a warning for the first violation;**

37 (b) **Impose a civil penalty of \$1,750 for a second violation of the same provision; and**

38 (c) **Impose a civil penalty of \$2,500 for each third and subsequent violation of the same**
39 **provision.**

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

42 (a) **Failure to establish a hospital professional and technical staffing committee or a**
43 **hospital service staffing committee;**

44 (b) **Failure to create a professional and technical staffing plan or a hospital service**
45 **staffing plan;**

1 (c) Failure to adopt a nurse staffing plan by agreement or after binding arbitration;

2 (d) Failure to comply with the staffing level in the nurse staffing plan, including the
3 nurse-to-patient staffing ratios prescribed in section 6 of this 2023 Act, if applicable, and the
4 failure to comply is not an allowed deviation described in section 6 (6) of this 2023 Act;

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

8 (f) Requiring a nursing staff, as provided in ORS 441.166, to work:

9 (A) Beyond an agreed-upon prearranged shift regardless of the length of the shift;

10 (B) More than 48 hours in any hospital-defined work week;

11 (C) More than 12 consecutive hours in a 24-hour period resulting in a negative impact
12 on safe patient care or putting safe patient care at risk; or

13 (D) During the 10-hour period immediately following the 12th hour worked during a
14 24-hour period.

15 (3) If a staff person at a hospital is unable to attend a staffing committee meeting be-
16 cause the staff person was not released from other hospital duties to attend the committee,
17 in violation of ORS 441.154 (9) or section 3 (10) or 4 (10) of this 2023 Act, the authority shall:

18 (a) Issue a warning for the first violation; and

19 (b) Impose a civil penalty of up to \$500 for a second and each subsequent violation.

20 (4)(a) A direct care staff person, a hospital professional or technical staff person or a
21 hospital service staff person, or an exclusive representative of a direct care staff person, a
22 hospital professional or technical staff person or a hospital service staff person, may elect
23 to enforce meal break and rest break violations under ORS 653.261 by:

24 (A) Filing a complaint with the Oregon Health Authority in accordance with section 16
25 of this 2023 Act;

26 (B) Filing a complaint with the Bureau of Labor and Industries; or

27 (C) Pursuing remedies available under a collective bargaining agreement.

28 (b) Paragraph (a) of this subsection does not require a staff person to choose between
29 filing a grievance under a collective bargaining agreement and filing a complaint with the
30 Bureau of Labor and Industries. However, if a staff person or the exclusive representative
31 of a staff person files a complaint with the authority in accordance with section 16 of this
32 2023 Act for a meal break or rest break violation, the staff person or exclusive representative
33 may not file a complaint with the bureau or pursue a grievance under a collective bargaining
34 agreement for that violation.

35 (c) In response to a complaint made under section 16 for a violation of a meal break or
36 violation of a rest break requirement, the authority shall enforce:

37 (A) The meal break and rest break standards established in an applicable collective bar-
38 gaining agreement and incorporated into the staffing plan without changing, interpreting or
39 adding to the standards.

40 (B) The specific meal break and rest break requirements adopted by the bureau without
41 changing, interpreting or adding to the requirements if the requirements are consistent with
42 an applicable collective bargaining agreement.

43 (d) The authority shall impose a civil penalty of \$200 for each missed meal break or
44 missed rest break violation determined as a result of a complaint filed under this subsection.
45 Except as provided in ORS 183.745, the hospital shall pay the penalty to the staff person who

1 missed the meal break or rest break on the next regular pay day following the day the au-
2 thority provides a report on the complaint in accordance with section 16 of this 2023 Act.

3 (5) The authority may enter into an interagency agreement with the bureau for the bu-
4 reau to investigate a complaint made under section 16 of this 2023 Act regarding meal breaks
5 or rest breaks and issue a report described in section 16 (1)(d) of this 2023 Act. The bureau
6 may have up to an additional 60 days to complete the bureau's investigation and issue the
7 report.

8 **SECTION 19.** ORS 441.177 is amended to read:

9 441.177. The Oregon Health Authority shall post on a website maintained by the authority:

10 (1) *[Reports of audits described in ORS 441.157]* **The hospital staffing plans received by the**
11 **authority under ORS 441.152 to 441.177;**

12 (2) Any report, **described in section 16 (1)(d) of this 2023 Act**, made pursuant to an investi-
13 gation of *[whether a hospital is in compliance with ORS 441.152 to 441.177]* **a complaint for which**
14 **the authority issued a warning or imposed a civil penalty under section 18 of this 2023 Act;**

15 *[(3) Any order requiring a hospital to implement a plan to correct a violation of ORS 441.152 to*
16 *441.177;]*

17 *[(4) (3) Any order [imposing a civil penalty against a hospital or] suspending or revoking the li-*
18 *cence of a hospital pursuant to ORS 441.175; and*

19 *[(5) (4) Any other matter recommended by the Nurse Staffing Advisory Board established under*
20 *ORS 441.152.*

21 **SECTION 20.** ORS 441.020 is amended to read:

22 441.020. (1) Licenses for health care facilities, except long term care facilities as defined in ORS
23 442.015, must be obtained from the Oregon Health Authority.

24 (2) Licenses for long term care facilities must be obtained from the Department of Human Ser-
25 vices.

26 (3) Applications shall be upon such forms and shall contain such information as the authority
27 or the department may reasonably require, which may include affirmative evidence of ability to
28 comply with such reasonable standards and rules as may lawfully be prescribed under ORS 441.025.

29 (4)(a) Each application submitted to the Oregon Health Authority must be accompanied by the
30 license fee. If the license is denied, the fee shall be refunded to the applicant. If the license is issued,
31 the fee shall be paid into the State Treasury to the credit of the Oregon Health Authority Fund for
32 the purpose of carrying out the functions of the Oregon Health Authority under and enforcing ORS
33 441.015 to 441.087 **and 441.152 to 441.177;** or

34 (b) Each application submitted to the Department of Human Services must be accompanied by
35 the application fee or the annual renewal fee, as applicable. If the license is denied, the fee shall
36 be refunded to the applicant. If the license is issued, the fee shall be paid into the State Treasury
37 to the credit of the Department of Human Services Account for the purpose of carrying out the
38 functions of the Department of Human Services under and enforcing ORS 431A.050 to 431A.080 and
39 441.015 to 441.087.

40 (5) Except as otherwise provided in subsection (8) of this section, for hospitals with:

41 (a) Fewer than 26 beds, the annual license fee shall be \$1,250.

42 (b) Twenty-six beds or more but fewer than 50 beds, the annual license fee shall be \$1,850.

43 (c) Fifty or more beds but fewer than 100 beds, the annual license fee shall be \$3,800.

44 (d) One hundred beds or more but fewer than 200 beds, the annual license fee shall be \$6,525.

45 (e) Two hundred or more beds, but fewer than 500 beds, the annual license fee shall be \$8,500.

1 (f) Five hundred or more beds, the annual license fee shall be \$12,070.

2 (6) A hospital shall pay an annual fee of \$750 for each hospital satellite indorsed under the
3 hospital's license.

4 (7) The authority may charge a reduced hospital fee or hospital satellite fee if the authority
5 determines that charging the standard fee constitutes a significant financial burden to the facility.

6 (8) For long term care facilities with:

7 (a) One to 15 beds, the application fee shall be \$2,000 and the annual renewal fee shall be \$1,000.

8 (b) Sixteen to 49 beds, the application fee shall be \$3,000 and the annual renewal fee shall be
9 \$1,500.

10 (c) Fifty to 99 beds, the application fee shall be \$4,000 and the annual renewal fee shall be
11 \$2,000.

12 (d) One hundred to 150 beds, the application fee shall be \$5,000 and the annual renewal fee shall
13 be \$2,500.

14 (e) More than 150 beds, the application fee shall be \$6,000 and the annual renewal fee shall be
15 \$3,000.

16 (9) For ambulatory surgical centers, the annual license fee shall be:

17 (a) \$1,750 for certified and high complexity noncertified ambulatory surgical centers with more
18 than two procedure rooms.

19 (b) \$1,250 for certified and high complexity noncertified ambulatory surgical centers with no
20 more than two procedure rooms.

21 (c) \$1,000 for moderate complexity noncertified ambulatory surgical centers.

22 (10) For birthing centers, the annual license fee shall be \$750.

23 (11) For outpatient renal dialysis facilities, the annual license fee shall be \$2,000.

24 (12) The authority shall prescribe by rule the fee for licensing an extended stay center, not to
25 exceed:

26 (a) An application fee of \$25,000; and

27 (b) An annual renewal fee of \$5,000.

28 (13) During the time the licenses remain in force, holders are not required to pay inspection fees
29 to any county, city or other municipality.

30 (14) Any health care facility license may be indorsed to permit operation at more than one lo-
31 cation. If so, the applicable license fee shall be the sum of the license fees that would be applicable
32 if each location were separately licensed. The authority may include hospital satellites on a
33 hospital's license in accordance with rules adopted by the authority.

34 (15) Licenses for health maintenance organizations shall be obtained from the Director of the
35 Department of Consumer and Business Services pursuant to ORS 731.072.

36 (16) Notwithstanding subsection (4) of this section, all moneys received for approved applications
37 pursuant to subsection (8) of this section shall be deposited in the Quality Care Fund established in
38 ORS 443.001.

39 (17) As used in this section:

40 (a) "Hospital satellite" has the meaning prescribed by the authority by rule.

41 (b) "Procedure room" means a room where surgery or invasive procedures are performed.

42 **SECTION 21.** ORS 441.164 is amended to read:

43 441.164. Upon request of a hospital, the Oregon Health Authority may grant a variance to the
44 written hospital-wide staffing plan requirements described in ORS [441.155] **441.152 to 441.177** if the
45 variance is necessary to ensure that the hospital is staffed to meet the health care needs of patients.

1 **SECTION 22.** ORS 441.165 is amended to read:

2 441.165. (1) For purposes of this section, “epidemic” means the occurrence of a group of similar
3 conditions of public health importance in a community or region that are in excess of normal ex-
4 pectancy and that are from a common or propagated source.

5 (2) Notwithstanding ORS [441.155 and 441.156] **441.152 to 441.177**, a hospital is not required to
6 follow a written hospital-wide staffing plan developed and approved by the hospital nurse staffing
7 committee under ORS 441.154 upon the occurrence of:

8 (a) A national emergency or state emergency declared under ORS 401.165 to 401.236 or 433.441
9 to 433.452 requiring the implementation of a facility disaster plan and crisis standards of care;

10 (b) Sudden unforeseen adverse weather conditions; or

11 (c) An infectious disease epidemic suffered by hospital staff.

12 (3)(a) No later than 30 days after a hospital deviates from a written hospital-wide staffing plan
13 under subsection (2)(a) of this section, the hospital incident command shall report to the cochairs
14 of the hospital nurse staffing committee established under ORS 441.154 an assessment of the nurse
15 staffing needs arising from the national or state emergency declaration.

16 (b) Upon receipt of the report described in paragraph (a) of this subsection, the hospital nurse
17 staffing committee shall convene to develop a contingency nurse staffing plan to address the needs
18 arising from the national or state emergency declaration. The contingency nurse staffing plan must
19 include crisis standards of care.

20 (c) The hospital’s deviation from the written hospital-wide staffing plan may not be in effect for
21 more than 90 days without the approval of the hospital nurse staffing committee.

22 (4) Upon the occurrence of a national or state emergency declaration or circumstances not de-
23 scribed in subsection (2) of this section, either cochair of the hospital nurse staffing committee may
24 require the hospital nurse staffing committee to meet to review and potentially modify the staffing
25 plan in response to the emergency declaration or circumstances.

26 **SECTION 23.** ORS 441.152 is amended to read:

27 441.152. (1)(a) The Nurse Staffing Advisory Board is established within the Oregon Health Au-
28 thority, consisting of 12 members appointed by the Governor.

29 (b) Of the 12 members of the board:

30 (A) Six must be hospital nurse managers;

31 (B) Five must be direct care registered nurses who work in hospitals; and

32 (C) One must be either a direct care registered nurse who works in a hospital or a direct care
33 staff member who is not a registered nurse and whose services are covered by a written hospital-
34 wide staffing plan that meets the requirements of ORS 441.155.

35 (c) To the extent practicable, board members shall be appointed to ensure that the board is re-
36 presented by members from hospitals where direct care staff are represented under a collective
37 bargaining agreement and hospitals where direct care staff are not represented by a collective bar-
38 gaining agreement and by hospitals of different sizes, types and geographic location.

39 (d) The term of office of each board member is three years, but a member serves at the pleasure
40 of the Governor. Before the expiration of the term of a member, the Governor shall appoint a suc-
41 cessor whose term begins January 1 next following. A member is eligible for reappointment, but may
42 not serve more than two consecutive terms. If there is a vacancy for any cause, the Governor shall
43 make an appointment to become immediately effective for the unexpired term.

44 (2) The board shall:

45 (a) Provide advice to the authority on the administration of ORS 441.152 to 441.177;

1 (b) Identify trends, opportunities and concerns related to nurse staffing;

2 (c) Make recommendations to the authority on the basis of those trends, opportunities and con-
3 cerns; and

4 (d) Review the authority's enforcement powers and processes under ORS [441.157,] 441.171 and
5 441.177 **and section 16 of this 2023 Act.**

6 (3)(a) Upon request, the authority shall provide the board with written hospital-wide staffing
7 plans implemented under ORS 441.155, reviews conducted under ORS 441.156[*information obtained*
8 *during an audit under ORS 441.157*] and complaints filed and investigations conducted as described
9 in ORS 441.171 **and section 16 of this 2023 Act.**

10 (b) The authority may not provide the board with any information under paragraph (a) of this
11 subsection that is identifiable with a specific hospital unless the information is publicly available.

12 (c) Hospital-wide staffing plans provided to the board under this section are confidential and not
13 subject to public disclosure.

14 (4) A majority of the members of the board constitutes a quorum for the transaction of business.

15 (5) The board shall have two cochairs selected by the Governor. One cochair shall be a hospital
16 nurse manager and one cochair shall be a direct care registered nurse.

17 (6) Official action by the board requires the approval of a majority of the members of the board.

18 (7) The board shall meet:

19 (a) At least once every three months; and

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

21 (8) The board may adopt rules necessary for the operation of the board.

22 (9) The board shall submit a report on the administration of ORS 441.152 to 441.177 in the
23 manner provided in ORS 192.245 to an interim committee of the Legislative Assembly related to
24 health no later than September 15 of each year. The board may include in its report recommen-
25 dations for legislation.

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

30
31 **IMPLEMENTATION**

32
33 **SECTION 24. (1) The Oregon Health Authority may adopt rules necessary to carry out:**

34 (a) **The provisions for accepting and investigating complaints under section 16 of this 2023**
35 **Act;**

36 (b) **The enforcement of meal breaks and rest breaks; and**

37 (c) **Nurse-to-patient ratios in emergency departments under section 6 (2)(a) of this 2023**
38 **Act.**

39 (2) **The authority shall convene a subcommittee of the Nurse Staffing Advisory Board,**
40 **established in ORS 441.152, to advise the authority in the adoption of rules under this sub-**
41 **section. The subcommittee must have equal representation of hospital employees and hospi-**
42 **tal managers and shall include representatives of:**

43 (a) **The Service Employees International Union;**

44 (b) **The Oregon Nurses Association; and**

45 (c) **The Oregon Association of Hospitals and Health Systems.**

1 **SECTION 25.** (1) A nurse staffing plan that is in effect on the effective date of this 2023
2 Act continues in force until a hospital nurse staffing committee revises the staffing plan or
3 develops a new nurse staffing plan. Each hospital nurse staffing committee shall revise the
4 nurse staffing plan that is in effect on the effective date of this 2023 Act, or develop a new
5 nurse staffing plan, to comply with ORS 441.152 to 441.177 no later than June 1, 2024.

6 (2) A hospital must begin to comply with sections 6 and 7 of this 2023 Act no later than
7 June 1, 2024.

8 (3) A hospital must establish a hospital professional and technical staffing committee and
9 a hospital service staffing committee in accordance with sections 3 and 4 of this 2023 Act,
10 no later than December 31, 2024.

11 (4) Except as provided in subsection (5) of this section, the authority may begin the
12 enforcement of:

13 (a) Sections 3 and 4 of this 2023 Act on the date specified in subsection (3) of this section;

14 (b) Section 6 of this 2023 Act on the date specified in subsection (2) of this section; and

15 (c) The amendments to ORS 441.020, 441.151, 441.152, 441.154, 441.155, 441.156, 441.164,
16 441.165, 441.175 and 441.177 by sections 1, 12, 13, 15, 17 and 19 to 23 of this 2023 Act on the
17 effective date of this 2023 Act.

18 (5) The authority may not impose civil penalties under section 18 of this 2023 Act for vi-
19 olations that occur before June 1, 2025.

20 **SECTION 26.** (1) ORS 441.157 is repealed.

21 (2) Section 14 of this 2023 Act is repealed on June 2, 2024.

22
23 **CAPTIONS**
24

25 **SECTION 27.** The unit captions used in this 2023 Act are provided only for the conven-
26 ience of the reader and do not become part of the statutory law of this state or express any
27 legislative intent in the enactment of this 2023 Act.

28
29 **EFFECTIVE DATE**
30

31 **SECTION 28.** This 2023 Act being necessary for the immediate preservation of the public
32 peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect
33 September 1, 2023.
34