



December 27, 2023

FACT SHEET

House Bill 2697 (2023), Temporary Administrative Rules for Oregon's new Hospital Staffing Law

Hospital Staffing Administrative Rules

Under HB 2697 OHA is required to issue rules no later than January 1, 2024, that describe the procedure for receiving and processing hospital staffing complaints. OHA has adopted [temporary rules](#) to implement [HB 2697](#) including:

- Definitions, Filing Hospital Staffing Complaints, Processing Complaints, Hospital Staffing Enforcement, Hospital Staffing Plan Waiver and Nurse Staff Member Overtime.

Submitting hospital staffing complaints under HB 2697

- Complaints may only be submitted by hospital staff members or, if a staff member is represented by a union, a complaint may be submitted by the union that represents that employee (the union representing the employee is known as an "Exclusive Representative"). **Hospital staff must submit complaints through OHA's [Hospital Staffing website](#) using a [form](#) provided by OHA.** (OAR 333-503-0010)

Hospital staffing complaints made before June 1, 2025

- In order for OHA to investigate a complaint, it must be a "valid complaint," meaning that it has been submitted within 60 days of the alleged violation and is about a violation that OHA can investigate (OAR 333-503-0005(6)). Violations that OHA can investigate are:
 - There is no hospital professional and technical staffing committee or no hospital service staffing committee. (Only a violation on and after January 1, 2025)
 - There is no professional and technical staffing plan or no hospital service staffing plan. (Only a violation on and after January 1, 2025)
 - There is no nurse staffing plan.

- The hospital did not comply with the staffing levels in the nurse staffing plan and there is no allowed deviation.
- The hospital did not comply with the staffing levels in the professional and technical staffing plan or the hospital service staffing plan and there is no allowed deviation. (Only a violation on and after January 1, 2025)
- The hospital did not comply with the CNA staffing requirements in HB 2697, Section 8. (Only a violation on and after January 1, 2025)
- Nursing staff were required to work mandatory overtime.
- Hospital managers did not release a staff person from other duties to attend a staffing committee meeting.

If a complaint is valid, OHA will investigate the complaint in accordance with ORS 441.171 and the temporary rules.

Allowed deviations from a staffing plan

- It is important for OHA to know when allowed deviations from a staffing plan occur and that hospitals document those deviations. A hospital is allowed to depart (deviate) from a staffing plan up to 6 times during a rolling 30-day period. Under HB 2697, hospitals must provide written notice to the relevant staffing committee when deviations occur. (OAR 333-503-0005). If deviations are not documented as required by the law, OHA will not consider them to be allowed deviations. See Oregon Laws 2023, chapter 507, sections 3(12), 4(12) and 6(6).

Documentation of actions taken related to staffing plan deviations, HB 2697, Section 19

- OHA may not impose penalties on hospitals for violations of staffing plans if they take certain actions described in HB 2697. The actions include: scheduling staff in accordance with the staffing plan, seeking volunteers from qualified employees to work extra time, contacting qualified employees who made themselves available to work extra time, soliciting per diem staff to work and contacting contracted temporary agencies, if temporary staff from such agencies are permitted to work in the hospital by law or any applicable collective bargaining agreement. See HB 2697, Section 19(4). Under the temporary administrative rules, to establish that the hospital is not subject to a civil penalty because it took the actions described in the bill, a hospital is required to provide documentation to OHA demonstrating those actions. (OAR 333-503-0020(3)).

Enforcement

- Under HB 2697, OHA is not authorized to issue civil penalties until June 1, 2025. OHA will issue a complaint investigation report and as applicable, warning letters to hospitals for violations that occur prior to June 1, 2025.

Other rule information

- Rules related to nurse staffing member overtime and nurse staffing waivers (noted below as suspended rules) were moved from Chapter 510 to the newly created Chapter 503 with minor language updates.
- In addition to adopting several rules to carry out HB 2697, OHA also amended rules still needed for non-hospital staffing (Chapter 510), which include Definitions and Posting Requirements and OHA suspended rules that are no longer supported by HB 2697. These rules are: Audit Procedures, Civil Penalties for Nurse Staffing Violations (Chapter 501) and Nurse Staffing Committee, Nurse Staffing Plan and Plan Review, Nurse Staffing Plan Mediation, Replacement staff, Nurse Staffing Member Overtime, Nurse Staffing Waiver and Nurse Staffing Plan During Emergency (Chapter 510).

These rules are temporary and effective January 1, 2024, through June 28, 2024. OHA has begun the permanent rulemaking process which will include additional input from organizational and community partners.

Background

About House Bill 2697

- HB 2697 was passed by the Oregon Legislature in June 2023 and significantly changes Oregon's hospital staffing laws. The law went into effect on September 1, 2023, however certain sections of the law are not effective until later dates.
 - Upcoming effective dates:
 - **June 1, 2024:** Hospitals must adopt and comply with Nurse Staffing Plans that meet all applicable requirements in HB 2697 including RN-to-patient ratios. ([Sections 6,7,8,9,13,14](#))
 - **December 31, 2024:** Hospital Professional and Technical and Service Staffing Committees must be established and OHA may enforce Sections 3 and 4 of HB 2697, which establish these new committees and require these new plans. ([Sections 3-4, 8, 29](#))
 - **June 1, 2025:** OHA can begin imposing civil penalties for violations in Section 20 that occur on or after June 1, 2025. ([Section 29](#))

More information

- [Health Care Regulation and Quality Improvement Rulemaking](#)
- [OHA Hospital Staffing](#)
- [Oregon Secretary of State, Public Health Division administrative rules](#)
- [Hospital Staffing Frequently Asked Questions](#)
- [Oregon Bureau of Labor and Industries \(BOLI\)](#)

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