



Oregon

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NF-22-006 – Provider Alert



Date: January 18, 2022

To: Nursing Facilities

From: ODHS Office of Aging and People with Disabilities - Safety, Oversight and Quality Unit (SOQ)

Subject: Minimum Nursing Facility Staffing Ratios

Our health care system is at a critical point as the Omicron variant of COVID-19 is predicted to peak in the next two to three weeks. The Oregon Department of Human Services (ODHS) realizes the impact this has had on a facility's ability to meet the minimum staffing requirements outlined in [OAR 411-086-0100](#). ODHS also acknowledges that many hospitals have been at or near capacity in some areas and it is expected to increase over the coming weeks. Therefore, ODHS is taking the following actions to assist nursing facilities and hospitals.

Minimum Staffing Ratios (NA/CNAs and Nurses)

ODHS is temporary allowing nursing facilities be considered in compliance with the OARs regarding minimum staffing ratios under the following circumstances:

- The facility is in a geographic area that is experiencing ongoing staffing shortages and the facility has been unable to fill positions, or
- The facility is currently experiencing a COVID-19 outbreak, or
- The facility is attempting to increase census in order to create additional capacity to assist with hospital decompression.

Facilities are responsible for ensuring **all** of the following criteria are met:

- Facility must have sufficient staff to meet the needs of each resident, and
- Facility must not endanger the health and safety of residents, and
- Facility must have submitted a request for additional staffing through the Nurse Crisis Teams (NCT), and
- Facility must have made a good faith effort to secure staff through all available contracted agencies and through additional corporate support, and

- Facility must be actively recruiting for staff, and
- Facility must ensure their survey history does not include a finding of immediate jeopardy, substandard quality of care or harm to residents due to not meeting the minimum staffing requirements within the last 6 months, and
- Facility is not using more than 50% nursing assistants (NAs).
- The facility must maintain a written, weekly staffing schedule showing the number and category of staff assigned to each shift.

The Department expects facilities to make all reasonable attempts to fill shifts using existing resources. If a facility is unable to fill occasional shifts, please continue noting on your quarterly staffing report the mitigation factors taken to ensure adequate care and services is provided to all residents during those shifts. The Department will continue mitigating shortages based on the information provided in the quarterly staffing reports.

If the facility is unable to meet all of the criteria above, an approved waiver to the minimum staffing requirements is REQUIRED. To submit a waiver request, please complete and submit the waiver request form ([APD 0467](#)) to NF.Licensing@dhsosha.state.or.us. The waiver request form is attached to this Provider Alert. The waiver form can also be found on the [DHS form server](#). The Nursing Facility Licensing Unit will respond to all waiver requests within 3 business days.

Use of Non-Certified Staff (NA/PCAs/Therapists)

ODHS continues to allow facilities to use Personal Care Assistants (PCAs) and nursing assistants (NAs), and therapists to assist in meeting the needs of the residents.

- Existing rule allows facilities to utilize up to 25% NAs in counting towards the minimum CNA staffing ratios. ODHS will continue to approve waivers for up to 50% NA to CNAs and will consider waivers in excess of 50% if the facility can demonstrate approval would not endanger the health and safety of residents.
- For additional information about PCAs, please see Provider Alert [NF-020-134](#).

If you have questions, please contact your licensing team:
NF.licensing@dhsosha.state.or.us

ODHS website: www.oregon.gov/DHS/

ePOC Practice Tip:

Facility Administration - ASPEN Web: e POC (electronic Plan of Correction) is the centralized worksite for completing all steps in CMS & State survey POC processing including:

- Receiving and reviewing Statements of Deficiencies (SODs),
- Formulating POCs,
- Submitting POCs and if desired,
- Attaching supporting Informal Dispute Resolution request & documents.

Register and maintain an active ePOC account to efficiently access your surveys, and at no cost to your facility. ePOC registration passwords are effective for 90 days and must be renewed timely to maintain an active ePOC account. As an active ePOC user, you will receive notifications of pending password expiration with renewal instructions. It may also be advantageous to have multiple ePOC registrants for your facility to ensure an active ePOC account is maintained at all times. For ePOC assistance and/or questions contact QTSO (<https://www.qtso.com>).