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House Bill (HB) 2697 Hospital Staffing Law Frequently Asked Questions (FAQ)

In 2023, the Oregon Legislature passed [HB 2697](#), which made significant changes to Oregon's hospital staffing law. Most provisions of HB 2697 are now found in [Oregon Revised Statutes 441.760 through 441.795](#)¹. The new law makes hospital staffing enforcement activities complaint-driven and eliminates routine triennial nurse staffing surveys.

HB 2697 went into effect on September 1, 2023, with certain sections of the bill having later operative dates, including a delay in OHA's ability to assess civil penalties.

This communication updates a previously released FAQ and addresses new questions that have arisen in hospital staffing. It also includes previously released questions and answers that remain relevant. OHA will continue to update the FAQ as more questions arise. The FAQ version date can be seen in the bottom left footer.

Sections in this FAQ include:

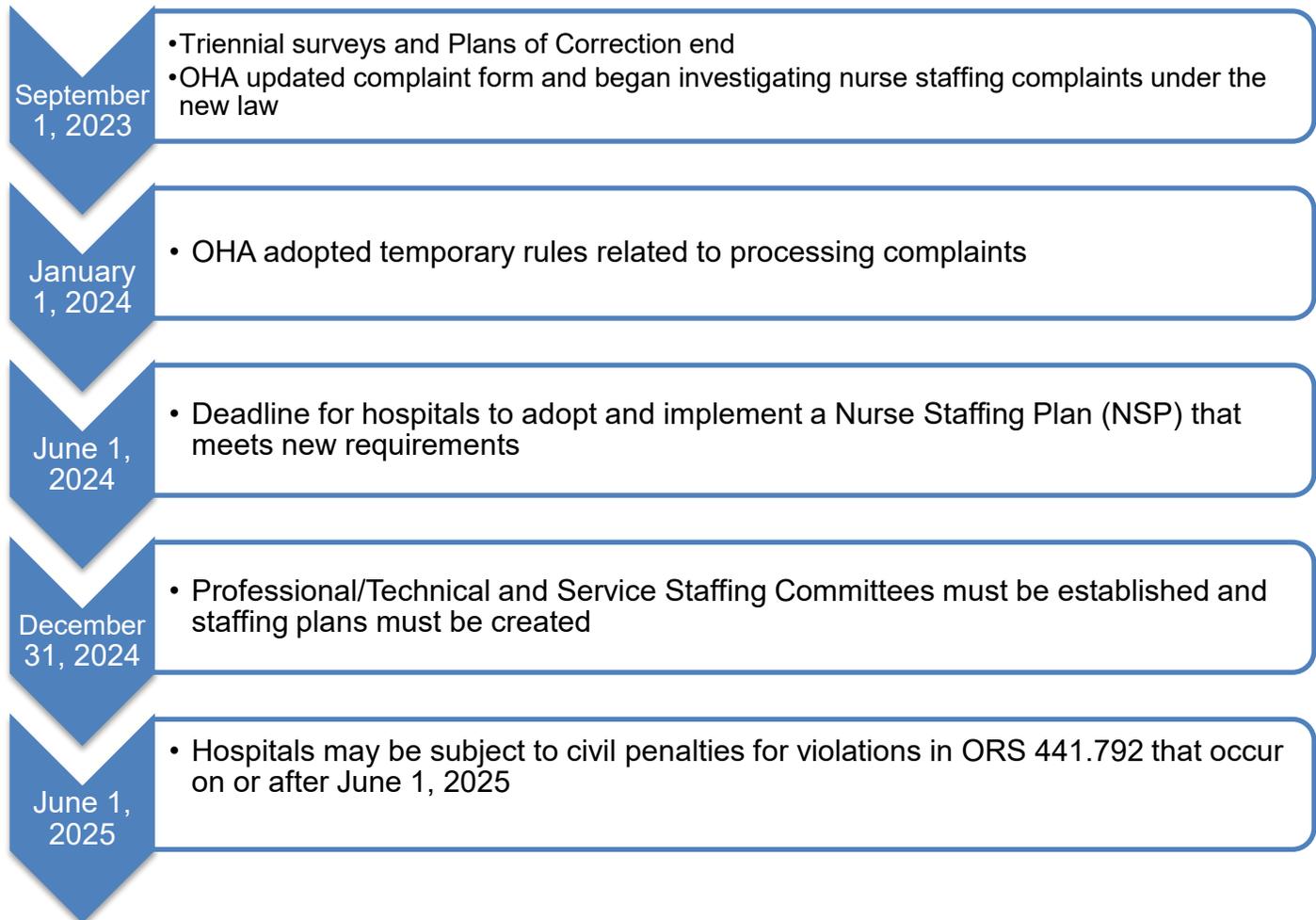
- [Section 1 – Hospital Staffing Law Effective Dates](#)
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¹ The enforcement provisions related to meals and breaks are codified in [Oregon Revised Statute 653.261](#).

Section 1 – Hospital Staffing Law Effective Dates

Question 1: When did the hospital staffing law (HB 2697) go into effect?

Answer: The hospital staffing law ([HB 2697](#)) went into effect on September 1, 2023, although certain provisions begin operating in 2024 and 2025, as seen in the image below.



Question 2: Does OHA have rules that provide information about the law and how it will be enforced?

Answer: OHA updated the hospital staffing rules to align with HB 2697. Old nurse staffing rules were repealed or amended. A small number of new rules were added. All hospital staffing rules were renumbered and are available at: [OAR Chapter 333, Division 503, Hospital Staffing](#).

Repeated nurse staffing rules

- Definitions no longer supported by the law (OAR 333-510-0002)
- Triennial nurse staffing survey procedures (OAR 333-501-0035)
- Nurse staffing complaint investigation procedures (OAR 333-501-0040)
- Civil penalties for violations of nurse staffing laws (OAR 333-501-0045)
- Nurse staffing committee requirements (OAR 333-510-0105)
- Nurse staffing plan requirements (OAR 333-510-0110)
- Nurse staffing plan review requirements (OAR 333-510-0115)
- Nurse staffing plan mediation (OAR 333-510-0120)
- Replacement nurse staffing requirements (OAR 333-510-0125)
- Nurse staffing plan during an emergency (OAR 333-510-0140)

Renumbered nurse staffing rules

- Hospital staffing plan waiver (renumbered OAR 333-503-0050)
- Nursing staff member overtime (renumbered OAR 333-503-0060)

New hospital staffing rules

- Rule applicability (OAR 333-503-0002)
- New definitions (OAR 333-503-0005)
- Filing hospital staffing complaints (OAR 333-503-0010)
- Processing hospital staffing complaints (OAR 333-503-0020)
- Hospital staffing law enforcement (OAR 333-503-0040)

Question 3: Do OHA's rules address all of the requirements included in HB 2697?

Answer: No. HB 2697 narrowed OHA's rulemaking authority for hospital staffing. Under the current law, OHA may adopt rules necessary for:

- The processing of complaints under ORS 441.791;
- The forwarding of complaints regarding meal and rest breaks to BOLI under ORS 441.790;
- The requirements for nurse-to-patient ratios in emergency departments under ORS 441.765(2)(a); and
- The provisions of ORS 441.770(1) and (8)(b) relating to mandatory overtime for RNs, LPNs, and CNAs.

Question 4: What needs to be included in a nurse staffing plan?

Answer: The nurse staffing plan elements are described in ORS 441.763, 441.765, 441.766, and 441.767. Previously, nurse staffing rules described what needed to be included in a nurse staffing plan. HB 2697 changed OHA's rulemaking authority (see [Question 3](#)) and enforcement activity (see [Question 11](#)). OHA no longer evaluates the sufficiency of nurse staffing plans, so those rules have been repealed. Oregon's hospital staffing law requires hospitals to submit Nurse Staffing Plans, Professional/Technical Staffing Plans, and Services Staffing Plans to OHA within 30 days of approval by the staffing committee. Hospitals may submit their approved plans through OHA's online [Hospital Staffing Plan Submission Form](#).

Question 5: What variances or waivers are available for nurse staffing plans?

Answer: Hospitals can vary their staffing plans from statutory requirements in two ways:

- Type A or Type B rural hospitals can vary from the requirements of nurse-to-patient ratios in ORS 441.765 if the Nurse Staffing Committee approves a variance and OHA is notified. ORS 441.763(6). The definition of Type A and Type B hospitals can be found out at ORS 442.470. The hospital can notify OHA of the variance via the OHA Hospital Staffing website (www.healthoregon.org/nursestaffing).
- Hospitals can submit a waiver request to vary from the hospital staffing plan requirements described in ORS 441.761 to 441.795 if the waiver is necessary to ensure the hospital is staffed to meet the health care needs of patients.

Section 2 – Hospital Staffing Complaints

Question 6: How can I submit a complaint about hospital staffing?

Answer: Hospital staffing complaints are submitted by using the online Hospital Staffing Complaint Form, which is available on both

- The OHA Hospital Staffing website (www.healthoregon.org/nursestaffing); and
- The OHA Health Care Regulation & Quality Improvement (HCRQI) Complaint website (www.healthoregon.org/facilitycomplaints).

If you need the complaint form in an alternate format, you may contact OHA to request an accommodation by calling at 971-673-540 or sending an email to:

mailbox.nursestaffing@odhsoha.oregon.gov

Question 7: Do complaints have to be submitted to OHA within a certain time frame?

Answer: Yes. A complaint must be submitted within 60 days of when the alleged noncompliance occurred. ORS 441.791(6)

Question 8: What happens after I submit a hospital staffing complaint?

Answer: After receiving a hospital staffing complaint, OHA sends a copy of the complaint to the union that represents the complainant's position². Additionally, if the complaint contains concerns about missed breaks, OHA forwards that information to the Oregon Bureau of Labor & Industries (BOLI) and notifies the hospital, the Staffing Committee Co-Chairs, and the complainant's union² that a complaint has been forwarded to BOLI.

OHA reviews the complaint to determine if it meets the validity requirements set forth in ORS 441.791. If OHA cannot determine whether a complaint is valid, OHA contacts the complainant for additional information. Invalid complaints are closed as described in [Question 14](#).

Question 9: What happens if the hospital staffing complaint is determined to be valid?

Answer: For valid complaints, OHA starts the hospital staffing investigation within 30 days of determining the complaint is valid. OHA starts the investigation by emailing a Notice of Investigation to the Hospital Administrator, Chief Nursing Officer³, and Staffing Committee Co-Chairs, as well as the union that represents the complainant². OHA also emails a copy of the Investigation Needs list to the Hospital Administrator and Chief Nursing Officer³ that identifies the documents due to OHA within 20 calendar days.

Question 10: How long does a hospital staffing investigation usually take?

Answer: The length of a hospital staffing investigation varies based on multiple factors, such as the number of complaints included in the investigation and the complexity of the complaint allegations. Under ORS 441.791(2)(d), OHA is directed to complete the hospital staffing investigation within 80 days of the investigation's start date. The completed investigation report is provided to the Hospital Administrator, Chief Nursing Officer³, and Staffing Committee Co-Chairs, as well as the union that represents the complainant². A copy of the investigation report is also sent to the complainant and posted on the OHA Hospital Staffing website⁴.

² For complainants whose positions are represented by a union

³ For nurse staffing complaints

⁴ www.healthoregon.org/nursestaffing

Question 11: What allegations can OHA investigate under the hospital staffing law?

Answer: Whether a complaint can be investigated by OHA depends in part on when hospitals are required to comply with certain sections of the law. See below for a complete list of the complaints OHA can investigate when all sections of HB 2697 are operational:

Hospital staffing complaints OHA can investigate:	
Nurse Staffing Plan	<ul style="list-style-type: none"> • Failure to adopt a Nurse Staffing Plan by agreement or after binding arbitration⁵ • Failure to comply with the staffing level in the Nurse Staffing Plan⁵
CNA maximum patient assignments	<ul style="list-style-type: none"> • Failure to comply with the CNA maximum patient assignments in ORS 441.768⁶
Professional/Technical Staffing Committee	<ul style="list-style-type: none"> • Failure to establish a Professional/Technical Staffing Committee (PTSC)⁷
Professional/Technical Staffing Plan	<ul style="list-style-type: none"> • Failure to create a Professional/Technical Staffing Plan (PTSP)⁷ • Failure to comply with the staffing level in the PTSP⁸
Service Staffing Committee	<ul style="list-style-type: none"> • Failure to establish a Service Staffing Committee (SSC)⁷
Service Staffing Plan	<ul style="list-style-type: none"> • Failure to create a Service Staffing Plan (SSP)⁷ • Failure to comply with the staffing level in the SSP⁸
Mandatory Overtime (MOT) for Nursing Staff Members	<ul style="list-style-type: none"> • Requiring a nursing staff member (RN, LPN, or CNA) to work⁵ <ul style="list-style-type: none"> ○ Beyond an agreed-upon and prearranged shift, regardless of the length of the shift; ○ More than 48 hours in any hospital-defined work week; ○ More than 12 hours in a 24-hour period; or ○ During the 10-hour period immediately following the 12th hour worked during a 24-hour period
Failure to release a staffing committee member	<ul style="list-style-type: none"> • Failure to release a Nurse Staffing Committee (NSC) member to attend a NSC meeting⁵ • Failure to release a PTSC member to attend a PTSC meeting⁷

⁵ OHA can cite a violation for incidents that occur on or after September 1, 2023. There are certain exceptions to these prohibitions listed in ORS 441.770.

⁶ OHA can cite a violation of CNA patient maximum assignments in ORS 441.768 for incident that occurs on or after a NSP is adopted if the ORS 441.768 ratios are incorporated into the NSP, on or after the date a SSP is adopted, or on or after December 31, 2024 at the latest.

⁷ OHA can cite a violation for incidents that occur on or after December 31, 2024

⁸ OHA can cite a violation for failing to comply with a PTSP or SSP for an incident that occurs on or after the PTSP or SSP is adopted.

	<ul style="list-style-type: none">• Failure release a SSC member to attend a SSC meeting⁷
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Question 12: Who sees my complaint?

Answer: For hospital staff represented by an exclusive representative (union), OHA is required to provide a copy of the complaint to the complainant’s exclusive representative. ORS 441.791(2)(b). OHA provides a copy of the complaint to the union regardless of whether the complaint is later determined to be valid or invalid.

Additionally, OHA may be required to provide a copy of the complaint as part of a public records request. To the extent permitted by law, OHA redacts information that can be used to identify the complainant (e.g., name, contact information, etc.) when responding to public records requests.

Question 13: Will OHA tell me if my complaint can’t be investigated?

Answer: Yes. OHA will send the individual who submitted the complaint a letter, explaining why the complaint is not valid under Oregon’s hospital staffing law. The letter is sent to the address provided by the complainant.

Question 14: What response can I expect from OHA after submitting my complaint?

Answer: OHA communicates with complainants at the following times during the complaint process:

- During complaint review: If OHA does not have enough information to validate the complaint, OHA will reach out to the complainant requesting additional information.
- Invalid complaint determination: If OHA determines that the complaint is invalid, OHA will send you a letter explaining that determination.
- After investigation: Once OHA has completed its investigation of a valid complaint, OHA will provide the complainant a copy of the investigation report.

Question 15: Why might OHA request additional information about my complaint if I filled out the online complaint form?

Answer: OHA asks for additional information to ensure that we have a clear understanding of what is being alleged. The online Hospital Staffing Complaint Form is

designed to collect information for the most common scenarios; there may be unique situations that require additional information for OHA to validate the complaint.

Question 16: Is the online Hospital Staffing Complaint Form the same as ONA's Staffing Request Documentation Form (SRDF) or OFNHP's Assignment Despite Objection (ADO) form?

Answer: No. The online Hospital Staffing Complaint Form was designed by OHA to gather the specific information needed to validate a complaint under the hospital staffing law. SRDFs and ADOs are forms developed by nursing unions for use by the hospitals and the unions. To learn more about SRDFs and ADOs, contact your union.

Question 17: I'm not sure if my unit has a staffing plan. What should my next steps be?

Answer: First, be aware of when requirements go into effect. Hospitals are required to revise nurse staffing plans by June 1, 2024. Hospitals are not required to have professional/technical staffing plans or service staffing plans until December 31, 2024.

Second, if you're not sure whether your unit has a staffing plan, contact your unit's direct care staffing committee representative or the staffing committee Direct Care Co-Chair. If you don't know who these individuals are, you can ask your hospital administration for a list of staffing committee members.

Question 18: What about complaints about missed meal and rest breaks?

Answer: The Oregon Bureau of Labor & Industries (BOLI) enforces laws related to meal and rest breaks and investigates meal and rest break complaints. Before June 1, 2025, meal and rest break complaints are subject to the limitations in ORS 653.261 and OAR 839-020-0050.

Hospital staff and exclusive representatives can submit a [complaint about missed meal and rest breaks directly to BOLI](#) or through OHA, which forwards them to BOLI.

BOLI may require hospital staff and exclusive representative who opted to file with OHA to complete BOLI's complaint form.

Section 3 – Hospital Staffing Enforcement

Question 19: Can OHA find a hospital in violation of the statutory nurse to patient ratios in ORS 441.765 if the ratios are not incorporated into the approved Nurse Staffing Plan?

Answer: No. OHA can only enforce nurse to patient ratios if the ratios are specifically incorporated into an approved Nurse Staffing Plan.

Question 20: Can OHA find a hospital in violation if it is relying on the statutory nurse to patient ratios in ORS 441.765, but the hospital does not have a Nurse Staffing Plan?

Answer: Yes. A hospital must have a Nurse Staffing Plan and cannot simply rely on the ratios in ORS 441.765. OHA can cite a hospital for failing to have a Nurse Staffing Plan under ORS 441.792(2)(c) if it receives a valid complaint.

Question 21: Can OHA find a hospital in violation for failing to have a Nurse Staffing Plan after June 1, 2024, if the hospital has not revised its plan since September 1, 2023, the effective date of HB 2697?

Answer: Yes, HB 2697, Section 29(1)(a) requires that for a plan in effect on September 1, 2023, a Nurse Staffing Committee must revise or adopt a new plan by June 1, 2024.

Question 22: Can OHA order a hospital or a Nurse Staffing Committee to comply with hospital staffing laws?

Answer: OHA can only investigate valid complaints (for list see the answer to Question 11). OHA is required to issue warning letters and civil penalties (on and after June 1, 2025) for a violation listed in ORS 441.792. OHA has the discretion to suspend or revoke a hospital license for a violation listed in ORS 441.792. There is no specific authority in ORS 441.762 to 441.795 for OHA to order a hospital to comply with hospital staffing laws.

Question 23: Can OHA require that a NSP include staffing levels in collective bargaining agreements?

Answer: No. Nurse Staffing Plans are required by law to incorporate any staffing-related terms and conditions in an applicable existing collective bargaining agreement. (ORS 441.763(1)(b); 441.762(2)). However, OHA does not review NSPs for compliance with all nurse staffing law requirements and is not authorized to find a violation if a NSP fails

to comply with requirements (See Question 4). Alleging a Nurse Staffing Plan does not comply with a collective bargaining agreement is not a valid complaint.

Question 24: Can OHA enforce staffing levels in an approved Nurse Staffing Plan that are part of a staffing guideline or recommendation?

Answer: No. OHA can only find a violation for failure to comply with a staffing if the staffing level is required by the Nurse Staffing Plan. Some Nurse Staffing Plans include language that is unenforceable. Language that is often unenforceable includes, but is not limited to:

- Recommended staffing
- Ideal staffing
- Core staffing
- Allowed staffing
- Staffing guidelines

Question 25: What is the difference between a valid complaint and a substantiated complaint?

Answer: A “valid complaint” is a complaint that, is submitted within 60 days of the alleged violation and if assumed to be true, represents a violation of ORS 441.792 (see [Question 11](#) for a full list of complaints OHA can investigate). A valid complaint must allege facts that demonstrate a violation of a requirement that was in effect at the time of the alleged violation. OHA is required to determine if a complaint is valid before starting an investigation.

A “substantiated complaint” is a complaint that OHA has investigated and has found a violation occurred based on the facts and findings from that investigation. A valid complaint is determined after investigation to be substantiated or unsubstantiated.

Valid complaint

- Submitted w/in 60 days of the incident; and
- If the facts alleged are true, reflects noncompliance in one of the violation types OHA can enforce

Substantiated complaint

- A valid complaint;
- That OHA investigated; and
- The investigation established that noncompliance occurred.

Invalid complaint

- Not submitted w/in 60 days of the incident; OR
- Does not reflect noncompliance in one of the violation types OHA can enforce

Unsubstantiated complaint

- A valid complaint;
- That OHA investigated; and
- The investigation did not establish that noncompliance occurred.

Section 4 – Hospital Staffing Investigation Processes

Question 22: What information is provided to the hospital about a complaint during an investigation?

Answer: In its initial letter notifying the hospital of an investigation, OHA provides the Hospital Administrator, Chief Nursing Officer, and Staffing Committee Co-Chairs with the complaint topic and the calendar week during which the complaint occurred.

OHA also provides the Hospital Administrator and Chief Nursing Officer⁹ an Investigation Needs List, which includes the specific information needed to investigate the complaint. This includes, but is not limited to, documents for the specific date and unit where the alleged violation occurred.

For some investigations, OHA may also request records related to specific individuals (e.g., requesting timekeeping records for a specific nursing staff member who allegedly worked mandatory overtime). The type of record request is not shared during the Entrance Conference.

OHA does not provide the hospital with a copy of the complaint as part of an investigation.

⁹ For nurse staffing complaints

Question 23: How can I find the results of a hospital staffing investigation?

Answer: OHA sends the hospital staffing investigation report to the Hospital Administrator, Chief Nursing Officer, Staffing Committee Co-Chairs, and the Exclusive Representative for the complainant. OHA sends a copy of the report to the individual who filed the complaint separately.

After the report has been shared with the hospital, it is posted on OHA's Hospital Staffing website (www.healthoregon.org/nursestaffing).