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Nurse Staffing (SB 469) Implementation Fact Sheet

Revised April 14, 2016

The purpose of this fact sheet is to summarize and help clarify the effective dates and implementation dates relating to the provisions of SB 469. The Oregon Health Authority, Public Health Division will enforce all provisions of these laws. Each hospital is required to follow applicable laws and administrative rules currently in place.

As part of the implementation process, the agency is amending its current administrative rules to reflect statutory changes.

The agency will hold a public hearing on May 18, 2016 from 2:00 PM until 5:00 PM to accept feedback on the draft rules. Public comments may also be submitted in writing, by email or by mail, at the addresses listed above. Please Note: Public comments must be received by 5:00 PM on May 23, 2016 to be considered.

The agency will also hold three Open House events to provide additional information about proposed administrative rule changes and survey and complaint investigation processes. Open House events have been tentatively scheduled for:

- Tuesday, May 17, 2016 from 4:30 PM – 6:00 PM;
- Thursday, August 25, 2016 from 9:00 AM – 10:30 AM; and
- Thursday, December 15, 2016 from 4:00 PM – 5:30 PM.

Hospital Nurse Staffing Committee **Effective Date: January 1, 2016** **Implementation Date: January 1, 2016**

By January 1, 2016, each hospital had to establish a Hospital Nurse Staffing Committee (HNSC) that complies with the revised laws.

HNSC details include:

- Membership must include an equal number of nurse managers and direct care RNs (except one direct care staff member must be a person who is not an RN and whose services are covered by the nurse staffing plan);
- Each hospital nurse specialty or unit must be represented;

- Members must be selected by the process established by the collective bargaining unit, or if a hospital is not covered by a collective bargaining agreement, by staff from each specialty or unit the member will represent;
- Majority constitutes a quorum for purposes of conducting business;
- When voting, if an unequal number of nurse managers and direct care staff are present, only an equal number may vote;
- Membership must include two co-chairs (one hospital nurse manager and one direct care RN);
- Meets quarterly and at call of either co-chair;
- Meetings are open to nursing staff, or other persons at request of either co-chair (observers can be excluded during deliberations and voting);
- Meeting minutes are required; and
- Committee members shall be released from assignment and provided paid time to attend meetings.

Hospital Nurse Staffing Plan
Effective Date: January 1, 2017
Implementation Date: January 1, 2017

By January 1, 2017, each hospital must implement a hospital-wide nurse staffing plan that is developed and approved by its Hospital Nurse Staffing Committee (HNSC) and in compliance with the revised laws.

Each hospital nurse staffing plan must:

- Be based on the qualifications and competencies of its nursing staff and provide for the skill and competency necessary to ensure health and safety of patients are met;
- Be based on a measurement of hospital unit activity (admissions, discharges, transfers and time required to complete these tasks);
- Be based on total diagnoses for each hospital unit and nursing staff required to manage that set of diagnoses;
- Be consistent with evidence-based standards and guidelines;
- Recognize differences in patient acuity;
- Establish minimum numbers of nursing staff for each shift;
- Include process(es) for evaluating and initiating limitations on admission or diversion of patients to another hospital based on insufficient nurse staffing; and
- Consider tasks not related to providing direct care (including breaks and lunch).

Additional details include:

- Nurse staffing plans may not base nurse staffing requirements solely on external benchmarking data;
- Emergency exceptions exist (e.g., national or state emergencies, adverse weather conditions, and infectious disease epidemics) and the HNSC can also meet and modify the plan in response to other types of emergencies;
- Nurse staffing plans must be reviewed annually and at the request of either HNSC co-chair; and
- In reviewing its plan annually, the HNSC must consider the following factors:
 - Patient outcomes;
 - Staffing complaints, including reports of repeated mandatory overtime in nonemergency circumstances;
 - Inadequate staffing;
 - Overtime;
 - Deviations from the nurse staffing plan; and
 - Any other matter necessary to ensure patient health and safety.
- The HNSC must report whether its nurse staffing plan ensures that the hospital is staffed to meet the health and safety needs of its patients and if not, modify its plan accordingly.

Mediation Services

Effective Date: July 6, 2015

Implementation Date: Program implementation is in progress and will be finalized after revised rules are promulgated in July 2016.

Under the revised laws, the Oregon Health Authority (OHA) is required to provide mediation services to assist members of a Hospital Nurse Staffing Committee (HNSC) who cannot reach an agreement on a nurse staffing plan after a 30-day waiting period. OHA is developing administrative rules to implement this requirement and to clarify expectations. Revised administrative rules will be in place by July 1, 2016.

Impasse details include:

- If a HNSC is unable to reach an agreement on the nurse staffing plan, either co-chair may invoke a 30-day waiting period;
- During the 30-day waiting period the HNSC must continue to make efforts to develop a plan and must continue to exchange data to facilitate negotiations;
- If the HNSC is unable to reach a resolution at the end of the 30-day waiting period, one of the co-chairs must notify OHA of the impasse; and
- If the HNSC is unable to reach a resolution after 90 days of mediation, OHA may impose a civil monetary penalty against the hospital.

Nurse Staffing Advisory Board

Effective Date: July 6, 2015,

Implementation Date: The board first met on February 24, 2016.

The revised laws establish a Nurse Staffing Advisory Board (NSAB) within the Oregon Health Authority (OHA). The Governor appointed two NSAB co-chairs and nine other board members in January 2016. The final NSAB member appointment is pending.

The purpose of the NSAB is to:

- Advise OHA on the administration of state nurse staffing laws;
- Identify nurse staffing trends, opportunities and concerns, and make related recommendations to OHA;
- Evaluate enforcement powers and processes used by OHA to complete statutorily mandated nurse staffing audit surveys, complaint investigations and posting requirements; and
- Report annually on the administration of Oregon's nurse staffing laws to the legislature.

NSAB is reviewing proposed nurse staffing administrative rule amendments to ensure they reflect statutory amendments made in 2015.

Details of OHA's new NSAB include:

- 12-member board comprised of six nurse managers and six direct care RNs (one direct care member need not be an RN if his/her services are covered by the nurse staffing plan);
- Members serve three year terms and are eligible for reappointment, but may not serve more than two consecutive terms. For members first appointed, the following initial term limits will apply:
 - Four members will serve a term of one year;
 - Four members will serve a term of two years; and
 - Four members will serve a term of three years.
- Two co-chairs comprised of one nurse manager and one direct care RN;
- NSAB meets quarterly and at request of both co-chairs; and
- Majority of members constitutes quorum.

Mandatory Overtime

Effective Date: July 6, 2015

Implementation Date: Program implementation is in progress and will be finalized after revised rules are promulgated in July 2016.

Under the revised laws, hospitals may not require nursing staff to work certain shifts or impose certain overtime requirements. The Oregon Health Authority (OHA) is amending the administrative rules that implement these limitations and revising the definition of emergency circumstances under ORS 441.166(8)(b). Revised administrative rules will be in place by July 1, 2016.

Audits / Surveys

Effective Date: July 6, 2015

Implementation Date: Program implementation is in progress and will be finalized after revised rules are promulgated in July 2016.

Under the revised laws, the Oregon Health Authority will survey each hospital periodically to determine whether it complies with applicable nurse staffing requirements. OHA is amending the administrative rules to implement these new survey requirements and clarify expectations. Revised administrative rules will be in place by July 1, 2016.

Audit / survey details include:

- Each hospital will be audited once every three years to assess its compliance with applicable nurse staffing laws;
- Audits will be conducted onsite and will include a review of relevant records and interviews of both Hospital Nurse Staffing Committee (HNSC) co-chairs and any other person(s) deemed necessary to determine compliance;
- Each hospital is required to keep and maintain records necessary to demonstrate compliance with nurse staffing laws;
- After the audit, OHA will send the hospital and the HNSC co-chairs a written report called a “statement of deficiency” that explains any nurse staffing concerns found during the audit. If a hospital is issued a statement of deficiency that requires a plan of correction due to violation(s) of applicable nurse staffing laws, a revisit will be conducted within 60 days to determine compliance; and
- The agency will maintain and post annual audit reports online.

Complaint Investigations

Effective Date: July 6, 2015

Implementation Date: Program implementation is in progress and will be finalized after revised rules are promulgated in July 2016.

Under the revised laws, the Oregon Health Authority (OHA) will conduct an onsite complaint investigation within 60 days of OHA receipt of allegations that a hospital does not comply with applicable nurse staffing laws. OHA is amending the administrative rules to implement new complaint investigation requirements and clarify expectations. Revised administrative rules will be in place by July 1, 2016.

Complaint investigation details include:

- Complaint investigations will be conducted onsite and will include a review of relevant records and an interview of any person deemed necessary to determine compliance;
- Each hospital is required to keep and maintain records necessary to demonstrate compliance with revised nurse staffing laws;
- After the complaint investigation, OHA will send the hospital and the Hospital Nurse Staffing Committee (HNSC) co-chairs a written report called a “statement of deficiency” that explains any nurse staffing concerns found during the investigation. If a hospital is issued a statement of deficiency that requires a plan of correction due to violation(s) of applicable nurse staffing laws, a revisit will be conducted within 60 days to determine compliance; and
- OHA will maintain and post complaint reports online.

Hospital Posting Requirements

Effective Date: January 1, 2016

Implementation Date: January 1, 2016

Under the revised laws, a hospital must maintain postings that meet the following requirements:

- Maintain and post a list of all on-call nursing staff or staffing agencies sufficient to provide for replacement staff; and
- Post a notice in each unit that summarizes nurse staffing laws and includes a phone number to report alleged violations.

OHA Posting Requirements

Effective Date: July 6, 2015

Implementation Date: Program implementation is in progress and will be finalized after revised rules are promulgated in July 2016.

Under the revised laws, the Oregon Health Authority (OHA) must ensure that the following information is maintained online:

- Audit survey reports;
- Complaint investigation reports;
- Orders that require a hospital to submit a plan of correction;
- Orders that impose a civil monetary penalty or restricting licensure; and
- Other matters as recommended by the NSAB.

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