



PUBLIC HEALTH DIVISION, Center for Health Protection  
Health Care Regulation and Quality Improvement Section  
Health Facility Licensing and Certification Program

Tina Kotek, Governor

**Oregon**  
**Health**  
Authority

**Health Facility Licensing and Certification**

800 NE Oregon Street, Suite 465

Portland, OR 97232

Voice: (971) 673-0540

Fax: (971) 673-0556

TTY: 711

<http://www.healthoregon.org/hflc>

[mailbox.hclc@odhsoha.oregon.gov](mailto:mailbox.hclc@odhsoha.oregon.gov)

Date: August 1, 2022

TO: Hospital Administrators

FROM: Dana Selover, MD, MPH  
Section Manager

RE: Hospital Reporting for Crisis Standards of Care Activation

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**New Temporary Rule - OAR 333-505-0036 - Hospital Requirements During Staffing Emergency Impacting Standard of Care**

As the state continues to respond to the COVID-19 pandemic and the hospital capacity impacts including discharge delays and staffing shortages, the Oregon Health Authority (Authority) has adopted temporary rule [OAR 333-505-0036](#) to require a hospital to take certain actions when the hospital is making triage decisions during a resource constrained period caused by a staffing emergency.

Oregon hospitals may activate crisis standards of care if their critical care resources are severely limited, the number of patients presenting for critical care exceeds capacity, and there is no option to transfer patients to other critical care facilities. This rule has been adopted to ensure transparency and accountability.

The Authority has created a form for the required [Hospital Notification for Crisis Standards of Care Activation](#) to assist hospitals in meeting the requirements of this rule.

**Resources:**

- [OAR 333-505-0036](#)
- [Hospital Notification for Crisis Standards of Care Activation](#)
- [Oregon Interim Crisis Care Tool](#)

Revised 01/19/2023

## **Consideration of Other Regulatory Requirements Medicare & Medicaid Requirements**

As stated in section (1) of the temporary rule, hospitals that receive Medicare and Medicaid reimbursement are still required to comply with all Centers for Medicare & Medicaid Services (CMS) Conditions of Participation. This temporary rule does not waive any of those Conditions.

## **Oregon Nurse Staffing Regulations**

In addition, the temporary rule does not waive the requirements of Oregon's nurse staffing regulations. [Oregon Administrative Rule 333-510-0140](#) would allow suspension of the Nurse Staffing Plans (NSPs) in some emergency situations. This rule applies if a hospital has had to:

- Implement its facility disaster plan as a result of a declared national or state emergency; and
- Implement crisis standards of care. In order to receive the protection of OAR 333-510-0140, a hospital would need to have implemented policies or standards for
  - Objective prioritization of care – policies or standards determining which services are a priority to continue among the services usually offered by the hospital in recognition of the fact that not all services will be provided during the emergency;
  - Prioritization of patients – policies or standards determining which patients will receive treatment sooner and which patients, who would otherwise receive treatment, will not; and
  - Limitations on services because of the declared emergency – policies or standards establishing changes in the way care is provided, services that may be partially offered or discontinued entirely, etc.
- If a hospital meets the requirements to suspend the nurse staffing plan, there are then additional requirements for working with the nurse staffing committee co-chairs and committee members to provide necessary information and include the committee in the process of determining the response to the emergency.

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