



# 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](#)<sup>1</sup>. 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.

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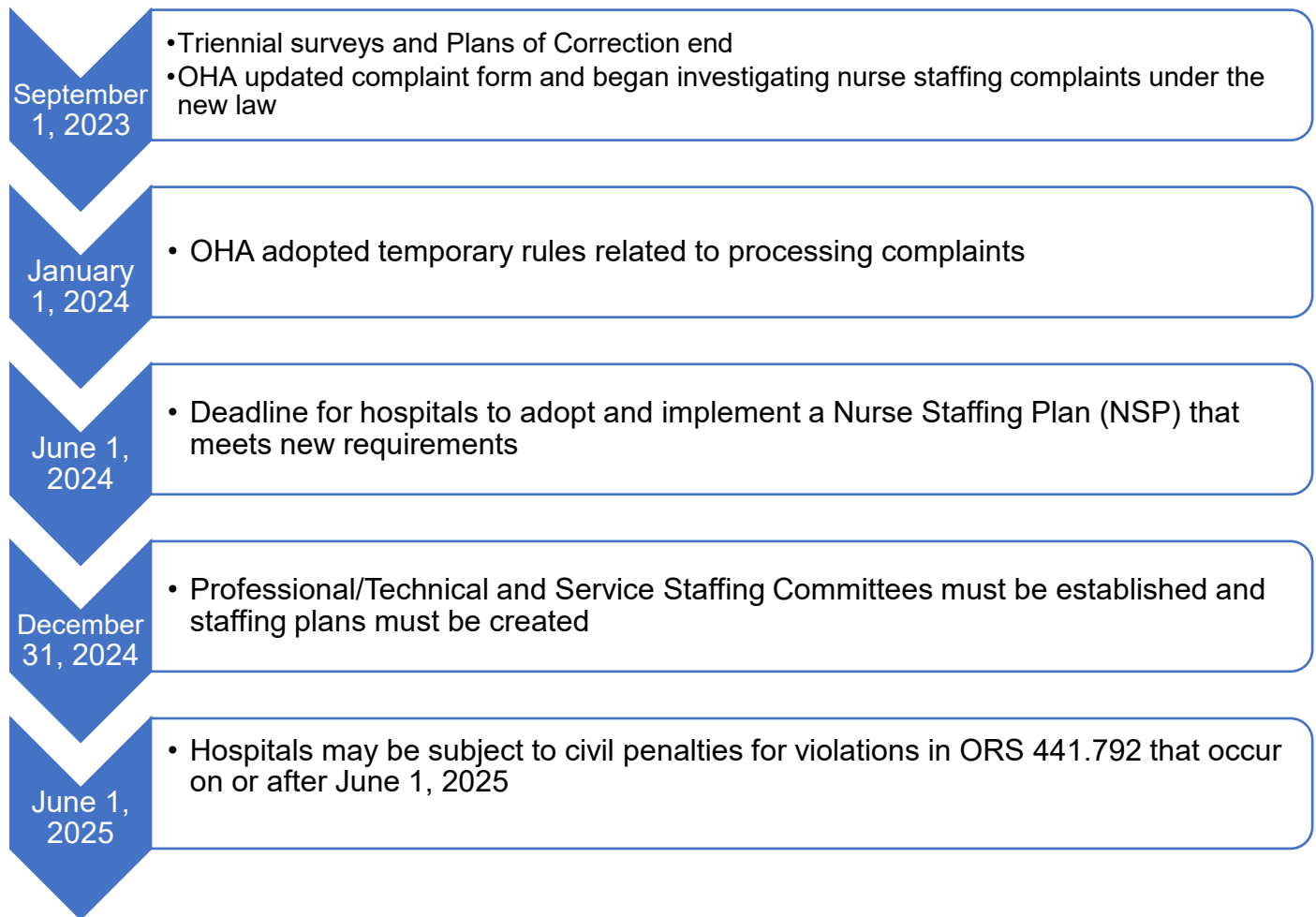
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<sup>1</sup> The enforcement provisions related to meals and breaks are codified in [Oregon Revised Statute 653.261](#).

## 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 Old nurse staffing rules were repealed or amended.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](#)

### Repealed nurse staffing rules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](#).

## **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](http://www.healthoregon.org/nursestaffing)); and
- The OHA Health Care Regulation & Quality Improvement (HCRQI) Complaint website ([www.healthoregon.org/facilitycomplaints](http://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](mailto: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 position<sup>2</sup>. 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 union<sup>2</sup> 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 Officer<sup>3</sup>, and Staffing Committee Co-Chairs, as well as the union that represents the complainant<sup>2</sup>. OHA also emails a copy of the Investigation Needs list to the Hospital Administrator

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<sup>2</sup> For complainants whose positions are represented by a union

<sup>3</sup> For nurse staffing complaints

and Chief Nursing Officer<sup>3</sup> 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 Officer<sup>3</sup>, and Staffing Committee Co-Chairs, as well as the union that represents the complainant<sup>2</sup>. A copy of the investigation report is also sent to the complainant and posted on the OHA Hospital Staffing website<sup>4</sup>.

**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:	
<b>Nurse Staffing Plan</b>	<ul style="list-style-type: none"><li>• Failure to adopt a Nurse Staffing Plan by agreement or after binding arbitration<sup>5</sup></li><li>• Failure to comply with the staffing level in the Nurse Staffing Plan<sup>5</sup></li></ul>
<b>CNA maximum patient assignments</b>	<ul style="list-style-type: none"><li>• Failure to comply with the CNA maximum patient assignments in ORS 441.768<sup>6</sup></li></ul>

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<sup>4</sup> [www.healthoregon.org/nursestaffing](http://www.healthoregon.org/nursestaffing)

<sup>5</sup> 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.

<sup>6</sup> 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.

<b>Professional/Technical Staffing Committee</b>	<ul style="list-style-type: none"> <li>• Failure to establish a Professional/Technical Staffing Committee (PTSC)<sup>7</sup></li> </ul>
<b>Professional/Technical Staffing Plan</b>	<ul style="list-style-type: none"> <li>• Failure to create a Professional/Technical Staffing Plan (PTSP)<sup>7</sup></li> <li>• Failure to comply with the staffing level in the PTSP<sup>8</sup></li> </ul>
<b>Service Staffing Committee</b>	<ul style="list-style-type: none"> <li>• Failure to establish a Service Staffing Committee (SSC)<sup>7</sup></li> </ul>
<b>Service Staffing Plan</b>	<ul style="list-style-type: none"> <li>• Failure to create a Service Staffing Plan (SSP)<sup>7</sup></li> <li>• Failure to comply with the staffing level in the SSP<sup>8</sup></li> </ul>
<b>Mandatory Overtime (MOT) for Nursing Staff Members</b>	<ul style="list-style-type: none"> <li>• Requiring a nursing staff member (RN, LPN, or CNA) to work<sup>5</sup> <ul style="list-style-type: none"> <li>○ Beyond an agreed-upon and prearranged shift, regardless of the length of the shift;</li> <li>○ More than 48 hours in any hospital-defined work week;</li> <li>○ More than 12 hours in a 24-hour period; or</li> <li>○ During the 10-hour period immediately following the 12<sup>th</sup> hour worked during a 24-hour period</li> </ul> </li> </ul>
<b>Failure to release a staffing committee member</b>	<ul style="list-style-type: none"> <li>• Failure to release a Nurse Staffing Committee (NSC) member to attend a NSC meeting<sup>5</sup></li> <li>• Failure to release a PTSC member to attend a PTSC meeting<sup>7</sup></li> <li>• Failure release a SSC member to attend a SSC meeting<sup>7</sup></li> </ul>

### 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.

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

<sup>8</sup> 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.

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 OHA'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 26: 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 Officer<sup>9</sup> 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

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<sup>9</sup> For nurse staffing complaints

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.

**Question 27: 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](http://www.healthoregon.org/nursestaffing)).

**Question 28: If OHA receives multiple complaints alleging violations of a nurse staffing plan for the same shift on the same unit, how does count violations?**

Answer OHA reviews complaints regarding violations of nurse staffing plans by unit and shift. If there are multiple substantiated complaints of the same type about the same unit and during the same shift, OHA considers that one violation, even if multiple staff members were impacted.

Example: Nurse Nguyen, Nurse Omar, and Nurse Padilla work the night shift. For part of the shift each nurse has more patients than the ratio in the approved NSP. Each nurse files a complaint with the OHA. OHA investigates and substantiates the complaint. Because all complaints were the same type and about the same shift on the same unit, the hospital would receive a sanction for a single violation.

## **Section 5 – Mandatory Overtime**

**When used in this section the phrase “call shift” refers to set period of time included in a nursing staff member’s schedule when the nursing staff member is required by the hospital to report for work when summoned by the hospital. A nursing staff member may or may not be required to be at the hospital while waiting to be summoned for work.**

**Question 29: What are the maximum number of hours a hospital can require nursing staff members to work:**

**Answer** Under ORS 441.770(3), a hospital may not require a nursing staff member to work:

- Beyond the agreed-upon and prearranged shift, regardless of shift length;
- More than 48 hours in any hospital-defined work week;
- More than 12 hours in a 24-hour period;
- During the 10-hour period immediately following the 12th hour worked during a 24-hour period. This work period begins when the nursing staff member begins a shift; or
- During the 10-hour period immediately following any agreed-upon and prearranged shift in which the nurse worked more than 12 hours in a 24-hour period.

**Question 30: What is mandatory overtime under the nurse staffing laws?**

**Answer** Mandatory overtime is any time that exceeds the maximum number of hours a hospital requires a nursing staff member to work. Overtime that is agreed-upon and prearranged is not treated as mandatory overtime. See ORS 441.770; OAR 333-503-0060.

**Question 31: Can a hospital get a waiver to authorize mandatory overtime if it is necessary for safe patient care?**

**Answer** No. Hospitals can only get waivers of nurse staffing plan requirements described in OAR 333-503-0050; the law does not give the OHA the authority to temporarily or permanently waive mandatory overtime limitations.

**Question 32: Does the implementation of its facility disaster plan allow a hospital to require nursing staff members to work mandatory overtime?**

**Answer** Maybe. ORS 441.770(8)(a) states that mandatory overtime rules do not apply “In the event of a national or state emergency or circumstances requiring the implementation of a facility disaster plan.” The OHA has narrowly interpreted “circumstances requiring implementation of a facility disaster plan” to include only

those events that are equivalent to a disaster for the given facility. A disaster is a calamitous event, especially one that occurs suddenly and causes a great loss of life, damage or hardship. A hospital that implements its facility disaster plan in response to a lesser event is still subject to mandatory overtime limits.

Examples of such circumstances include:

- An event that causes an overwhelming and prolonged increase in a unit's patient population. An overwhelming increase is one that significantly exceeds the maximum census contemplated by both the nurse staffing plan and the hospital's Plan for Provision of Patient Care Services, Scope of Services, or similar document;
- An unexpected and prolonged hospital-wide power outage during which the hospital does not have use of a generator or backup power source; or
- An unexpected and prolonged systems failure that interrupts access to electronic health records (e.g., a ransomware attack).

**Question 33: If a hospital delays the start of the shift, but the length of the shift remains the same, are the hours after the shift was originally supposed to end mandatory overtime?**

**Answer** Maybe. The original beginning and end times of the shift as well as the length of shift are the agreed-upon and prearranged shift. A nursing staff member may agree to change the hours of his/her shift to accommodate the hospital's request. If the nursing staff member agrees to change the beginning and end times of the shift and maintain the length of shift, then the new hours become the agreed-upon and prearranged shift.

**Question 34: If on-call, standby, or call back time is agreed upon by the nursing staff member and the hospital, do the maximum hour requirements apply?**

**Answer** No. The maximum daily hour requirements do not apply to hours worked during agreed-upon and prearranged shifts.

**Question 35: Is there a maximum number of hours of voluntary overtime that a nursing staff member may take on?**

**Answer** No. The nurse staffing law does not include a limitation on voluntary overtime that a nursing staff member may take on.

**Question 36: What is the maximum time allowed for a prescheduled shift?**

**Answer** If the unit allows nursing staff members to select from shift lengths that include shifts of 12 hours or less in addition to the shifts that are in excess of 12 hours, then longer shifts are likely not required and would not violate the maximum daily hours. An agreed-upon and prearranged shift can be any length provided that nursing staff members have the option of selecting shifts that comply with the hour limits in both statute and rule.

For example: A unit has both 10-hour and 14-hour shifts as standard options; any nursing staff member can select either 10 or 14-hour shifts. The 14-hour shifts do not violate the regulations in this unit. If a unit only has 14-hour shifts, then the shifts would violate the maximum daily hour requirements.

**Question 37: What proof do hospitals need to show that shifts are prearranged?**

**Answer** A nurse staffing schedule will generally provide evidence that a schedule was prearranged and should include evidence of agreement of the nursing staff members. Changes to a written schedule should:

- Be in writing;
- Indicate when the change was made; and
- Show acceptance of the change by the nursing staff member(s) whose schedule has been changed prior to the beginning of the changed shift.

**Question 38: Should hospitals track voluntary shift pickups?**

**Answer** Yes. Hospitals should track these pickups for purposes of determining how much voluntary overtime was worked and considering that overtime in the annual plan review.



**Question 39: What is the meaning of “at the end of the current shift” for purposes of determining when a hospital may require an additional hour of work due to a staff vacancy in the next shift?**

**Answer** The agency has not defined “at the end of the current shift.” HNSCs may set hospital or unit standard definition. If these situations are reviewed as part of a survey or complaint, surveyors determine the reasonableness of a definitions by considering when the hospital became aware of the vacancy, efforts the hospital made to fill the vacancy both before and after requiring the additional hour of work, and how often the hospital requires an additional hour of work due to a staff vacancy or potential harm to a patient.

**Question 40: Is all overtime voluntary if it occurs as a result of a call shift when the nursing staff member agreed to take a position in a unit that requires call?**

**Answer** No. Whether specific overtime is voluntary depends on whether the time actually worked occurred during the hours of the agreed-upon and prearranged call shift.

**Question 41: When is a nursing staff member eligible to claim the 10-hour rest period after 12 hours of work?**

**Answer** The 10-hour rest period follows the end of the shift that included the 12<sup>th</sup> hour of work.

For example: Nurse Dakota works a 10-hour shift from 0800 to 1830 and then works an agreed-upon and prearranged call shift. During the call shift Dakota is called in at 2200 and works for 2 hours. Dakota can claim the 10-hour rest period after completing the call shift.

**Question 42: Does a nursing staff member need to use Paid Time Off / Earned Time Off or other compensated time for the 10-hour rest period?**

**Answer** The nurse staffing statutes are silent on this issue. Nursing staff members covered by a collective bargaining agreement may have contract provisions that address this issue.

**Question 43: When does the 24-hour period begin for a nursing staff member who is called in from the call schedule after working the day shift?**

**Answer** The 24-hour period begins when the nursing staff member begins any shift or call response.

For example: Nurse Camden works a 10-hour shift from 0800 to 1830 and then is on call. Camden is called in at 2200 and works for 2 hours. The 24-hour period began at 0800 and Camden has worked 12 hours in the 24-hour period.

Day 1				Day 2			
AM	Type of Work	PM	Type of Work	AM	Type of Work	PM	Type of Work
0000		1200	<i>Work shift</i>	0000		1200	
0100		1300		0100		1300	
0200		1400		0200		1400	
0300	<i>24-hour clock starts</i>	1500		0300	<i>24-hour clock ends</i>	1500	
0400		1600		0400		1600	
0500		1700		0500		1700	
0600		1800	0600		1800		
0700		1900		0700		1900	
0800	<i>Work shift</i>	2000		0800		2000	
0900		2100		0900		2100	
1000		2200	<i>Called in</i>	1000		2200	
1100	2300	1100			2300		

**Question 44: Does the 24-hour period for counting hours worked restart when a nursing staff member leaves the hospital?**

**Answer** No. The 24-hour period does not restart if the nursing staff member leaves the hospital.

Example: At City Hospital Nurse Blaine works an eight-hour shift from 0800 to 1630 and then goes home. Blaine is on call after her shift from 1630 to 0800. At 2100 Blaine responds to call and works for four hours until 0100. Blaine has now worked

12 hours in the 24-hour period beginning at 0800. Blaine can claim the 10-hour rest period after the call shift ends.

**Question 45: Should hospitals postpone elective procedures during a weather emergency to avoid forcing nursing staff to work mandatory overtime?**

**Answer** The determination of whether to postpone elective procedures during a weather emergency involves a variety of factors, including the risks of mandatory overtime. The OHA expects hospitals to make decisions in emergency situations based on an individual analysis of circumstances in order to prioritize patient safety.

## **Section 6 – Hospital Staffing Plans Posted on the OHA website**

**Question 46: Does OHA review the Hospital Staffing Plans before they are posted on the OHA website?**

**Answer** OHA is required to post the plans it receives. OHA does not have authority to review plans for compliance prior to posting. OHA does not endorse staffing plans nor can OHA provide advice or guidance about the application or enforcement of any staffing plan. OHA does not review the procedure used to adopt the plan before posting to OHA's website, including whether the plan was correctly voted on or adopted via arbitration.

**Question 47: Who submits the plans that are posted on the OHA website?**

**Answer** Hospitals are responsible for submitting plans that are approved, current, complete, and compliant. It is the hospital's responsibility to submit plans to OHA that comply with applicable laws including procedural requirements for adopting the plan and addressing all units requiring a staffing plan.

**Question 48: Are the plans on the OHA website used in the complaint investigations?**

**Answer** No, OHA does not rely on the posted plans in complaint investigations. Instead, during investigations, OHA requests and receives from hospitals relevant plans to investigate the complaint. and information about plan adoption. OHA reviews

the procedure used to adopt a plan for a specific unit when it is necessary for the investigation of a valid complaint.

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