Oregon Health Authority

Nurse Staffing Advisory Board – Quarterly Meeting Agenda

Presiding Co-Chair:	Debbie Robinson
Meeting Registration:	https://www.zoomgov.com/meeting/register/vJItcu6oqT8rHWWkzrtuAS1Ye5maMwyXCIk
Date:	October 26, 2022
Time:	1:00 PM – 5:00 PM

Note for virtual meetings: OHA will open the Zoom meeting 15 minutes prior to the meeting's official start time. You may be required to wait in the Zoom waiting room or receive a message that the meeting has not yet started if you attempt to join the meeting before this time. If you are unable to join the meeting after this time, please contact the meeting host at the email or phone number provided below.

The time and order of agenda items are subject to change at the discretion of the Board Co-Chairs

Time	Agenda Item	Materials Provided	Presenter
1:00 PM	**Item 1 – Call to Order**		Debbie Robinson
1:00 PM – 1:05 PM	**Item 2 - Minutes**	• July 2022 meeting minutes	Debbie Robinson

1:05 PM – 1:15 PM	**Item 3 – Membership & Program updates** • OHA Nurse Staffing team update • NSAB Recruitment and open positions		Kimberly Voelker & Anna Davis
1:15 PM – 1:35 PM	**Item 4 – Status Updates** • Nurse Staffing Surveys • Nurse Staffing Complaint Investigations • Nurse Staffing Revisit Surveys • Update on Nurse Staffing Webinars	• Survey dashboard • Complaint dashboard • Revisit survey dashboard	Kimberly Voelker
1:35 PM – 2:35 PM	**Item 5 – Committee Updates** • NSAB Rules Review Committee – Work so far, next steps • NSAB Civil Monetary Penalties Committee – Summary Report & Decision Making Tool ○ Provide feedback on decision-making tool	• NSAB Civil Monetary Penalties Committee – Report • NSAB Civil Monetary Penalties Committee – Decision-making tool	Kimberly Voelker, Anna Davis, and Dana Selover
2:35 PM – 2:40 PM	**Item 6 – Annual Legislative Report update**		Kimberly Voelker
2:40 PM – 2:50 PM	**Item 7 – HB 2993 Overview** • Statute Changes • Impact on rulemaking	• HB 2993 Overview slides	Dana Selover
2:50 PM – 2:55 PM	**Item 8 – Break**		

2:55 PM – 3:00 PM	**Item 9 – Scheduling 2023 Quarterly Meetings**		Kimberly Voelker
3:00 PM – 3:45 PM	**Item 10 – Nurse Workforce Group: Nurse workforce shortage & burnout**		Nurse Workforce Group
3:45 PM – 4:15 PM	**Item 11 – Nurse Staffing Surveyor discusses survey activities** • Questions & Answers		OHA Client Care Surveyors
4:15 PM – 4:45 PM	**Item 12 – Emerging issues in nurse staffing** • Plan for the coming year NSAB members raise new issues that are emerging as nurse staffing concerns across the state		Debbie Robinson
4:45 PM – 5:00 PM	**Item 13– Public Comment** Members of the public may speak for up to two minutes on the meeting's agenda and other topics.		
5:00 PM	**Meeting Adjourned**		

Upcoming Meetings

- *Rules Review Committee Meetings*
  - *November 29, 2022: 9:35 AM – 11:00 AM. Register here:*
    https://www.zoomgov.com/meeting/register/vJIsf-qrqDMtEm5zVYhxO9dAaJ1yt55j4-c

- *December 7, 2022: 10:00 AM – 11:30 AM. Register here:*

    https://www.zoomgov.com/meeting/register/vJItf-yoqjkqGMCd6OLFgT_2tMVRvcRjEtA

- *January 18, 2023: 1:30 PM – 3:00 PM. Register here:*
    https://www.zoomgov.com/meeting/register/vJIsc-ioqjMjHGOIxfnDOY32PzytBk3akd4

- *February 10, 2023: 1:30 PM – 3:00 PM. Register here:*

    https://www.zoomgov.com/meeting/register/vJIsce6hqD8vGToxP3JzsoYzdcl_CtML61o

- *March 8, 2023: 10:00 AM – 11:30 AM. Register here:*
    https://www.zoomgov.com/meeting/register/vJItdeutrjMqHJtLsOa_Sa8CPlJroUgEgHE

- *March 24, 2024: 2:00 PM – 3:30 PM. Register here:*

    https://www.zoomgov.com/meeting/register/vJIsc-2grTorHx4_Hd1Aj98b_9ByoB6BToc

- *April 14, 2023: 1:30 PM – 3:00 PM. Register here:*
    https://www.zoomgov.com/meeting/register/vJIsfuuvqDIoGNZXV7pFJFkWqaiqYvQilNk

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- Sign language and spoken language interpreters
- Written materials in other languages
- Closed captioning
- Braille
- Large print
- Audio and other formats

If you need help or have questions, please contact Kimberly Voelker at 971-803-0914, 711 TTY or kimberly.n.voelker@state.or.us at least 48 hours before the meeting.

For additional information about NSAB or OHA's Nurse Staffing Program contact mailbox.nursestaffing@odhsoha.oregon.gov.

PUBLIC HEALTH DIVISION, Center for Health Protection
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Oregon Nurse Staffing Advisory Board (NSAB)
Wednesday, July 27, 2022
1:00 PM – 5:00 PM

Meeting Minutes

Cochairs	Uzo Izunagbara, DNP, MSN, MHA, RN (presiding); Debbie Robinson, RN, MSN
Members present	Jenni Word, RN; Barbara Merrifield, MSN, RN; Joel Hernandez, RN; Kelsey Betts, RN; Shannon Edgar, RN, MBA; Lace Velk, RN; Mariah Hayes, MN, RN, NE-BC; Todd Luther, RN, CEN; Becky Wise, RN
Members absent	Chandra Ferrell, CNA;
PHD staff present	Dana Selover, MD, MPH; Anna Davis, JD; Kimberly Voelker, MPH; Michelle Ingram, RN; Phyllis Lebo, RN; Mónica Petersen, RN
Additional Oregon State employees present	Kimberly Goddard (Chief of Staff, Representative Rachel Prusak)

Guests present	Thomas Cuomo (Markee and Associates), Nicolette Reilly (Oregon Health Care Association), Natika Didericksen (Shangri-La), Kerry Kilgore (Samaritan Lebanon Community Hospital), Donell Owens (Kaiser Sunnyside), Erica Swartz (OHSU), Eugenia Liu (Oregon Health Care Association), Christy Simila (ONA), Danielle Meyer (OAHHS), Ruth Miles (Salem Health), Rachelle Lyons-Schatz (Legacy Health), Denise Moland (Samaritan North Lincoln Hospital), Mary Coffelt (Kaiser Sunnyside), Emily Krug (OHSU), KATU News, Matt Calzia (ONA), Shane Ersland (State of Reform), Sarina Roher (OFNHP), Elisa Youngman (OHSU)

Agenda Item 1	*Call to Order*

The meeting was conducted as an online Zoom meeting with computer and phone audio options. The meeting was called to order and members confirmed their presence on the meeting via roll call. All other individuals present identified themselves.
Board co-chair greeted board members and asked that cameras be turned on.

Agenda Item 2	*Minutes*

Board co-chair asked if the board had any corrections, additions, or questions about the minutes from the April 2022 Quarterly NSAB meeting.

Motion to approve April minutes as written: Kelsey Betts
Seconded: Lace Velk
Motion passed

Agenda Item 3	*Membership & Program Updates*

K. Voelker updated the board about previous Direct Care Co-Chair Susan King's departure in April 2022. She also introduced U. Izunagbara as the new Direct Care Co-Chair. New direct care member, Becky Wise from St. Anthony's Hospital, was introduced and welcomed.

Board co-chair and K. Voelker asked board members introduce themselves by name, hospital, and title. D. Robinson, B. Merrifield, J. Word, K. Betts, J. Hernandez, L. Velk, T. Luther, M. Hayes, S. Edgar follow suit. C. Ferrell was not present.

K. Voelker introduced new OHA employees, T. McIntosh and P. Lebo, to the board.

A. Davis provided an update on two new full-time surveyor positions, both of which had been filled. Updates on the position description for a public health nurse were also given.

K. Voelker encouraged interested parties to apply for the NSAB.

Agenda Item 4	

Nurse Staffing Waivers

K. Voelker presented the nurse staffing waiver dashboard, which included charts showing the initial, subsequent, renewal, partial denial, expired and lapsed nurse staffing waiver requests for large, medium, and critical access hospitals; a chart showing the patient care areas covered under approved waivers; and a chart showing the number of waivers expiring in 2022 and the months the waivers expired. They explained that an update on waivers is presented to the board in January and in July.

Board co-chair asked for an update on the Curry General Hospital waiver request, acknowledging that the hospital needed to resubmit their request.

K. Voelker stated that Curry General Hospital had submitted a new request with more information and that the new request is under review. They explained that the NSAB will be updated on the outcome of the request at a future meeting. A. Davis clarified details of this resubmission.

Nurse Staffing Surveys

K. Voelker presented the survey dashboard for Cycle 1 (2017 – 2019) and noted that only one hospital, Cedar Hills Hospital, did not have an approved Plan of Correction (POC. They stated they were on their 6th POC and that OHA had met with the hospital multiple times to address questions about the POC.

K. Voelker presented the survey dashboard for Cycle 2 (2021 – 2023) and stated that Shriners had their POC accepted and passed their revisit with no deficiencies. They explained that Legacy Emanuel is pending their second revisit because they had their POC accepted but their revisit survey showed deficiencies. K. Voelker continued to show the board how to read the survey dashboard for Cycle 2.

Board member, J. Hernandez, asked whether a hospital would incur civil monetary penalties for the number of POCs submitted.

K. Voelker stated this question would be something for the Civil Monetary Penalties Committee would consider as part of their work.

Board member, L. Velk, asked if OHA is behind with any of the cycle surveys and if so, by how many months.

K. Voelker stated that some surveys that were supposed to occur in 2021 were delayed to 2022, due to the pandemic.

A. Davis stated that OHA scheduled surveys not by month, but rather by the year. Therefore, 2021 surveys were still being wrapped up because OHA started surveying in March 2021 and was required to pause surveys in August – September 2021. However, surveys scheduled for 2022 had already started. Other factors OHA considered when deciding which facility to survey were pending complaints, weather conditions, and wildfire conditions. Hospital capacity and COVID impacts was also considered during the height of the pandemic and whether OHA presence would affect patient care.

Board member asked about increased enforcement for deficiencies related to a revisit survey. They also asked whether OHA would go back and issue Civil Monetary Penalties (CMPs) for hospitals with previous noncompliance, or whether the CMPs were only for future noncompliance.

A. Davis stated that the focus for CMPs is more on Cycle 2 surveys than Cycle 1 surveys with accepted POCs, and that once the committee is completed, OHA can use the

committee guidance to determine whether to assess CMPs . They also noted that Cycle 1 revisits occurred later than they're supposed to and that it may have made it more difficult to measure the effectiveness of POCs.

Board member asked if the data regarding revisit citations was available to the board.

A. Davis explained that a dashboard is available that illustrates the upcoming revisits which will also likely be incorporated in the year-end review in January.

K. Voelker stated that the slides and dashboards will be made available after feedback.

Board co-chair asked to clarify who to email for requesting public records.

K. Voelker answered that there is an OHA Public Records Team and stated that public records requests should be sent to them.

A. Davis provided the OHA Public Records team's email and website; https://www.oregon.gov/oha/erd/pages/records.aspx and oha.publicrecords@odhsoha.oregon.gov

Board co-chair asked whether there was a record of who requested public records.

K. Voelker stated that public record requests are also public records and are available on the OHA Public Records website.

Nurse Staffing Complaint Investigations

K. Voelker presented the Nurse Staffing Complaint Investigation dashboard and asked for feedback on the dashboard. They asked whether the current format was the most effective way to illustrate the information.

Board member stated that they preferred seeing past complaints so that patterns could be identified.

Board member agreed and stated that they preferred the current format so they could see what ongoing issues might be.

A. Davis explained how to read the information on page 2 of the dashboard and showed how multiple complaints from a single facility may appear.

Board co-chair stated that seeing the history is beneficial and that it would be helpful for past information to be displayed as trends instead of in details.

Board member stated that dates and details are helpful.

Board co-chair reiterated the struggle in seeing trends with the current display of the dashboard with many details.

A. Davis suggested that the dashboard may be sorted by facility and a mix of dates for one facility could be seen. They stated that there are some hospitals that have been the subject of any complaints.

D. Selover commented that the dashboard reflects a database more than a dashboard and that it would be helpful to know what kinds of questions the dashboard should be trying to answer first.

Board co-chair noted that they will require more time to reflect on what changes they might like to see. They stated that the data base is helpful to the CMP Committee. They believed that display of the outcomes on the dashboard would be more important, as well as whether a complaint was substantiated.

Board member, L. Velk, asked whether delays in complaint investigations were caused by the pandemic.

K. Voelker answered that there was a delay partly due to the pandemic but also noted a couple pauses in schedule that took place, prioritization of the regular nurse staffing surveys, and processes that involved multiple submissions of POCs.

A. Davis explained that after the 2015 nurse staffing law passed, OHA had not been able to meet the new statutory timelines for complaint investigations. They stated the issue is being alleviated with new nurse staffing surveyor positions, though the time needed for new surveyor training means that improvement will take time.

K. Voelker thanked the board for the discussion and moved to the Nurse Staffing Revisit Survey slides, which showed the background and activities from Cycle 1 (2017 – 2019) and Cycle 2 (2021 – 2023), as well as combined revisit surveys and standalone revisit surveys.

Board co-chair asked how the surveyors identify findings related to the revisit for revisits combined with full nurse staffing surveys.

K. Voelker explained that the NS administrative team notated for the survey team which units had been a part of a previous survey, and surveyors picked some of those specific units intentionally for revisit.

A. Davis specified that revisit tags are clearly indicated on the reports.

The board did not have any additional questions or comments about the dashboards.

Action Item(s)	• OHA to update survey dashboard and complaint investigation dashboard to show overall trends, while maintaining data present in current dashboards

Agenda Item 5	*Committee updates*

Civil Monetary Penalties Committee

K. Voelker provided updates on the Civil Monetary Penalties (CMP) Committee, explaining the committee had met five times and reviewed the rules related to civil monetary penalties. The decision-making matrix tool had been drafted and presented to the committee. A report regarding unsafe patient care was being written and would be presented at the next meeting on August 10th.

A. Davis gave updates on a public records request to a member of the media.

There were no further questions about the CMP Committee.

Rules Review Committee

K. Voelker presented slides for the Rules Review Committee and summarized the previous quarterly meeting in April, including issues flagged for future rulemaking and recommendations.

Board member asked a question regarding the definition of Hospital Nurse Staffing Committee quorum and whether this could be changed in rulemaking.

K. Voelker clarified the definition of quorum and that it is directly out of statute so it cannot be changed in rulemaking; it would require a statutory change.

A. Davis stated that there is a 2023 housekeeping bill progressing which would allow complaint investigations to be conducted remotely.

Board member asked about a Hospital Nurse Staffing Committee quorum being 50% of voting numbers or voting members and alternate members.

A. Davis clarified that a quorum is 50% plus one and the statute does not require alternate members. Alternate members are only a possibility when the staffing committee charter specifies that there will be alternate members and when the primary members are not present.

K. Voelker asked the board if the Nurse Staffing Committee would be an area that the Rules Review Committee should focus on.

Board co-chair supported this suggestion.

Two board members supported this suggestion.

Board co-chair asked nurse managers present if the Rules Review Committee should focus on this area.

Two board members stated that their concerns about the Hospital Nurse Staffing Committee were related to scheduling meetings.

Board co-chair asked for any other remarks, questions, or comments. They asked K. Voelker to make a note for the Rules Review Committee to discuss meals and rest break requirements.

There were no other requests related to the Rules Review Committee.

Action Item(s)	• OHA to add "Nurse Staffing Committee requirements" and "Meal and Rest Break requirements" to areas of focus for the Rules Review Committee

Agenda Item 6	*Break*
Board co-chair called for a five-minute break.	

Agenda Item 7	*Annual Legislative Report*

K. Voelker presented slides and background information pertaining to the Nurse Staffing Advisory Board Annual Legislative Report and explained that a report updating the Legislature on the board's activities was to be submitted no later than September 15th. This agenda item was to discuss priorities for the report and to confirm OHA's tentative timelines. K. Voelker asked what should be add, removed, and emphasized in the report.

Priorities

Board co-chair suggested the work of the board, such as redesigning the survey process, more interaction with direct care nurses, and a more direct approach in obtaining feedback, should be highlighted. Summaries from Cycle 1 and Cycle 2 should also be highlighted as well as the continued areas of focus for Cycle 2.

Board member stated that it would be interesting to see how Oregon compares to other states' nurse staffing laws.

K. Voelker stated that Oregon's nurse staffing laws are unique and some states do not have nurse staffing laws.

A. Davis reiterated that there are a vast majority of states that do not have nurse staffing laws. The most similar to Oregon's laws would be Washington's new nurse staffing law, but even that law is significantly different. Further, because the report is focused on the work of the board, the regulations in other states are outside the scope of the annual report.

Board co-chair asked if there was a way to quantify the fiscal impact on OHA and hospitals as it related to implementation of the nurse staffing law.

A. Davis stated OHA does not have financial records from hospitals, so that data is unobtainable.

D. Selover noted that when a law passes, rules are drafted to go with that law. There is process that is built in into the existing statute that we need to report back five years after the rule is passed and its financial impacts. That may be the only fiscal information that would be available, but it would be a large project and they reiterated that OHA does not have information from hospitals on the fiscal impacts of the law.

Board co-chair mentioned the nurse workforce shortage should be focused on and have a section dedicated to this matter.

Board co-chair agreed and commented that the continuing trends from survey activities should be included.

D. Selover stated that the nurse workforce shortage impacts all areas where nurses work and had impacts beyond the nurse staffing law, so it may be an offline conversation with other relevant groups to discuss where the overlaps and boundaries are.

Timelines

K. Voelker presented a slide with dates ranging from July to September for the report timeline. They explained that the timeline was tentative and welcomed any suggestions and changes.

Board co-chair commented that commitment is required to carry out this timeline.

Board co-chair asked if there is any feedback from the Legislature about the report.

D. Selover noted that it likely depends on the topic. Certain advisory committees are invited on legislative days to give input and present, which has happened once for nurse staffing. This process is generally a "one-way street."

K. Voelker asked if there are any additional comments or questions. The board supported the tentative timeline.

Agenda Item 8	*Nurse Staffing Surveyor discusses survey activities*

The board welcomed OHA surveyors M. Ingram and P. Lebo.

Board co-chairs asked surveyors for information about the selection and conversation with direct care nurses as part of the unit onsite tour.

M. Ingram answered that the hospital decided which direct care nursing staff member they would speak with and that it's generally a charge nurse. They stated that they were able to obtain substantial information regarding acuity and intensity, and meal and rest breaks, among other information.

Board member expressed concern with the hospital choosing who the surveyors interview. They asked if surveyors have the ability to talk to other staff and whether OHA talks to staff in private, away from their managers.

M. Ingrams answered that the interviews are done in private and it's just the surveyor and the unit direct care representative. As it related to interviewing other staff, they explained that OHA no longer does this, although it used to be common practice for individuals to self-select for interview. M. Ingram has never interviewed other staff since they've been working. They mentioned that there is a SurveyMonkey that hospital staff may utilize and is anonymous. There is also the option to submit complaints and other information via email.

A. Davis clarified that hospital staff is made aware of confidentiality and that it is maintained. SurveyMonkey has been the most useful tool in gathering a broad range of information from direct care staff.

Board co-chair asked how many complaints specific to retaliation had been received related to nurse staffing.

A. Davis answered that retaliation complaints would go through BOLI because retaliation pertains to the impact on a person's employment, so any retaliation complaints the OHA gets would be passed on.

Board member asked whether the NSAB is able to help direct and reprioritize the surveying that is being done so that more serious staffing concerns are addressed if they're missed.

Board co-chair reiterated the SurveyMonkey purpose, though they do like the idea of the open forum to gather input from staff.

A. Davis explained that the co-chair interview is required as it is in the statute. There is also the pre-questionnaire and follow-up questions that help direct the survey, which is available as part of the Sample Survey Toolkit on the website. Surveyors are also allowed to deviate from the list of prepared questions and ask additional questions. The shift from additional interviews to the SurveyMonkey method was due to lack of quantitative data gathered by and the significant amount of time necessary for open interviews.

Board member asked who is chosen for the direct care interview if the charge nurse is unavailable.

M. Ingram answered that surveyors interview someone who is familiar with the nurse staffing plan since most of the questions pertain to it. Usually, the nurse manager chooses who does the interview.

Board member expressed concern with the nurse manager choosing who to interview because there were aware of nurse managers choosing traveler nurses, which they felt was inappropriate. They stated that the interviewee should always be a hospital-employed direct care nurse who was involved with implementing the nurse staffing plan.

M. Ingram agreed and explained they have had experience with being presented a traveler nurse.

A. Davis noted that OHA does not usually interview travelers but there are some situations where the travelers end up being the most available and most familiar with the nurse staffing plan.

Board member continued to express that there should be some guidelines about who surveyors interview, especially since the hospitals are made aware ahead of time about the survey.

Board co-chair suggested that the co-chair of the hospital could delegate someone to make sure the direct care nurse was scheduled the day of arrival.

Board member thanked the surveyors for their work.

Board member asked about how often Hospital Nurse Staffing Committee meetings needed to occur.

M. Ingram answered that if a quarterly meeting is missed then it would result in noncompliance. There needs to be a meeting every three months.

Board co-chair suggested that referencing the meetings as required every three months is better than "quarterly."

A. Davis noted that the statute says "every three months."

Board co-chair asked surveyors what they would like to change to improve the survey process.

M. Ingram answered that the recent changes in the process with new cycles have helped already.

There were no additional questions for surveyors. Board co-chair thanked the surveyors for speaking with the board.

Agenda Item 9	*Emerging Issues in Nurse Staffing*
	The board started Agenda Item 9 – Emerging Issues in nurse staffing while waiting for OHA surveyors to arrive. The board transitioned to Agenda Item 9 upon the surveyors' arrival,

before moving back to Emerging Issues. The entirety of the Emerging Issues discussion is below.

Board member brought up an issue regarding nurse shortage and asked whether not having enough nursing staff due to availability or finances constituted a state emergency in which hospitals could then deviate from approved staffing plans.

A. Davis clarified that the hospital could only deviate from the approved staffing plan when it is an emergency under OAR 333-510-0140(1). They stated that nurse staffing committees could meet and revise plans as described under OAR 333-510-0140(6) for hospitals that are experiencing an emergency situation that does not meet the requirements of section (1) of the rule.

Board co-chair expressed concern on how facilities might define emergency circumstances, stating that it can be too fluid. They noted that more clarification may be required for what an emergency is.

A. Davis reiterated that there are only three types of emergencies that allowed hospitals to deviate from their nurse staffing plans, citing subsection (1)(a), (1)(b), and (1)(c). They clarified that the emergencies in subsection (1)(a) must be declared.

K. Voelker explained that state or federal emergencies may only be declared if it comes from the Governor of Oregon (state emergency) or the President of the United States (national emergency).

Board co-chairs asked if nurse staffing shortage would be an emergency circumstance.

A. Davis stated that there is currently not a declared emergency for nurse staffing shortage. There is a federal public health emergency for COVID-19, but it is the only declared emergency affecting Oregon.

Board co-chair asked whether emergencies unique to specific hospitals, such as a nurse staffing shortage, would be considered by surveyors.

K. Voelker noted that emergencies under section (1) are the only three routes that allow the suspension of a nurse staffing plan. They explained that section (6) primarily means that either nurse staffing committee co-chair can call a committee meeting to figure out a different plan moving forward or to modify a plan. section (6) does not allow the hospital to unilaterally suspend of nurse staffing plans.

A. Davis explained that in an emergency, surveyor practice is for surveyors to consult with OHA so that they go through the rule and facts together for consistency.

D. Selover further explained that around August 2020, HB 3016 had not passed yet and section (1) had not been updated. It was more permissive to suspend nurse staffing plans.

However, the statute was updated during the 2021 legislative session. The board put out a guidance recommendation to use section (6), especially during the pandemic.

Board member asked if there had been nurse staffing complaints related to staffing committee processes.

A. Davis clarified that section (6) is for emergencies that are not declared, and it is to create a contingency plan to put in place. Any contingency plan would need to go through and be approved by the committee.

Board member explained a trend where direct care nurses need more cooperation from hospitals when nurse staffing plans are being implemented. The delays are brought up multiple times. They asked how collaboration can be promoted.

Board co-chair answered that the structure of the surveys and revisits is consistently safe environment.

K. Voelker noted that there is an anti-retaliation law for nurse staffing.

Board co-chair asked nurse manager members for their perspective on challenges with the nurse staffing law.

Board co-chair stated that their number one challenge was having enough resources and staff to care for patients adequately, every day.

Board co-chair asked to clarify whether nursing shortage allowed hospitals to deviate from the nurse staffing plans.

A. Davis answered the nurse staffing law requires hospitals to follow approved nurse staffing plans except in emergency situations previously discussed. The staffing committee is tasked with setting the plan because it has the most insight on available resources and is the unit's patient population.

Regarding staff working different capacity, K. Volker stated the nurse staffing plan would have to specify what those rules are for that unit and the minimum numbers of nursing staff members.

Board co-chair asked for clarification on minimum numbers and stated that not having enough staff was not justification for following the nurse staffing law.

K. Voelker explained that there are two ways that the OHA measures minimum numbers on the unit. Tag E640 sets the minimum number on specified shifts. The other requirement is that there must be one RN and one other nursing staff member when there is one patient present. The nurse staffing plan needs to establish both requirements.

	Board co-chair suggested that issues related to minimum numbers be added to the Rules Review Committee, particularly as it related to ratios and capacity.

Board member suggested that if the survey is simplified, there would be more compliance.

Board member stated that there have been many improvements to the survey process already.

There were no further question or comments related to emerging issues.

Action Item(s)	• OHA to add minimum numbers as an area of focus for the Rules Review Committee

Agenda Item 10	*Public Comment*

K. Voelker noted that there are a few people signed up to make a public comment. Board co-chair invited members of the public to speak for two minutes.

M. Coffelt (Kaiser Sunnyside) commented that as the nurse staffing co-chair for their hospital, there were never involved in the surveys or complaint investigations. They believed actively engaging with the nurse staffing committee co-chairs should be encouraged. Though the nurse manager co-chair was interviewed, M. Coffelt was not privileged to any of the information. They stated that OHA also did not provide the investigation materials to them the information and that they had to wait until the report was completed.

M. Calzia (ONA) commented that they are hopeful that the NSAB would consider defining and adding to the rules a definition for minimum staffing, particularly for more clarification. They asked that the members of the NSAB look back at the previous meetings and notice that the same talking points and issues arise and that there is not much enforcement of the nurse staffing laws during a health crisis in the state of Oregon. They stated that the lag in surveys and complaint investigations leads to nurses leaving the profession.

E. Krug (OHSU) commented on the interviewees picked for surveys. They agreed with concerns of who is picked because they have witnessed management selecting those who are new or inexperienced. At their hospital, there is a buddy system which they find unsafe and inappropriate.

Agenda Item 11	*Meeting adjourned*

If you need this information in an alternate format,
please call our office at (971) 673-0540 or TTY 711.

Nurse Staffing Surveys: Cycle 2
(n = 31 Hospitals Surveyed)
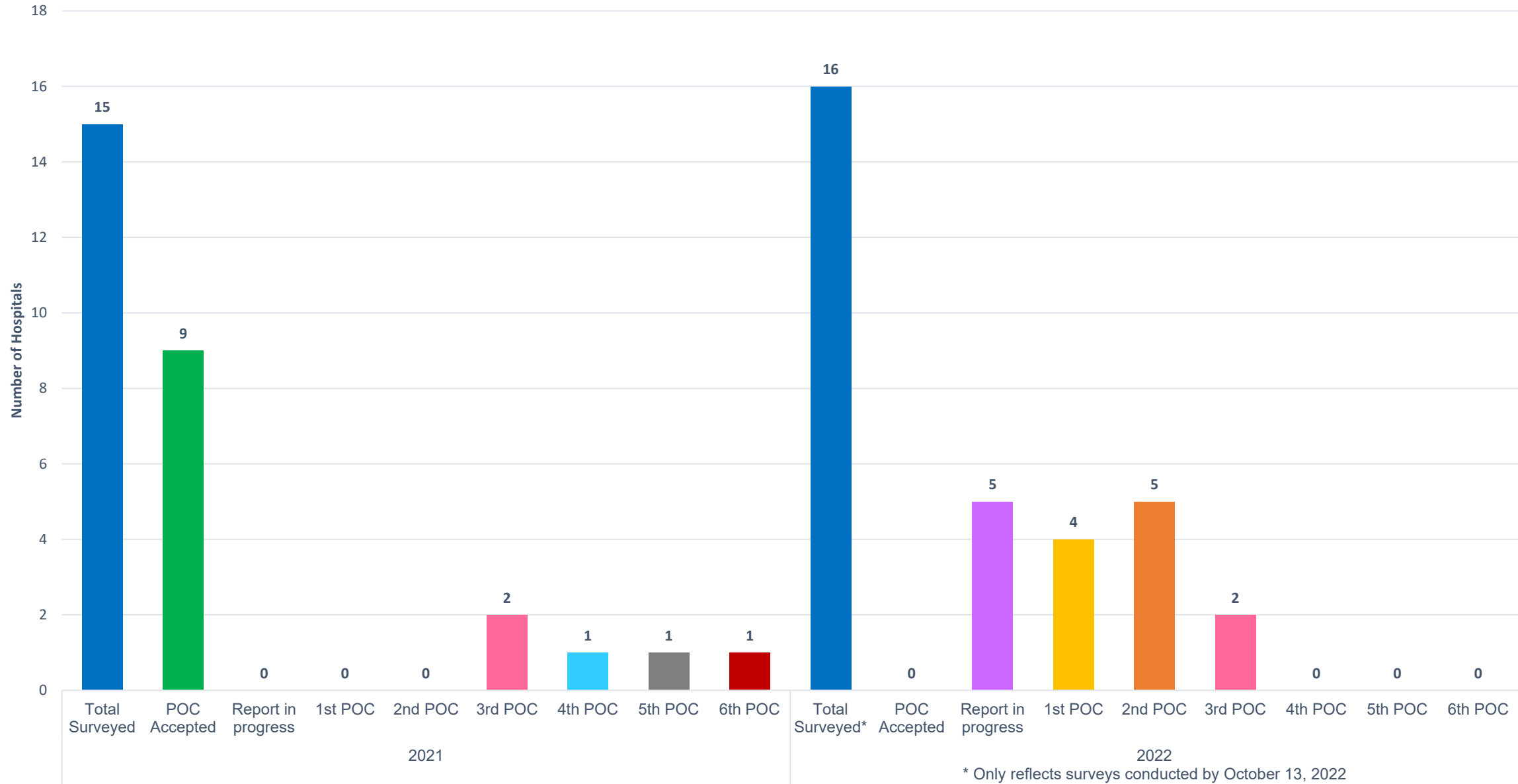
Nurse Staffing Surveys: At a Glance

9 Hospitals
- Hospitals with an accepted POC for a full nurse staffing survey

206 Days
- Average number of days from survey entrance to POC approval (just over six months)

2 POCs
- Of the 9 hospitals with accepted POCs, the average number of POC submissions was two.

6 Surveys
- OHA has conducted six full nurse staffing surveys since the July NSAB meeting.

Nurse Staffing Survey Data: CYCLE 2 - 10/13/2022

#	Hospital	City	Status	Entrance Date	Report due (30 business days after exit)	Report Mailed	POC Due (30 business days after report received)	POC received by OHA	OHA POC Review Due (30 business days after POC received)	POC Approved	Survey to POC Approved
1	Shriners	Portland	Revisit: Passed	3/22/21	5/13/21	5/13/21	6/25/21			6/28/21	71
2	Sacred Heart Riverbend	Springfield	Revisit: Passed	10/5/21	12/1/21	12/1/21				5/11/22	157
3	Legacy Emanuel	Portland	Revisit: POC in progress	4/12/21	6/4/21	6/4/21	10/28/21			12/16/21	179
4	Samaritan Albany	Albany	Revisit: POC in progress	6/16/21	8/10/21	8/10/21				6/21/22	265
5	Santiam Memorial	Stayton	Revisit: POC in progress	6/29/21	8/23/21	8/23/21				6/2/22	243
6	Sacred Heart University District	Eugene	Revisit in progress	12/7/21	2/2/22	3/21/22				7/13/22	
7	Curry General Hospital	Gold Beach	Pending Revisit	6/30/21	8/24/21	8/24/21				5/5/22	222
8	Samaritan Lebanon	Lebanon	Pending Revisit	5/18/21	7/13/21	6/24/21				8/31/22	337
9	Asante Ashland	Ashland	Pending Revisit	12/14/21	2/9/22	4/12/22				8/17/22	177
10	OHSU	Portland	Sixth	3/30/21	5/21/21	5/21/21	10/14/22	10/12/22	11/28/22		
11	Adventist Health Tillamook	Tillamook	Fifth	8/10/21	10/13/21	10/13/21	10/14/22				
12	Legacy Mt Hood	Gresham	Fifth	10/18/21	12/9/21	12/9/21	10/14/22	10/7/22	11/21/22		
13	Samaritan North Lincoln	Lincoln City	Fourth	7/20/21	9/13/21	9/15/21	10/11/22	10/11/22	11/23/22		
14	Coquille Valley	Coquille	Third	11/16/21	1/13/22	1/31/22	10/28/22	10/12/22	11/28/22		
15	Providence Willamette Falls	Oregon City	Third	11/2/21	1/14/22	1/13/22	10/11/22	10/11/22	11/23/22		
16	Legacy Silverton Hospital	Silverton	Third	1/18/22	3/11/22	4/5/22	10/14/22				
17	Peace Harbor	Florence	Third	1/18/22	3/11/22	4/15/22	7/8/22	10/28/22			
18	Columbia Memorial Hosp	Astoria	Second	3/9/22	6/14/22	6/29/22	10/14/22				
19	Providence St Vincent	Portland	Second	3/21/22	5/12/22	5/12/22	9/19/22	9/7/22	10/19/22		
20	St Charles Prineville	Prineville	Second	3/28/22	5/19/22	5/20/22	9/29/22	9/28/22	11/9/22		
21	St Charles Bend	Bend	Second	4/19/22	6/13/22	6/17/22	10/28/22				

Nurse Staffing Survey Data: CYCLE 2 - 10/13/2022

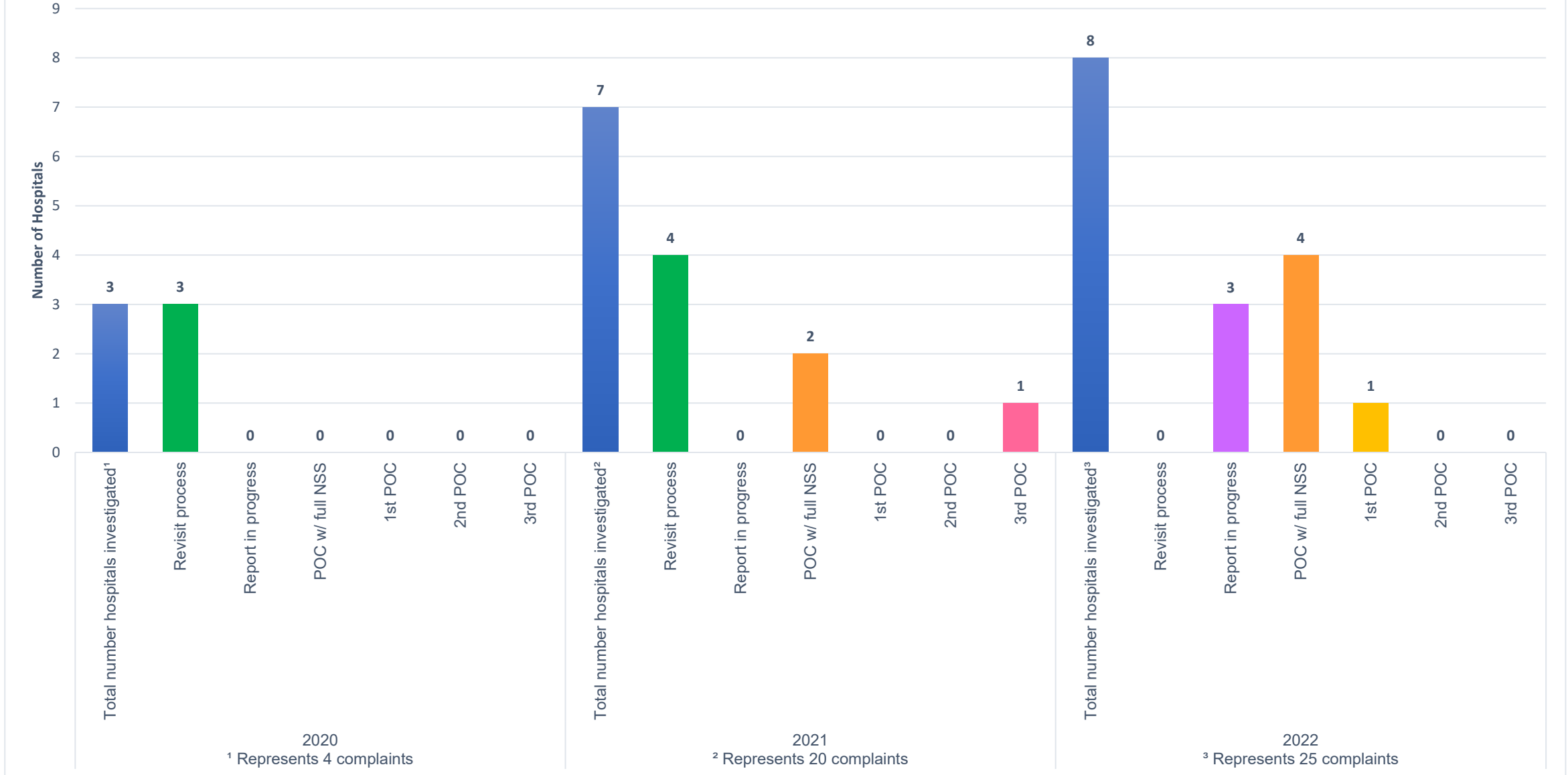| #	Hospital	City	Status	Entrance Date	Report due (30 business days after exit)	Report Mailed	POC Due (30 business days after report received)	POC received by OHA	OHA POC Review Due (30 business days after POC received)	POC Approved	Survey to POC Approved
22	Harney District Hospital	Burns	Second	5/3/22	6/27/22	7/15/22	10/14/22	10/6/22	11/18/22		
23	Samaritan Pacific Community Hosp	Newport	First	5/31/22	7/25/22	7/29/22	9/12/22	9/7/22	10/19/22		
24	Grande Ronde Hospital	LaGrande	First	5/31/22	7/25/22	8/18/22	10/14/22				
25	Lake District Hospital	Lakeview	First	6/7/22	8/1/22	9/16/22	10/28/22				
26	Mercy Medical Center	Roseburg	First	8/9/22	10/3/22	10/12/22	11/28/22				
27	Providence Milwaukie Hospital	Milwaukie	Report in progress	8/16/22	10/10/22						
28	PeaceHealth Cottage Grove	Cottage Grove	Report in progress	8/29/22	10/21/22						
29	Providence Hood River	Hood River	Report in progress	8/30/22	10/24/22						
30	Willamette Valley Medical Center	McMinnville	Report in progress	9/13/22	11/4/22						
31	Salem Health West Valley	Dallas	Report in progress	9/20/22	11/14/22						

#	Hospital	City	Status	Entrance Date	Report due (30 business days after exit)	Report Mailed	POC Due (30 business days after report received)	POC received by OHA	OHA POC Review Due (30 business days after POC received)	POC Approved	Survey to POC Approved
1	Cedar Hills	Portland	Sixth	12/4/19	1/30/20	2/10/20	6/29/22	5/20/22	7/1/22		

Hospitals with Complaint Investigations: 2020 - 2022
(n = 18 Investigations at 16 Hospitals)

Number of Hospitals (y-axis: 0 to 9)

2020
¹ Represents 4 complaints

- Total number hospitals investigated¹: 3
- Revisit process: 3
- Report in progress: 0
- POC w/ full NSS: 0
- 1st POC: 0
- 2nd POC: 0
- 3rd POC: 0

2021
² Represents 20 complaints

- Total number hospitals investigated²: 7
- Revisit process: 4
- Report in progress: 0
- POC w/ full NSS: 2
- 1st POC: 0
- 2nd POC: 0
- 3rd POC: 1

2022
³ Represents 25 complaints

- Total number hospitals investigated³: 8
- Revisit process: 0
- Report in progress: 3
- POC w/ full NSS: 4
- 1st POC: 1
- 2nd POC: 0
- 3rd POC: 0

Nurse Staffing Investigations: At a Glance

47 Investigations	• OHA has conducted 47 complaint investigations since 2016, representing 108 complaints. 21 of these complaint investigations were combined with a full nurse staffing survey.
75% of Investigations have 1 Complaint	• 75% of investigations include only one complaint. (Note: A single complaint may have multiple allegations.)
Investigations w/ Multiple Complaints	• For the investigations with multiple complaints, the number of total complaints varies. About half of these investigations include 2 -3 complaints; the other half include an average of 13 complaints.
4 Hospitals	• OHA has investigated six complaints at four hospitals since the July NSAB meeting.

Nurse Staffing Complaint Investigations - 10/13/2022

#	Hospital	City	Complaint received	Status	Investigation Entrance Date	Report Mailed	POC Due (30 business days after report received)	POC Received by OHA	OHA POC Review Due (30 business days after POC received)	POC approved
1	Sacred Heart Riverbend	Eugene	07/18/2016	Revisit w/ Cycle 2 Survey	10/04/2016	05/15/17				03/05/18
2	Sacred Heart Riverbend	Eugene	08/30/2016	Revisit w/ Cycle 2 Survey	10/04/2016					
3	Columbia Memorial	Astoria	09/08/2016	Revisit w/ Cycle 2 Survey	10/27/2016	06/15/17				06/21/18
4	Providence Medford	Medford	08/12/2016	Pending Revisit	11/08/2016	01/04/18				06/13/19
5	Vibra Specialty Hospital	Portland	02/16/2017	Pending Revisit	03/16/2017	05/08/17				03/05/18
6	Samaritan Albany	Albany	02/15/2017	Revisit w/ Cycle 2 Survey	04/19/2017	Investigation Combined w/ Cycle 1 Survey				
7	St. Charles Bend	Bend	05/12/2017	Revisit w/ Cycle 2 Survey	06/19/2017	Investigation Combined w/ Cycle 1 Survey				
8	Providence Willamette Falls	Oregon City	06/28/2017	Revisit w/ Cycle 2 Survey	08/28/2017	Investigation Combined w/ Cycle 1 Survey				
9	OHSU	Portland	08/31/2017	Revisit w/ Cycle 2 Survey	09/25/2017	Investigation Combined w/ Cycle 1 Survey				
10	OHSU	Portland	04/03/2017	Revisit w/ Cycle 2 Survey	09/25/2017					
11	OHSU	Portland	02/27/2017	Revisit w/ Cycle 2 Survey	09/25/2017					
12	McKenzie Willamette MC	Springfield	09/26/2017	Pending Revisit	01/08/2018	Investigation Combined w/ Cycle 1 Survey				
13	Samaritan Pacific Community Hospital	Newport	09/06/2017	Pending Revisit	01/23/2018	Investigation Combined w/ Cycle 1 Survey				
14	Providence Milwaukie	Milwaukie	06/28/2017	Pending Revisit	02/20/2018	Investigation Combined w/ Cycle 1 Survey				
15	Providence St. Vincent	Portland	01/16/2018	Closed - POC combined w/ NSS POC	02/23/2018	7/8/20	N/A	N/A	N/A	N/A
16	Bay Area Hospital	Coos Bay	11/08/2017	Pending Revisit	04/17/2018	Investigation Combined w/ Cycle 1 Survey				
17	Vibra Specialty Hospital	Portland	12/12/2017	Pending Revisit	07/10/2018	08/03/18				04/22/20
18	Providence Portland Medical	Portland	11/17/2017	Pending Revisit	07/11/2018	08/03/18				05/30/19
19	Providence Newberg Medical	Newberg	10/30/2017	Pending Revisit	07/25/2018	08/03/18				07/18/19
20	Good Samaritan RMC	Corvallis	12/14/2017	Pending Revisit	07/31/2018	08/24/18				08/28/20
21	Providence Medford	Medford	01/04/2018	Pending Revisit	08/08/2018	8/23/18				8/30/19
22	Kaiser Foundation - Westside	Hillsboro	06/21/2018	Pending Revisit	11/06/2018					
23	Kaiser Foundation - Westside	Hillsboro	06/11/2018	Pending Revisit	11/06/2018					
24	Kaiser Foundation - Westside	Hillsboro	07/10/2018	Pending Revisit	11/06/2018					
25	Kaiser Foundation - Westside	Hillsboro	07/31/2018	Pending Revisit	11/06/2018					
26	Kaiser Foundation - Westside	Hillsboro	07/25/2018	Pending Revisit	11/06/2018					

Nurse Staffing Complaint Investigations - 10/13/2022

#	Hospital	City	Complaint received	Status	Investigation Entrance Date	Report Mailed	POC Due (30 business days after report received)	POC Received by OHA	OHA POC Review Due (30 business days after POC received)	POC approved
27	Kaiser Foundation - Westside	Hillsboro	07/26/2018	Pending Revisit	11/06/2018					
28	Kaiser Foundation - Westside	Hillsboro	08/08/2018	Pending Revisit	11/06/2018	Investigation Combined w/ Cycle 1 Survey				
29	Kaiser Foundation - Westside	Hillsboro	10/18/2018	Pending Revisit	11/06/2018					
30	Kaiser Foundation - Westside	Hillsboro	10/09/2018	Pending Revisit	11/06/2018					
31	Kaiser Foundation - Westside	Hillsboro	10/22/2018	Pending Revisit	11/06/2018					
32	Kaiser Foundation - Westside	Hillsboro	11/08/2018	Pending Revisit	11/06/2018					
33	Kaiser Foundation - Westside	Hillsboro	11/08/2018	Pending Revisit	11/06/2018					
34	Kaiser Foundation - Westside	Hillsboro	11/08/2018	Pending Revisit	11/06/2018					
35	Kaiser Foundation - Westside	Hillsboro	11/15/2018	Pending Revisit	11/06/2018					
36	Kaiser Sunnyside MC	Clackamas	06/14/2017	Pending Revisit	02/04/2019					
37	Kaiser Sunnyside MC	Clackamas	07/24/2018	Pending Revisit	02/04/2019					
38	Kaiser Sunnyside MC	Clackamas	07/27/2018	Pending Revisit	02/04/2019					
39	Kaiser Sunnyside MC	Clackamas	07/27/2018	Pending Revisit	02/04/2019	Investigation Combined w/ Cycle 1 Survey				
40	Kaiser Sunnyside MC	Clackamas	07/31/2018	Pending Revisit	02/04/2019					
41	Kaiser Sunnyside MC	Clackamas	10/02/2018	Pending Revisit	02/04/2019					
42	Kaiser Sunnyside MC	Clackamas	10/12/2018	Pending Revisit	02/04/2019					
43	Kaiser Sunnyside MC	Clackamas	11/08/2018	Pending Revisit	02/04/2019					
44	Legacy Meridian Park MC	Tualatin	02/13/2019	Pending Revisit	03/25/2019	Investigation Combined w/ Cycle 1 Survey				
45	Tuality Community Hospital	Hillsboro	06/15/2017	Pending Revisit	04/08/2019	Investigation Combined w/ Cycle 1 Survey				
46	Tuality Community Hospital	Hillsboro	07/31/2017	Pending Revisit	04/08/2019					
47	Tuality Community Hospital	Hillsboro	08/02/2017	Pending Revisit	04/08/2019					
48	Tuality Community Hospital	Hillsboro	08/21/2017	Pending Revisit	04/08/2019					
49	Tuality Community Hospital	Hillsboro	11/06/2017	Pending Revisit	04/08/2019					
50	Tuality Community Hospital	Hillsboro	06/15/2017	Pending Revisit	04/08/2019	Investigation Combined w/ Cycle 1 Survey				
51	Tuality Community Hospital	Hillsboro	07/31/2017	Pending Revisit	04/08/2019					
52	Tuality Community Hospital	Hillsboro	08/02/2017	Pending Revisit	04/08/2019					
53	Tuality Community Hospital	Hillsboro	08/21/2017	Pending Revisit	04/08/2019					
54	Tuality Community Hospital	Hillsboro	11/06/2017	Pending Revisit	04/08/2019					

Nurse Staffing Complaint Investigations - 10/13/2022

#	Hospital	City	Complaint received	Status	Investigation Entrance Date	Report Mailed	POC Due (30 business days after report received)	POC Received by OHA	OHA POC Review Due (30 business days after POC received)	POC approved
55	Samaritan Pacific Community Hospital	Newport	08/10/2018	Revisit w/ Cycle 2 Survey	06/06/2019	9/20/19				5/5/20
56	Providence Medford MC	Medford	03/08/2019	Pending Revisit	07/17/2019	Investigation Combined w/ Cycle 1 Survey				
57	Asante Rogue RMC	Medford	09/24/2018	Pending Revisit	07/22/2019	Investigation Combined w/ Cycle 1 Survey				
58	Sacred Heart Riverbend	Springfield	11/28/2018	Revisit w/ Cycle 2 Survey	08/27/2019	9/20/19				12/3/19
59	Sacred Heart Riverbend	Springfield	06/27/2019	Closed - Unsubstantiated	08/27/2019	9/20/19	N/A	N/A	N/A	N/A
60	McKenzie Willamette MC	Springfield	04/29/2018	Pending Revisit	08/28/2019	9/20/19				1/29/20
61	Good Samaritan RMC	Corvallis	10/15/2019	Revisit Complete: Passed	08/12/2020	9/15/20				12/1/20
62	Sacred Heart Riverbend	Springfield	10/29/2019	Revisit w/ Cycle 2 Survey	10/01/2020	11/13/20				8/5/21
63	Sacred Heart Riverbend	Springfield	02/24/2020	Revisit w/ Cycle 2 Survey	10/01/2020					
64	Kaiser Westside	Hillsboro	10/29/2019	Pending Revisit	12/14/2020	2/5/21				10/21/21
65	OHSU	Portland	12/16/2019	POC combined w/ NSS	03/30/2021	Investigation Combined w/ Cycle 2 Survey				
66	OHSU	Portland	02/25/2021	POC combined w/ NSS	03/30/2021					
67	St. Charles Bend	Bend	01/06/2020	Revisit w/ Cycle 2 Survey	04/08/2021	6/4/21				8/5/21
68	Legacy Emanuel MC	Portland	01/06/2021	Revisit: POC in progress	05/24/2021	7/8/21	N/A	N/A	N/A	N/A
69	PeaceHealth Cottage Grove	Cottage Grove	09/16/2020	Pending Revisit	08/04/2021	8/20/21				11/18/21
70	Mercy Medical Center	Roseburg	12/31/2020	Revist w/ Cycle 2 Survey	10/29/2021	11/24/21				2/10/22
71	Providence Willamette Falls	Oregon City	07/01/2021	POC combined w/ NSS	11/02/2021	Investigation Combined w/ Cycle 2 Survey				
72	Kaiser Westside	Hillsboro	04/02/2021	Third	11/24/2021				11/23/22	
73	Kaiser Westside	Hillsboro	05/11/2021	Third	11/24/2021					
74	Kaiser Westside	Hillsboro	05/11/2021	Third	11/24/2021					
75	Kaiser Westside	Hillsboro	05/11/2021	Third	11/24/2021					
76	Kaiser Westside	Hillsboro	05/11/2021	Third	11/24/2021					
77	Kaiser Westside	Hillsboro	05/11/2021	Third	11/24/2021					
78	Kaiser Westside	Hillsboro	07/01/2021	Third	11/24/2021		3/10/22	10/12/22	10/11/22	
79	Kaiser Westside	Hillsboro	07/09/2021	Third	11/24/2021					
80	Kaiser Westside	Hillsboro	07/09/2021	Third	11/24/2021					

Nurse Staffing Complaint Investigations - 10/13/2022

#	Hospital	City	Complaint received	Status	Investigation Entrance Date	Report Mailed	POC Due (30 business days after report received)	POC Received by OHA	OHA POC Review Due (30 business days after POC received)	POC approved
81	Kaiser Westside	Hillsboro	07/09/2021	Third	11/24/2021					
82	Kaiser Westside	Hillsboro	07/27/2021	Third	11/24/2021					
83	Kaiser Westside	Hillsboro	09/02/2021	Third	11/24/2021					
84	Kaiser Westside	Hillsboro	12/29/2021	Third	11/24/2021					
103	Columbia Memorial	Astoria	01/07/2022	POC combined w/ NSS	03/09/2022	Investigation combined w/ Cycle 2 Survey				
85	Providence St. Vincent	Portland	11/12/2021	POC combined w/ NSS	03/21/2022	Investigation Combined w/ Cycle 2 Survey				
86	St. Charles Bend	Bend	07/01/2021	POC combined w/ NSS	04/19/2022	Investigation Combined w/ Cycle 2 Survey				
87	Kaiser Sunnyside	Clackamas	03/10/2021	First	04/21/2022	08/02/2022	09/13/2022	09/09/2022	10/21/2022	
88	Kaiser Sunnyside	Clackamas	03/26/2021	First	04/21/2022					
89	Kaiser Sunnyside	Clackamas	04/01/2021	First	04/21/2022					
90	Kaiser Sunnyside	Clackamas	04/07/2021	First	04/21/2022					
91	Kaiser Sunnyside	Clackamas	04/07/2021	First	04/21/2022					
92	Kaiser Sunnyside	Clackamas	05/03/2021	First	04/21/2022					
93	Kaiser Sunnyside	Clackamas	05/11/2021	First	04/21/2022					
94	Kaiser Sunnyside	Clackamas	05/13/2021	First	04/21/2022					
95	Kaiser Sunnyside	Clackamas	05/13/2021	First	04/21/2022					
96	Kaiser Sunnyside	Clackamas	05/19/2021	First	04/21/2022					
97	Kaiser Sunnyside	Clackamas	05/27/2021	First	04/21/2022					
98	Kaiser Sunnyside	Clackamas	06/07/2021	First	04/21/2022					
99	Kaiser Sunnyside	Clackamas	06/07/2021	First	04/21/2022					
100	Kaiser Sunnyside	Clackamas	06/07/2021	First	04/21/2022					
101	Kaiser Sunnyside	Clackamas	06/09/2021	First	04/21/2022					
102	Kaiser Sunnyside	Clackamas	08/10/2021	First	04/21/2022					
104	Good Samaritan RMC	Corvallis	03/22/2021	Report in progress	08/25/2022					
105	Good Samaritan RMC	Corvallis	07/29/2021	Report in progress	08/25/2022					
106	Good Samaritan RMC	Corvallis	09/02/2021	Report in progress	08/25/2022					
103	Willamette Valley	McMinnville	01/27/2022	Report in progress	09/13/2022	Investigation Combined w/ Cycle 2 Survey				
107	Tuality Community Hospital	Hillsboro	07/29/2021	Report in progress	09/19/2022					
108	McKenzie Willamette MC	Springfield	07/19/2022	Report in progress	10/05/2022					

Nurse Staffing Revisit Surveys - 10/13/2022

Standalone Revisits of Cycle 2 Nurse Staffing Surveys
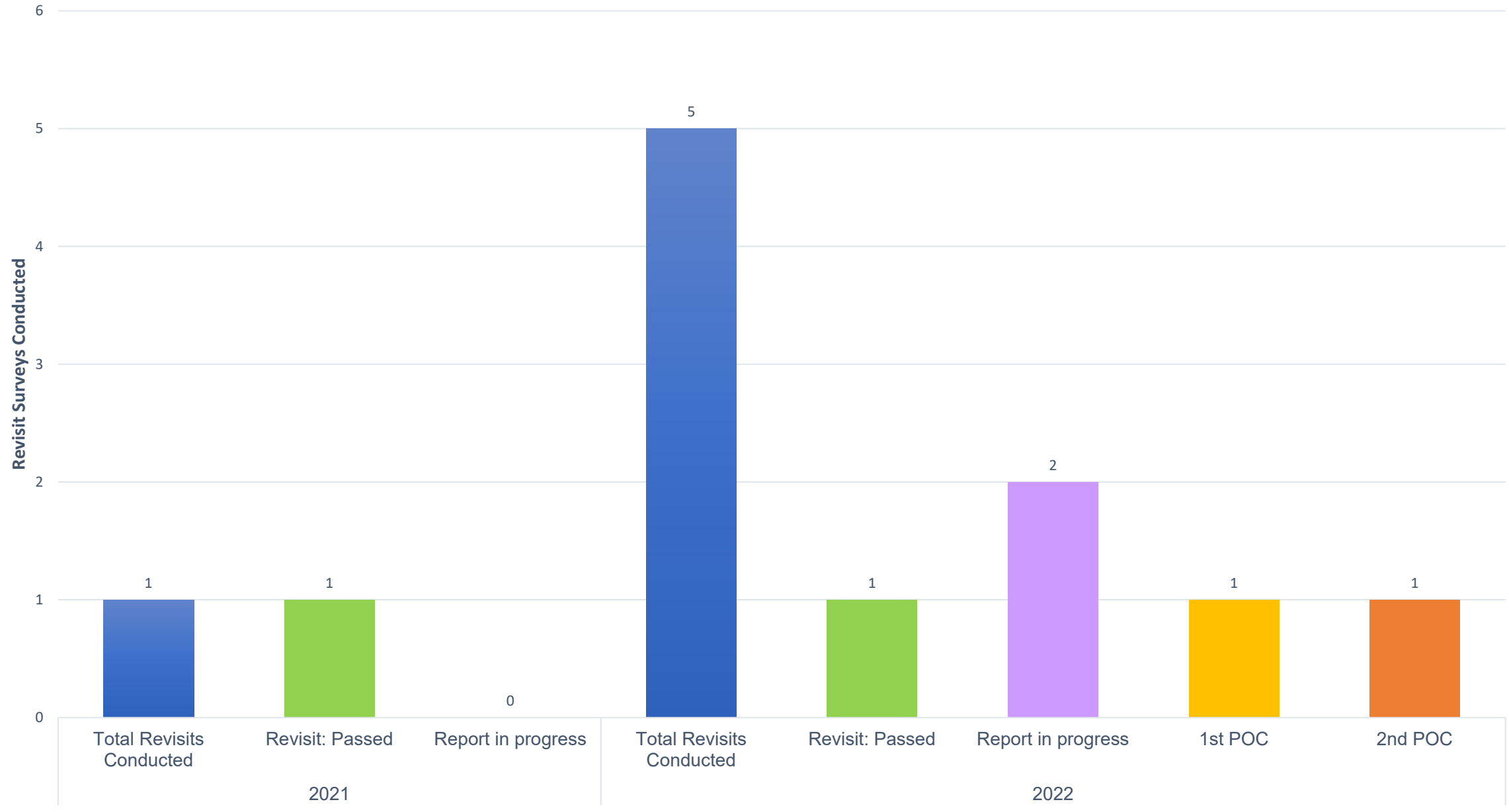
Nurse Staffing Revisits At a Glance

31 Combined Revisits

- OHA has conducted 31 combined revisits since 2021. Combined revisits are revisits for Cycle 1 surveys and/or complaints combined with a Cycle 2 nurse staffing survey.

Average 10 Repeated Noncompliance Citations

- 24 of 25 hospitals surveyed in Cycle 2 have had repeat noncompliance citations. Hospitals average 8 citations that were cited in a previous survey or complaint investigation.

Half of Standalone Revisits: No Deficiencies

- Early data is showing that half (n = 2) of standalone revisits showed the hospital had returned to compliance with the nurse staffing rules.

5 Hospitals

- OHA has conducted standalone revisit surveys at five hospitals since the July NSAB meeting.

#	Hospital	City	Revisit of:	Status	Revisit Due (45 - 60 business days from POC acceptance)	Revisit Entrance Date	Report Due (30 business days after exit)	Report Mailed	Revisit POC Due (30 business days after report mailed)	Date Revisit POC received by OHA	OHA Revisit POC Review Due (30 business days after POC received)	POC Approved
1	Shriners	Portland	2021 NSS	Revisit: Passed	9/20/21	10/27/21	12/9/21	11/2/21	N/A	N/A	N/A	N/A
2	Sacred Heart Riverbend	Springfield	2021 NSS	Revisit: Passed	8/5/22	8/30/22	10/26/22	9/13/22	N/A	N/A	N/A	N/A
3	Legacy Emanuel	Portland	2021 NSS & C/o	Second	3/16/22	4/19/22	6/16/22	6/28/22	10/28/22			
4	Santiam Memorial Hospital	Stayton	2021 NSS	First	8/26/22	8/31/22	10/27/22	9/23/22	11/4/22	10/11/22	11/23/22	
5	Samaritan Albany	Albany	2021 NSS	Report in progress	9/15/22	9/6/22	11/1/22					
6	Sacred Heart University District	Eugene	2021 NSS	Report in progress	10/6/22	9/27/22	11/9/22					
7	Curry General Hospital	Gold Beach	2021 NSS	Pending Revisit	8/1/22							
8	Asante Ashland	Ashland	2021 NSS	Pending Revisit	11/10/22							
9	Samaritan Lebanon	Lebanon	2021 NSS	Pending Revisit	11/25/22							

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

Kate Brown, Governor

Oregon Health Authority

Survey and Certification Unit
800 NE Oregon Street, Suite 465
Portland, OR 97232
Voice: (971) 673-0540
Fax: (971) 673-0556
TTY: 711
http://www.healthoregon.org/nursestaffing
mailbox.nursestaffing@odhsoha.oregon.gov

Nurse Staffing Advisory Board
Civil Monetary Penalties Committee
Summary Report

This report summarizes the work of the Nurse Staffing Advisory Board (NSAB): Civil Monetary Penalties (CMP) Committee and provides recommendations to the Oregon Health Authority (OHA) on issuing CMPs to hospitals that are noncompliant with the nurse staffing law.

The Committee worked to formulate guidance on the use of CMPs. After seven meetings, when the Committee was reviewing the draft final report, there was a proposal put forward that the NSAB recommend that OHA not issue CMPs until after the third survey cycle is completed because the nurse staffing law was still new; hospitals have been impacted by the pandemic; and additional time would allow the board to further study underlying causes of nurse staffing citations. There was not consensus among Committee members on this proposal, and the motion did not pass. The Committee also unanimously voted to move the Summary Report and decision-making tool to the NSAB for discussion and consideration.

Background
In 2017, OHA began the first 3-year cycle of nurse staffing surveys under the 2015 statutory changes[1] and the 2016 amendments to the nurse staffing administrative rules implementing the statutory changes. Since that time, OHA has regularly updated the NSAB on the status of nurse staffing surveys and complaint investigations, including the breadth of noncompliance with nurse staffing requirements found during the first nurse staffing survey cycle and the time necessary for hospitals to plan and implement corrections. Both OHA and the NSAB have received input from interested parties across the state about areas of continued noncompliance.

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[1] Senate Bill 469

DRAFT
Last Revised 10/18/2022

Nurse Staffing Advisory Board
Civil Monetary Penalties Committee
Summary Report

Under Oregon Revised Statutes (ORS) 441.175(1) – (2); 441.177(4); and 441.185(1) – (2), OHA may issue CMPs for violations of the nurse staffing law. OHA last assessed CMPs for violations of the nurse staffing law prior to the 2015/2016 changes to the regulations.

Members of the NSAB have requested that OHA explore the use of CMPs as a tool to improve compliance with the nurse staffing law. OHA has sought recommendations from the NSAB about when CMPs should be imposed and how to identify situations warranting CMPs given the breadth and degree of noncompliance in the first survey cycle. In April 2021, the NSAB formed the CMP Committee to provide guidance to OHA on issuing CMPs to hospitals that are noncompliant with the nurse staffing law.

Role of the NSAB in providing guidance to OHA on Civil Monetary Penalties
NSAB members are tasked with advising OHA on the administration of Oregon's nurse staffing laws. As an advisory board, the NSAB is responsible for making recommendations that OHA can use to influence policies for the agency to use when determining whether to issue a CMP. OHA is then responsible for implementing and operationalizing the nurse staffing law.

How CMPs Fit Into the OHA Regulatory Landscape

Financial and Workload Impacts of CMPs
The NSAB CMP Committee discussed the financial and workload impacts associated with issuing a CMP. If the hospital contests the CMP, OHA must request a hearing with the Office of Administrative Hearings and be represented by the Department of Justice (DOJ). The hospital must be represented by an attorney. Both sides would participate in a discovery process in preparation for a hearing. At the hearing the Administrative Law Judge assigned to the case would listen to evidence from both the agency and the hospital. The Administrative Law Judge then issues a proposed order, to which OHA and the hospital may respond. OHA would then issue a final order, which the hospital could appeal. If the hospital appeals, the appeal is heard by the Oregon Court of Appeals.

For each contested case hearing, OHA expects to pay approximately $20,000 for DOJ services and $20,000 for Office of Administrative Hearing Services. These financial projections do not include the costs associated with OHA staff time for hearing preparations or the cost of work on an appeal.

Prioritization of CMPs Relative to Other Nurse Staffing Regulatory Work
In the ideal state, OHA will be able to complete all nurse staffing regulatory activities within required timeframes. While OHA is working towards its ideal state, it requested feedback from the NSAB CMP Committee on how to prioritize required regulatory activities given the competing priorities of surveys, investigations, outreach and sanctions.

DRAFT
Last Revised 10/18/2022

Nurse Staffing Advisory Board
Civil Monetary Penalties Committee
Summary Report

The Committee was polled on its prioritization of completing regulatory activities within required timelines. After discussion and multiple rounds of voting, the Committee provided the following ranking:

1. Conducting triennial surveys / Processing complaints and conducting complaint investigations within 60 days / Reviewing POCs within 30 business days
2. Writing the survey or investigation report within 30 business days
3. Holding conference calls with hospitals to address POC questions
4. Issuing CMPs
5. Conducting revisit surveys within 45 to 60 business days after the POC has been approved by OHA

Safe Patient Care and Civil Monetary Penalties
Under ORS 441.175, the Oregon Health Authority may impose a CMP for a violation of the nurse staffing law "when there is a reasonable belief that safe patient care has been or may be negatively impacted." The CMP committee discussed the meaning of this language as indicating that if a reasonable person were to believe that safe patient care had been or may be negatively impacted by the nurse staffing practice or policy, OHA may issue a CMP.

The NSAB CMP Committee reviewed the definition of "safe patient care" in OAR 333-510-0002(17) to make recommendations on measurements of safe patient care. As stated in the nurse staffing rules, "safe patient care means nursing care that is provided appropriately, in a timely manner, and meets the patient's health care needs. The following factors may be, but are not in all circumstances, evidence of unsafe patient care:

(a) A failure to implement the written nurse staffing plan;
(b) A failure to comply with the patient care plan;
(c) An error that has a negative impact on the patient;
(d) A patient report that his or her nursing care needs have not been met;
(e) A medication not given as scheduled;
(f) The nursing preparation for a procedure that was not accomplished on time;
(g) A nursing staff member who was practicing outside his or her authorized scope of practice;
(h) Daily unit-level staffing that does not include coverage for all known patients, taking into account the turnover of patients;
(i) The skill mix of employees and the relationship of the skill mix to patient acuity and nursing care intensity of the workload is insufficient to meet patient needs; or
(j) An unreasonable delay in responding to a request for nursing care made by a patient or on behalf of a patient by his or her family member.

The NSAB CMP Committee determined that OAR 333-510-0002(17)(a), (g), (h), and (i) were directly measured during nurse staffing surveys and could easily be assessed with existing tools. Additionally, they advised that factors (c), (d), (e), (f) and (j) are addressed by the hospital nurse staffing committee at the time of their annual review of

the nurse staffing plan, since that review requires the hospital nurse staffing committee to determine whether the staffing plan adequately meets the health care needs of patients.

Objective Measurements of Unsafe Patient Care

The NSAB CMP Committee advised on nurse staffing survey deficiencies for which there could be a reasonable belief that safe patient care had been or may be negatively impacted (ORS 441.175(1)). The Committee determined the following tags represented unsafe patient care:

- Tag E630: Nurse Staffing Plan – Qualifications and Competencies
- Tag E638: Nurse Staffing Plan – Patient Acuity and Nursing Care Intensity
- Tag E640: Nurse Staffing Plan – Minimum Numbers on Specified Shifts
- Tag E642: Nurse Staffing Plan – Minimum Number in the Unit
- Tag E646: Nurse Staffing Plan – Tasks Unrelated to Providing Direct Patient Care
- Tag E654: Nurse Staffing Plan Annual Review Factors
- Tag E665: Nurse Staffing Member Overtime

Degree of Noncompliance

Identifying Degree of Noncompliance

During the first survey cycle, hospitals frequently had one or more of the tags listed above cited during a nurse staffing survey or complaint investigation. Under the nurse staffing law, CMPs must be based on a reasonable belief that safe patient care has been or may be negatively impacted. The NSAB CMP Committee proposed additional factors that can be considered to identify those situations that reflect a threat to patient safety. These additional factors differentiate between different noncompliant situations to ensure that patient safety remains the basis of CMPs in accordance with the law. The Committee proposed that OHA use a decision-making tool to identify these situations.

The Committee recommended that deficiencies cited during a revisit survey be weighted more heavily than those cited during a triennial survey or complaint investigation because the hospital would have recently been cited for that deficiency and had an opportunity to correct it through its Plan of Correction. The Committee also advised that failure to correct a deficiency during a revisit survey could represent willful noncompliance because the hospital would have had an opportunity to correct the deficiency and failed to do so.

The NSAB CMP Committee indicated that repeated noncompliance was more significant than the first finding of noncompliance and recommended that it be weighted more heavily on the decision-making tool. It indicated that a hospital repeatedly being cited for the same deficiency could represent willful noncompliance since the hospital would have had previous opportunities to correct the deficiency.

The NSAB CMP Committee stated that surveys resulting in more citations were more egregious than those resulting in fewer citations. The Committee recommended that the decision-making matrix reflect the total number of citations.

Finally, the Committee also discussed the Plan of Correction (POC) process and advised that lack of engagement in the POC process could indicate that safe patient care has been or may be negatively impacted. The Committee advised that a hospital could be seen as not engaged in the POC process if it had submitted multiple POCs without a significant decrease in the number of unacceptable tags or had submitted a POC after its submission deadline.

How the CMP Decision-Making Tool Works
The Civil Monetary Penalty Decision-Making Tool is divided into two parts. Part A focuses on identifying nurse staffing noncompliance. The hospital receives points for indicators of noncompliance, such as the total number of deficiencies cited, repeated noncompliance, citations closely related to unsafe patient care, and lack of engagement in the POC process. OHA completes Sections 1 – 3 when the nurse staffing report is sent to the hospital. Section 4 is completed if the hospital has three or more unacceptable POCs or if the hospital submits a POC late. Late POC submissions include only those submissions where the hospital has submitted the POC after the original due date, or if an extension has been granted by OHA, after the extension due date.

If the point total for Sections 1 – 3 exceeds 27 POINTS, or if it exceeds 55 POINTS for Section 1 - 4, OHA completes Part B of the decision-making tool. In Part B, OHA indicates whether it will issue a warning letter or issue a civil monetary penalty.

- **Warning Letter:** OHA will send the hospital a letter indicating that there is noncompliance that reflects safe patient care has been or may be negatively impacted. The hospital will be required to submit a POC within the required deadline. If the submitted POC is not acceptable, OHA may issue a CMP.

- **Civil Monetary Penalty:** OHA will send a letter to the hospital and its counsel indicating that there is noncompliance that reflects safe patient care has been or may be negatively impacted and that OHA is imposing a civil monetary penalty.

Conclusion
The NSAB CMP Committee recognizes that civil monetary penalties may be one of several ways to improve compliance with the nurse staffing law. The Committee and OHA have worked together to develop guidance that can be applied objectively and consistently to hospitals. The Committee recommended factors that indicate that safe patient care has been or may be negatively impacted. OHA will continue to inform the NSAB on the frequency of noncompliance and on any CMPs issued.

DRAFT
Last Revised 10/18/2022

Civil Monetary Penalty Decision-Making Tool

Hospital _____

Survey Type _____   Survey Exit Date _____

NS Policy Analyst _____   Date _____

This form is for use by OHA to identify situations that reflect safe patient care has been or may be negatively affected. After a hospital has been issued its nurse staffing report, the Nurse Staffing Policy Analyst will complete Sections 1 - 3 in Part A. The Nurse Staffing Policy Analyst will complete Section 4 after the hospital has submitted three POCs or submitted a late POC. If the point total in Part A exceeds the threshold, complete Part B. (See Section 4 for definition of late POC.)

This form should be saved with the hospital's survey or investigation folder.

Part A: Identifying Noncompliance

For each section, record the number of points as instructed on the form.

Section 1 - Total Number of Deficiencies

Check the box next to the number of deficiencies cited on this SOD. Check the boxes if the SOD was issued for a standalone revisit survey. (For example, if 12 tags were cited, the 2 Points Box and "Add 4 points if revisit survey", resulting in a total of 6 points.)

Check if less than 10 tags cited:	(0 Points)	☐
Check if 10 - 15 tags cited:	(2 Points)	☐
Add 4 points if revisit survey	+ (4 Points)	☐
Check if 16 - 20 tags cited:	(4 Points)	☐
Add 8 points if revisit survey	+ (8 Points)	☐
Check if 20+ tags cited:	(8 Points)	☐
Add 16 points if revisit survey	+ (16 Points)	☐

Point Total for Section 1: _____

Section 2 - Repeated Noncompliance

Check the box for each survey Cycle the tag was cited. The points are added <u>only</u> if the hospital has received the citation within the past two survey cycles. For example, if a hospital is cited for E600 in Cycle 2 but not cited in Cycle 1, do <u>not</u> add the points because there is no repeat compliance.

	Cycle 1 (2017 - 2019) (0 points)	Cycle 2 (2021 - 2023) (2 points if recently cited)	Cycle 3 (2024 - 2026) (4 points if recently cited)	Cycle 4 (2027 - 2029) (8 points if recently cited)	Standalone Complaint Investigation (1 point)	Points
Example 1 - Tag cited in Cycle 1 and Cycle 2	☑	☑	☐	☐	☐	***Example 1:*** *2 Points*
Example 2 - Tag cited in Cycle 1, Cycle 2, and Cycle 3	☑	☑	☑	☐	☐	***Example 2:*** *6 points*
Example 3 - Tag cited in Cycle 2 and Cycle 3	☐	☑	☑	☐	☐	***Example 3:*** *4 points*
Example 4 - Tag cited in Cycle 1 and Cycle 3	☑	☐	☑	☐	☐	***Example 4:*** *4 points*
Example 5 - Tag cited in Cycle 1 and Cycle 4	☑	☐	☐	☑	☐	***Example 5:*** *0 points*

	Cycle 1 (2017 - 2019) (0 points)	Cycle 2 (2021 - 2023) (2 points if recently cited)	Cycle 3 (2024 - 2026) (4 points if recently cited)	Cycle 4 (2027 - 2029) (8 points if recently cited)	Standalone Complaint Investigation (1 point)	Points
Tag E630- NSP Qualifications, trainings &	☐	☐	☐	☐	☐	
Tag E638 - NSP Acuity & Intensity	☐	☐	☐	☐	☐	
Tag E640 - NSP Minimum Numbers: Specified Shifts	☐	☐	☐	☐	☐	
Tag E642 - NSP Minimum Numbers: 1 RN + 1 NSM	☐	☐	☐	☐	☐	
Tag E646 - NSP Tasks not Related to Direct Care	☐	☐	☐	☐	☐	
Tag E654 - Annual Review Factors	☐	☐	☐	☐	☐	
Tag E665 - NSM Mandatory Overtime	☐	☐	☐	☐	☐	

Point Total for Section 2: _____

Section 3 - Tags Closely Related to Unsafe Patient Care

The NSAB CMP Committee advised that a reasonable belief that safe patient care had been or may be negatively impacted if the following tags were cited. Mark each tag that was cited on the SOD.

Tag E630: NSP Qualifications, trainings & competencies ☐

Tag E646: NSP Tasks not Related to Direct Patient Care ☐

Tag E638: NSP Acuity & Intensity ☐

Tag E654: Annual Review Factors ☐

Tag E640: NSP Minimum Numbers: Specified Shifts ☐

Tag E665: NSM Mandatory Overtime ☐

Tag E642: Minimum Numbers: 1 RN + 1 NSM ☐

Number of Section 3 Tags cited:_____   x 1 point   =   _____ points

Point Total for Section 3: _____

Calculate Point Totals from Part A, Sections 1 - 3

This section calculates the points from Sections 1 - 3. This section should be filled out after the nurse staffing report has been sent to the hospital. If Sections 1 - 3 exceeds 27 points, complete Part B.

Total from Section 1:_____ +

Total from Section 2:_____ +

Total from Section 3:_____

=   _____ points

If total exceeds 27 points, complete Part B.

Section 4 - Plan of Correction Engagement

Note: Do not complete this section until the hospital has submitted three Plans of Correction or the hospital submits a late POC. A late POC is a POC submitted after its 30 work-day deadline, or if the hospital has received an extension on its POC from OHA, after the POC extension deadline.

If there is new information to record in this section, print a new Section 4 page. Draw a single line through the previous version and date and initial. Retain both versions in the hospital's POC folder.

Section 4A: Number of POC Submissions

POC 1 Accepted:	0 points	
POC 1 Unacceptable:	0 points	
POC 2 Unacceptable:	0 points	
POC 3 Unacceptable:	_____ tags to correct × 1 point =	_____ points
POC 4 Unacceptable:	_____ tags to correct × 2 points =	_____ points
POC 5 Unacceptable:	_____ tags to correct × 3 points =	_____ points

Add 20 points for each additional POC that is unaccepted (POC 6, POC 7, etc.)

Point Total for Section 4A: _____

Section 4B: Late POC Submissions

Use the space below to record incidents where the POC was received more than 5 work days after its original due date. If the hospital received an extension, only list incidents where the POC was received more than one work day after the extended due date.

	POC Version #	POC Due Date	Check if extension	Extension Due Date	Date POC Received	# Work Days Late
Incident 1			☐			
Incident 2			☐			
Incident 3			☐			
Incident 4			☐			
Incident 5			☐			

POC received 2 - 5 work days late: # Incidents _____ × 2 points = _____ points
POC received 6 - 10 work days late: # Incidents _____ × 4 points = _____ points
POC received 11 - 20 work days late: # Incidents _____ × 8 points = _____ points
POC received 21 or more work days late: # Incidents _____ × 10 points = _____ points
Extended POC received 1 or more work days late: # Incidents _____ × 2 points = _____ points

Point Total for Section 4B: _____

Calculate Point Totals from Part A

If there is a new point total for Section 4 (as a result of multiple POC submissions or late POC submissions), print a new calculation page. Draw a line through the previous version and date and initial. Retain each version in the hospital's POC folder.

Total from Section 1:_____

\+

Total from Section 2:_____

\+

Total from Section 3:_____

Total from Section 4A:_____

\+

Total from Section 4B:_____

= _____ points

If total exceeds 55 points, complete Part B.

Part B: Decision-making

Decision by HFLC Survey & Certification Manager

Issue Warning Letter - There is noncompliance that reflects safe patient care has been or may be negatively impacted. The hospital will be sent a warning letter and required to submit a POC within the required deadline. If the submitted POC is not acceptable, OHA may issue a CMP. ☐

Issue Civil Monetary Penalty - There is noncompliance that reflects safe patient care has been or may be negatively impacted. Check the box next to each applicable statement. ☐

The hospital is noncompliant with many aspects of the nurse staffing law. It received 10 or more citations during the survey. (See Part A, Section 1 - Total Number of Deficiencies) ☐

The hospital has failed to correct or maintain compliance for deficiencies previously cited against the hospital. (See Part A, Section 2 - Repeated Noncompliance.) ☐

The hospital received at least one citation closely related to unsafe patient care. (See Part A, Section 3 - Tags Closely Related to Unsafe Patient Care.) ☐

The hospital is not engaged in the Plan of Correction process. (See Part A, Section 4 - POC Engagement.) ☐

Comments:
Click or tap here to enter text.

Printed Name   Click or tap here to enter text.   Date   Click or tap to enter a date.

Signature _____

Last Revised 7/21/2022

Decision by HCRQI Program Manager

Issue Warning Letter - There is noncompliance that reflects safe patient care has been or may be negatively impacted. The hospital will be sent a warning letter and required to submit a POC within the required deadline. If the submitted POC is not acceptable, OHA may issue a CMP. ☐

Issue Civil Monetary Penalty - There is noncompliance that reflects safe patient care has been or may be negatively impacted. Check the box next to each applicable statement. ☐

The hospital is noncompliant with many aspects of the nurse staffing law. It received 10 or more citations during the survey. (See Part A, Section 1 - Total Number of Deficiencies) ☐

The hospital has failed to correct or maintain compliance for deficiencies previously cited against the hospital. (See Part A, Section 2 - Repeated Noncompliance.) ☐

The hospital received at least one citation closely related to unsafe patient care. (See Part A, Section 3 - Tags Closely Related to Unsafe Patient Care.) ☐

The hospital is not engaged in the Plan of Correction process. (See Part A, Section 4 - POC Engagement.) ☐

Comments:
Click or tap here to enter text.

Printed Name   Click or tap here to enter text.   Date   Click or tap to enter a date.

Signature _____

Last Revised 7/21/2022

Recommendation by NS Policy Analyst

Issue Warning Letter - There is noncompliance that reflects safe patient care has been or may be negatively impacted. The hospital will be sent a warning letter and required to submit a POC within the required deadline. If the submitted POC is not acceptable, OHA may issue a CMP. ☐

Issue Civil Monetary Penalty - There is noncompliance that reflects safe patient care has been or may be negatively impacted. Check the box next to each applicable statement. ☐

The hospital is noncompliant with many aspects of the nurse staffing law. It received 10 or more citations during the survey. (See Part A, Section 1 - Total Number of Deficiencies) ☐

The hospital has failed to correct or maintain compliance for deficiencies previously cited against the hospital. (See Part A, Section 2 - Repeated Noncompliance.) ☐

The hospital received at least one citation closely related to unsafe patient care. (See Part A, Section 3 - Tags Closely Related to Unsafe Patient Care.) ☐

The hospital is not engaged in the Plan of Correction process. (See Part A, Section 4 - POC Engagement.) ☐

Comments:
Click or tap here to enter text.

Printed Name   Click or tap here to enter text.   Date Click or tap to enter a date.

Signature _____