

HB 2697, Hospital Staffing Rules Advisory Committee Meeting

November 29, 2023

Welcome

- This is the first Rules Advisory Committee (RAC) meeting for House Bill 2697 related to hospital staffing in Oregon.
- Meeting is being recorded.
 - All correspondence entered in the chat is saved and subject to disclosure.
- Meeting minutes will be shared with RAC members, and posted on OHA's website
- RAC meetings are not subject to public meetings law. Members of the public may attend but may not participate or offer public comment.

Welcome and housekeeping items

- Into the chat, enter name, organization, whether you are a member of the RAC or a member of the public and any other basic information you'd like to share.
- Keep devices muted until called upon and state your name and organization before providing your comment.
- Use "FTR" (for the record) in the chat when providing comment via chat only.
- Use "COMMENT" when you wish to make a verbal comment.

Welcome and housekeeping items

- Members of the public: Do not use the chat feature, remain muted the entire meeting and keep video off.

Opportunities for public input during the permanent rulemaking process

A public hearing will be scheduled after the RAC process has ended, likely in Spring 2024

- OHA will notify interested parties when there are opportunities for both oral and written public comment
- If you would like to be added to the interested parties list, sign up at www.healthoregon.org/nursestaffing under "Join our Listserv"

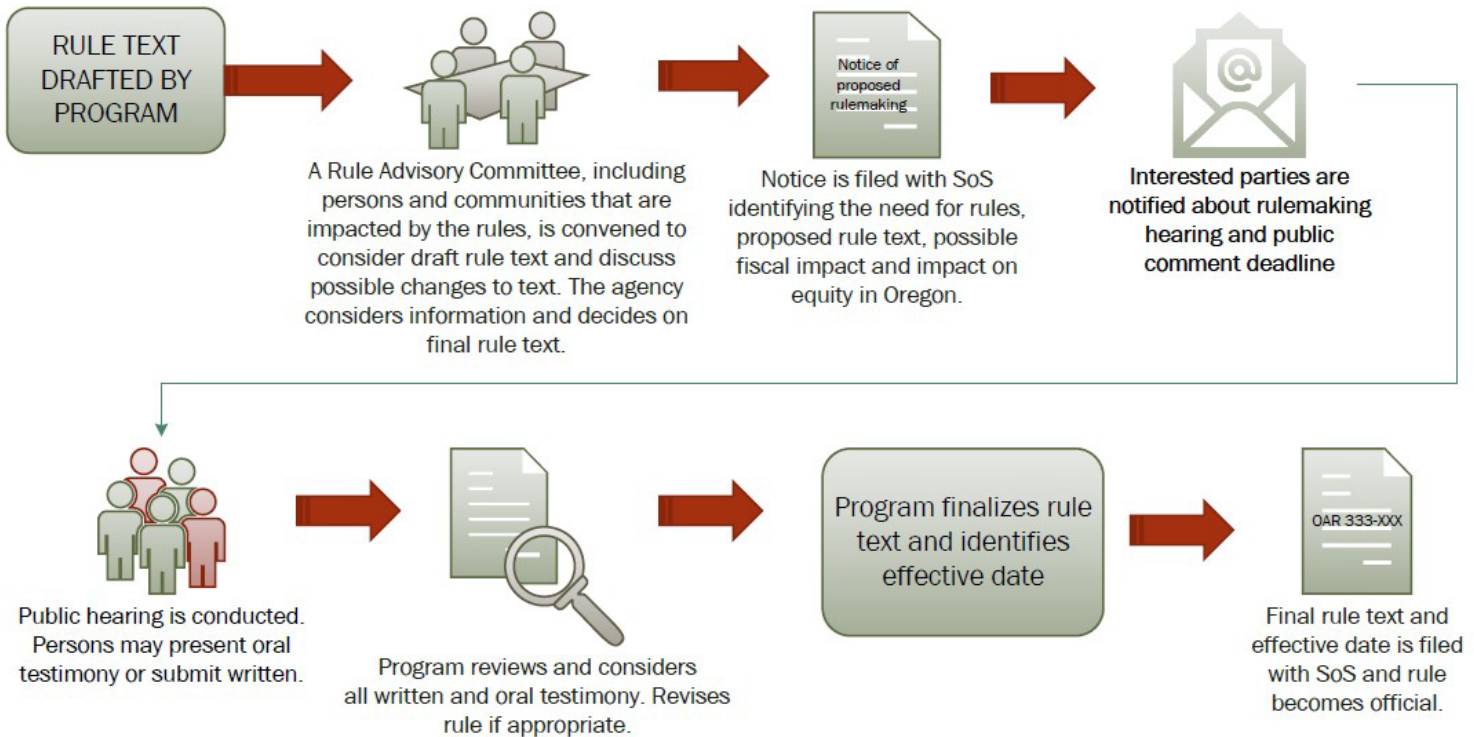
- Rules advisory committees are advisory only.
 - Advise on specific proposed language provided by OHA
 - OHA issues administrative rules.
- RACs are made up of organizational partners, interested parties, and communities that are most likely to be affected by the rules.
- House Bill 2993 (2021) requires RACs to consist of members that represent the interests of both persons affected by the rule and communities affected by the rule.
- Requires state agencies to identify how adoption of new rules or amending or repealing current rule(s) will affect racial equity in Oregon.

RAC basics and HB 2993

Rulemaking timeline

- September 1, 2023: HB 2697 went into effect
- November 29, 2023: OHA convenes the first Rules Advisory Committee meeting
- January 1, 2024: OHA will issue temporary administrative rules and begin the permanent rulemaking process
- February-March: OHA will convene additional RAC meetings
- April-May: Public comment period
- June: OHA will issue permanent administrative rules

Health Care Regulation & Quality Improvement Program ADMINISTRATIVE RULE MAKING PROCESS

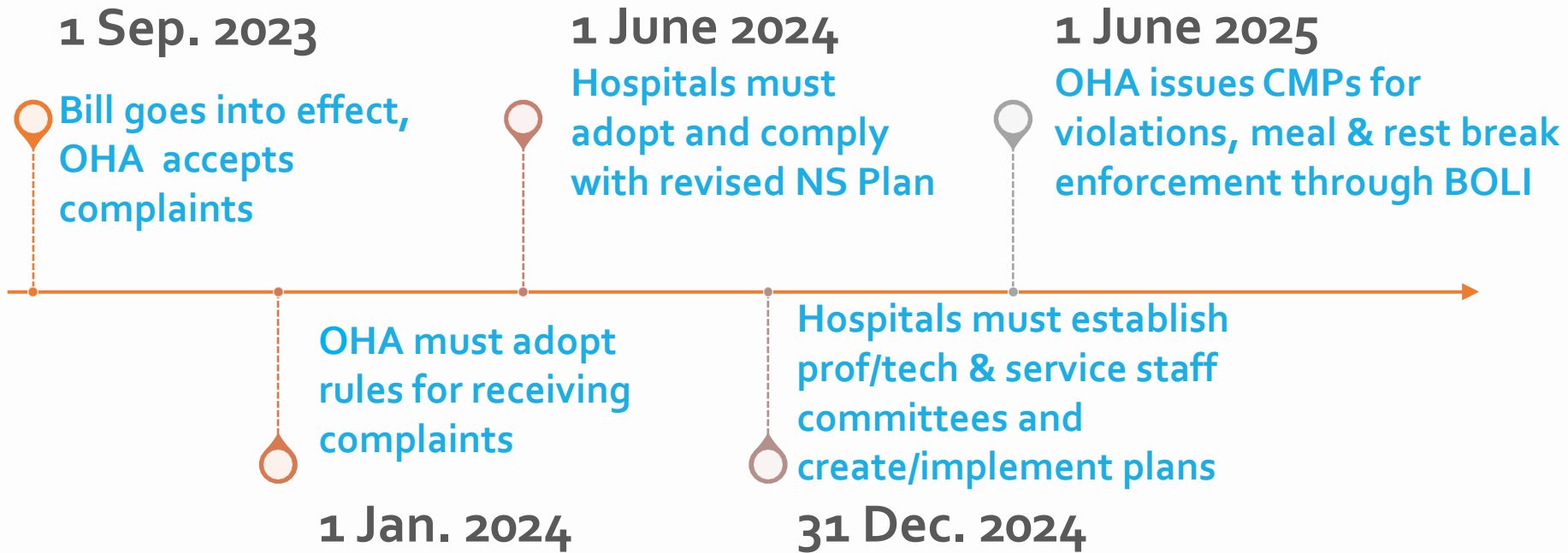


Overview of HB 2697

Significant changes to Oregon's hospital staffing law

- Expansion from nurse staffing to hospital staffing that includes Professional/Tech and Service Staff.
- Enforcement activities are complaint-driven and violations are narrowly defined.
- Revised principles for hospital staffing plans and committees including RN ratios, patient loads for CNAs, innovative care models, psych unit plans, LIP classification for individual patients, flexibility for plan deviations, rural hospitals, Meal and Rest Break complaints to BOLI and more.

HB 2697 – Timeline



Implementation plan

- Bill analysis, interpretations and policy decisions
- Collaboration with partners and Nurse Staffing Advisory Board
- Internal operations: e.g, hiring, complaint form, tracking forms, investigations begin
- Rulemaking
- Education and outreach
 - looking for more information in the community, come from OHA and other from partners.
- Outcomes monitoring plan



HB 2697 draft rules discussion

SECTION 28. (1) The Oregon Health Authority may adopt rules necessary to carry out ORS 441.152 to 441.177 only with respect to:

- (a) The processing of complaints under ORS 441.171;
- (b) The processing of complaints regarding meal breaks and rest breaks under section 12 of this 2023 Act;
- (c) The requirements for nurse-to-patient ratios in emergency departments under section 6 (2)(a) of this 2023 Act; and
- (d) The provisions of ORS 441.166 (1) and (8)(b).
- (2) The authority shall convene a subcommittee of the Nurse Staffing Advisory Board established in ORS 441.152 to advise the authority in the adoption of rules under this section. The subcommittee must have equal representation of hospital employees and hospital managers and shall include individuals representing labor organizations and organizations representing hospitals.

HB 2697
Section 28

- SECTION 29. (3)(b) The authority shall adopt rules to implement the process for receiving complaints under ORS 441.171 and section 12 of this 2023 Act no later than January 1, 2024. Complaints may be filed for any violation occurring on or after the effective date of this 2023 Act.

HB 2697 Section 29

Repeal

- Repeal rules no longer supported by HB 2697

Keep

- Keep existing rules that are still valid for non-hospital staffing

Revise

- Revise current rules needed for non-hospital staffing

Add

- Add new rules to implement HB 2697

Draft temporary rules: Overview

OAR 333-501-
0035 to 0045

- Audit procedures
- Civil Penalties for NS Violations

OAR 333-510-
0105 to 0140

- NS Committee
- NS Plan and Plan Review
- NS Plan Mediation
- Replacement staff
- NS Member Overtime
- NS Waiver
- NS Plan During Emergency

**Repeal rules
no longer
supported by
HB 2697**

OAR 333-501-0005 to 0030 and -0050 to -0060

General Health & Safety rules for hospital monitoring, surveys, investigations and enforcement

OAR 333-510-0001 to 0060

General Health & Safety rules for hospital patient care and nursing services

Keep rules that are still valid for non-hospital staffing

OAR 333-510-0002

- Definitions

OAR 333-510-0045

- Posting Requirements

Revise
existing rules
needed for
non-hospital
staffing

OAR 333-503-0002 and -
0005
Applicability and Definitions

OAR 333-503-0010 and -
0020
Filing and Processing
Complaints

OAR 333-503-0040
Enforcement

OAR 333-503-0050 and -
0060
HS Plan waiver
NS Member Overtime

**Insert new
rules to
implement
changes to
HB 2697
Division 503**

Rules overview – balance rules and statute

- Substantially reduced list of definitions:
 - Adopt, Allowed Deviation, Valid complaint
- Filing: Who and How
- Processing complaints: valid complaints, investigation in accordance with, section 19(4) for Civil Monetary Penalty limits
- Enforcement: accrual of violations
- Hospital Staffing Plan Waivers
- Nurse Staffing Manager Overtime

Section 20

(2) The authority shall take the actions described in subsection (1) of this section for the following violations by a hospital of ORS 441.152 to 441.177:

(a) Failure to establish a hospital professional and technical staffing committee or a hospital service staffing committee;

(b) Failure to create a professional and technical staffing plan or a hospital service staffing plan;

(c) Failure to adopt a nurse staffing plan by agreement or after binding arbitration; (d) Failure to comply with the staffing level in the nurse staffing plan, including the nurse-to-patient staffing ratios prescribed in section 6 of this 2023 Act, if applicable, and the failure to comply is not an allowed deviation described in section 6 (6) of this 2023 Act;

(e) Failure to comply with the staffing level in the professional and technical staffing plan or the hospital service staffing plan and the failure to comply is not an allowed deviation as described in section 3 (12) or 4 (12) of this 2023 Act;

Section 20

(f) Failure to comply with the staffing requirements for certified nursing assistants in section 8 of this 2023 Act and the failure is not an allowed deviation under section 4 (12) of this 2023 Act; or

(g) Requiring a nursing staff, except as allowed by ORS 441.166, to work:

(A) Beyond an agreed-upon prearranged shift regardless of the length of the shift;

(B) More than 48 hours in any hospital-defined work week;

(C) More than 12 hours in a 24-hour period; or

(D) During the 10-hour period immediately following the 12th hour worked during a 24-hour period.

(3) If a staff person at a hospital is unable to attend a staffing committee meeting because the staff person was not released from other hospital duties to attend the meeting, in violation of ORS 441.154 (9) or section 3 (10) or 4 (10) of this 2023 Act, the authority shall:

(a) Issue a warning for the first violation; and

(b) Impose a civil penalty of \$500 for a second and each subsequent violation.

Wrap-up and Next Steps

OHA will:

- Collate and consider input
- Note issues for permanent rules
- Issue temporary rules on January 1, 2024
- Begin permanent rulemaking
- Facilitate additional RAC meetings to inform permanent rules.
- Continue to communicate with RAC members and partners

Thank you!

Health Care Regulation and Quality
Improvement

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