

HOUSE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2697

By JOINT COMMITTEE ON WAYS AND MEANS

June 12

1 On page 1 of the printed A-engrossed bill, line 3, delete “441.175 and 441.177” and insert
2 “441.171, 441.173, 441.175, 441.177 and 653.261”.

3 Delete lines 10 through 19 and delete pages 2 through 9.

4 On page 10, delete line 1 and insert:

5 **“SECTION 1.** ORS 441.151 is amended to read:

6 “441.151. As used in ORS 441.152 to 441.177[,];

7 **“(1) ‘Charge nurse’ means a direct care registered nurse who coordinates patient care**
8 **responsibilities among nurses in a hospital unit.**

9 **“(2) ‘Clinical care staff’ means individuals who are licensed or certified by the state and**
10 **who provide direct care.**

11 **“(3) ‘Direct care’ means any care provided by a licensed or certified member of the hos-**
12 **pital staff that is within the scope of the license or certification of the member.**

13 **“(4) ‘Direct care staff’ means any of the following who are routinely assigned to patient**
14 **care and are replaced when they are absent:**

15 **“(a) Registered nurses, including registered nurses that do not assume primary respon-**
16 **sibility for a patient’s care but have responsibility for consulting on patient care;**

17 **“(b) Licensed practical nurses; or**

18 **“(c) Certified nursing assistants.**

19 **“(5) ‘Exclusive representative’ means a labor organization that is:**

20 **“(a) Certified as an exclusive representative by the National Labor Relations Board; or**

21 **“(b) Certified as an exclusive representative by the Employment Relations Board under**
22 **ORS 243.650 to 243.809.**

23 **“(6) ‘Hospital’ includes a hospital as described in ORS 442.015 and an acute inpatient care fa-**
24 **cility as defined in ORS 442.470.**

25 **“(7) ‘Intensive care unit’ means a unit of a hospital that provides care to critically ill**
26 **patients who require advanced treatments such as mechanical ventilation, vasoactive in-**
27 **fusions or continuous renal replacement treatment or who require frequent assessment and**
28 **monitoring.**

29 **“(8) ‘Intermediate care unit’ means a unit of a hospital that provides progressive care,**
30 **intensive specialty care or step-down care.**

31 **“(9) ‘Licensed independent practitioner’ has the meaning given that term in ORS 426.005.**

32 **“(10) ‘Medical-surgical unit’ means an inpatient unit in which general medical or post-**
33 **surgical level of care is provided, excluding critical care units and any units referred to in**
34 **sections 6, 7 and 9 of this 2023 Act.**

35 **“(11) ‘Professional staff’ means professional workers as defined in a collective bargaining**

1 agreement or, if no collective bargaining agreement exists, by the chief executive officer of
2 the hospital or the chief executive officer's designee, consistent with National Labor Re-
3 lations Board regulations.

4 “(12) ‘Progressive care’ means care provided to hospital patients who need more moni-
5 toring and assessment than patients on the medical-surgical units but whose conditions are
6 not so unstable that they require care in an intensive care unit.

7 “(13) ‘Service staff’ means service workers as defined by a collective bargaining agree-
8 ment or, if no collective bargaining agreement exists, by the chief executive officer of the
9 hospital or the chief executive officer's designee, consistent with National Labor Relations
10 Board regulations.

11 “(14) ‘Step-down care’ means care for patients transitioning out of the intensive care unit
12 who require more care and attention than patients in a hospital's medical-surgical units.

13 “(15) ‘Technical staff’ means technical workers as defined in a collective bargaining
14 agreement or, if no collective bargaining agreement exists, by the chief executive officer of
15 the hospital or the chief executive officer's designee, consistent with National Labor Re-
16 lations Board regulations.

17 “SECTION 2. Sections 3 to 9, 12 and 28 of this 2023 Act are added to and made a part of
18 ORS 441.152 to 441.177.

19 “SECTION 3. (1)(a) For each hospital there shall be established a hospital professional
20 and technical staffing committee. A hospital professional and technical staffing committee
21 shall consist of an equal number of hospital professional and technical managers and pro-
22 fessional and technical staff who work at the hospital.

23 “(b) If the professional and technical staff who work at the hospital have an exclusive
24 representative, the exclusive representative shall select the staff members of the hospital
25 professional and technical staffing committee.

26 “(c) If none of the professional and technical staff who work at the hospital have an ex-
27 clusive representative, the professional and technical managers shall select the professional
28 and technical staff members of the hospital professional and technical staffing committee.

29 “(2) A hospital professional and technical staffing committee shall develop a written
30 hospital-wide professional and technical staffing plan in accordance with subsection (5) of
31 this section. In developing the staffing plan, the primary goal of the committee shall be to
32 ensure that the hospital is staffed sufficiently to meet the health care needs of the patients
33 in the hospital. The committee shall review and modify the staffing plan, as needed, in ac-
34 cordance with this section.

35 “(3) A majority of the members of the hospital professional and technical staffing com-
36 mittee constitutes a quorum for the transaction of business.

37 “(4) A hospital professional and technical staffing committee must have two cochairs.
38 One cochair shall be a professional or technical manager elected by the members of the
39 committee who are professional or technical managers. The other cochair shall be a profes-
40 sional or technical staff person elected by the members of the committee who are profes-
41 sional and technical staff.

42 “(5)(a) A hospital professional and technical staffing committee shall develop a profes-
43 sional and technical staffing plan that is consistent with the approved nurse staffing plan for
44 the hospital and that takes into account the hospital service staffing plan for the hospital
45 developed under section 4 of this 2023 Act.

1 **“(b) The hospital professional and technical staffing committee shall consider the fol-**
2 **lowing criteria when developing the professional and technical staffing plan:**

3 **“(A) The hospital’s census;**

4 **“(B) Location of the patients;**

5 **“(C) Patient types and patient acuity;**

6 **“(D) National standards, if any;**

7 **“(E) The size of the hospital and square footage of the hospital;**

8 **“(F) Ensuring patient access to care; and**

9 **“(G) Feedback received during committee meetings from staff.**

10 **“(6)(a) A hospital professional and technical staffing committee must adopt a professional**
11 **and technical staffing plan by a majority vote of the members of the committee. If a quorum**
12 **of members present at a meeting comprises an unequal number of professional and technical**
13 **staff and professional and technical managers, only an equal number of staff and managers**
14 **may vote. A staffing plan adopted by the committee must include a summary of the**
15 **committee’s consideration of the criteria in subsection (5) of this section and how the plan:**

16 **“(A) Is consistent with the approved nurse staffing plan for the hospital; and**

17 **“(B) Takes into account the hospital service staffing plan for the hospital that was de-**
18 **veloped in accordance with section 4 of this 2023 Act.**

19 **“(b) If the hospital professional and technical staffing committee does not adopt a pro-**
20 **fessional and technical staffing plan or adopts only a part of the staffing plan, either cochair**
21 **may invoke the commencement of a 60-day period during which the committee shall continue**
22 **to develop the staffing plan. If, by the end of the 60-day period, the committee does not adopt**
23 **a staffing plan or adopts only part of a staffing plan, the committee shall submit the disputed**
24 **plan or parts of the plan, as applicable, including a summary of the committee’s consider-**
25 **ation of the criteria in subsection (5) of this section, to the chief executive officer of the**
26 **hospital. No later than 60 days after receiving the submission from the committee, the chief**
27 **executive officer or the chief executive officer’s designee shall decide the disputed plan or**
28 **parts of the plan, as applicable, considering the summary of the committee’s consideration**
29 **of the criteria in subsection (5) of this section, and adopt the staffing plan or parts of the**
30 **staffing plan that were not adopted by the committee. The chief executive officer or the chief**
31 **executive officer’s designee shall provide to the committee:**

32 **“(A) A written explanation of the staffing plan or the parts of the staffing plan that were**
33 **in dispute;**

34 **“(B) The final written proposals of the members of the committee and the members’ ra-**
35 **tionales for their proposals and the committee’s summary of the committee’s consideration**
36 **of the criteria in subsection (5) of this section; and**

37 **“(C) A summary of the consideration by the chief executive officer or the chief executive**
38 **officer’s designee of the criteria in subsection (5) of this section.**

39 **“(c) If the hospital professional and technical staffing committee is unable to reach an**
40 **agreement on the professional and technical staffing plan during the 60-day period invoked**
41 **under paragraph (b) of this subsection, the members of the committee may extend deliber-**
42 **ations for one additional 60-day period before the disputed plan or parts of the plan must be**
43 **submitted to the chief executive officer or the chief executive officer’s designee in accord-**
44 **ance with paragraph (b) of this subsection. The deliberations may be extended under this**
45 **paragraph only by a majority vote of the members of the committee. If a quorum of members**

1 present at a meeting comprises an unequal number of professional and technical staff and
2 professional and technical managers, only an equal number of staff and managers may vote.

3 “(d) A professional and technical staffing plan adopted by a hospital professional and
4 technical staffing committee, a chief executive officer or the chief executive officer’s
5 designee must include any staffing-related terms and conditions that were previously adopted
6 through any applicable collective bargaining agreement, including any meal break and rest
7 break requirements, unless a term or condition is in direct conflict with an applicable statute
8 or administrative rule.

9 “(7) A hospital professional and technical staffing committee must meet three times each
10 year and at the call of either cochair, at a time and place specified by the cochairs.

11 “(8)(a) Except as provided in paragraph (b) of this subsection, a hospital professional and
12 technical staffing committee meeting must be open to:

13 “(A) The hospital’s professional and technical staff, who shall be offered the opportunity
14 to provide feedback to the committee during the committee’s meetings; and

15 “(B) Other observers or presenters invited by either cochair.

16 “(b) While the committee is deliberating or voting during a meeting, either cochair may
17 exclude individuals described in paragraph (a) of this subsection.

18 “(9) Minutes must be taken at every hospital professional and technical staffing com-
19 mittee meeting and the minutes must:

20 “(a) Include all motions made and the outcome of all votes taken;

21 “(b) Include a summary of all discussions; and

22 “(c) Be made available in a timely manner to any of the hospital staff upon request.

23 “(10) A manager shall release from their duties staff and managers who serve on the
24 hospital professional and technical staffing committee and compensate the staff and manag-
25 ers who serve on the committee for time spent attending committee meetings.

26 “(11) The hospital shall submit the professional and technical staffing plan adopted under
27 subsection (6) of this section to the Oregon Health Authority no later than 30 days after
28 adoption of the staffing plan and shall submit any subsequent changes to the authority no
29 later than 30 days after the changes are adopted.

30 “(12) Each hospital unit, as defined by the chief executive officer or the chief executive
31 officer’s designee, may deviate from the professional and technical staffing plan within a
32 period of 12 consecutive hours, no more than six times during a rolling 30-day period, without
33 being in violation of the staffing plan. The unit manager must notify the hospital profes-
34 sional and technical staffing committee cochairs no later than 10 days after each deviation.
35 Each subsequent deviation during the 30-day period constitutes a separate violation under
36 section 20 of this 2023 Act.

37 “SECTION 4. (1)(a) For each hospital there shall be established a hospital service staffing
38 committee. A hospital service staffing committee shall consist of an equal number of service
39 staff managers and service staff who work at the hospital.

40 “(b) If the service staff who work at the hospital have an exclusive representative, the
41 exclusive representative shall select the service staff members of the hospital service staff-
42 ing committee.

43 “(c) If none of the service staff who work at the hospital have an exclusive represen-
44 tative, the service staff managers shall select the service staff members of the hospital ser-
45 vice staffing committee.

1 “(2) A hospital service staffing committee shall develop a written hospital-wide hospital
2 service staffing plan in accordance with subsection (5) of this section. The committee shall
3 review and modify the staffing plan as needed in accordance with this section.

4 “(3) A majority of the members of the hospital service staffing committee constitutes a
5 quorum for the transaction of business.

6 “(4) A hospital service staffing committee must have two cochair. One cochair shall be
7 a service staff manager elected by the members of the committee who are service staff
8 managers. The other cochair shall be a service staff person elected by the members of the
9 committee who are service staff.

10 “(5) A hospital service staffing committee shall develop a hospital service staffing plan
11 that is consistent with the approved nurse staffing plan for the hospital and that takes into
12 account the professional and technical staffing plan for the hospital developed under section
13 3 of this 2023 Act. The committee shall consider the following criteria in developing the
14 staffing plan:

15 “(a) The hospital’s census;

16 “(b) Location of the patients;

17 “(c) Patient types and patient acuity;

18 “(d) National standards, if any;

19 “(e) The size of the hospital and square footage of the hospital;

20 “(f) Ensuring patient access to care; and

21 “(g) Feedback received during committee meetings from staff.

22 “(6)(a) A hospital service staffing committee must adopt a hospital service staffing plan
23 by a majority vote of the members of the committee. If a quorum of members present at a
24 meeting comprises an unequal number of service staff and service staff managers, only an
25 equal number of staff and managers may vote. A staffing plan adopted by the committee
26 must include a summary of the committee’s consideration of the criteria in subsection (5)
27 of this section and how the plan:

28 “(A) Is consistent with the approved nurse staffing plan for the hospital; and

29 “(B) Takes into account the professional and technical staffing plan for the hospital that
30 was developed in accordance with section 3 of this 2023 Act.

31 “(b) If the hospital service staffing committee does not adopt a hospital service staffing
32 plan or adopts only a part of the staffing plan, either cochair may invoke the commencement
33 of a 60-day period during which the committee shall continue to develop the staffing plan.
34 If, by the end of the 60-day period, the committee does not adopt a staffing plan or adopts
35 only part of a staffing plan, the committee shall submit the disputed plan or parts of the
36 plan, as applicable, including a summary of the committee’s consideration of the criteria in
37 subsection (5) of this section, to the chief executive officer of the hospital. No later than 60
38 days after receiving the submission from the committee, the chief executive officer or the
39 chief executive officer’s designee shall decide the disputed plan or parts of the plan, as ap-
40 plicable, considering the summary of the committee’s consideration of the criteria in sub-
41 section (5) of this section, and adopt the staffing plan or parts of the staffing plan that were
42 not adopted by the committee. The chief executive officer or the chief executive officer’s
43 designee shall provide to the committee:

44 “(A) A written explanation of the staffing plan or the parts of the staffing plan that were
45 in dispute;

1 **“(B) The final written proposals of the members of the committee and the members’ ra-**
2 **tionales for their proposals and the committee’s summary of the committee’s consideration**
3 **of the criteria in subsection (5) of this section; and**

4 **“(C) A summary of the consideration by the chief executive officer or the chief executive**
5 **officer’s designee of the criteria in subsection (5) of this section.**

6 **“(c) If the hospital service staffing committee is unable to reach an agreement on the**
7 **hospital service staffing plan during the 60-day period invoked under paragraph (b) of this**
8 **subsection, the members of the committee may extend deliberations for one additional 60-day**
9 **period before the disputed plan or parts of the plan must be submitted to the chief executive**
10 **officer or the chief executive officer’s designee in accordance with paragraph (b) of this**
11 **subsection. The deliberations may be extended under this paragraph only by a majority vote**
12 **of the members of the committee. If a quorum of members present at a meeting comprises**
13 **an unequal number of hospital service staff and hospital service managers, only an equal**
14 **number of staff and managers may vote.**

15 **“(d) A hospital service staffing plan adopted by a hospital service staffing committee, a**
16 **chief executive officer or the chief executive officer’s designee must include any staffing-**
17 **related terms and conditions that were previously adopted through any applicable collective**
18 **bargaining agreement, including any meal break and rest break requirements, unless a term**
19 **or condition is in direct conflict with an applicable statute or administrative rule.**

20 **“(7) A hospital service staffing committee must meet three times each year and at the**
21 **call of either cochair, at a time and place specified by the cochairs.**

22 **“(8)(a) Except as provided in paragraph (b) of this subsection, a hospital service staffing**
23 **committee meeting must be open to:**

24 **“(A) The hospital’s service staff, who shall be offered the opportunity to provide feedback**
25 **to the committee during the committee’s meetings; and**

26 **“(B) Other observers or presenters invited by either cochair.**

27 **“(b) While the committee is deliberating or voting during a meeting, either cochair may**
28 **exclude individuals described in paragraph (a) of this subsection.**

29 **“(9) Minutes must be taken at every hospital service staffing committee meeting and the**
30 **minutes must:**

31 **“(a) Include all motions made and the outcome of all votes taken;**

32 **“(b) Include a summary of all discussions; and**

33 **“(c) Be made available in a timely manner to any of the hospital staff upon request.**

34 **“(10) A manager shall release from their duties staff and managers who serve on the**
35 **hospital service staffing committee and compensate the staff and managers who serve on the**
36 **committee for time spent attending committee meetings.**

37 **“(11) The hospital shall submit the hospital service staffing plan adopted under subsection**
38 **(6) of this section to the Oregon Health Authority no later than 30 days after adoption of the**
39 **staffing plan and shall submit any subsequent changes to the authority no later than 30 days**
40 **after the changes are adopted.**

41 **“(12) Each hospital unit, as defined by the chief executive officer or the chief executive**
42 **officer’s designee, may deviate from the hospital service staffing plan within a period of 12**
43 **consecutive hours, no more than six times during a rolling 30-day period, without being in**
44 **violation of the staffing plan. The unit manager must notify the hospital service staffing**
45 **committee cochairs no later than 10 days after each deviation. Each subsequent deviation**

1 during the 30-day period constitutes a separate violation under section 20 of this 2023 Act.

2 **“SECTION 5.** (1) A hospital nurse staffing committee, a professional and technical staff-
3 ing committee and a hospital service staffing committee may, by mutual agreement, combine
4 two or more of the staffing committees into one committee if:

5 **“(a)** The structures of the committees to be combined meet the requirements of ORS
6 441.154 and section 3 or 4 of this 2023 Act, as applicable; and

7 **“(b)** The members of the combined committee are selected from each committee by an
8 exclusive representative or otherwise as provided in ORS 441.154 (1)(b) and (c), section 3
9 (1)(b) and (c) of this 2023 Act and section 4 (1)(b) and (c) of this 2023 Act.

10 **“(2)** A majority of members of each staffing committee constitutes a quorum for the
11 transaction of the business of the combined committee. If there is an unequal number of
12 staff and management from each committee present at a meeting of the combined commit-
13 tee, only an equal number of staff and managers from each committee may vote.

14 **“(3)** Disputes arising in combined committees shall be resolved using the applicable dis-
15 pute resolution processes under section 3, 4 or 9 of this 2023 Act.

16 **“SECTION 6.** (1) As used in this section, ‘unit’ means a hospital unit as defined by the
17 chief executive officer of the hospital or the chief executive officer’s designee.

18 **“(2)** With respect to direct care registered nurses, a nurse staffing plan must ensure that
19 at all times:

20 **“(a)** In an emergency department:

21 **“(A)** A direct care registered nurse is assigned to not more than one trauma patient; and

22 **“(B)** The ratio of direct care registered nurses to patients averages no more than one to
23 four over a 12-hour shift and a single direct care registered nurse may not be assigned more
24 than five patients at one time. Direct care registered nurses assigned to trauma patients
25 may not be taken into account in determining the average ratio.

26 **“(b)** In an intensive care unit, a direct care registered nurse is assigned to no more than
27 two patients.

28 **“(c)** In a labor and delivery unit, a direct care registered nurse is assigned to no more
29 than:

30 **“(A)** Two patients if the patients are not in active labor or experiencing complications;
31 or

32 **“(B)** One patient if the patient is in active labor or if the patient is at any stage of labor
33 and is experiencing complications.

34 **“(d)** In a postpartum, antepartum and well-baby nursery, a direct care registered nurse
35 is assigned to no more than six patients, counting mother and baby each as separate pa-
36 tients.

37 **“(e)** In a mother-baby unit, a direct care registered nurse is assigned to no more than
38 eight patients, counting mother and baby each as separate patients.

39 **“(f)** In an operating room, a direct care registered nurse is assigned to no more than one
40 patient.

41 **“(g)** In an oncology unit, a direct care registered nurse is assigned to no more than four
42 patients.

43 **“(h)** In a post-anesthesia care unit, a direct care registered nurse is assigned to no more
44 than two patients.

45 **“(i)** In an intermediate care unit, a direct care registered nurse is assigned to no more

1 than three patients.

2 “(j) In a medical-surgical unit, a direct care registered nurse is assigned to no more than
3 five patients.

4 “(k) In a cardiac telemetry unit, a direct care registered nurse is assigned to no more
5 than four patients.

6 “(L) In a pediatric unit, a direct care registered nurse is assigned to no more than four
7 patients.

8 “(3) Notwithstanding subsection (2) of this section, the direct care registered nurse-to-
9 patient ratio for an individual patient shall be based on a licensed independent practitioner’s
10 classification of the patient, as indicated in the patient’s medical record, regardless of the
11 unit where the patient is being cared for.

12 “(4) With the approval of a majority of the members of the hospital nurse staffing com-
13 mittee, a unit can deviate from the direct care registered nurse-to-patient ratios in sub-
14 section (2) of this section, in pursuit of innovative care models that were considered by the
15 committee, by allowing other clinical care staff to constitute up to 50 percent of the regis-
16 tered nurses needed to comply with the applicable nurse-to-patient ratio. The staffing in an
17 innovative care model must be reapproved by the committee every two years.

18 “(5) A hospital shall provide for meal breaks and rest breaks in accordance with ORS
19 653.261, and rules implementing ORS 653.261, and any applicable collective bargaining agree-
20 ment.

21 “(6) Each hospital unit may deviate from a nurse staffing plan, except with respect to
22 meal breaks and rest breaks, including the applicable registered nurse-to-patient ratios un-
23 der this section, within a period of 12 consecutive hours, no more than six times during a
24 rolling 30-day period, without being in violation of the nurse staffing plan. The unit manager
25 must notify the hospital nurse staffing committee no later than 10 days after each deviation.
26 Each subsequent deviation during the 30-day period constitutes a separate violation under
27 section 20 of this 2023 Act.

28 “(7) A hospital may not require a direct care registered nurse to be assigned to more
29 patients than as specified in this section or in the nurse staffing plan approved by the hos-
30 pital nurse staffing committee, as applicable.

31 “(8) A charge nurse may:

32 “(a) Take patient assignments, including patient assignments taken for the purpose of
33 covering staff who are on meal breaks or rest breaks, in units with 10 or fewer beds;

34 “(b) Take patient assignments, including patient assignments taken for the purpose of
35 covering staff who are on meal breaks or rest breaks, in units with 11 or more beds with the
36 approval of the hospital nurse staffing committee; and

37 “(c) Be taken into account in determining the direct care registered nurse-to-patient
38 ratio during periods when the charge nurse is taking patient assignments under this sub-
39 section.

40 “SECTION 7. (1) As used in this section, ‘psychiatric unit’ includes:

41 “(a) Inpatient psychiatric units;

42 “(b) Psychiatric geriatric units;

43 “(c) Psychiatric pediatric units;

44 “(d) Emergency departments that provide psychiatric emergency service, as defined by
45 the Oregon Health Authority by rule; and

1 “(e) The Oregon State Hospital.

2 “(2) A psychiatric unit shall create a multidisciplinary subcommittee of the hospital
3 nurse staffing committee consisting of staff from the unit. The subcommittee shall adopt the
4 staffing plan for the psychiatric unit and shall be considered a hospital nurse staffing com-
5 mittee for purposes of:

6 “(a) The adoption of a nurse staffing plan under ORS 441.154 and 441.155; and
7 “(b) Provisions of section 9 of this 2023 Act related to:

8 “(A) Dispute resolution through mandatory arbitration; and
9 “(B) Determining the circumstances when the nurse-to-patient ratios in section 6 of this
10 2023 Act will not apply.

11 “**SECTION 8.** A hospital may not assign a certified nursing assistant to more than seven
12 patients at a time during a day or evening shift or to more than 11 patients at a time during
13 a night shift.

14 “**SECTION 9.** (1) Direct care registered nurse-to-patient staffing ratios under section 6
15 of this 2023 Act do not apply to the care of:

16 “(a) Patients in intensive care or critical units in circumstances prescribed by the hos-
17 pital nurse staffing committee;

18 “(b) Emergency department patients who are in critical condition, until they are stable;

19 “(c) Patients in swing beds, as defined by the Centers for Medicare and Medicaid Services;

20 “(d) Patients, in inpatient units, who are ready for discharge but are facing a barrier to
21 discharge, as indicated by a licensed independent practitioner in each patient’s medical re-
22 cord;

23 “(e) Patients, including patients in an emergency department, who are located in adjacent
24 rooms or the same room in the hospital and who are ready for discharge but are facing a
25 barrier to discharge, as indicated by a licensed independent practitioner in each patient’s
26 medical record;

27 “(f) Patients in outpatient units that operate under a hospital’s license; or
28 “(g) Patients in psychiatric units.

29 “(2) For patients described in subsection (1) of this section, the hospital nurse staffing
30 committee established under ORS 441.154 shall adopt a nurse staffing plan that is:

31 “(a) Consistent with nationally recognized nurse staffing standards or benchmarks;

32 “(b) Consistent with a tool that measures patient acuity and intensity and that has been
33 calibrated to the applicable unit; or

34 “(c) Approved after the committee has considered:

35 “(A) The specialized qualifications and competencies of the staff in the unit;

36 “(B) Historic acuity and intensity of the patients in the unit;

37 “(C) Nationally recognized nurse staffing standards, if any; and
38 “(D) Ensuring patient access to care.

39 “(3)(a)(A) If the hospital nurse staffing committee does not adopt a nurse staffing plan
40 under subsection (2) of this section, either cochair of the committee may invoke the com-
41 mencement of a 60-day period during which the committee shall continue to develop the
42 staffing plan.

43 “(B) If by the end of the 60-day period, the hospital nurse staffing committee does not
44 adopt a nurse staffing plan, the members of the committee may extend deliberations for one
45 additional 60-day period only by a majority vote of the members of the committee.

1 “(C) If a quorum of members present at a meeting comprises an unequal number of
2 nursing staff and managers, only an equal number of staff and managers may vote.

3 “(b) If by the end of the initial 60-day period of deliberations or by the end of the second
4 60-day period of deliberations, if deliberations are extended under subsection (3)(a)(B) of this
5 section, the hospital nurse staffing committee does not adopt a nurse staffing plan, the
6 cochaIRS of the committee shall submit the disputed plan or parts of the plan, as applicable,
7 to the Oregon Health Authority, and the authority shall initiate expedited binding arbi-
8 tration.

9 “(c) The arbitrator shall be selected using alternating strikes by the cochaIRS or their
10 designees from a list of seven drawn from the interest arbitrator panel maintained by the
11 State Conciliation Service.

12 “(d) Arbitration must be scheduled by mutual agreement no later than 30 calendar days
13 after the cochaIRS submit the disputed nurse staffing plan or the disputed parts of the plan
14 to the authority except as, by mutual agreement, the time may be extended.

15 “(e) The arbitrator shall issue a decision on the nurse staffing plan or the disputed parts
16 of the plan, as applicable, based on the written submissions of evidence and arguments and
17 may not conduct an evidentiary hearing or allow discovery. The arbitrator’s decision must
18 be based on and within the parameters of the versions of the plan or the disputed parts of
19 the plan submitted by the cochaIRS and must be within the staffing parameters.

20 “(f) The arbitrator shall issue a decision no later than 60 days after the submission of
21 evidence and written arguments.

22 “(g) The hospital shall pay for the cost of the arbitrator.

23 “SECTION 10. Section 11 of this 2023 Act is added to and made a part of ORS 653.010 to
24 653.261.

25 “SECTION 11. (1) As used in this section:

26 “(a)(A) ‘Employee’ includes the following:

27 “(i) Registered nurses who provide direct care as defined in ORS 441.151;

28 “(ii) Professional staff as defined in ORS 441.151;

29 “(iii) Technical staff, as defined in ORS 441.151; and

30 “(iv) Service staff, as defined in ORS 441.151.

31 “(B) ‘Employee’ does not include an individual described in subparagraph (A) of this
32 paragraph if the individual is covered by a collective bargaining agreement that includes a
33 monetary remedy for missed meal periods and missed rest periods.

34 “(b) ‘Exclusive representative’ has the meaning given that term in ORS 441.151.

35 “(2) An employee or an exclusive representative of an employee may enforce require-
36 ments for meal periods and rest periods adopted by rule by the Commissioner of the Bureau
37 of Labor and Industries under ORS 653.261 by electing to file a complaint in one of the fol-
38 lowing ways:

39 “(a) With the Oregon Health Authority in accordance with section 12 of this 2023 Act;
40 or

41 “(b) With the Commissioner of the Bureau of Labor and Industries in accordance with
42 rules adopted pursuant to ORS 653.261.

43 “(3) Upon the receipt of a complaint forwarded by the authority to the commissioner
44 under section 12 of this 2023 Act, the commissioner shall proceed on the complaint in ac-
45 cordance with this section.

1 “(4) The commissioner shall deem a complaint filed under subsection (2) of this section
2 to be withdrawn if notified by an employer that:

3 “(a) The employer received a grievance filed by the employee or an exclusive represen-
4 tative of the employee alleging the same violation as the violation alleged in a complaint filed
5 under subsection (2) of this section; or

6 “(b) The employee or the exclusive representative of the employee has filed a civil com-
7 plaint against the employer alleging the same violation as the violation alleged in a complaint
8 filed under subsection (2) of this section.

9 “(5) If the commissioner receives a complaint under subsection (2)(a) of this section that
10 was filed with the authority more than 60 days after the date of the missed meal period or
11 missed rest period alleged in the complaint, the commissioner:

12 “(a) Shall dismiss the complaint; and

13 “(b) May not investigate the complaint or take any enforcement action with respect to
14 the complaint.

15 “(6)(a) Following an investigation of a complaint filed under subsection (2)(a) of this
16 section, if the commissioner determines that a civil penalty is appropriate, the commissioner
17 shall provide to the hospital, to the cochairs of the relevant staffing committee and to the
18 exclusive representative, if any, of the complainant a notice, in accordance with ORS 183.415,
19 183.417 and 183.745, of the commissioner’s intent to assess a civil penalty of \$200.

20 “(b) A civil penalty imposed under this section:

21 “(A) Constitutes the liquidated damages of the complainant for the missed meal period
22 or rest period;

23 “(B) May not be combined with a penalty assessed under ORS 653.256;

24 “(C) Precludes any other penalty or remedy provided by law for the violation found by
25 the commissioner; and

26 “(D) Becomes final if an application for hearing is not requested in a timely manner.

27 “(7)(a) The liquidated damages imposed under this section shall be paid to the
28 complainant no later than 15 business days after the date on which the order becomes final
29 by operation of law or 15 days after the issuance of a decision on appeal.

30 “(b) A hospital shall provide to the commissioner proof of the payment of liquidated
31 damages under paragraph (a) of this subsection no later than 30 days after making the pay-
32 ment.

33 “(8) An employee’s failure to file a complaint under subsection (2) of this section does
34 not preclude the employee from pursuing any other remedy otherwise available to the em-
35 ployee under any provision of law.

36 “(9) Nothing in this section creates a private cause of action.

37 “SECTION 12. (1) As used in this section, ‘employee’ and ‘exclusive representative’ have
38 the meanings given those terms in section 11 of this 2023 Act.

39 “(2) The Oregon Health Authority shall implement a process for an employee or an
40 employee’s exclusive representative to file a complaint against a hospital under section 11
41 (2)(a) of this 2023 Act for missed meal periods and rest periods.

42 “(3) The authority shall forward to the Commissioner of the Bureau of Labor and In-
43 dustries any complaint filed under this section no later than 14 days after the complaint is
44 filed.

45 “(4) No later than 30 days after receiving a complaint under this section, the authority

1 shall provide notice of the filing of the complaint to the following:

2 “(a) The hospital;

3 “(b) The cochairs of the relevant staffing committee established pursuant to ORS 441.154
4 or section 3 or 4 of this 2023 Act; and

5 “(c) The exclusive representative, if any, of the employee filing the complaint.”.

6 In line 2, delete “12” and insert “13”.

7 In line 4, after “Each” insert “hospital”.

8 In line 34, delete “9, 10 and 11” and insert “7, 8 and 9”.

9 On page 11, delete lines 32 through 45 and delete page 12.

10 On page 13, delete lines 1 through 12 and insert:

11 “**SECTION 14.** ORS 441.155 is amended to read:

12 “441.155. (1) Each hospital shall implement [*the*] a written hospital-wide staffing plan for nursing
13 services that:

14 “(a) Meets the requirements of this section and ORS 441.154 and 441.156 and sections 6,
15 7, 8 and 9 of this 2023 Act;

16 “(b) Includes any staffing-related terms and conditions that were previously adopted
17 through any applicable collective bargaining agreement, including meal breaks and rest
18 breaks, unless a term or condition is in direct conflict with an applicable statute or admin-
19 istrative rule; and

20 “(c) Has been developed and approved by the hospital nurse staffing committee under ORS
21 441.154.

22 “(2) [*The staffing plan*] **If the nurse-to-patient ratios in section 6 of this 2023 Act apply, the**
23 **hospital nurse staffing committee:**

24 “(a) May consider:

25 “[*(a)*] (A) [*Must be based on*] The specialized qualifications and competencies of the nursing staff
26 and [*provide for*] the skill mix and level of competency [*necessary*] **needed** to ensure that the hospital
27 is staffed to meet the health care needs of patients;

28 “[*(b)*] (B) [*Must be based on*] **The size of the hospital and** a measurement of hospital unit ac-
29 tivity that quantifies the rate of admissions, discharges and transfers for each hospital unit and the
30 time required for a direct care registered nurse belonging to a hospital unit to complete admissions,
31 discharges and transfers for that hospital unit;

32 “[*(c)*] *Must be based on total diagnoses for each hospital unit and the nursing staff required to*
33 *manage that set of diagnoses;*]

34 “(C) **The unit’s general and predominant patient population as defined by the Medicare**
35 **Severity Diagnosis-Related Groups adopted by the Centers for Medicare and Medicaid Ser-**
36 **vices, or by other measures for patients who are not classified in the Medicare Severity**
37 **Diagnosis-Related Groups;**

38 “[*(d)*] (D) [*Must be consistent with*] Nationally recognized evidence-based standards and guide-
39 lines established by professional nursing specialty organizations, **if any;**

40 “[*(e)*] (E) [*Must recognize*] Differences in patient acuity; **and**

41 “[*(f)*] *Must establish minimum numbers of nursing staff, including licensed practical nurses and*
42 *certified nursing assistants, required on specified shifts, provided that at least one registered nurse and*
43 *one other nursing staff member is on duty in a unit when a patient is present;*]

44 “[*(g)*] *Must include a formal process for evaluating and initiating limitations on admission or di-*
45 *version of patients to another hospital when, in the judgment of a direct care registered nurse or a*

1 nurse manager, there is an inability to meet patient care needs or a risk of harm to patients;]

2 “[*(h)*] **(F)** [*Must consider*] Tasks not related to providing direct care[, including meal breaks and
3 rest breaks]; and

4 “[*(i)*] *May not base nursing staff requirements solely on external benchmarking data.*]

5 **“(b) Must comply with section 6 of this 2023 Act.**

6 **“(3) A hospital must maintain and post, in a physical location or online,** a list of on-call
7 nursing staff or staffing agencies to provide replacement nursing staff in the event of a vacancy.
8 The list of on-call nursing staff or staffing agencies must be sufficient to provide for replacement
9 nursing staff.

10 **“(4)(a) An employer may not impose upon unionized nursing staff any changes in wages, hours**
11 **or other terms and conditions of employment pursuant to a staffing plan unless the employer first**
12 **provides notice to and, upon request, bargains with the union as the exclusive collective bargaining**
13 **representative of the nursing staff in the bargaining unit.**

14 **“(b) A staffing plan does not create, preempt or modify a collective bargaining agreement or**
15 **require a union or employer to bargain over the staffing plan while a collective bargaining agree-**
16 **ment is in effect.**

17 **“(5) A hospital shall submit to the Oregon Health Authority a nurse staffing plan adopted**
18 **in accordance with this section and section 9 of this 2023 Act and submit any changes to the**
19 **plan no later than 30 days after approval of the changes by the hospital nurse staffing com-**
20 **mittee.**

21 **“(6) A type A or a type B hospital may vary from the requirements of section 6 of this**
22 **2023 Act if the hospital nurse staffing committee of the hospital has voted to approve the**
23 **variance. A type A hospital or type B hospital shall notify the authority of the variance**
24 **through the authority’s website. The notification to the authority shall include a statement**
25 **signed by the cochairs of the committee, confirming that the committee voted to approve the**
26 **variance. The variance becomes effective upon the submission of the notification to the au-**
27 **thority and remains in effect for two years. A type A or type B hospital may renew a vari-**
28 **ance or notify the authority of a new variance as provided in this subsection.**

29 **“SECTION 15. Notwithstanding ORS 441.155, prior to June 1, 2024, a hospital nurse**
30 **staffing committee established under ORS 441.154 may approve a staffing plan that is:**

31 **“(1) Consistent with nationally recognized nurse staffing standards or benchmarks;**

32 **“(2) Consistent with a tool that measures patient acuity and intensity and that has been**
33 **calibrated to the hospital unit, as defined by the hospital nurse staffing committee; or**

34 **“(3) Approved after the hospital nurse staffing committee has considered:**

35 **“(a) The specialized qualifications and competencies of the staff in the unit;**

36 **“(b) The historic acuity and intensity of the patients in the unit;**

37 **“(c) Nationally recognized nurse staffing standards, if any; and**

38 **“(d) Patients’ access to care.”.**

39 In line 13, delete “15” and insert “16”.

40 In line 29, after “meal” insert “breaks”.

41 Delete lines 37 through 45 and delete page 14.

42 On page 15, delete lines 1 through 6 and insert:

43 **“SECTION 17. Section 6 of this 2023 Act is amended to read:**

44 **“Sec. 6. (1) As used in this section, ‘unit’ means a hospital unit as defined by the chief executive**
45 **officer of the hospital or the chief executive officer’s designee.**

1 “(2) With respect to direct care registered nurses, a nurse staffing plan must ensure that at all
2 times:

3 “(a) In an emergency department:

4 “(A) A direct care registered nurse is assigned to not more than one trauma patient; and

5 “(B) The ratio of direct care registered nurses to patients averages no more than one to four
6 over a 12-hour shift and a single direct care registered nurse may not be assigned more than five
7 patients at one time. Direct care registered nurses assigned to trauma patients may not be taken
8 into account in determining the average ratio.

9 “(b) In an intensive care unit, a direct care registered nurse is assigned to no more than two
10 patients.

11 “(c) In a labor and delivery unit, a direct care registered nurse is assigned to no more than:

12 “(A) Two patients if the patients are not in active labor or experiencing complications; or

13 “(B) One patient if the patient is in active labor or if the patient is at any stage of labor and
14 is experiencing complications.

15 “(d) In a postpartum, antepartum and well-baby nursery, a direct care registered nurse is as-
16 signed to no more than six patients, counting mother and baby each as separate patients.

17 “(e) In a mother-baby unit, a direct care registered nurse is assigned to no more than eight pa-
18 tients, counting mother and baby each as separate patients.

19 “(f) In an operating room, a direct care registered nurse is assigned to no more than one patient.

20 “(g) In an oncology unit, a direct care registered nurse is assigned to no more than four pa-
21 tients.

22 “(h) In a post-anesthesia care unit, a direct care registered nurse is assigned to no more than
23 two patients.

24 “(i) In an intermediate care unit, a direct care registered nurse is assigned to no more than
25 three patients.

26 “(j) In a medical-surgical unit, a direct care registered nurse is assigned to no more than [*five*]
27 **four** patients.

28 “(k) In a cardiac telemetry unit, a direct care registered nurse is assigned to no more than four
29 patients.

30 “(L) In a pediatric unit, a direct care registered nurse is assigned to no more than four patients.

31 “(3) Notwithstanding subsection (2) of this section, the direct care registered nurse-to-patient
32 ratio for an individual patient shall be based on a licensed independent practitioner’s classification
33 of the patient, as indicated in the patient’s medical record, regardless of the unit where the patient
34 is being cared for.

35 “(4) With the approval of a majority of the members of the hospital nurse staffing committee, a
36 unit can deviate from the direct care registered nurse-to-patient ratios in subsection (2) of this sec-
37 tion, in pursuit of innovative care models that were considered by the committee, by allowing other
38 clinical care staff to constitute up to 50 percent of the registered nurses needed to comply with the
39 applicable nurse-to-patient ratio. The staffing in an innovative care model must be reapproved by the
40 committee every two years.

41 “(5) A hospital shall provide for meal breaks and rest breaks in accordance with ORS 653.261,
42 and rules implementing ORS 653.261, and any applicable collective bargaining agreement.

43 “(6) Each hospital unit may deviate from a nurse staffing plan, except with respect to meal
44 breaks and rest breaks, including the applicable registered nurse-to-patient ratios under this section,
45 within a period of 12 consecutive hours, no more than six times during a rolling 30-day period,

1 without being in violation of the nurse staffing plan. The unit manager must notify the hospital
2 nurse staffing committee no later than 10 days after each deviation. Each subsequent deviation
3 during the 30-day period constitutes a separate violation under section 20 of this 2023 Act.

4 “(7) A hospital may not require a direct care registered nurse to be assigned to more patients
5 than as specified in this section or in the nurse staffing plan approved by the hospital nurse staffing
6 committee, as applicable.

7 “(8) A charge nurse may:

8 “(a) Take patient assignments, including patient assignments taken for the purpose of covering
9 staff who are on meal breaks or rest breaks, in units with 10 or fewer beds;

10 “(b) Take patient assignments, including patient assignments taken for the purpose of covering
11 staff who are on meal breaks or rest breaks, in units with 11 or more beds with the approval of the
12 hospital nurse staffing committee; and

13 “(c) Be taken into account in determining the direct care registered nurse-to-patient ratio during
14 periods when the charge nurse is taking patient assignments under this subsection.

15
16 **“(Enforcement)”**

17
18 **“SECTION 18.** ORS 441.171 is amended to read:

19 *“441.171. [(1) For purposes of ensuring compliance with ORS 441.152 to 441.177, the Oregon Health
20 Authority shall:]*

21 *“[(a) Within 60 days after receiving a complaint against a hospital for violating a provision of ORS
22 441.152 to 441.177, conduct an on-site investigation of the hospital; and]*

23 *“[(b) Within 60 days after issuing an order requiring a hospital to implement a plan to correct a
24 violation of ORS 441.152 to 441.177, conduct an investigation of the hospital to ensure compliance with
25 the plan.]*

26 *“[(2) When conducting an investigation of a hospital to ensure compliance with ORS 441.152 to
27 441.177, the authority shall, if the authority provides notice of the investigation to the hospital, provide
28 notice of the investigation to the cochairs of the hospital nurse staffing committee established pursuant
29 to ORS 441.154.]*

30 *“[(3) Following an investigation conducted pursuant to this section, the authority shall provide in
31 writing a report of the authority’s findings to the hospital and the cochairs of the hospital nurse staff-
32 ing committee.]*

33 *“[(4) When conducting an investigation of a hospital to ensure compliance with ORS 441.152 to
34 441.177, the authority may:]*

35 *“[(a) Take evidence;]*

36 *“[(b) Take the depositions of witnesses in the manner provided by law in civil cases;]*

37 *“[(c) Compel the appearance of witnesses in the manner provided by law in civil cases;]*

38 *“[(d) Require answers to interrogatories; and]*

39 *“[(e) Compel the production of books, papers, accounts, documents and testimony pertaining to the
40 matter under investigation.]*

41 **“(1) As used in this section, ‘valid complaint’ means a complaint containing an allegation
42 that, if assumed to be true, is a violation listed in section 20 of this 2023 Act.**

43 **“(2) To ensure compliance with ORS 441.152 to 441.177, the Oregon Health Authority
44 shall:**

45 **“(a) Establish a method by which a hospital staff person or an exclusive representative**

1 of a hospital staff person may submit a complaint through the authority's website regarding
2 any violation listed in section 20 of this 2023 Act;

3 “(b) No later than 14 days after receiving a complaint, send a copy of the complaint to
4 the exclusive representative, if any, of the staff person or staff persons who filed the com-
5 plaint;

6 “(c) No later than 30 days after receiving a valid complaint of a violation listed in section
7 20 of this 2023 Act, open an investigation of the hospital and provide a notice of the investi-
8 gation to the hospital and the cochairs of the relevant staffing committee established pur-
9 suant to ORS 441.154 or section 3 or 4 of this 2023 Act, and to the exclusive representative,
10 if any, of the staff person or staff persons filing the complaint. The notice must include a
11 summary of the complaint that does not include the complainant's name or the specific date,
12 shift or unit but does include the calendar week in which the complaint arose;

13 “(d) Not later than 80 days after opening the investigation, conclude the investigation and
14 provide a written report on the complaint to the hospital, the cochairs of the hospital staff-
15 ing committee and the exclusive representative, if any, of the staff person or staff persons
16 filing the complaint. The report:

17 “(A) Shall include a summary of the complaint;

18 “(B) Shall include the nature of the alleged violation or violations;

19 “(C) Shall include the authority's findings and factual bases for the findings;

20 “(D) Shall include other information the authority determines is appropriate to include
21 in the report; and

22 “(E) May not include the name of any complainant, the name of any patient or the names
23 of any individuals that the authority interviewed in investigating the complaint;

24 “(e) If the authority issues a warning or imposes one or more civil penalties based on the
25 report described in paragraph (d) of this subsection, provide a notice of the civil penalty that
26 complies with ORS 183.415, 183.745 and 441.175 to the hospital, the cochairs of the applicable
27 hospital staffing committee and the exclusive representative, if any, of the staff person or
28 staff persons who filed the complaint; and

29 “(f) In determining whether to impose a civil penalty, consider all relevant evidence, in-
30 cluding but not limited to witness testimony, written documents and the observations of the
31 investigator.

32 “(3) A hospital subject to a valid complaint shall provide to the authority, no later than
33 20 days after receiving the notice under subsection (1)(c) of this section:

34 “(a) The staffing plan that is the subject of the complaint;

35 “(b) If relevant to the complaint, documents that show the scheduled staffing and the
36 actual staffing on the unit that is the subject of the complaint during the period of time
37 specified in the complaint; and

38 “(c) Documents that show the actions described in ORS 441.175 (4), if any, that the hos-
39 pital took to comply with the staffing plan or to address the issue raised by the complaint.

40 “(4) In conducting an investigation, the authority shall review any document:

41 “(a) Related to the complaint that is provided by the exclusive representative that filed
42 the complaint or by the hospital staff person who filed the complaint and the person's ex-
43 clusive representative, if any; and

44 “(b) Provided by the hospital in response to the complaint.

45 “(5) In conducting an investigation, the authority may:

1 “(a) Make an on-site inspection of the unit that is the subject of the complaint;
2 “(b) Interview a manager for the unit and any other staff persons with information rel-
3 evant to the complaint;
4 “(c) Interview the cochairs of the relevant staffing committee;
5 “(d) Interview the staff person or staff persons who filed the complaint unless the indi-
6 vidual declines to be interviewed; and
7 “(e) Compel the production of books, papers, accounts, documents and testimony per-
8 taining to the complaint, other than documents that are privileged or not otherwise subject
9 to disclosure.
10 “(6) A complaint by a hospital staff person or the staff person’s exclusive representative
11 must be filed no later than 60 days after the date of the violation alleged in the complaint.
12 The authority may not investigate a complaint or take any enforcement action with respect
13 to a complaint that has not been filed timely.”.

14 In line 7, delete “17” and insert “19”.
15 In line 10, delete “18” and insert “20”.
16 In line 15, delete “18” and insert “20”.
17 In line 20, delete “hospital”.
18 In line 24, delete “staff” and insert “employees”.
19 Delete lines 33 through 45 and delete page 16.
20 On page 17, delete lines 1 through 7 and insert:
21 “**SECTION 20. (1) Following the receipt of a complaint and completion of an investigation**
22 **described in ORS 441.171, for a violation described in subsection (2) of this section, the**
23 **Oregon Health Authority shall:**
24 “(a) Issue a warning for the first violation in a four-year period;
25 “(b) Impose a civil penalty of \$1,750 for the second violation of the same provision in a
26 four-year period;
27 “(c) Impose a civil penalty of \$2,500 for the third violation of the same provision in a
28 four-year period; and
29 “(d) Impose a civil penalty of \$5,000 for the fourth and subsequent violations of the same
30 provision in a four-year period.
31 “(2) The authority shall take the actions described in subsection (1) of this section for
32 the following violations by a hospital of ORS 441.152 to 441.177:
33 “(a) Failure to establish a hospital professional and technical staffing committee or a
34 hospital service staffing committee;
35 “(b) Failure to create a professional and technical staffing plan or a hospital service
36 staffing plan;
37 “(c) Failure to adopt a nurse staffing plan by agreement or after binding arbitration;
38 “(d) Failure to comply with the staffing level in the nurse staffing plan, including the
39 nurse-to-patient staffing ratios prescribed in section 6 of this 2023 Act, if applicable, and the
40 failure to comply is not an allowed deviation described in section 6 (6) of this 2023 Act;
41 “(e) Failure to comply with the staffing level in the professional and technical staffing
42 plan or the hospital service staffing plan and the failure to comply is not an allowed deviation
43 as described in section 3 (12) or 4 (12) of this 2023 Act;
44 “(f) Failure to comply with the staffing requirements for certified nursing assistants in
45 section 8 of this 2023 Act and the failure is not an allowed deviation under section 4 (12) of

1 this 2023 Act; or

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

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

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

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

6 “(D) During the 10-hour period immediately following the 12th hour worked during a
7 24-hour period.

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

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

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

13 “(4) A direct care staff person, a hospital professional or technical staff person or a
14 hospital service staff person, or an exclusive representative of a direct care staff person, a
15 hospital professional or technical staff person or a hospital service staff person, may elect
16 to enforce meal break and rest break violations under ORS 653.261 by filing a complaint with
17 the authority in accordance with ORS 441.171.”.

18 In line 8, delete “19” and insert “21”.

19 In line 12, delete “section 16 (1)(d) of this 2023 Act” and insert “ORS 441.171 (2)(d)”.

20 In line 14, delete “18” and insert “20”.

21 In line 21, delete “20” and insert “22”.

22 On page 18, line 42, delete “21” and insert “23”.

23 On page 19, line 1, delete “22” and insert “24”.

24 In line 26, delete “23” and insert “25”.

25 On page 20, line 5, delete “and section 16 of this 2023 Act”.

26 In line 9, delete “and section 16 of this 2023 Act”.

27 Delete lines 30 through 45.

28 On page 21, delete lines 1 through 21 and insert:

29 “**SECTION 26.** ORS 441.173 is amended to read:

30 “441.173. A hospital shall keep and maintain records necessary to demonstrate compliance with
31 ORS 441.152 to 441.177. [*For purposes of this section, the Oregon Health Authority shall adopt rules*
32 *specifying the content of the records and the form and manner of keeping, maintaining and disposing*
33 *of the records.*] A hospital must provide records kept and maintained under this section to the
34 **Oregon Health** Authority upon request.

35 “**SECTION 27.** ORS 653.261 is amended to read:

36 “653.261. (1)(a) The Commissioner of the Bureau of Labor and Industries may adopt rules pre-
37 scribing such minimum conditions of employment, excluding minimum wages, in any occupation as
38 may be necessary for the preservation of the health of employees. The rules may include, but are
39 not limited to, minimum meal periods and rest periods, and maximum hours of work, but not less
40 than eight hours per day or 40 hours per workweek; however, after 40 hours of work in one
41 workweek overtime may be paid, but in no case at a rate higher than one and one-half times the
42 regular rate of pay of the employees when computed without benefit of commissions, overrides, spiffs
43 and similar benefits.

44 “(b) As used in this subsection, ‘workweek’ means a fixed period of time established by an em-
45 ployer that reflects a regularly recurring period of 168 hours or seven consecutive 24-hour periods.

1 A workweek may begin on any day of the week and any hour of the day and need not coincide with
2 a calendar week. The beginning of the workweek may be changed if the change is intended to be
3 permanent and is not designed to evade overtime requirements.

4 “(2) Rules adopted by the commissioner pursuant to subsection (1) of this section do not apply
5 to individuals employed by this state or a political subdivision or quasi-municipal corporation
6 thereof if other provisions of law or collective bargaining agreements prescribe rules pertaining to
7 conditions of employment referred to in subsection (1) of this section, including meal periods, rest
8 periods, maximum hours of work and overtime.

9 “(3) **Except as provided in section 11 (2)(a) of this 2023 Act**, rules adopted by the commis-
10 sioner pursuant to subsection (1) of this section regarding meal periods and rest periods do not apply
11 to nurses who provide acute care in hospital settings if provisions of collective bargaining agree-
12 ments entered into by the nurses prescribe rules concerning meal periods and rest periods.

13 “(4)(a) The commissioner shall adopt rules regarding meal periods for employees who serve food
14 or beverages, receive tips and report the tips to the employer.

15 “(b) In rules adopted by the commissioner under paragraph (a) of this subsection, the commis-
16 sioner shall permit an employee to waive a meal period. However, an employer may not coerce an
17 employee into waiving a meal period.

18 “(c) Notwithstanding ORS 653.256 (1), in addition to any other penalty provided by law, the
19 commissioner may assess a civil penalty not to exceed \$2,000 against an employer that the commis-
20 sioner finds has coerced an employee into waiving a meal period in violation of this subsection. Each
21 violation is a separate and distinct offense. In the case of a continuing violation, each day’s con-
22 tinuance is a separate and distinct violation.

23 “(d) Civil penalties authorized by this subsection shall be imposed in the manner provided in
24 ORS 183.745. All sums collected as penalties under this subsection shall be applied and paid over
25 as provided in ORS 653.256 (4).

26 27 **“IMPLEMENTATION**

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

31 **“(a) The processing of complaints under ORS 441.171;**

32 **“(b) The processing of complaints regarding meal breaks and rest breaks under section**
33 **12 of this 2023 Act;**

34 **“(c) The requirements for nurse-to-patient ratios in emergency departments under sec-**
35 **tion 6 (2)(a) of this 2023 Act; and**

36 **“(d) The provisions of ORS 441.166 (1) and (8)(b).**

37 **“(2) The authority shall convene a subcommittee of the Nurse Staffing Advisory Board**
38 **established in ORS 441.152 to advise the authority in the adoption of rules under this section.**
39 **The subcommittee must have equal representation of hospital employees and hospital man-**
40 **agers and shall include individuals representing labor organizations and organizations repre-**
41 **senting hospitals.**

42 **“SECTION 29. (1)(a) A nurse staffing plan that is in effect on the effective date of this**
43 **2023 Act that does not comply with ORS 441.152 to 441.177 continues in force until a hospital**
44 **nurse staffing committee revises the plan or develops a new plan. The committee shall revise**
45 **the plan, or develop a new plan, to comply with ORS 441.152 to 441.177 no later than June 1,**

1 2024.

2 “(b) A hospital must be in compliance with section 6 of this 2023 Act no later than June
3 1, 2024.

4 “(c) A nurse staffing plan that is in effect on the effective date of this 2023 Act and that
5 complies with ORS 441.152 to 441.177 remains in effect until revised in accordance with ORS
6 441.154.

7 “(2) A hospital must establish a hospital professional and technical staffing committee
8 and a hospital service staffing committee in accordance with sections 3 and 4 of this 2023
9 Act no later than December 31, 2024.

10 “(3)(a) Except as provided in subsection (4) of this section, the Oregon Health Authority
11 may begin the enforcement of:

12 “(A) Sections 3 and 4 of this 2023 Act on the date specified in subsection (2) of this sec-
13 tion;

14 “(B) Section 6 of this 2023 Act on the date specified in subsection (1) of this section; and

15 “(C) The amendments to ORS 441.020, 441.151, 441.152, 441.154, 441.155, 441.156, 441.164,
16 441.165, 441.171, 441.173, 441.175 and 441.177 by sections 1, 13, 14, 16, 18, 19 and 21 to 26 of this
17 2023 Act on the effective date of this 2023 Act.

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

21 “(4) The authority may not impose civil penalties under section 20 of this 2023 Act for
22 violations that occur before June 1, 2025.

23
24 “FINANCING

25
26 “SECTION 30. Notwithstanding any other provision of law, the General Fund appropri-
27 ation made to the Bureau of Labor and Industries by section 1, chapter ____, Oregon Laws
28 2023 (Enrolled Senate Bill 5515), for the biennium beginning July 1, 2023, is increased by
29 \$188,577 for the implementation and staffing costs to enforce meal break and rest break vi-
30 olations under section 18 of this 2023 Act.

31 “SECTION 31. In addition to and not in lieu of any other appropriation, there is appro-
32 priated to the Oregon Health Authority, for the biennium beginning July 1, 2023, out of the
33 General Fund, the amount of \$1,980,571, which may be expended to investigate complaints
34 and support the Oregon State Hospital staffing committees.

35
36 “REPEALS

37
38 “SECTION 32. (1) ORS 441.157 is repealed.

39 “(2) Section 15 of this 2023 Act is repealed on June 2, 2024.

40
41 “OPERATIVE DATE

42
43 “SECTION 33. (1) The amendments to section 6 of this 2023 Act by section 17 of this 2023
44 Act become operative on July 1, 2026.

45 “(2)(a) Section 11 of this 2023 Act and the amendments to ORS 653.261 by section 27 of

1 **this 2023 Act become operative on June 1, 2025.**

2 **“(b) The Commissioner of the Bureau of Labor and Industries may take any action before**
3 **the operative date specified in this subsection that is necessary for the commissioner to ex-**
4 **ercise, on and after the operative date specified in this subsection, the duties, functions and**
5 **powers conferred on the commissioner by section 11 of this 2023 Act and the amendments**
6 **to ORS 653.261 by section 27 of this 2023 Act.”.**

7 In line 25, delete “27” and insert “34”.

8 In line 31, delete “28” and insert “35”.

9 _____