

House Bill 2697

Sponsored by Representative NOSSE, Senator MANNING JR, Representative NELSON, Senator PATTERSON;
Senator CAMPOS (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires hospitals to establish technical staff and service staff staffing committees to develop staffing plans, in addition to nurse staffing committee. Establishes minimum standards for staffing plans for direct care registered nurses. Imposes penalties for failure to adopt hospital staffing plans or to comply with staffing plans. Requires Oregon Health Authority to post staffing plans to authority's website and to establish online portal for filing complaints regarding hospital's failure to adopt or to comply with staffing plans. Adds enforcement tools for authority to enforce nurse staffing requirements. Creates private cause of action for hospital failure to adopt or to comply with staffing plans.

Requires home health agencies to establish home health nurse staffing committees. Specifies membership and duties of committees. Creates new requirements to enforce home health nurse staffing provisions.

A BILL FOR AN ACT

1
2 Relating to staffing plans for health care provider entities; creating new provisions; and amending
3 ORS 441.020, 441.025, 441.151, 441.154, 441.155, 441.156, 441.157, 441.171, 441.175, 441.177 and
4 443.085.

5 **Be It Enacted by the People of the State of Oregon:**

HOSPITAL STAFFING PLANS

(Staffing Committees)

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10 **SECTION 1.** ORS 441.151 is amended to read:

11 441.151. As used in ORS 441.152 to 441.177[.]:

12 (1) **"Charge nurse" means a direct care nurse who assigns patients to nurses and to**
13 **other direct care staff.**

14 (2) **"Direct care" means any care provided by a licensed or certified member of the hos-**
15 **pital staff that is within the scope of the license or certification of the member.**

16 (3) **"Direct care staff" means any of the following who are routinely assigned to patient**
17 **care and are replaced when they are absent:**

18 (a) **Registered nurses;**

19 (b) **Licensed practical nurses;**

20 (c) **Certified nursing assistants; or**

21 (d) **Specialty care staff such as care managers and intravenous therapy nurses.**

22 (4) **"Exclusive representative" means a labor organization that is:**

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

24 (b) **Certified as an exclusive representative by the Employment Relations Board under**

25 **ORS 243.650 to 243.809.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (5) "Hospital" includes a hospital as described in ORS 442.015 and an acute inpatient care fa-
 2 cility as defined in ORS 442.470.

3 (6) "Intensive care unit" means a unit of a hospital that provides care to critically ill
 4 patients who require advanced treatments such as mechanical ventilation, vasoactive in-
 5 fusions, continuous renal replacement treatment or frequent assessment and monitoring.

6 (7) "Intermediate care unit" means a unit of a hospital that provides progressive care,
 7 intensive specialty care or step-down care.

8 (8) "Progressive care" means care provided to hospital patients who need more moni-
 9 toring and assessment than patients on the general floors but whose conditions are not so
 10 unstable that they require care in an intensive care unit.

11 (9) "Service staff" means service workers as defined by a collective bargaining unit.

12 (10) "Step-down care" means care for patients transitioning out of the intensive care unit
 13 who require more care and attention than patients on a hospital's general floors.

14 (11) "Technical staff" means technical workers as defined in a collective bargaining
 15 agreement.

16 **SECTION 2.** Sections 3 to 5 of this 2023 Act are added to and made a part of ORS 441.152
 17 to 441.177.

18 **SECTION 3.** (1)(a) For each hospital there shall be established a hospital technical staff-
 19 ing committee. A hospital technical staffing committee shall consist of an equal number of
 20 hospital technical managers and technical staff who work at the hospital.

21 (b) If the technical staff who work at the hospital have an exclusive representative, the
 22 exclusive representative shall select the technical staff members of the committee.

23 (c) If none of the technical staff who work at the hospital have an exclusive represen-
 24 tative, the technical managers shall select the technical staff members of the committee.

25 (2) A hospital technical staffing committee shall develop a written hospital-wide staffing
 26 plan in accordance with ORS 441.155. In developing the staffing plan the primary goal of the
 27 committee shall be to ensure that the hospital is staffed sufficiently to meet the health care
 28 needs of the patients in the hospital. The committee shall review and modify as needed the
 29 staffing plan in accordance with ORS 441.156.

30 (3) A majority of the members of the committee constitutes a quorum for the transaction
 31 of business.

32 (4) A hospital technical staffing committee must have two cochairs. One cochair shall
 33 be a technical manager elected by the members of the committee who are technical manag-
 34 ers. The other cochair shall be a technical staff person elected by the members of the com-
 35 mittee who are technical staff.

36 (5)(a) A decision made by a hospital technical staffing committee must be by a vote of a
 37 majority of the members of the committee. If there is an unequal number of technical staff
 38 and technical managers in a quorum that is present for a meeting, only an equal number of
 39 technical staff and of technical managers may vote.

40 (b) If the committee is unable to reach agreement on a staffing plan, either cochair may
 41 invoke a 30-day period during which the committee shall continue to try to reach agreement
 42 on a staffing plan. During the 30-day period, the hospital shall respond in a timely manner
 43 to reasonable requests from members of the committee for data that will enable the com-
 44 mittee to reach a resolution. If, at the end of the 30-day period, the committee is unable to
 45 reach agreement on a staffing plan, one of the cochairs shall notify the Oregon Health Au-

1 **thority of the impasse.**

2 (c) Upon receiving the notification of impasse under paragraph (b) of this subsection, the
 3 **authority shall provide the committee with a mediator to assist the committee in reaching**
 4 **agreement on a staffing plan. A staffing plan created through mediation must meet the re-**
 5 **quirements of ORS 441.155 and 441.156.**

6 (d) If the committee is unable to reach agreement on a staffing plan after 90 days of
 7 **mediation, the hospital shall implement a staffing plan that, at a minimum, meets the re-**
 8 **quirements of section 5 of this 2023 Act.**

9 (6) A hospital technical staffing committee must meet at least once every three months
 10 **at a time and place specified by the cochairs.**

11 (7)(a) Except as provided in paragraph (b) of this subsection, a hospital technical staffing
 12 **committee must be open to:**

13 (A) The hospital’s technical staff as observers; and

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

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

17 (8) Minutes must be taken at every committee meeting and the minutes must:

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

19 (b) Include a summary of all discussions; and

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

21 (9) A hospital manager shall excuse from their duties technical staff and technical man-
 22 **agers who serve on the hospital technical staffing committee and compensate the technical**
 23 **staff and technical managers who serve on the committee for time spent attending commit-**
 24 **tee meetings.**

25 **SECTION 4.** (1)(a) For each hospital there shall be established a hospital service staffing
 26 **committee. A hospital service staffing committee shall consist of an equal number of service**
 27 **staff managers and service staff who work at the hospital.**

28 (b) If the service staff who work at the hospital have an exclusive representative, the
 29 **exclusive representative shall select the service staff members of the committee.**

30 (c) If none of the service staff who work at the hospital have an exclusive representative,
 31 **the service staff managers shall select the service staff members of the committee.**

32 (2) A hospital service staffing committee shall develop a written hospital-wide staffing
 33 **plan in accordance with ORS 441.155. The committee shall review and modify as needed the**
 34 **staffing plan in accordance with ORS 441.156.**

35 (3) A majority of the members of the committee constitutes a quorum for the transaction
 36 **of business.**

37 (4) A hospital service staffing committee must have two cochairs. One cochair shall be
 38 **a service staff manager elected by the members of the committee who are service staff**
 39 **managers. The other cochair shall be a service staff person elected by the members of the**
 40 **committee who are service staff.**

41 (5)(a) A decision made by a hospital service staffing committee must be by a vote of a
 42 **majority of the members of the committee. If there is an unequal number of service staff**
 43 **and service staff managers in a quorum that is present for a meeting, only an equal number**
 44 **of service staff and service staff managers may vote.**

45 (b) If the committee is unable to reach agreement on a staffing plan, either cochair may

1 invoke a 30-day period during which the committee shall continue to try to reach agreement
 2 on a staffing plan. During the 30-day period, the hospital shall respond in a timely manner
 3 to reasonable requests from members of the committee for data that will enable the com-
 4 mittee to reach a resolution. If, at the end of the 30-day period, the committee is unable to
 5 reach agreement on a staffing plan, one of the cochairs shall notify the Oregon Health Au-
 6 thority of the impasse.

7 (c) Upon receiving the notification of impasse under paragraph (b) of this subsection, the
 8 authority shall provide the committee with a mediator to assist the committee in reaching
 9 agreement on a staffing plan. A staffing plan created through mediation must meet the re-
 10 quirements of ORS 441.155 and 441.156.

11 (d) If the committee is unable to reach agreement on a staffing plan after 90 days of
 12 mediation, the hospital shall implement a staffing plan that, at a minimum, meets the re-
 13 quirements of section 5 of this 2023 Act.

14 (6) A hospital service staffing committee must meet at least once every three months
 15 at a time and place specified by the cochairs.

16 (7)(a) Except as provided in paragraph (b) of this subsection, a hospital service staffing
 17 committee must be open to:

18 (A) The hospital's service staff as observers; and

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

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

22 (8) Minutes must be taken at every committee meeting and the minutes must:

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

24 (b) Include a summary of all discussions; and

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

26 (9) A hospital manager shall excuse from their duties service staff and service staff
 27 managers who serve on the hospital service staffing committee and compensate the service
 28 staff and service staff managers who serve on the committee for time spent attending com-
 29 mittee meetings.

30 **SECTION 5.** With respect to direct care registered nurses, a hospital staffing plan must,
 31 at a minimum, ensure that at all times:

32 (1) In an emergency department:

33 (a) A direct care registered nurse is assigned to not more than three nontrauma or
 34 noncritical care patients, or not more than one trauma or critical care patient; and

35 (b) Two direct care registered nurses are assigned to one patient under circumstances
 36 identified in the plan, such as when a patient is in hemorrhagic shock and needing massive
 37 blood transfusions.

38 (2) In an intensive care unit:

39 (a) A direct care registered nurse is assigned to not more than one patient or at most
 40 two patients depending on the stability of the patient or patients as assessed by a direct care
 41 registered nurse in the intensive care unit; and

42 (b) Two direct care registered nurses are assigned to one patient under appropriate cir-
 43 cumstances identified in the plan, such as when a patient requires advanced life support
 44 measures such as extra corporeal membrane oxygenation.

45 (3) In a labor and delivery unit, a direct care registered nurse is assigned to no more

1 **than two patients or to no more than one patient if the patient is in active labor or if the**
 2 **patient is at any stage of labor and is experiencing complications, in accordance with na-**
 3 **tionally recognized nurse staffing standards.**

4 **(4) In a postpartum, antepartum and well-baby nursery, a direct care registered nurse**
 5 **is assigned to no more than six patients counting mother and baby each as separate patients.**

6 **(5) In an operating room, a direct care registered nurse is assigned to no more than one**
 7 **patient.**

8 **(6) In an oncology unit, a direct care registered nurse is assigned to no more than four**
 9 **patients.**

10 **(7) In a postanesthesia care unit, a direct care registered nurse is assigned to no more**
 11 **than two patients, in accordance with nationally recognized nurse staffing standards.**

12 **(8) In an intermediate care unit, a direct care registered nurse is assigned to no more**
 13 **than three patients.**

14 **(9) In a medical-surgical unit, a direct care registered nurse is assigned to no more than**
 15 **four patients.**

16 **(10) In a cardiac telemetry unit, a direct care registered nurse is assigned to no more**
 17 **than three patients.**

18 **(11) In a psychiatric unit, a direct care registered nurse is assigned to no more than five**
 19 **patients.**

20 **(12) In a pediatric unit, a direct care registered nurse is assigned to no more than three**
 21 **patients.**

22 **(13) Direct care registered nurses who are charge nurses are not required to be respon-**
 23 **sible for assigning more than six patients in a unit.**

24 **SECTION 6.** ORS 441.154 is amended to read:

25 441.154. (1)(a) For each hospital there shall be established a hospital nurse staffing committee.
 26 Each committee shall:

27 (A) Consist of an equal number of hospital nurse managers and direct care staff;

28 (B) For *[that]* **the** portion of the committee composed of direct care staff, consist entirely of di-
 29 rect care registered nurses, except for one position to be filled by a direct care staff member who
 30 is not a registered nurse and whose services are covered by a written hospital-wide staffing plan
 31 that meets the requirements of ORS 441.155; and

32 (C) Include at least one direct care registered nurse from each hospital nurse specialty or unit.

33 (b) If **any of** the direct care registered nurses who work at a hospital *[are represented under a*
 34 *collective bargaining agreement, the bargaining unit shall conduct a selection process by which the*
 35 *direct care registered nurses who work at the hospital select the members of the committee who are*
 36 *direct care registered nurses]* **have an exclusive representative, the exclusive representative**
 37 **shall select the direct care registered nurse members of the committee.**

38 (c) If the direct care staff member who is not a registered nurse who works at a hospital *[is*
 39 *represented under a collective bargaining agreement, the bargaining unit shall use the selection process*
 40 *conducted pursuant to paragraph (b) of this subsection to select that member of the committee]* **has an**
 41 **exclusive representative, the exclusive representative shall select the direct care staff**
 42 **member of the committee who is not a registered nurse.**

43 (d) **If none of the direct care registered nurses who work at a hospital are represented**
 44 **by an exclusive representative and the direct care staff members who are not registered**
 45 **nurses have an exclusive representative, the exclusive representative or representatives of**

1 **the direct care staff who are not nurses shall select the members of the committee.**

2 (e) **If none of the direct care staff who are not registered nurses have an exclusive rep-**
3 **resentative and the direct care registered nurses have an exclusive representative, the ex-**
4 **clusive representative of the direct care registered nurses shall select the direct care staff**
5 **members of the committee who are not registered nurses.**

6 [(d)] (f) **If none of the direct care [registered nurses] staff** who work at a hospital [*are not re-*
7 *presented under a collective bargaining agreement*] **have an exclusive representative**, the direct
8 care registered nurses belonging to a hospital nurse specialty or unit shall select each member of
9 the committee who is a direct care [*registered nurse*] **staff person** from that specialty or unit.

10 (2) A hospital nurse staffing committee shall develop a written hospital-wide staffing plan in
11 accordance with ORS 441.155. The committee's primary goals in developing the staffing plan shall
12 be to ensure that the hospital is staffed to meet the health care needs of patients. The committee
13 shall review and modify the staffing plan in accordance with ORS 441.156.

14 (3) A majority of the members of a hospital nurse staffing committee constitutes a quorum for
15 the transaction of business.

16 (4) A hospital nurse staffing committee shall have two cochair. One cochair shall be a hospital
17 nurse manager elected by the members of the committee who are hospital nurse managers and one
18 cochair shall be a direct care registered nurse elected by the members of the committee who are
19 direct care staff.

20 (5)(a) A decision made by a hospital nurse staffing committee must be made by a vote of a ma-
21 jority of the members of the committee. If a quorum of members **present at a meeting** comprises
22 an unequal number of hospital nurse managers and direct care staff, only an equal number of hos-
23 pital nurse managers and direct care staff may vote.

24 [(b) *If the committee is unable to reach an agreement on the staffing plan, either cochair of the*
25 *committee may invoke a 30-day period during which the committee shall continue to develop the staffing*
26 *plan. During the 30-day period, the hospital shall respond in a timely manner to reasonable requests*
27 *from members of the committee for data that will enable the committee to reach a resolution. If at the*
28 *end of the 30-day period, the committee remains unable to reach an agreement on the staffing plan, one*
29 *of the cochairs shall notify the Oregon Health Authority of the impasse.*]

30 [(c) *Upon receiving notification under paragraph (b) of this subsection, the authority shall provide*
31 *the committee with a mediator to assist the committee in reaching an agreement on the staffing plan.*
32 *Mediation conducted under this paragraph must be consistent with the requirements for implementing*
33 *and reviewing staffing plans under ORS 441.155 and 441.156.*]

34 [(d)] (b) **If the committee is unable to reach an agreement on the staffing plan after 90 days [of**
35 *mediation, the authority may impose a penalty against the hospital as described in ORS 441.175] of
36 **deliberation, the cochairs shall submit the disputed versions of the staffing plan to the**
37 **Oregon Health Authority and the authority shall initiate binding arbitration. The arbitrator**
38 **shall be selected using alternating strikes by the cochairs or their designees from a list**
39 **maintained by the authority. Arbitration must be scheduled by mutual agreement no later**
40 **than 60 calendar days after the cochairs submit the disputed versions of the staffing plan to**
41 **the authority. The arbitrator shall issue a decision no later than 60 days after the hearing**
42 **record closes. The decision must be based on the staffing plans submitted by the chair-**
43 **persons. The hospital shall pay the cost of the arbitrator.***

44 (6) A hospital nurse staffing committee shall meet:

45 (a) At least once every three months; and

1 (b) At any time and place specified by either cochair.

2 (7)(a) Subject to paragraph (b) of this subsection, a hospital nurse staffing committee meeting
3 must be open to:

4 (A) The hospital nursing staff as observers; and

5 (B) Upon invitation by either cochair, other observers or presenters.

6 (b) At any time, either cochair may exclude persons described in paragraph (a) of this subsection
7 from a committee meeting for purposes related to deliberation and voting.

8 (8) Minutes of hospital nurse staffing committee meetings must:

9 (a) Include motions made and outcomes of votes taken;

10 (b) Summarize discussions; and

11 (c) Be made available in a timely manner to hospital nursing staff and other hospital staff upon
12 request.

13 (9) A hospital shall release a member of a hospital nurse staffing committee described in sub-
14 section (1)(a) of this section from the member's assignment, and provide the member with paid time,
15 to attend committee meetings.

16 **SECTION 7.** ORS 441.155 is amended to read:

17 441.155. (1) Each hospital shall implement the written hospital-wide staffing plan for nursing
18 services that has been developed and approved by the hospital nurse staffing committee under ORS
19 441.154.

20 (2) The staffing plan:

21 (a) Must be based on the specialized qualifications and competencies of the nursing staff and
22 provide for the skill mix and level of competency necessary to ensure that the hospital is staffed to
23 meet the health care needs of patients;

24 (b) Must be based on **the size of the hospital and** a measurement of hospital unit activity that
25 quantifies the rate of admissions, discharges and transfers for each hospital unit and the time re-
26 quired for a direct care registered nurse belonging to a hospital unit to complete admissions, dis-
27 charges and transfers for that hospital unit;

28 (c) Must be based on total diagnoses for each hospital unit and the nursing staff required to
29 manage that set of diagnoses;

30 (d) Must be consistent with nationally recognized evidence-based standards and guidelines es-
31 tablished by professional nursing specialty organizations;

32 (e) Must recognize differences in patient acuity;

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

36 (g) Must include a formal process for evaluating and initiating limitations on admission or di-
37 version of patients to another hospital when, in the judgment of a direct care registered nurse or
38 a nurse manager, there is an inability to meet patient care needs or a risk of harm to patients;

39 (h) Must consider tasks not related to providing direct care, including meal breaks and rest
40 breaks; *[and]*

41 (i) May not base nursing staff requirements solely on external benchmarking data; **and**

42 **(j) Must comply with section 5 of this 2023 Act.**

43 (3) A hospital must maintain and post a list of on-call nursing staff or staffing agencies to pro-
44 vide replacement nursing staff in the event of a vacancy. The list of on-call nursing staff or staffing
45 agencies must be sufficient to provide for replacement nursing staff.

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

5 (b) A staffing plan does not create, preempt or modify a collective bargaining agreement or re-
6 quire a union or employer to bargain over the staffing plan while a collective bargaining agreement
7 is in effect.

8 **(5) A hospital shall submit to the Oregon Health Authority any staffing plan adopted in**
9 **accordance with this section and submit any changes to the plan no later than 14 days after**
10 **approval of the changes by the hospital nurse staffing committee under ORS 441.154 and**
11 **441.156.**

12 **SECTION 8.** ORS 441.156 is amended to read:

13 441.156. (1) A hospital nurse staffing committee established pursuant to ORS 441.154 shall review
14 the written hospital-wide staffing plan developed by the committee under ORS 441.155:

15 (a) At least once every year; and

16 (b) At any other date and time specified by either cochair of the committee.

17 (2) In reviewing a staffing plan, a hospital nurse staffing committee shall consider:

18 (a) Patient outcomes;

19 (b) Complaints regarding staffing, including complaints about a delay in direct care nursing or
20 an absence of direct care nursing;

21 (c) The number of hours of nursing care provided through a hospital unit compared with the
22 number of patients served by the hospital unit during a 24-hour period;

23 (d) The aggregate hours of mandatory overtime worked by the nursing staff;

24 (e) The aggregate hours of voluntary overtime worked by the nursing staff;

25 (f) The percentage of shifts for each hospital unit for which staffing differed from what is re-
26 quired by the staffing plan;

27 **(g) The number of meal and rest breaks missed by direct care staff; and**

28 **[(g)] (h) Any other matter determined by the committee to be necessary to ensure that the**
29 **hospital is staffed to meet the health care needs of patients.**

30 (3) Upon reviewing a staffing plan, a hospital nurse staffing committee shall:

31 (a) Report whether the staffing plan ensures that the hospital is staffed to meet the health care
32 needs of patients **at all times including during meal and rest breaks**; and

33 (b) Modify the staffing plan as necessary to ensure that the hospital is staffed to meet the health
34 care needs of patients **at all times including during meal and rest breaks.**

35
36 **(Enforcement)**
37

38 **SECTION 9.** ORS 441.157 is amended to read:

39 441.157. (1) For the sole purpose of verifying compliance with the requirements of ORS 441.152
40 to 441.177 and 441.192, the Oregon Health Authority shall audit each hospital in this state once
41 every three years, at the time of conducting an in-person site inspection of the hospital under ORS
42 441.025.

43 (2) When conducting an audit pursuant to this section, the authority shall:

44 (a) If the authority provides notice of the audit to the hospital, provide notice of the audit to
45 the cochairs of the hospital nurse staffing committee established pursuant to ORS 441.154;

1 (b) Interview both cochair of the hospital nurse staffing committee **and the exclusive repre-**
 2 **sentatives of employees of the hospital;**

3 (c) Review any other hospital record and conduct any other interview or site visit that is nec-
 4 essary to verify that the hospital is in compliance with the requirements of ORS 441.152 to 441.177
 5 and 441.192; and

6 (d) Within [60] **30** days after issuing an order requiring a hospital to implement a plan to correct
 7 a violation of ORS 441.152 to 441.177 or 441.192, conduct an investigation of the hospital to ensure
 8 [compliance with] **that the hospital will be in compliance no later than 45 days after** the order.

9 (3) Following an investigation conducted pursuant to subsection (2) of this section, the authority
 10 shall provide in writing a report of the authority’s findings to the hospital and the cochair of the
 11 hospital nurse staffing committee.

12 (4) The authority shall compile and maintain for public inspection an annual report of audits and
 13 investigations conducted pursuant to this section.

14 (5) The costs of audits required by this section may be paid out of funds from licensing fees paid
 15 by hospitals under ORS 441.020.

16 **SECTION 10.** ORS 441.171 is amended to read:

17 441.171. (1) For purposes of ensuring compliance with ORS 441.152 to 441.177, the Oregon Health
 18 Authority shall:

19 **(a) Establish an online portal for a hospital staff person to file a complaint regarding a**
 20 **hospital’s failure to adopt a staffing plan in accordance with ORS 441.152 to 441.177 or failure**
 21 **to comply with a staffing plan established in accordance with ORS 441.152 to 441.177;**

22 [(a)] **(b)** Within [60] **30** days after receiving a complaint against a hospital for violating a pro-
 23 vision of ORS 441.152 to 441.177, conduct an on-site investigation of the hospital; and

24 [(b)] **(c)** Within [60] **45** days after issuing an order requiring a hospital to implement a plan to
 25 correct a violation of ORS 441.152 to 441.177, conduct an investigation of the hospital to ensure
 26 compliance with the plan.

27 (2) When conducting an investigation of a hospital to ensure compliance with ORS 441.152 to
 28 441.177, the authority shall, if the authority provides notice of the investigation to the hospital,
 29 provide notice of the investigation to the cochair of the hospital nurse staffing committee estab-
 30 lished pursuant to ORS 441.154 **and the exclusive representatives of employees of the hospital.**

31 (3) Following an investigation conducted pursuant to this section, the authority shall provide in
 32 writing a report of the authority’s findings to the hospital and the cochair of the hospital nurse
 33 staffing committee **and the exclusive representatives of employees of the hospital.**

34 (4) When conducting an investigation of a hospital to ensure compliance with ORS 441.152 to
 35 441.177, the authority may:

- 36 (a) Take evidence;
- 37 (b) Take the depositions of witnesses in the manner provided by law in civil cases;
- 38 (c) Compel the appearance of witnesses in the manner provided by law in civil cases;
- 39 (d) Require answers to interrogatories; and
- 40 (e) Compel the production of books, papers, accounts, documents and testimony pertaining to the
 41 matter under investigation.

42 **(5) The authority shall send a copy of any complaint received by the authority to the**
 43 **exclusive representative, if any, of the employee or employees filing the complaint.**

44 **SECTION 11.** ORS 441.175 is amended to read:

45 441.175. (1) The Oregon Health Authority [may] **shall** impose civil penalties in the manner pro-

1 vided in ORS 183.745 or suspend or revoke a license of a hospital for a violation of any provision
 2 of ORS 441.152 to 441.177 **or for failure to implement a plan to correct a violation of ORS**
 3 **441.152 to 441.157 or 441.192 within 45 days of the issuance of an order for compliance under**
 4 **ORS 441.157.** The authority shall adopt by rule a schedule establishing the amount of civil penalty
 5 that may be imposed for a violation of ORS 441.152 to 441.177 **or 441.192** [*when there is a reasonable*
 6 *belief that safe patient care has been or may be negatively impacted, except that a civil penalty may*
 7 *not exceed \$5,000. Each violation of a written hospital-wide staffing plan shall be considered a separate*
 8 *violation. Any license that is suspended or revoked under this subsection shall be suspended or revoked*
 9 *as provided in ORS 441.030.] **The schedule shall include the following minimum penalties:***

10 (a) **\$10,000 for each day that a hospital unit was staffed below the requirements of the**
 11 **hospital staffing plan or other higher standards that may be adopted by the authority.**

12 (b) **\$200 for each missed meal or rest breaks of a direct care staff person which shall be**
 13 **collected by the authority and paid to the direct care staff persons who missed their meal**
 14 **or rest breaks.**

15 (2) The authority shall maintain for public inspection records of any civil penalties or license
 16 suspensions or revocations imposed on hospitals penalized under subsection (1) of this section.

17 **SECTION 12.** ORS 441.177 is amended to read:

18 441.177. The Oregon Health Authority shall post on a website maintained by the authority:

19 (1) **The hospital staffing plans received by the authority;**

20 [(1)] (2) **Reports of audits described in ORS 441.157 and any compliance surveys;**

21 [(2)] (3) **Any complaints filed against a hospital and** any report made pursuant to an investi-
 22 gation of whether a hospital is in compliance with ORS 441.152 to 441.177;

23 [(3)] (4) Any order requiring a hospital to implement a plan to correct a violation of ORS 441.152
 24 to 441.177;

25 [(4)] (5) Any order imposing a civil penalty against a hospital or suspending or revoking the li-
 26 cense of a hospital pursuant to ORS 441.175; and

27 [(5)] (6) Any other matter recommended by the Nurse Staffing Advisory Board established under
 28 ORS 441.152.

29 **SECTION 13.** (1) **In addition to any other remedy available at law, a hospital staff person**
 30 **or a labor organization that is the exclusive representative of a hospital staff person shall**
 31 **have a cause of action against a hospital for failing to have in effect a staffing plan in ac-**
 32 **cordance with ORS 441.152 to 441.177 or for failing to comply with a staffing plan established**
 33 **under ORS 441.152 to 441.177.**

34 (2) **An action filed under this section shall be filed in the Circuit Court for Marion**
 35 **County.**

36 (3) **If the court finds that a hospital has failed to have in effect a staffing plan in ac-**
 37 **cordance with ORS 441.152 to 441.177 or has failed to comply with a staffing plan established**
 38 **under ORS 441.152 to 441.177 the court may order appropriate relief including:**

39 (a) **Assessment of a civil penalty in amounts established in ORS 441.175;**

40 (b) **An order to the Oregon Health Authority to suspend or revoke the license of the**
 41 **hospital;**

42 (c) **Other injunctive relief;**

43 (d) **Reasonable attorney fees to the prevailing party; or**

44 (e) **Any other remedies or relief the court deems reasonable.**

45 **SECTION 14.** (1) **When conducting an in-person site inspection of a hospital under ORS**

1 **441.025, the Oregon Health Authority shall review the hospital staffing plans and investigate**
2 **whether the hospital has been in compliance with the staffing plans. If the authority finds**
3 **that the hospital has failed to establish a staffing plan that meets the requirements of ORS**
4 **441.155 and 441.156 and section 5 of this 2023 Act or has failed to comply with a staffing plan**
5 **created in accordance with ORS 441.152 to 441.177, the authority shall issue a finding of**
6 **noncompliance and require the hospital to develop a plan of correction.**

7 **(2) If the authority finds that a hospital has failed to establish a staffing plan that meets**
8 **the requirements of ORS 441.155 and 441.156 or has failed to comply with a staffing plan**
9 **created in accordance with ORS 441.152 to 441.177, the authority shall post to the authority's**
10 **website a report of its finding. The report shall be posted to the website no later than three**
11 **months after the authority makes the determination.**

12 **(3) The relevant staffing committee shall be responsible for developing the plan of cor-**
13 **rection. The plan of correction must be submitted to the authority no later than 30 business**
14 **days after the authority issues its finding of noncompliance. A failure to timely submit a plan**
15 **of correction may subject the hospital to penalties as prescribed in ORS 441.175.**

16 **(4) The authority shall approve or reject a plan of correction within 30 days of receipt.**
17 **If rejected, the staffing committee must submit a revised plan of correction no later than**
18 **30 business days after the initial plan is rejected. Penalties under ORS 441.175 will begin to**
19 **accrue beginning with the authority's rejection of a plan of correction and continue until a**
20 **revised plan is approved by the authority. Once approved, a plan of correction must be im-**
21 **plemented within 45 business days.**

22 **SECTION 15.** ORS 441.020 is amended to read:

23 441.020. (1) Licenses for health care facilities, except long term care facilities as defined in ORS
24 442.015, must be obtained from the Oregon Health Authority.

25 (2) Licenses for long term care facilities must be obtained from the Department of Human Ser-
26 vices.

27 (3) Applications shall be upon such forms and shall contain such information as the authority
28 or the department may reasonably require, which may include affirmative evidence of ability to
29 comply with such reasonable standards and rules as may lawfully be prescribed under ORS 441.025.

30 (4)(a) Each application submitted to the Oregon Health Authority must be accompanied by the
31 license fee. If the license is denied, the fee shall be refunded to the applicant. If the license is issued,
32 the fee shall be paid into the State Treasury to the credit of the Oregon Health Authority Fund for
33 the purpose of carrying out the functions of the Oregon Health Authority under and enforcing ORS
34 441.015 to 441.087 **and 441.152 to 441.177**; or

35 (b) Each application submitted to the Department of Human Services must be accompanied by
36 the application fee or the annual renewal fee, as applicable. If the license is denied, the fee shall
37 be refunded to the applicant. If the license is issued, the fee shall be paid into the State Treasury
38 to the credit of the Department of Human Services Account for the purpose of carrying out the
39 functions of the Department of Human Services under and enforcing ORS 431A.050 to 431A.080 and
40 441.015 to 441.087.

41 (5) Except as otherwise provided in subsection (8) of this section, for hospitals with:

42 (a) Fewer than 26 beds, the annual license fee shall be \$1,250.

43 (b) Twenty-six beds or more but fewer than 50 beds, the annual license fee shall be \$1,850.

44 (c) Fifty or more beds but fewer than 100 beds, the annual license fee shall be \$3,800.

45 (d) One hundred beds or more but fewer than 200 beds, the annual license fee shall be \$6,525.

- 1 (e) Two hundred or more beds, but fewer than 500 beds, the annual license fee shall be \$8,500.
2 (f) Five hundred or more beds, the annual license fee shall be \$12,070.
3 (6) A hospital shall pay an annual fee of \$750 for each hospital satellite indorsed under the
4 hospital's license.
5 (7) The authority may charge a reduced hospital fee or hospital satellite fee if the authority
6 determines that charging the standard fee constitutes a significant financial burden to the facility.
7 (8) For long term care facilities with:
8 (a) One to 15 beds, the application fee shall be \$2,000 and the annual renewal fee shall be \$1,000.
9 (b) Sixteen to 49 beds, the application fee shall be \$3,000 and the annual renewal fee shall be
10 \$1,500.
11 (c) Fifty to 99 beds, the application fee shall be \$4,000 and the annual renewal fee shall be
12 \$2,000.
13 (d) One hundred to 150 beds, the application fee shall be \$5,000 and the annual renewal fee shall
14 be \$2,500.
15 (e) More than 150 beds, the application fee shall be \$6,000 and the annual renewal fee shall be
16 \$3,000.
17 (9) For ambulatory surgical centers, the annual license fee shall be:
18 (a) \$1,750 for certified and high complexity noncertified ambulatory surgical centers with more
19 than two procedure rooms.
20 (b) \$1,250 for certified and high complexity noncertified ambulatory surgical centers with no
21 more than two procedure rooms.
22 (c) \$1,000 for moderate complexity noncertified ambulatory surgical centers.
23 (10) For birthing centers, the annual license fee shall be \$750.
24 (11) For outpatient renal dialysis facilities, the annual license fee shall be \$2,000.
25 (12) The authority shall prescribe by rule the fee for licensing an extended stay center, not to
26 exceed:
27 (a) An application fee of \$25,000; and
28 (b) An annual renewal fee of \$5,000.
29 (13) During the time the licenses remain in force, holders are not required to pay inspection fees
30 to any county, city or other municipality.
31 (14) Any health care facility license may be indorsed to permit operation at more than one lo-
32 cation. If so, the applicable license fee shall be the sum of the license fees that would be applicable
33 if each location were separately licensed. The authority may include hospital satellites on a
34 hospital's license in accordance with rules adopted by the authority.
35 (15) Licenses for health maintenance organizations shall be obtained from the Director of the
36 Department of Consumer and Business Services pursuant to ORS 731.072.
37 (16) Notwithstanding subsection (4) of this section, all moneys received for approved applications
38 pursuant to subsection (8) of this section shall be deposited in the Quality Care Fund established in
39 ORS 443.001.
40 (17) As used in this section:
41 (a) "Hospital satellite" has the meaning prescribed by the authority by rule.
42 (b) "Procedure room" means a room where surgery or invasive procedures are performed.
43 **SECTION 16.** ORS 441.025 is amended to read:
44 441.025. (1)(a) Upon receipt of a license fee and an application to operate a health care facility
45 other than a long term care facility, the Oregon Health Authority shall review the application and

1 conduct an in-person site inspection of the health care facility. The authority shall issue a license
2 if it finds that the applicant and health care facility comply with ORS 441.015 to 441.087 **and 441.152**
3 **to 441.177** and the rules of the authority provided that the authority does not receive within the
4 time specified a certificate of noncompliance issued by the State Fire Marshal, deputy, or approved
5 authority pursuant to ORS 479.215.

6 (b) The authority shall, following payment of the fee, annually renew each license issued under
7 this subsection unless:

8 (A) The health care facility's license has been suspended or revoked; or

9 (B) The State Fire Marshal, a deputy or an approved authority has issued a certificate of non-
10 compliance pursuant to ORS 479.215.

11 (2)(a) Upon receipt of a license fee and an application to operate a long term care facility, the
12 Department of Human Services shall review the application and conduct an in-person site inspection
13 of the long term care facility, including an inspection of the kitchen and other areas where food is
14 prepared for residents. The department shall issue a license if the department finds that the appli-
15 cant and long term care facility comply with ORS 441.015 to 441.087 and the rules of the department
16 provided that it does not receive within the time specified a certificate of noncompliance issued by
17 the State Fire Marshal, deputy, or approved authority pursuant to ORS 479.215.

18 (b) The department shall, following an in-person site inspection and payment of the fee, annually
19 renew each license issued under this subsection unless:

20 (A) The long term care facility's license has been suspended or revoked;

21 (B) The long term care facility is found not to be in substantial compliance, following the in-
22 person site inspection, with ORS 441.015 to 441.087 and 443.012 and the rules of the department;

23 (C) The long term care facility has failed an inspection of the kitchen or other areas where food
24 is prepared for residents that was conducted by the department in accordance with ORS 443.417,
25 except as provided in ORS 443.417 (2); or

26 (D) The State Fire Marshal, a deputy or an approved authority has issued a certificate of non-
27 compliance pursuant to ORS 479.215.

28 (3) Each license shall be issued only for the premises and persons or governmental units named
29 in the application and shall not be transferable or assignable.

30 (4) Licenses shall be posted in a conspicuous place on the licensed premises as prescribed by
31 rule of the authority or the department.

32 (5) No license shall be issued or renewed for any health care facility or health maintenance
33 organization that is required to obtain a certificate of need under ORS 442.315 until a certificate
34 of need has been granted. An ambulatory surgical center is not subject to the certificate of need
35 requirements in ORS 442.315.

36 (6) No license shall be issued or renewed for any skilled nursing facility or intermediate care
37 facility, unless the applicant has included in the application the name and such other information
38 as may be necessary to establish the identity and financial interests of any person who has incidents
39 of ownership in the facility representing an interest of 10 percent or more thereof. If the person
40 having such interest is a corporation, the name of any stockholder holding stock representing an
41 interest in the facility of 10 percent or more shall also be included in the application. If the person
42 having such interest is any other entity, the name of any member thereof having incidents of own-
43 ership representing an interest of 10 percent or more in the facility shall also be included in the
44 application.

45 (7) A license may be denied to any applicant for a license or renewal thereof or any stockholder

1 of any such applicant who has incidents of ownership in the health care facility representing an
2 interest of 10 percent or more thereof, or an interest of 10 percent or more of a lease agreement for
3 the facility, if during the five years prior to the application the applicant or any stockholder of the
4 applicant had an interest of 10 percent or more in the facility or of a lease for the facility and has
5 divested that interest after receiving from the authority or the department written notice that the
6 authority or the department intends to suspend or revoke the license or to decertify the facility from
7 eligibility to receive payments for services provided under this section.

8 (8) The Department of Human Services may not issue or renew a license for a long term care
9 facility, unless the applicant has included in the application the identity of any person who has in-
10 cident of ownership in the long term care facility who also has a financial interest in any pharmacy,
11 as defined in ORS 689.005.

12 (9) The authority shall adopt rules for each type of health care facility, except long term care
13 facilities, to carry out the purposes of ORS 441.015 to 441.087 **and 441.152 to 441.177** including, but
14 not limited to:

15 (a) Establishing classifications and descriptions for the different types of health care facilities
16 that are licensed under ORS 441.015 to 441.087; and

17 (b) Standards for patient care and safety, adequate professional staff organizations, training of
18 staff for whom no other state regulation exists, suitable delineation of professional privileges and
19 adequate staff analyses of clinical records.

20 (10) The department shall adopt rules for each type of long term care facility to carry out the
21 purposes of ORS 441.015 to 441.087 including, but not limited to:

22 (a) Establishing classifications and descriptions for the different types of long term care facili-
23 ties that are licensed under ORS 441.015 to 441.087;

24 (b) Standards for patient care and safety, adequate professional staff organizations, training of
25 staff for whom no other state regulation exists, suitable delineation of professional privileges and
26 adequate staff analyses of clinical records; and

27 (c) Rules to ensure that a long term care facility complies with ORS 443.012.

28 (11) The authority or department may not adopt a rule requiring a health care facility to serve
29 a specific food as long as the necessary nutritional food elements are present in the food that is
30 served.

31 (12) A health care facility licensed by the authority or department may not:

32 (a) Offer or provide services beyond the scope of the license classification assigned by the au-
33 thority or department; or

34 (b) Assume a descriptive title or represent itself under a descriptive title other than the classi-
35 fication assigned by the authority or department.

36 (13) A health care facility must reapply for licensure to change the classification assigned or the
37 type of license issued by the authority or department.

38
39 **HOME HEALTH AGENCY STAFFING PLANS**
40 **(Staffing Committees)**

41
42 **SECTION 17. As used in sections 17 to 21 of this 2023 Act:**

43 **(1) “Direct care” means any care provided by a direct care staff person of a home health**
44 **agency that is within the scope of the license or certification of the staff person.**

45 **(2) “Direct care staff” means any of the following employed by a home health agency who**

1 are routinely assigned to patient care and are replaced when they are absent:

2 (a) Registered nurses;

3 (b) Licensed practical nurses; or

4 (c) Certified nursing assistants.

5 (3) "Exclusive representative" means a labor organization that is:

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

7 (b) Certified as an exclusive representative by the Employment Relations Board under
8 ORS 243.650 to 243.809.

9 (4) "Home health agency" has the meaning given that term in ORS 443.014.

10 **SECTION 18. (1)(a)** For each home health agency there shall be established a home health
11 nurse staffing committee. A home health nurse staffing committee must:

12 (A) Consist of an equal number of nurse managers and direct care staff; and

13 (B) For the portion of the committee consisting of direct care staff, consist entirely of
14 direct care registered nurses, except for one position which must be filled by a direct care
15 staff member who is not a registered nurse and whose services are covered by a written
16 staffing plan that meets the requirements of section 19 of this 2023 Act.

17 (b) If any of the direct care registered nurses who work at the agency have an exclusive
18 representative, the exclusive representative shall select the direct care registered nurse
19 members of the committee.

20 (c) If any of the direct care staff who work at the agency and are not registered nurses
21 have an exclusive representative, the exclusive representative of the direct care staff shall
22 select the direct care staff member of the committee who is not a registered nurse.

23 (d) If none of the direct care registered nurses have an exclusive representative, but the
24 direct care staff members who are not registered nurses have an exclusive representative,
25 the exclusive representative of the direct care staff members shall select the members of the
26 committee who are registered nurses.

27 (e) If none of the direct care staff who are not registered nurses have an exclusive rep-
28 resentative, but the direct care registered nurses have an exclusive representative, the ex-
29 clusive representative of the direct care registered nurses shall select the direct care staff
30 member of the committee who is not a registered nurse.

31 (f) If none of the direct care registered nurses or direct care staff who work at the
32 agency have an exclusive representative, the direct care registered nurses and direct care
33 staff within a specialty or unit shall select the members of the committee who are direct
34 care registered nurses and direct care staff who are not registered nurses from that spe-
35 cialty or unit.

36 (2) A home health nurse staffing committee shall develop a written agency-wide nurse
37 staffing plan that meets the criteria in section 19 of this 2023 Act. In developing the staffing
38 plan, the committee's primary goal shall be to ensure that the agency is staffed to meet the
39 health care needs of the agency's clients. The committee shall review and modify the plan
40 as needed, as provided in section 20 of this 2023 Act.

41 (3) A majority of the members of the committee constitutes a quorum for the transaction
42 of business.

43 (4) A home health nurse staffing committee must have two cochair. One cochair shall
44 be a nurse manager elected by the members of the committee who are nurse managers and
45 the other cochair must be a direct care registered nurse elected by the members of the

1 committee who are direct care registered nurses.

2 (5)(a) A decision by a home health nurse staffing committee must be made by a vote of
3 a majority of the members of the committee. If there is an unequal number of direct care
4 staff and nurse managers in a quorum that is present for a meeting, only an equal number
5 of direct care staff and nurse managers may vote.

6 (b) If the committee is unable to reach agreement on a staffing plan after 90 days of
7 deliberation, the committee shall submit the disputed versions of the staffing plan to the
8 Oregon Health Authority to be resolved using the process described in ORS 441.154 (5)(b).

9 (6) A home health nurse staffing committee must meet:

10 (a) At least once every three months; and

11 (b) At a time and place specified by the cochaIRS.

12 (7)(a) Except as provided in paragraph (b) of this subsection, a meeting of a home health
13 nurse staffing committee must be open to:

14 (A) The home health agency's direct care staff as observers; 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 (8) Minutes must be taken at every committee meeting and the minutes must:

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

20 (b) Include a summary of all discussions; and

21 (c) Be made available in a timely manner to any of the staff of the home health agency
22 upon request.

23 (9) A home health agency manager shall excuse from their duties nurse managers and
24 direct care staff who serve on the home health nurse staffing committee and compensate the
25 nurse managers and direct care staff who serve on the committee for time spent attending
26 committee meetings.

27
28 (Home Health Nurse Staffing Plans)
29

30 **SECTION 19.** (1) Each home health agency shall implement a written home health staff-
31 ing plan that has been developed and approved by the home health nurse staffing committee
32 under section 18 of this 2023 Act. The home health staffing plan:

33 (a) Must include essential staffing standards specific to the clients of the agency;

34 (b) Must be based on the specialized qualifications and competencies of the nursing staff
35 and provide for the skill mix and level of competency necessary to ensure that the home
36 health services agency is staffed to meet the needs of clients;

37 (c) Must be based on a measurement of the activities that direct care staff of the agency
38 are expected to perform;

39 (d) Must be based on the diagnoses of the clients of the agency and the nursing staff
40 available to serve clients with such diagnoses;

41 (e) Must be consistent with nationally recognized evidence-based standards and guidelines
42 established by professional nursing specialty organizations;

43 (f) Must recognize the differences in acuity of the clients' conditions;

44 (g) Must establish minimum numbers of nursing staff, including licensed practical nurses
45 and certified nursing assistants required on each shift at all times including during meal and

1 rest breaks;

2 (h) Must consider tasks not related to providing direct client care, including education
3 hours;

4 (i) May not base nurse staffing requirements solely on external benchmarking data; and

5 (j) May not include productivity standards for staff that could result in disciplinary or
6 monetary penalties for staff.

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

11 (b) A staffing plan does not create, preempt or modify a collective bargaining agreement
12 or require a union or employer to bargain over the staffing plan while a collective bargaining
13 agreement is in effect.

14 (3) A home health agency shall submit to the Oregon Health Authority any staffing plan
15 adopted in accordance with this section and submit any changes to the plan no later than
16 14 days after approval of the changes by the home health nurse staffing committee under
17 sections 18 or 20 of this 2023 Act.

18 **SECTION 20.** (1) A home health nurse staffing committee established pursuant to section
19 18 of this 2023 Act shall review the staffing plan developed by the committee under section
20 18 of this 2023 Act:

21 (a) At least once every year; and

22 (b) At any other date and time specified by either cochair of the committee.

23 (2) In reviewing a staffing plan, a home health nurse staffing committee shall consider:

24 (a) Patient outcomes;

25 (b) Complaints regarding staffing, including complaints about a delay in direct care
26 nursing or an absence of direct care nursing;

27 (c) The number of hours of nursing care provided, compared with the number of patients
28 served by the home health agency during a 24-hour period;

29 (d) The aggregate hours of mandatory overtime worked by the nursing staff;

30 (e) The aggregate hours of voluntary overtime worked by the nursing staff;

31 (f) The number of meal and rest breaks missed by direct care staff; and

32 (g) Any other matter determined by the committee to be necessary to ensure that the
33 agency is staffed to meet the health care needs of clients.

34 (3) Upon reviewing a staffing plan, a home health nurse staffing committee shall:

35 (a) Report whether the staffing plan ensures that the agency is staffed to meet the health
36 care needs of clients at all times including during meal and rest breaks; and

37 (b) Modify the staffing plan as necessary to ensure that the agency is staffed to meet the
38 health care needs of clients at all times including during meal and rest breaks.

39
40 (Enforcement)

41
42 **SECTION 21.** (1) In addition to any other remedy available at law, a home health nurse
43 or a labor organization that is the exclusive representative of the home health nurse shall
44 have a cause of action against a home health agency for failing to have in effect a staffing
45 plan in accordance with section 19 of this 2023 Act or for failing to comply with a staffing

1 plan established under section 19 of this 2023 Act.

2 (2) An action filed under this section shall be filed in the Circuit Court for Marion
3 County.

4 (3) If the court finds that an agency has failed to have in effect a staffing plan in ac-
5 cordance with section 19 of this 2023 Act or failed to comply with a staffing plan established
6 under section 19 of this 2023 Act the court may order appropriate relief including:

7 (a) Assessment of a civil penalty in amounts established in section 22 of this 2023 Act;

8 (b) An order to the Oregon Health Authority to suspend or revoke the license of the
9 agency;

10 (c) Other injunctive relief;

11 (d) Reasonable attorney fees to the prevailing party; or

12 (e) Any other remedies or relief the court deems reasonable.

13 **SECTION 22.** (1) The Oregon Health Authority shall impose civil penalties in the manner
14 provided in ORS 183.745 or suspend or revoke a license of a home health agency for a vio-
15 lation of any provision of sections 17 to 21 of this 2023 Act. The authority shall adopt by rule
16 a schedule establishing the amount of civil penalty that may be imposed for a violation of
17 sections 17 to 21 of this 2023 Act. The schedule shall include the following minimum penal-
18 ties:

19 (a) \$10,000 for each day that an agency was staffed below the requirements of the home
20 health nurse staffing plan or other higher standards that may be adopted by the authority.

21 (b) \$200 for each missed meal or rest breaks of a direct care staff person which shall be
22 collected by the authority and paid to the direct care staff persons who missed their meal
23 or rest breaks.

24 (2) The authority shall maintain for public inspection records of any civil penalties or li-
25 cense suspensions or revocations imposed on home health agencies penalized under sub-
26 section (1) of this section.

27 **SECTION 23.** ORS 443.085 is amended to read:

28 443.085. The Oregon Health Authority shall adopt rules to implement ORS 443.014 to 443.105
29 and sections 17 to 21 of this 2023 Act including, but not limited to:

30 (1) The qualifications of professional and ancillary personnel in order to adequately furnish
31 home health services;

32 (2) Standards for the organization and quality of client care;

33 (3) Procedures for maintaining records;

34 (4) Provision for contractual arrangements for professional and ancillary health services; and

35 (5) Complaint and inspection procedures.

36
37 **IMPLEMENTATION**

38
39 **SECTION 24.** (1) Staffing committees described in ORS 441.154 and sections 3, 4 and 18
40 of this 2023 Act must develop new staffing plans or revise existing staffing plans in accord-
41 ance with ORS 441.152 to 441.177 and sections 17 to 21 of this 2023 Act and submit plans that
42 are approved by the committees to the Oregon Health Authority no later than three months
43 after the effective date of this 2023 Act.

44 (2) The authority shall approve or reject staffing plans submitted under subsection (1)
45 of this section no later than six months after the effective date of this 2023 Act.

CAPTIONS

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SECTION 25. The unit captions used in this 2023 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2023 Act.
