

House Bill 3096

Sponsored by Representative OWENS (at the request of Harney County Health District)

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**.

Includes nursing technicians as staff that may be considered in establishing hospital staff nursing plans. Exempts rural critical access hospital from requirement to have two nursing staff in unit when patient is present.

A BILL FOR AN ACT

1
2 Relating to hospital workforce; amending ORS 441.151, 441.154, 441.155 and 441.156.

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

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

5 441.151. As used in ORS 441.152 to 441.177[,]:

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

8 (2) **"Nursing staff" includes registered nurses, licensed practical nurses and certified**
9 **nursing assistants.**

10 (3) **"Nursing technician" includes a certified surgical technologist meeting the require-**
11 **ments of ORS 676.875 or other technician who meets the training and other qualifications**
12 **requirements, established by the nursing department of a hospital, to provide patient care**
13 **in the hospital.**

14 **SECTION 2.** ORS 441.155 is amended to read:

15 441.155. (1) Each hospital shall implement the written hospital-wide staffing plan for nursing
16 services that has been developed and approved by the hospital nurse staffing committee under ORS
17 441.154.

18 (2) The staffing plan:

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

22 (b) Must be based on a measurement of hospital unit activity that quantifies the rate of admis-
23 sions, discharges and transfers for each hospital unit and the time required for a direct care regis-
24 tered nurse belonging to a hospital unit to complete admissions, discharges and transfers for that
25 hospital unit;

26 (c) Must be based on total diagnoses for each hospital unit and the nursing staff **or nursing**
27 **technicians** required to manage that set of diagnoses;

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

30 (e) Must recognize differences in patient acuity;

31 (f) Must establish minimum numbers of nursing staff[, *including licensed practical nurses and*

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 *certified nursing assistants,] and nursing technicians* required on specified shifts, provided that:

2 (A) **In rural critical access hospitals, as defined in ORS 442.470, at least one registered**
 3 **nurse is on duty in a unit when a patient is present and another registered nurse is nearby**
 4 **to assist in case of emergency; and**

5 (B) **For all other hospitals,** at least one registered nurse and one other nursing staff member
 6 **or nursing technician** is on duty in a unit when a patient is present;

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

10 (h) Must consider tasks not related to providing direct care, including meal breaks and rest
 11 breaks; and

12 (i) May not base nursing staff requirements solely on external benchmarking data.

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

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

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

23 **SECTION 3.** ORS 441.154 is amended to read:

24 441.154. (1)(a) For each hospital there shall be established a hospital nurse staffing committee.
 25 Each committee shall:

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

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

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

32 (b) If the direct care registered nurses who work at a hospital are represented under a collective
 33 bargaining agreement, the bargaining unit shall conduct a selection process by which the direct care
 34 registered nurses who work at the hospital select the members of the committee who are direct care
 35 registered nurses.

36 (c) If the direct care staff member who is not a registered nurse who works at a hospital is re-
 37 presented under a collective bargaining agreement, the bargaining unit shall use the selection pro-
 38 cess conducted pursuant to paragraph (b) of this subsection to select that member of the committee.

39 (d) If the direct care registered nurses who work at a hospital are not represented under a
 40 collective bargaining agreement, the direct care registered nurses belonging to a hospital nurse
 41 specialty or unit shall select each member of the committee who is a direct care registered nurse
 42 from that specialty or unit.

43 (2) A hospital nurse staffing committee shall develop a written hospital-wide staffing plan in
 44 accordance with ORS 441.155. The committee's primary goals in developing the staffing plan shall
 45 be to ensure that the hospital is staffed to meet the health care needs of patients. The committee

1 shall review and modify the staffing plan in accordance with ORS 441.156.

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

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

8 (5)(a) A decision made by a hospital nurse staffing committee must be made by a vote of a ma-
9 jority of the members of the committee. If a quorum of members comprises an unequal number of
10 hospital nurse managers and direct care staff, only an equal number of hospital nurse managers and
11 direct care staff may vote.

12 (b) If the committee is unable to reach an agreement on the staffing plan, either cochair of the
13 committee may invoke a 30-day period during which the committee shall continue to develop the
14 staffing plan. During the 30-day period, the hospital shall respond in a timely manner to reasonable
15 requests from members of the committee for data that will enable the committee to reach a resol-
16 ution. If at the end of the 30-day period, the committee remains unable to reach an agreement on
17 the staffing plan, one of the cochairs shall notify the Oregon Health Authority of the impasse.

18 (c) Upon receiving notification under paragraph (b) of this subsection, the authority shall pro-
19 vide the committee with a mediator to assist the committee in reaching an agreement on the staffing
20 plan. Mediation conducted under this paragraph must be consistent with the requirements for im-
21 plementing and reviewing staffing plans under ORS 441.155 and 441.156.

22 (d) If the committee is unable to reach an agreement on the staffing plan after 90 days of me-
23 diation, the authority may impose a penalty against the hospital as described in ORS 441.175.

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

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

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

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

29 (A) The hospital nursing staff **and nursing technicians** as observers; and

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

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

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

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

35 (b) Summarize discussions; and

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

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

41 **SECTION 4.** ORS 441.156 is amended to read:

42 441.156. (1) A hospital nurse staffing committee established pursuant to ORS 441.154 shall review
43 the written hospital-wide staffing plan developed by the committee under ORS 441.155:

44 (a) At least once every year; and

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

- 1 (2) In reviewing a staffing plan, a hospital nurse staffing committee shall consider:
- 2 (a) Patient outcomes;
- 3 (b) Complaints regarding staffing, including complaints about a delay in direct care nursing or
- 4 an absence of direct care nursing;
- 5 (c) The number of hours of nursing care provided through a hospital unit compared with the
- 6 number of patients served by the hospital unit during a 24-hour period;
- 7 (d) The aggregate hours of mandatory overtime worked by the nursing staff **and nursing tech-**
- 8 **nicians**;
- 9 (e) The aggregate hours of voluntary overtime worked by the nursing staff **and nursing tech-**
- 10 **nicians**;
- 11 (f) The percentage of shifts for each hospital unit for which staffing differed from what is re-
- 12 quired by the staffing plan; and
- 13 (g) Any other matter determined by the committee to be necessary to ensure that the hospital
- 14 is staffed to meet the health care needs of patients.
- 15 (3) Upon reviewing a staffing plan, a hospital nurse staffing committee shall:
- 16 (a) Report whether the staffing plan ensures that the hospital is staffed to meet the health care
- 17 needs of patients; and
- 18 (b) Modify the staffing plan as necessary to ensure that the hospital is staffed to meet the health
- 19 care needs of patients.

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