

# House Bill 4089

Sponsored by Representative NELSON, Senator MANNING JR; Representatives CHAICHI, GAMBA, PHAM K, TRAN, WALTERS, Senators GOLDEN, TAYLOR, WOODS (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**. The statement includes a measure digest written in compliance with applicable readability standards.

**Digest:** The Act makes laws with respect to certain health care employee work schedules and on-call shifts. The Act makes laws with respect to hospital financial reporting and transparency. The Act directs hospitals to report to the OHA. The Act permits the OHA to impose penalties against hospitals that fail to comply with the law. (Flesch Readability Score: 61.5).

Imposes requirements on hospitals regarding predictive scheduling and on-call shifts.

Requires hospitals to report quarterly to the Oregon Health Authority certain hospital financial data, including the hospital's daily cash on hand.

Requires hospitals and hospital systems operating in this state to make certain financial data publicly available.

## A BILL FOR AN ACT

Relating to health care; creating new provisions; and amending ORS 441.770 and 441.795.

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

## PREDICTIVE SCHEDULING

**SECTION 1.** ORS 441.770 is amended to read:

441.770. (1) For purposes of this section, "nursing staff" includes registered nurses, licensed practical nurses, certified nursing assistants and other hospital nursing staff members as defined by the Oregon Health Authority by rule.

(2) When a hospital learns about the need for replacement staff, the hospital shall make every reasonable effort to obtain nursing staff for unfilled hours or shifts before requiring a nursing staff member to work overtime.

(3)(a) Except as provided in subsection (4) of this section, a hospital may not require a nursing staff member to work:

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

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

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

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

(b) For purposes of paragraph (a)(D) of this subsection, a nursing staff member begins to work when the nursing staff member begins a shift.

(4) A hospital may require an additional hour of work beyond the work authorized under subsection (3) of this section if:

(a) A staff vacancy for the next shift becomes known at the end of the current shift; or

(b) There is a potential harm to an assigned patient if the nursing staff member leaves the as-

**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 signment or transfers care to another nursing staff member.

2 (5) If a nursing staff member agrees to work overtime, the nursing staff member is accountable  
 3 for the nursing staff member's competency in practice and is responsible for notifying the nursing  
 4 staff member's supervisor when the nursing staff member's ability to safely provide care is compro-  
 5 mised.

6 (6)(a) Time spent in required meetings or receiving education or training shall be included as  
 7 hours worked for purposes of subsection (3) of this section.

8 (b) Time spent on call or on standby when the nursing staff member is required to be at the  
 9 premises of the employer shall be included as hours worked for purposes of subsection (3) of this  
 10 section.

11 (c) Time spent on call but away from the premises of the employer may not be included as hours  
 12 worked for purposes of subsection (3) of this section.

13 **(7)(a) A hospital shall compensate a nursing staff member for time spent on call or on**  
 14 **standby when the nursing staff member is required to be at or nearby the premises of the**  
 15 **hospital or such that the nursing staff member is unable to use the scheduled hours effec-**  
 16 **tively for the nursing staff member's personal purposes, regardless of whether the nursing**  
 17 **staff member is asked by the hospital to perform work.**

18 **(b) A hospital shall pay a nursing staff member scheduled for an on-call shift or standby**  
 19 **shift described in paragraph (a) of this subsection at least the applicable minimum wage rate**  
 20 **specified in ORS 653.025.**

21 **(c) The requirements of this subsection apply to nursing staff members who are nonex-**  
 22 **empt employees under the federal Fair Labor Standards Act.**

23 **(8)(a) For nursing staff members who are nonexempt employees under the federal Fair**  
 24 **Labor Standards Act, the hospital shall post a work schedule at least 14 days in advance that**  
 25 **includes all work shifts and on-call shifts for the period.**

26 **(b) A work schedule described under paragraph (a) of this subsection:**

27 **(A) May not be changed without the voluntary consent of the nursing staff member; and**

28 **(B) Must be posted in a conspicuous and accessible location.**

29 [(7)] **(9)** If a nursing staff member believes that a hospital unit is engaging in a pattern of re-  
 30 quiring direct care nursing staff to work overtime for nonemergency care, the nursing staff member  
 31 may report that information to the hospital nurse staffing committee established for the hospital  
 32 pursuant to ORS 441.762. The hospital nurse staffing committee shall consider the information when  
 33 reviewing the written hospital-wide staffing plan as required by ORS 441.764.

34 [(8)] **(10)** The provisions of this section do not apply to nursing staff needs:

35 (a) In the event of a national or state emergency or circumstances requiring the implementation  
 36 of a facility disaster plan; or

37 (b) In emergency circumstances identified by the authority by rule.

38  
 39 **CONFORMING AMENDMENTS**

40  
 41 **SECTION 2.** ORS 441.795 is amended to read:

42 441.795. (1) The Oregon Health Authority may adopt rules necessary to carry out ORS 441.761  
 43 to 441.795 only with respect to:

44 (a) The processing of complaints under ORS 441.791;

45 (b) The processing of complaints regarding meal breaks and rest breaks under ORS 441.790;

1 (c) The requirements for nurse-to-patient ratios in emergency departments under ORS 441.765  
2 (2)(a); and

3 (d) The provisions of ORS 441.770 (1) and [(8)(b)] (10)(b).

4 (2) The authority shall convene a subcommittee of the Nurse Staffing Advisory Board estab-  
5 lished in ORS 441.761 to advise the authority in the adoption of rules under this section. The sub-  
6 committee must have equal representation of hospital employees and hospital managers and shall  
7 include individuals representing labor organizations and organizations representing hospitals.

8  
9 **FINANCIAL TRANSPARENCY**

10  
11 **SECTION 3. Section 4 of this 2024 Act is added to and made a part of ORS chapter 442.**

12 **SECTION 4. (1) As used in this section, “hospital system” means:**

13 (a) A parent corporation of one or more hospitals and any entity affiliated with the par-  
14 ent corporation through ownership, governance, control or membership; or

15 (b) A hospital and any entity affiliated with the hospital through ownership, governance,  
16 control or membership.

17 (2) A hospital licensed in this state shall report the information prescribed by subsections  
18 (3) and (4) of this section to the Oregon Health Authority in the form and manner prescribed  
19 by the authority.

20 (3)(a) On a quarterly basis, a hospital shall report its cash on hand. Cash on hand is  
21 calculated as total assets available for general expenditures for the previous completed four  
22 calendar quarters divided by the daily operating expenses during the same period.

23 (b) As used in this subsection:

24 (A) “Assets” means cash and cash equivalents such as securities.

25 (B) “Daily operating expenses” means a hospital’s total operating expenses for the pre-  
26 vious completed four calendar quarters divided by 365.25.

27 (4) On an annual basis, a hospital shall report:

28 (a) Using the format of the Internal Revenue Service Form 990, the names, job titles and  
29 total compensation, including bonuses and benefits, of the hospital’s 10 highest paid employ-  
30 ees.

31 (b) The percentage of medical assistance program payments and the amount of other  
32 public funds that were invested in stocks.

33 (c) If a hospital is part of a multistate health care system, how much of the hospital’s  
34 profits earned:

35 (A) In this state were expended on hospitals in other states; and

36 (B) In other states were expended on hospitals in this state.

37 (5) Hospitals licensed in this state and hospital systems operating in this state must  
38 make publicly available on the hospital’s or hospital system’s website the following informa-  
39 tion for the preceding calendar year, updated annually:

40 (a) Income received for patient care broken out by:

41 (A) The classification of the care received; and

42 (B) The type of payer, such as patients, insurers or other third parties.

43 (b) Expenses, including salary and benefit information for each classification of employee  
44 and for individual executives.

45 (c) Investments and investment returns broken out by:

1 (A) Asset class; and

2 (B) Associated investment prospectuses or asset management plans.

3 (d) Trusts or assets held for future use, including real estate and any associated asset  
4 management plans.

5 (6) If a hospital or hospital system does not have a website, the information listed in  
6 subsection (5) of this section must be made available in hard copy form in each reception  
7 area of the hospital or hospital system.

8 (7) The authority shall adopt rules necessary to carry out the provisions of this section,  
9 including but not limited to:

10 (a) Prescribing definitions for the classifications of care, payer types and employees and  
11 prescribing the trusts or assets held for future use and other terms used in subsection (5)  
12 of this section; and

13 (b) Civil penalties that may be imposed in accordance with ORS 183.745 for a hospital's  
14 or a hospital system's failure to comply with the requirements of this section.

15 (8) The information that must be reported to the authority under this section is in ad-  
16 dition to and not in lieu of the reporting requirements in ORS 442.386 or 442.425 or other  
17 similar provisions.

18 SECTION 5. The unit captions used in this 2024 Act are provided only for the convenience  
19 of the reader and do not become part of the statutory law of this state or express any leg-  
20 islative intent in the enactment of this 2024 Act.

21