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House Bill (HB) 2697 Hospital Staffing Law Implementation Frequently Asked Questions (FAQ)

In 2023, the Oregon Legislature passed [HB 2697](#), which makes significant changes to Oregon's hospital staffing law. HB 2697 makes hospital staffing enforcement activities complaint-driven and eliminates routine triennial nurse staffing surveys.

As we work to implement this new law, it is clear that hospital managers, hospital staff, and the public, have many questions about HB 2697 and what the passage of HB 2697 means for complaints and investigations pending with the Oregon Health Authority (OHA) related to nurse staffing, triennial nurse staffing surveys, and requests for waivers from nurse staffing requirements.

HB 2697 becomes effective on September 1, 2023, with certain sections of the bill having later operative dates, including a delay in OHA's ability to enforce the law with civil penalties.

This initial communication is based on questions submitted and we are providing answers as best we can, given our current understanding of the law. These FAQs will be updated regularly as necessary as new questions arise.

Question 1: What are the key effective dates for HB 2697, that affect OHA's work?

Answer:

- **September 1, 2023:**
 - HB 2697 goes into effect ([Section 35](#))
 - The revised complaint investigations section ORS 441.171 including repeal of the requirement for plans of correction (POCs) and revisits goes into effect ([Section 18](#))

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- The amendments to the enforcement section ORS 441.175 and a new section regarding warning letters and civil penalties go into effect ([Sections 19-20](#))
- Triennial nurse staffing surveys ORS 441.157 are repealed, including the requirement for plans of correction and revisits ([Section 32](#))
- **January 1, 2024:** OHA must adopt rules to implement the process for receiving complaints ([Section 29](#))
- **June 1, 2024:** Hospitals must adopt and comply with Nurse Staffing Plans that meet all applicable requirements in HB 2697 including RN-to-patient ratios ([Sections 6, 7, 8, 9, 13, 14](#))
- **December 31, 2024:** Hospital Profession and Technical and Service Staffing Committees must be established and OHA may enforce Sections 3 and 4 of HB 2697, which establish these new committees and require these new plans ([Sections 3-4, 8, 29](#))
- **June 1, 2025:** OHA can begin imposing civil penalties for violations in Section 20 that occur on or after June 1, 2025. ([Section 29](#))

Question 2: Will OHA continue any work related to hospital triennial nurse staffing surveys required under current law, ORS 441.157, between now and September 1, 2023, when the survey requirement is repealed?

Answer: No. Effective September 1, 2023, OHA no longer has the authority to conduct triennial nurse staffing surveys or require POCs, so survey work related to nurse staffing has stopped. [HB 2697, Section 32](#)

Question 3: If a hospital has a nurse staffing survey report, as the result of a triennial survey or a complaint investigation, does it need to submit a POC?

Answer: No. As of September 1, 2023, OHA no longer has the authority to conduct triennial nurse staffing surveys, require POCs, or take any enforcement action based on an alleged violation that occurred prior to September 1, 2023. HB 2697, Section 32. OHA will be notifying hospitals that have outstanding nurse staffing citations, that they do not need to submit a POC.

Question 4: If OHA is currently working on triennial nurse staffing surveys reports or complaint investigation reports, will it issue those reports?

Answer: If OHA has concluded its investigation, it will finish and post its report. OHA will not continue any work on pending investigations, because as of September 1, 2023,

OHA no longer has the authority to conduct triennial nurse staffing surveys, require POCs, or take any enforcement action based on an alleged violation that occurred prior to September 1, 2023. [HB 2697, Section 32](#). OHA will be notifying hospitals that have outstanding nurse staffing citations, that they do not need to submit a POC.

Question 5: If a hospital has a pending POC that must be submitted to OHA, will it still need to draft and submit one?

Answer: No. As of September 1, 2023, OHA no longer has the authority to conduct triennial nurse staffing surveys, require POCs, or take any enforcement action based on an alleged violation that occurred prior to September 1, 2023. [HB 2697, Section 32](#). OHA will be notifying hospitals that have outstanding nurse staffing citations, that they do not need to submit a POC.

Question 6: Will OHA be doing any hospital revisits if it has received an acceptable POC, as was required under ORS 441.171(1)(b)?

Answer: No. As of September 1, 2023, revisits are no longer required and there is a new process under HB 2697 for investigating complaints. [HB 2697, Section 32](#)

Question 7: What will OHA do with complaints received prior to September 1, 2023?

Answer: Because of the changes to the law on September 1, 2023, OHA will not act on complaints received prior to September 1, 2023.

Question 8: Can a complaint be filed on or after September 1, 2023, that alleges a violation that occurred before September 1, 2023?

Answer: No. Complaints may only be filed for a violation that occurs on or after September 1, 2023. [HB 2697, Section 28\(3\)\(b\)](#)

Question 9: Do complaints have to be submitted to OHA within any particular time frame?

Answer: Yes. For a complaint to be valid it must be submitted within 60 days of when the incident occurred. [HB 2697, Section 18\(6\)](#)

Question 10: What will OHA do with complaints received on or after September 1, 2023?

Answer: Under HB 2697, OHA only investigates a “valid complaint.” So, for any complaint received after the effective date of the bill (September 1, 2023), that alleges a violation occurred on or after September 1, 2023, OHA will need to determine if it is a valid complaint. If it is, OHA will investigate. Until June 1, 2025, if a hospital is found to be out of compliance, OHA can only enforce by conducting an investigation, issuing a report, or issuing a warning letter if appropriate. OHA will notify a complainant if a complaint is not valid.

Because of the delayed implementation of some parts of the bill, as described above, some complaints may not be valid on September 1, 2023 because a hospital is not yet required to comply. For example, if a complaint is received on November 1, 2023, that a hospital does not have a hospital service staffing committee, that would not be a valid complaint because a service staffing committee does not have to be established until December 31, 2024.

OHA will adopt rules by January 1, 2024, to implement a process for receiving complaints, but in the meantime, starting September 1, 2023, a complaint form will be posted on OHA’s website, at www.healthoregon.org/facilitycomplaints. [HB 2697, Section 29\(3\)\(b\)](#)

Question 11: Will OHA investigate complaints regarding compliance with current nurse staffing plans, between September 1, 2023, and June 1, 2024?

Answer: Yes. Assuming a complaint is a valid complaint under [Section 20 of HB 2697](#), OHA would investigate in accordance with [Section 18](#) of the bill, and would take an enforcement action under [Section 20](#), which before June 1, 2025, would only include investigating and issuing warning letters or investigation reports as appropriate.

Question 12: Will OHA enforce violations of [Section 8](#) (CNA requirements) under [Section 20\(2\)\(f\)](#) on and after September 1, 2023 if CNA maximum patient assignments have not been incorporated into a staffing plan?

Answer: No. OHA does not interpret HB 2697, [Section 8](#), to be a stand-alone provision that can be enforced outside of a staffing plan.

Question 13: Can a meal and rest break violation complaint be filed with OHA?

Answer: Yes, OHA will forward the complaint to the Bureau of Labor and Industries (BOLI). BOLI investigates meal and rest break violations not OHA. The effective date of new BOLI provisions for meal and rest break violations is June 1, 2025. HB 2697, [Section 11\(2\)\(a\)](#) and [Section 12\(3\)](#)

Question 14: Does OHA have to provide notice to anyone when it gets a complaint?

Answer: Yes. For hospital staff represented by an exclusive representative (union), OHA is required to provide a copy of the complaint to the complainant's exclusive representative. [HB 2697, Section 18\(2\)\(b\)](#)

Question 15: Does a hospital need to renew a waiver from nurse staffing requirements as described in [ORS 441.164](#) if the underlying law that led to the waiver, is being repealed or amended?

Answer: No. If after September 1, 2023, the law from the which the hospital sought the waiver, has been repealed, a waiver does not need to be renewed. For example, the requirement in [ORS 441.155\(2\)\(f\)](#) that a nurse staffing plan have minimum staffing numbers, is repealed as of September 1, 2023, so a hospital would not need to request a waiver from this requirement.

Effective September 1, 2023, smaller type A or type B rural hospitals, can vary from the requirements of the nurse-to-patient ratios in [Section 6](#) of HB 2697 with approval from their nurse staffing committee and notice requirements met to OHA, HB 2697, [Section 14\(6\)](#). The definition of type and type B hospitals can be found at [ORS 442.470](#).

Question 16: What can OHA investigate (what is a valid complaint) under the law related to hospital staffing?

Answer: What is considered a valid complaint that OHA can investigate will depend in part on when hospitals are required to comply with certain sections of the bill. For example, a hospital is not required to have established a hospital professional and technical staffing committee until December 31, 2024. If OHA received a complaint on November 1, 2023, that a hospital had not established a professional and technical staffing committee, that would not be a valid complaint and OHA would not investigate. The key effective dates referenced above, help to provide a framework for when a complaint would be valid, and therefore could be investigated by OHA. When all aspects of the bill are effective, the complete list of complaint bases will be:

- Failure to establish a hospital professional and technical staffing committee or a hospital service staffing committee
- Failure to create a professional and technical staffing plan or a hospital service staffing plan
- Failure to adopt a nurse staffing plan by agreement or after binding arbitration

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- Failure to comply with the staffing level in the nurse staffing plan, including the nurse-to-patient staffing ratios and the failure is not an allowed deviation under the bill
- Failure to comply with the staffing level in the professional and technical staffing plan or the hospital service staffing plan and the failure is not an allowed deviation under the bill
- Failure to comply with the staffing requirements for CNAs in the bill and the failure is not an allowed deviation the bill
- Requiring a nursing staff, except as allowed by ORS 441.166, to work
 - Beyond an agreed-upon prearranged shift regardless of the length of the shift;
 - More than 48 hours in any hospital-defined work week;
 - More than 12 hours in a 24-hour period; or
 - During the 10-hour period immediately following the 12th hour worked during a 24-hour period
- Failure to allow a staff person at a hospital to attend a staffing committee meeting because the staff person was not released from other hospital duties to attend the meeting. [HB 2697, Section 20](#)

Question 17: Does HB 2697 limit OHA's ability to investigate and address complaints related to health and safety requirements in hospitals?

Answer: No. OHA has authority under [ORS 441.044](#) to receive and investigate complaints regarding the allegations of noncompliance with health and safety requirements in accordance with hospital licensing laws and administrative rules.

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