



## NSAB Rules Review Committee Meeting Agenda

Date: June 12, 2023  
 Time: 2:00 PM – 3:30 PM

To receive meeting login information, register for the meeting here:  
[https://www.zoomgov.com/meeting/register/vJlftu6pqTwuHdV\\_tFNgYPuziurkrKvB7ts](https://www.zoomgov.com/meeting/register/vJlftu6pqTwuHdV_tFNgYPuziurkrKvB7ts)

Time	Agenda Item	Materials Provided	Presenter
2:00 PM – 2:05 PM	<b>Item 1 – Review the Committee agenda</b>		Kimberly Voelker
2:05 PM – 2:10 PM	<b>Item 2 – Summarize rules discussed at previous meeting</b>		Kimberly Voelker
2:10 PM – 3:25 PM	<b>Item 3 – Review nurse staffing rule &amp; statute language</b> <ul style="list-style-type: none"> <li>• Continue discussion: Nurse staffing plan during an emergency</li> <li>• Begin discussion: Nurse Staffing Definitions</li> </ul>	<ul style="list-style-type: none"> <li>• Nurse staffing rules handout</li> <li>• Nurse staffing statute handout</li> <li>• 2022 Year in Review Slides</li> </ul>	Kimberly Voelker & Anna Davis
3:25 PM – 3:30 PM	<b>Item 4 – Summarize action items and next steps</b>		Kimberly Voelker

3:30 PM	<b>Meeting adjourned</b>		
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### Upcoming Meetings

- *NSAB Quarterly Meetings*
  - *July 26, 2023: 1:00 PM – 5:00 PM. Register here:*  
[https://www.zoomgov.com/meeting/register/vJltf-qrrj8sEsljYpMWASskDA\\_fKdE6dg](https://www.zoomgov.com/meeting/register/vJltf-qrrj8sEsljYpMWASskDA_fKdE6dg)

Everyone has a right to know about and use Oregon Health Authority (OHA) programs and services. OHA provides free help. Some examples of the free help OHA can provide are:

- Sign language and spoken language interpreters
- Written materials in other languages
- Closed captioning
- Braille
- Large print
- Audio and other formats

If you need help or have questions, please contact Kimberly Voelker at 971-803-0914, 711 TTY or [kimberly.n.voelker@oha.oregon.gov](mailto:kimberly.n.voelker@oha.oregon.gov) at least 48 hours before the meeting.

# Oregon Nurse Staffing Rules

## **OAR 333-501-0035 – Nurse Staffing Audit Procedures**

(1) The Authority shall conduct an on-site audit of each hospital once every three years to determine compliance with the requirements of ORS 441.152 to 441.177 and 441.192. The Authority shall notify the hospital and both co-chairs of the hospital nurse staffing committee three business days in advance of the audit.

(2) During an audit, the Authority shall review any hospital record and conduct any interview or site visit that is necessary to determine that the hospital is in compliance with the requirements of ORS 441.152 to 441.177 and 441.192.

(3) In conducting an audit, the Authority shall interview:

(a) Both co-chairs of the hospital nurse staffing committee; and

(b) Any additional hospital staff members deemed necessary to determine compliance with applicable nurse staffing laws. Interviews may address, but are not limited to, the following topics:

(A) Implementation and effectiveness of the hospital-wide staffing plan for nursing services;

(B) Input, if any, provided to the hospital nurse staffing committee; or

(C) Any other fact relating to hospital nursing services subject to the Authority's review.

(4) In conducting an audit, the Authority may also interview:

(a) Hospital staff that does not voluntarily come forward for an interview during an audit; and

(b) Hospital patients or family members. Interviews may address, but are not limited to, any concerns or complaints related to nurse staffing in the hospital.

(5) Following an audit, the Authority shall issue a written survey report that communicates the results of the audit no more than 30 business days after the survey closes. This survey report:

(a) Shall be issued to the hospital and both co-chairs of the hospital nurse staffing committee; and

(b) May include a notice of civil penalties that complies with ORS 441.175 and OAR 333-501-0045.

(6) If the survey report identifies any area of noncompliance, the hospital shall submit a written plan to correct each identified deficiency. This plan:

(a) Shall be called the plan of correction;

(b) Shall be submitted no more than 30 business days after receiving the Authority's survey report; and

(c) Shall be evaluated by the Authority for sufficiency.

(7) No more than 30 business days after receipt of the hospital's plan of correction, the Authority shall issue a written determination that communicates whether the plan of correction is sufficient. This determination:

(a) Shall be issued to the hospital and both co-chairs of the hospital nurse staffing committee; and

(b) Shall require the hospital to either:

- (A) Revise and resubmit the rejected plan of correction no more than 30 business days after receiving the Authority's determination that the plan is insufficient; or
  - (B) Implement the approved plan of correction no more than 45 business days after receiving the Authority's determination that the plan is sufficient.
- (8) Following the approval of the plan of correction, the Authority shall conduct a second audit of the hospital to verify that the hospital has implemented the approved plan of correction. This audit shall be conducted within 60 business days of the plan of correction approval date.
- (9) The identity of an individual providing evidence during an audit will be kept confidential to the extent permitted by law.

Statutory/Other Authority: ORS 413.042, 441.157 & 441.175  
 Statutes/Other Implemented: ORS 441.157

History:  
 PH 22-2016, f. & cert. ef. 7-1-16  
 PH 26-2010, f. 12-14-10, cert. ef. 12-15-10  
 PH 11-2009, f. & cert. ef. 10-1-09

**OAR 333-501-0040 – Complaint Investigation Procedures**

(1) The Authority shall conduct an unannounced on-site investigation of a hospital within 60 calendar days after receiving a valid complaint against the hospital for violating a provision of ORS 441.152 to 441.177. A complaint is valid when an allegation, if assumed to be

- true, would violate a requirement of ORS 441.152 to 441.177.
- (2) During an investigation, the Authority shall review any hospital record and conduct any interview or site visit that is necessary to determine whether the hospital has violated a provision of ORS 441.152 to 441.177.
- (3) In conducting an investigation, the Authority may:
- (a) Review any documentation that may be relevant to the complaint, including patient records; and
  - (b) Interview any person who may have information relevant to the complaint, including patients and family members.
- (4) In reviewing information collected during an investigation, the Authority shall consider:
- (a) The amount and strength of objective evidence, if any, that substantiates or refutes the complaint; and
  - (b) The number and credibility of witnesses, if any, who attest to or refute an alleged violation.
- (5) Following an investigation, the Authority shall issue a written investigation report that communicates the results of the investigation no more than 30 business days after the investigation closes. This investigation report:
- (a) Shall be issued to the hospital and both co-chairs of the hospital nurse staffing committee; and
  - (b) May include a notice of civil penalties that complies with ORS 441.175 and OAR 333-501-0045.
- (6) If the investigation report identifies any area of noncompliance, the hospital shall submit a written plan to correct each identified deficiency. This plan:

(a) Shall be called the plan of correction;  
(b) Shall be submitted no more than 30 business days after receiving the Authority's investigation report; and  
(c) Shall be evaluated by the Authority for sufficiency.

(7) No more than 30 business days after receipt of the hospital's plan of correction, the Authority shall issue a written determination that communicates whether the plan of correction is sufficient. This determination:

(a) Shall be issued to the hospital and both co-chairs of the hospital nurse staffing committee; and

(b) Shall require the hospital to either:

(A) Revise and resubmit the rejected plan of correction no more than 30 business days after receiving the Authority's determination that the plan is insufficient; or

(B) Implement the approved plan of correction no more than 45 business days after receiving the Authority's determination that the plan is sufficient.

(8) Following the approval of the plan of correction, the Authority shall conduct a second investigation of the hospital to verify that the hospital has implemented the approved plan of correction. This investigation shall be conducted within 60 business days of the plan of correction approval date.

(9) The identity of an individual providing evidence during an investigation will be kept confidential to the extent permitted by law.

Statutory/Other Authority: ORS 413.042, 441.025, 441.057, 441.171 & 441.175

Statutes/Other Implemented: ORS 441.057 & 441.171

History:

PH 22-2016, f. & cert. ef. 7-1-16

PH 26-2010, f. 12-14-10, cert. ef. 12-15-10

PH 11-2009, f. & cert. ef. 10-1-09

### **OAR 333-501-0045 – Civil Penalties for Violations of Nurse Staffing Laws**

(1) For the purposes of this rule, "safe patient care" has the meaning given to the term in OAR 333-510-0002.

(2) The Authority may impose civil penalties for a violation of any provision of ORS 441.152 to 441.177 and 441.185 if there is a reasonable belief that safe patient care has been or may be negatively impacted.

(3) Each violation of the written hospital-wide staffing plan shall be considered a separate violation.

(4) If imposed, the Authority will issue civil penalties in accordance with Table 1 of this rule.

(5) In determining whether to issue a civil penalty, the Authority will consider all relevant evidence including, but not limited to, witness testimony, written documents and observations.

(6) A civil penalty imposed under this rule shall comply with ORS 183.745.

(7) The Authority shall maintain for public inspection records of any civil penalties imposed on hospitals penalized under this rule.

[ED. NOTE: Tables referenced are available from the agency.]

[\[ED. NOTE: To view attachments referenced in rule text, click here for PDF copy.\]](#)

Statutory/Other Authority: ORS 413.042, 441.175 & 441.185

Statutes/Other Implemented: ORS 441.175 & 441.185

History:

PH 22-2016, f. & cert. ef. 7-1-16

PH 26-2010, f. 12-14-10, cert. ef. 12-15-10

PH 11-2009, f. & cert. ef. 10-1-09

**Table 1 – Civil Penalty Assessments – OAR 333-501-0045**

Type of Violation	First Violation	Repeat Violation
No written nurse staffing plan developed or implemented by facility and, as a result, safe patient care has been or may be negatively impacted.	Not to exceed \$5,000	Not to exceed \$5,000
Statement of deficiencies or letter of warning will be issued for all violations in addition to any civil penalty levied.	\$0	\$0
The hospital required a registered nurse, licensed practical nurse or certified nursing assistant to work: - beyond the agreed-upon and prearranged shift, regardless of the length of the shift; - more than 48 hours in any hospital-defined workweek; - more than 12 consecutive hours in a 24-hour period and, as a result, safe patient care has been or may be negatively impacted; or - during the 10-hour period immediately following the 12 <sup>th</sup> hour worked during a 24-hour period. This work period begins when the nursing staff member begins a shift.	Not to exceed \$2500	Not to exceed \$2500
The hospital willfully does not comply with the requirement to post notice to personnel and, as a result, safe patient care has been or may be negatively impacted.	Not to exceed \$500	Not to exceed \$500

**WRITTEN NURSE STAFFING PLAN**

Type of Violation	First Violation	Repeat Violation
The written nurse staffing plan was not developed, monitored, evaluated or modified by the hospital staffing plan committee and, as a result, safe patient care has been or may be negatively impacted.	Not to exceed \$2500	Not to exceed \$5000
The committee does not have as its primary consideration the provision of safe patient care and adequate nursing staff and, as a result, safe patient care has been or may be negatively impacted.	Not to exceed \$2500	Not to exceed \$5000

## REPLACEMENT STAFF

Type of Violation	First Violation	Repeat Violation
The hospital does not maintain and post a list of replacement staff and, as a result, safe patient care has been or may be negatively impacted.	Not to exceed \$2500	Not to exceed \$5000
The hospital does not make reasonable efforts to get replacement staff and, as a result, safe patient care has been or may be negatively impacted.	Not to exceed \$2500	Not to exceed \$5000

Factors which may influence the amount of penalty include, but are not limited to:

- Duration and extent of violation;
- Actual harm done to one or more patients;
- Willfulness of violation
- Number of patients harmed.

### **OAR 333-510-0002 - Definitions**

As used in OAR chapter 333, division 510, the following definitions apply:

- (1) "Direct Care Registered Nurse" means a nurse who is routinely assigned to a patient care unit, who is replaced for scheduled and unscheduled absences and includes charge nurses if the charge nurse is not management services.
- (2) "Direct Care Staff" means registered nurses, licensed practical nurses and certified nursing assistants that are routinely assigned to patient care units and are replaced for scheduled or unscheduled absences.
- (3) "Direct Care Staff Member" means an individual who is a direct care registered nurse, licensed practical nurse or certified nursing assistant who is routinely assigned to a patient care unit and is replaced for a scheduled or unscheduled absences.
- (4) "Epidemic" means the occurrence of a group of similar conditions of public health importance in a community or

region that are in excess of normal expectancy and that are from a common or propagated source.

(5) "Evidence Based Standards" means standards that have been scientifically developed, are based on current literature, and are driven by consensus.

(6) "Hospital" means a hospital as described in ORS 442.015 and an acute inpatient care facility as defined in ORS 442.470.

(7) "Mandatory Overtime" is any time that exceeds those time limits specified in ORS 441.166 unless the nursing staff member voluntarily chooses to work overtime.

(8) "Nurse Manager" means a registered nurse who has administrative responsibility 24 hours a day, 7 days a week for a patient care unit, units or hospital and who is not replaced for short-term scheduled or unscheduled absences.

(9) "Nursing care intensity" means the level of patient need for nursing care as determined by the nursing assessment.

(10) "Nursing staff" means registered nurses, licensed practical nurses and certified nursing assistants.

(11) "Nursing staff member" means an individual who is a registered nurse, licensed practical nurse or a certified nursing assistant.

(12) "On Call" means a scheduled state of availability to return to duty, work-ready, within a specified period of time.

(13) "On Call Nursing Staff" means individual nursing staff members or nursing service agencies maintained by a hospital that are available and willing to cover nursing staff shortages due to unexpected nursing staff absences or unanticipated increased nursing service needs.

(14) "Patient acuity" means the complexity of patient care needs requiring the skill and care of nursing staff.

(15) "Potential Harm" or "At Risk of Harm" means that an unstable patient will be left without adequate care for an unacceptable period of time if the assigned nursing staff member leaves the assignment or transfers care to another nursing staff member.

(16) "Quorum" means that a majority, or one-half plus one, of the staffing committee members are present during a staffing committee meeting.

(17) "Safe Patient Care" means nursing care that is provided appropriately, in a timely manner, and meets the patient's health care needs. The following factors may be, but are not in all circumstances, evidence of unsafe patient care:

(a) A failure to implement the written nurse staffing plan;

(b) A failure to comply with the patient care plan;

(c) An error that has a negative impact on the patient;

(d) A patient report that his or her nursing care needs have not been met;

(e) A medication not given as scheduled;

(f) The nursing preparation for a procedure that was not accomplished on time;

(g) A nursing staff member who was practicing outside his or her authorized scope of practice;

(h) Daily unit-level staffing that does not include coverage for all known patients, taking into account the turnover of patients;

(i) The skill mix of employees and the relationship of the skill mix to patient acuity and nursing care intensity of the workload is insufficient to meet patient needs; or

(j) An unreasonable delay in responding to a request for nursing care made by a patient or made on behalf of a patient by his or her family member.

(18) "Staffing Committee" means the hospital nurse staffing committee.

(19) "Staffing Plan" means the written hospital-wide staffing plan for nursing services developed by the hospital nurse staffing committee.

(20) "Standby" means a scheduled state of availability to return to duty, work-ready within a specified period of time.

(21) "Waiver" means a variance to the hospital-wide staffing plan requirements as described in ORS 441.164.

Statutory/Other Authority: ORS 413.042 & 441.151 – 441.177  
Statutes/Other Implemented: ORS 441.165, 441.166 & 441.179



History:

PH 22-2016, f. & cert. ef. 7-1-16

PH 11-2009, f. & cert. ef. 10-1-09

PH 21-2006, f. & cert. ef. 10-6-06

**OAR 333-510-0045 – Nurse Staffing Posting and Record Requirements**

(1) On each hospital unit, a hospital shall post a complaint notice that:

(a) Summarizes the provisions of ORS 441.152 to 441.177;

(b) Is clearly visible to the public; and

(c) Includes the Authority's complaint reporting phone number, electronic mail address and website address.

(2) A hospital shall also post an anti-retaliation notice on the premises that:

(a) Summarizes the provisions of ORS 441.181, 441.183, 441.184 and 441.192;

(b) Is clearly visible; and

(c) Is posted where notices to employees and applicants for employment are customarily displayed.

(3) A hospital shall keep and maintain all records necessary to demonstrate compliance with ORS 441.152 to 441.177. These records shall:

(a) Be maintained for no fewer than three years;

(b) Be promptly provided to the Authority upon request; and

(c) Include, at minimum:

(A) The staffing plan;

(B) The hospital nurse staffing committee charter;

(C) Staffing committee meeting minutes;

(D) Documentation showing how all members of the staffing committee were selected;

(E) All complaints filed with the staffing committee;

(F) Personnel files for all nursing staff positions that include, at minimum, job descriptions, required licensure and specialized qualifications and competencies required for the individual's assigned nurse specialty or unit;

(G) Documentation showing work schedules for nursing staff in each hospital nurse specialty or unit;

(H) Documentation showing actual hours worked by all nursing staff;

(I) Documentation showing all work schedule variances that resulted in the use of replacement nursing staff;

(J) Documentation showing how many on-call hours, if any, required nursing staff to be on the hospital premises;

(K) Documentation showing how many required meeting, education and training hours, if any, were required of nursing staff;

(L) The hospital's mandatory overtime policy and procedure;

(M) Documentation showing how many, if any, overtime hours were worked by nursing staff;

(N) Documentation of all waiver requests, if any, submitted to the Authority;

(O) Documentation showing how many, if any, additional hours were worked due to emergency circumstances and the nature of those circumstances;

(P) The list of on-call nursing staff used to obtain replacement nursing staff;

(Q) Documentation showing how and when the hospital updates its list of on-call staff used to obtain replacement nursing staff and how the hospital determines eligibility to remain on the list;

(R) Documentation showing the hospital's procedures for obtaining replacement nursing staff, including efforts made to obtain replacement staff;

(S) Documentation showing the hospital's actual efforts to seek replacement staff when needed;

(T) Documentation showing each actual instance in which the hospital implemented the policy described in OAR 333-510-0110(2)(g) to initiate limitations on admission or diversion of patients to another hospital; and

(U) All staffing committee reports filed with the hospital administration following a review of the staffing plan.

Statutory/Other Authority: ORS 413.042, 441.155, 441.169, 441.173 & 441.185  
Statutes/Other Implemented: ORS 441.155, 441.169, 441.173 & 441.185

History:

PH 22-2016, f. & cert. ef. 7-1-16  
PH 11-2009, f. & cert. ef. 10-1-09  
PH 21-2006, f. & cert. ef. 10-6-06  
Reverted to OHD 20-2002, f. & cert. ef. 12-10-02  
PH 22-2005(Temp), f. 12-30-05, cert. ef. 1-1-06 thru 6-29-06  
OHD 20-2002, f. & cert. ef. 12-10-02  
OHD 3-2001, f. & cert. ef. 3-16-01  
OHD 2-2000, f. & cert. ef. 2-15-00

**OAR 333-510-0105 – Nurse Staffing Committee Requirement**

(1) Each hospital shall establish and maintain a hospital nurse staffing committee. The staffing committee shall develop a written hospital-wide staffing plan for nursing services in accordance with ORS 441.155 and OAR chapter 333, division 510 rules. In developing

the staffing plan, the staffing committee's primary goal shall be to ensure that the hospital is adequately staffed to meet the health care needs of its patients.

(2) The staffing committee shall meet:

(a) At least once every three months; and

(b) At any time and place specified by either co-chair of the staffing committee.

(3) The hospital shall release a member of the staffing committee from his or her assignment to attend committee meetings and provide paid time for this purpose.

(4) The staffing committee shall be comprised of an equal number of hospital nurse managers and direct care staff. Direct care staff members shall be selected as follows:

(a) The staffing committee shall include at least one direct care registered nurse from each hospital nurse specialty or unit as the specialty or unit is defined by the hospital to represent that specialty or unit;

(b) In addition to the direct care registered nurses described in subsection (a) of this section there must be one position on the staffing committee that is filled by a direct care staff member who is not a registered nurse and whose services are covered by the staffing plan;

(c) If the direct care registered nurses working at the hospital are represented under a collective bargaining agreement, the bargaining unit shall coordinate voting to allow the direct care registered nurses who work at the hospital to select each direct care registered nurse on the staffing committee;

(d) If the direct care registered nurses working at the hospital are not represented under a collective bargaining agreement, the direct care registered nurses belonging to each hospital nurse specialty or unit shall select the direct care registered nurse to represent it on the staffing committee; and

(e) If the position that must be filled by a direct care staff member who is not a registered nurse and whose services are covered by the staffing plan is represented under a collective bargaining agreement, the bargaining unit shall coordinate voting to allow the direct care staff members who are not registered nurses to select the direct care staff member who is not a registered nurse to represent them on the staffing committee.

(f) If the position that must be filled by a direct care staff member who is not a registered nurse and whose services are covered by the staffing plan is not represented under a collective bargaining agreement, the direct care staff members who are not registered nurses shall select the direct care staff member who is not a registered nurse to represent them on the staffing committee.

(5) The staffing committee shall have two co-chairs. One co-chair must be a hospital nurse manager elected by a majority of the staffing committee members who are hospital nurse managers. The other co-chair must be a direct care registered nurse elected by a majority of the staffing committee members who are direct care staff.

(6) The staffing committee must develop a written charter that documents the

policies and procedures of the staffing committee. At minimum, the charter must include:

(a) How meetings are scheduled;

(b) How members are notified of meetings;

(c) How agendas are determined;

(d) How input from hospital nurse specialty or unit staff is submitted;

(e) Who may participate in decision-making;

(f) How decisions are made; and

(g) How the staffing committee shall monitor, evaluate and modify the staffing plan over time.

(7) Staffing committee meetings must be conducted as follows:

(a) A meeting may not be conducted unless a quorum of staffing committee members is present;

(b) Except as set forth in subsection (c) of this section, a meeting must be open to all hospital nursing staff as observers and to any other individual as either observer or presenter by invitation of either co-chair of the staffing committee;

(c) Either co-chair of the staffing committee may temporarily exclude all non-members from a meeting during staffing committee deliberations and voting; and

(d) Each staffing committee decision must be made by majority vote; however, if a quorum consists of an unequal number of hospital nurse managers and direct care staff, only an equal number of hospital nurse managers and direct care staff may vote.

(8) The staffing committee must document meeting proceedings by keeping written meeting minutes that

include, but are not limited to, the following information:

- (a) The name and position of each staffing committee member in attendance;
  - (b) The name and position of each observer or presenter in attendance;
  - (c) Motions made;
  - (d) Outcomes of votes taken;
  - (e) A summary of staffing committee discussions; and
  - (f) Instances in which non-members have been excluded from staffing committee meetings.
- (9) The staffing committee shall approve meeting minutes prior to or during the next staffing committee meeting.
- (10) The staffing committee shall provide meeting minutes to hospital nursing staff and other hospital staff upon request no more than 30 calendar days after the meeting minutes are approved by the staffing committee.

Statutory/Other Authority: ORS 413.042, 441.151 & 441.154

Statutes/Other Implemented: ORS 441.154

History:

PH 22-2016, f. & cert. ef. 7-1-16

### **OAR 333-510-0110 – Nurse Staffing Plan Requirements**

(1) Each hospital shall implement a written hospital-wide staffing plan for nursing services that is developed and approved by the hospital nurse staffing committee established in accordance with ORS 441.154 and OAR chapter 333 division 510 rules.

(2) The staffing plan:

- (a) Must be based on the specialized qualifications and competencies of the nursing staff and provide for the skill mix and level of competency necessary to ensure that the hospital is staffed to meet the health care needs of patients;
- (b) Must be based on a measurement of hospital unit activity that quantifies the rate of admissions, discharges and transfers for each hospital unit and the time required for a direct care registered nurse belonging to a hospital unit to complete admissions, discharges and transfers for that hospital unit;
- (c) Must be based on total diagnoses for each hospital unit and the nursing staff required to manage that set of diagnoses;
- (d) Must be consistent with nationally recognized evidence-based standards and guidelines established by professional nursing specialty organizations such as, but not limited to: The American Association of Critical Care Nurses, American Operating Room Nurses (AORN), or American Society of Peri-Anesthesia Nurses (ASPAN);
- (e) Must recognize differences in patient acuity and nursing care intensity;
- (f) Must establish minimum numbers of nursing staff, including licensed practical nurses and certified nursing assistants, required on specified shifts, provided that no fewer than one registered nurse and one other nursing staff member is on duty in a unit when a patient is present;
- (g) Must include a formal process for evaluating and initiating limitations on admission or diversion of patients to another hospital when, in the judgment of a direct care registered nurse or a

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

- (h) Must consider tasks not related to providing direct care, including meal breaks and rest breaks;
- (i) May not base nursing staff requirements solely on external benchmarking data;
- (j) May not be used by a hospital to impose upon unionized nursing staff any changes in wages, hours or other terms and conditions of employment unless the hospital first provides notice to and, upon request, bargains with the union; and
- (k) May not create, preempt or modify a collective bargaining agreement or require parties to an agreement to bargain over the staffing plan while a collective bargaining agreement is in effect.

Statutory/Other Authority: ORS 413.042 & 441.155

Statutes/Other Implemented: ORS 441.155

History:

PH 22-2016, f. & cert. ef. 7-1-16

### **OAR 333-510-0115 – Nurse Staffing Plan Review Requirement**

(1) The staffing committee shall:

- (a) Review the staffing plan at least once per year; and
- (b) At any other time specified by either co-chair of the staffing committee.

(2) In reviewing the staffing plan, the staffing committee shall consider:

- (a) Patient outcomes;
- (b) Complaints regarding staffing, including complaints about a delay in

- direct care nursing or an absence of direct care nursing;
- (c) The number of hours of nursing care provided through a hospital unit compared with the number of patients served by the hospital unit during a 24-hour period;
- (d) The aggregate hours of mandatory overtime worked by nursing staff;
- (e) The aggregate hours of voluntary overtime worked by nursing staff;
- (f) The percentage of shifts for each hospital unit for which staffing differed from what is required by the staffing plan;
- (g) Any other matter determined by the committee to be necessary to ensure that the hospital is staffed to meet the health care needs of patients; and
- (h) Any report filed by a nursing staff member stating the nursing staff member's belief that the hospital unit engaged in a pattern of requiring direct care nursing staff to work overtime for nonemergency care.

(3) Following its review of the staffing plan, the staffing committee shall issue a written report to the hospital that indicates whether the staffing plan ensures that the hospital is adequately staffed and meets the health care needs of patients. If the report indicates that it does not, the staffing committee shall modify the staffing plan as necessary to accomplish this goal.

Statutory/Other Authority: ORS 413.042 & 441.156

Statutes/Other Implemented: ORS 441.156

History:

PH 22-2016, f. & cert. ef. 7-1-16

**OAR 333-510-0120 – Nurse Staffing Plan Mediation**

(1) If the staffing committee is unable to reach an agreement on the staffing plan, either co-chair of the staffing committee may invoke a waiting period of 30 business days.

(a) During the 30-day waiting period, the staffing committee shall continue to develop the staffing plan; and

(b) The hospital shall promptly respond to any reasonable requests for data that is related to the impasse and is submitted by either co-chair of the staffing committee.

(2) If at the end of the 30-day waiting period, the staffing committee remains unable to reach an agreement on the staffing plan, one of the staffing committee co-chairs shall notify the Authority of the impasse. This notification shall include:

(a) Documentation that the staffing committee voted on the provision or provisions in question and a deadlock resulted;

(b) Documentation that either co-chair of the staffing committee formally invoked a 30-day waiting period;

(c) Documentation that during the 30-day waiting period, the staffing committee continued to develop the staffing plan including documentation of options the staffing committee considered after invoking the 30-day waiting period;

(d) Documentation of any reasonable requests for data submitted to the hospital by either staffing committee co-chair and the hospital's response, if any; and

(e) Documentation that the staffing committee voted on the provision or

provisions in question again after the 30-day waiting period formally ended and another deadlock resulted.

(3) No more than 15 business days after receiving notice of an impasse, the Authority shall assign the staffing committee a mediator to assist the staffing committee in reaching an agreement on the staffing plan.

(a) Mediation shall be consistent with requirements for implementing and reviewing staffing plans set forth in ORS 441.155 and 441.156 and OAR chapter 333 division 510 rules; and

(b) Mediation shall be provided for no more than 90 calendar days.

(4) The Authority may impose civil monetary penalties against a hospital, if the staffing committee is unable to reach an agreement on the staffing plan after 90 days of mediation.

Statutory/Other Authority: ORS 413.042, 441.154 & 441.175

Statutes/Other Implemented: ORS 441.154

History:

PH 22-2016, f. & cert. ef. 7-1-16

**OAR 333-510-0125 – Replacement Nurse Staffing Requirements**

(1) A hospital must maintain and post or publish a list of on-call nursing staff that may be contacted to provide qualified replacement or additional nursing staff in the event of a vacancy or unexpected shortage. This list must:

(a) Provide for sufficient replacement nursing staff on a regular basis; and

(b) Be available to the individual who is responsible for obtaining replacement staff during each shift.

(2) When developing and maintaining the on-call list, the hospital must explore all reasonable options for identifying local replacement staff and these efforts must be documented.

(3) When a hospital learns about the need for replacement nursing staff, the hospital must make every reasonable effort to obtain adequate voluntary replacement nursing staff for unfilled hours or shifts before requiring a nursing staff member to work overtime and these efforts must be documented.

Reasonable efforts include, but are not limited to:

(a) The hospital seeking replacement nursing staff at the time the vacancy is known; and

(b) The hospital contacting all available resources on its list of on-call nursing staff as described in this rule.

Statutory/Other Authority: ORS 413.042, 441.155 & 441.166

Statutes/Other Implemented: ORS 441.155 & 441.166

History:

PH 22-2016, f. & cert. ef. 7-1-16

### **OAR 333-510-0130 – Nurse Staffing Member Overtime**

(1) For purposes of this rule "require" means to make compulsory as a condition of employment whether as a result of a previously scheduled shift or hours actually worked during time spent on call or on standby.

(2) 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;

(d) During the 10-hour period immediately following the 12th hour worked during a 24-hour period. This work period begins when the nursing staff member begins a shift; or

(e) During the 10-hour period immediately following any agreed-upon and prearranged shift in which the nurse worked more than 12 hours in a 24-hour period.

(3) Time spent by the nursing staff member in required meetings or receiving education or training shall be included as hours worked for the purpose of section (2) of this rule.

(4) Time spent on call or on standby when the nursing staff member is required to be at the hospital shall be included as hours worked for the purpose of section (2) of this rule.

(5) Time spent on call or on standby when the nursing staff member is not required to be at the hospital may not be included as hours worked for the purpose of section (2) of this rule.

(6) Nothing in this rule precludes a nursing staff member from volunteering to work overtime.

(7) A hospital may require an additional hour of work beyond the hours authorized in section (2) of this rule 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 assignment or transfers care to another nursing staff member.

(8) Each hospital must have a policy and procedure in place to ensure, at minimum, that:

(a) Mandatory overtime, when required, is documented in writing; and

(b) Mandatory overtime policies and procedures are clearly written, provided to all new nursing staff and readily available to all nursing staff.

(9) If a nursing staff member believes that a hospital unit is engaging in a pattern of requiring direct care nursing staff to work overtime for nonemergency care, the nursing staff member may report that information to the staffing committee. The staffing committee shall consider the information when reviewing the staffing plan as described in OAR 333-510-0115.

(10) The provisions of sections (2) through (8) of this rule do not apply to nursing staff needs:

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

(b) In emergency circumstances that include:

(A) Sudden and unforeseen adverse weather conditions;

(B) An infectious disease epidemic suffered by hospital staff;

(C) Any unforeseen event preventing replacement staff from approaching or entering the premises; or

(D) Unplanned direct care staff vacancies of 20 percent or more of the nursing staff for the next shift hospital-wide at the Oregon State Hospital if, based on the patient census, the Oregon State Hospital determines the number of direct care staff available

hospital-wide cannot ensure patient safety.

(11) Nothing in section (10) of this rule relieves the Oregon State Hospital from contacting voluntary replacement staff as described in OAR 333-510-0125 and documenting these contacts.

(12) A registered nurse at a hospital may not place a patient at risk of harm by leaving a patient care assignment during an agreed upon scheduled shift or an agreed-upon extended shift without authorization from the appropriate supervisory personnel as required by the Oregon State Board of Nursing OAR, chapter 851.

(13) Until the Authority defines "other nursing staff" as that term is described in ORS 441.166(1), this rule applies only to "nursing staff member" as that term is defined in these rules.

Statutory/Other Authority: ORS 413.042, 441.166 & 441.168

Statutes/Other Implemented: ORS 441.166 & 441.168

History:

PH 3-2017, f. & cert. ef. 1-23-17

PH 29-2016(Temp), f. & cert. ef. 10-25-16 thru 4-21-17

PH 22-2016, f. & cert. ef. 7-1-16

### **OAR 333-510-0135 – Nurse Staffing Waiver**

(1) At a hospital's request, the Authority may waive any staffing plan requirement set forth in ORS 441.155 provided that a waiver is necessary to ensure that the hospital is staffed to meet the health care needs of its patients.

(2) All requests for a waiver must:



- (a) Be submitted to the Authority in writing;
- (b) State the reason or reasons for which the hospital is seeking the waiver;
- (c) Explain how the waiver is necessary for the hospital to meet patient health care needs; and
- (d) Include verification that the hospital notified the staffing committee of the request for a waiver prior to its submission.

Statutory/Other Authority: ORS 413.042 & 441.165

Statutes/Other Implemented: ORS 441.155 & 441.165

History:

PH 22-2016, f. & cert. ef. 7-1-16

**OAR 333-510-0140 – Nurse Staffing Plan During an Emergency**

(1) A hospital is not required to follow the staffing plan developed and approved by the staffing committee in the event of:

- (a) A national emergency or state emergency declared under ORS 401.165 to 401.236 or 433.441 to 433.452 requiring the implementation of a facility disaster plan and crisis standards of care, as those terms are defined in section (7) of this rule;
- (b) Sudden and unforeseen adverse weather conditions; or
- (c) An infectious disease epidemic suffered by hospital staff.

(2) No later than 30 calendar days after any hospital unit or hospital department first deviates from a written nurse staffing plan under subsection (1)(a) of this rule, the hospital incident command shall report to both co-chairs of the

hospital nurse staffing committee established under ORS 441.154 a written assessment of the nurse staffing needs arising from the national or state emergency declaration.

(3) Upon receipt of the report described in section (2) of this rule, either co-chair of the nurse staffing committee shall call a meeting of the staffing committee to develop a contingency nurse staffing plan to address the needs arising from the emergency. The contingency nurse staffing plan must align with the nursing services required under crisis standards of care as implemented.

(4) The hospital's deviation from the written hospital-wide staffing plan approved by the hospital nurse staffing committee may not be in effect for more than 90 cumulative days without approval of the hospital nurse staffing committee. If the hospital nurse staffing committee does not approve the deviation by the 90th cumulative day, the hospital must return to the written nurse staffing plan developed and approved by the hospital nurse staffing committee.

(5) The hospital shall maintain documentation showing compliance with subsection (1)(a) through section (4) of this rule.

(6) In the event of an emergency circumstance not described in section (1) of this rule, either co-chair of the staffing committee may specify a time and place to meet to review and potentially modify the staffing plan in response to the emergency circumstance.

(7) For the purposes of this rule, the following definitions apply:

(a) "Crisis standards of care" are

policies or standards adopted by a hospital to be implemented during an emergency for objective prioritization of care, prioritization of patients, and limitations on services because of the declared emergency. The crisis standards of care for purposes of this rule include only those policies or standards adopted by the hospital that change the nursing services.

(b) "Facility disaster plan" means a plan that is developed pursuant to 42 CFR 482.15 and is activated to meet the health, safety and security needs of the facility, its staff, patient population and community during a declared emergency.

Statutory/Other Authority: ORS 413.042 & 441.165

Statutes/Other Implemented: ORS 441.155 & 441.165

History:

[PH 96-2021, amend filed 12/30/2021, effective 01/01/2022](#)

PH 22-2016, f. & cert. ef. 7-1-16

# Oregon Nurse Staffing Statute

## **ORS 441.154 – Hospital nurse staffing committee**

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

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

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

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

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

(c) If the direct care staff member who is not a registered nurse who works at a hospital is represented under a collective bargaining agreement, the bargaining unit shall use the selection process conducted pursuant to paragraph (b) of this subsection to select that member of the committee.

(d) If the direct care registered nurses who work at a hospital are not

represented under a collective bargaining agreement, the direct care registered nurses belonging to a hospital nurse specialty or unit shall select each member of the committee who is a direct care registered nurse from that specialty or unit.

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

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

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

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

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

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

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

(6) A hospital nurse staffing committee shall meet:

- (a) At least once every three months; and
- (b) At any time and place specified by either cochair.

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

- (A) The hospital nursing staff as observers; and
- (B) Upon invitation by either cochair, other observers or presenters.

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

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

- (a) Include motions made and outcomes of votes taken;
- (b) Summarize discussions; and
- (c) Be made available in a timely manner to hospital nursing staff and other hospital staff upon request.

(9) A hospital shall release a member of a hospital nurse staffing committee described in subsection (1)(a) of this section from the member's assignment, and provide the member with paid time, to attend committee meetings. [2015 c.669 §1]

#### **ORS 441.155 – Written staffing plan for nursing services**

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

(2) The staffing plan:

- (a) Must be based on the specialized qualifications and competencies of the nursing staff and provide for the skill mix and level of competency necessary to ensure that the hospital is staffed to meet the health care needs of patients;
- (b) Must be based on a measurement of hospital unit activity that quantifies the rate of admissions, discharges and transfers for each hospital unit and the time required for a direct care registered nurse belonging to a hospital unit to

complete admissions, discharges and transfers for that hospital unit;

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

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

(e) Must recognize differences in patient acuity;

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

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

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

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

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

(4)(a) An employer may not impose upon unionized nursing staff any

changes in wages, hours or other terms and conditions of employment pursuant to a staffing plan unless the employer first provides notice to and, upon request, bargains with the union as the exclusive collective bargaining representative of the nursing staff in the bargaining unit.

(b) A staffing plan does not create, preempt or modify a collective bargaining agreement or require a union or employer to bargain over the staffing plan while a collective bargaining agreement is in effect. [Formerly 441.162]

#### **ORS 441.156 – Annual review of nurse staffing plan**

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

(a) At least once every year; and

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

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

(a) Patient outcomes;

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

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

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

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

- (f) The percentage of shifts for each hospital unit for which staffing differed from what is required by the staffing plan; and
  - (g) Any other matter determined by the committee to be necessary to ensure that the hospital is staffed to meet the health care needs of patients.
- (3) Upon reviewing a staffing plan, a hospital nurse staffing committee shall:
- (a) Report whether the staffing plan ensures that the hospital is staffed to meet the health care needs of patients; and
  - (b) Modify the staffing plan as necessary to ensure that the hospital is staffed to meet the health care needs of patients.
- [2015 c.669 §5]

#### **ORS 441.157 – Audits**

- (1) For the sole purpose of verifying compliance with the requirements of ORS 441.152 to 441.177 and 441.192, the Oregon Health Authority shall audit each hospital in this state once every three years, at the time of conducting an in-person site inspection of the hospital under ORS 441.025.
- (2) When conducting an audit pursuant to this section, the authority shall:
- (a) If the authority provides notice of the audit to the hospital, provide notice of the audit to the cochairs of the hospital nurse staffing committee established pursuant to ORS 441.154;
  - (b) Interview both cochairs of the hospital nurse staffing committee;
  - (c) Review any other hospital record and conduct any other interview or site visit that is necessary to verify that the hospital is in compliance with the requirements of ORS 441.152 to 441.177 and 441.192; and

- (d) Within 60 days after issuing an order requiring a hospital to implement a plan to correct a violation of ORS 441.152 to 441.177 or 441.192, conduct an investigation of the hospital to ensure compliance with the order.
- (3) Following an investigation conducted pursuant to subsection (2) of this section, the authority shall provide in writing a report of the authority’s findings to the hospital and the cochairs of the hospital nurse staffing committee.
- (4) The authority shall compile and maintain for public inspection an annual report of audits and investigations conducted pursuant to this section.
- (5) The costs of audits required by this section may be paid out of funds from licensing fees paid by hospitals under ORS 441.020. [2015 c.669 §9; 2021 c.338 §4]

#### **ORS 441.164 – Variances to staffing plan requirements**

Upon request of a hospital, the Oregon Health Authority may grant a variance to the written hospital-wide staffing plan requirements described in ORS 441.155 if the variance is necessary to ensure that the hospital is staffed to meet the health care needs of patients. [2001 c.609 §3; 2009 c.595 §733; 2015 c.669 §12]

#### **ORS 441.165 – Modification of nurse staffing plan in case of emergency or epidemic**

- (1) For purposes of this section, “epidemic” means the occurrence of a group of similar conditions of public health importance in a community or region that are in excess of normal

expectancy and that are from a common or propagated source.

(2) Notwithstanding ORS 441.155 and 441.156, a hospital is not required to follow a written hospital-wide staffing plan developed and approved by the hospital nurse staffing committee under ORS 441.154 upon the occurrence of:

(a) A national emergency or state emergency declared under ORS 401.165 to 401.236 or 433.441 to 433.452 requiring the implementation of a facility disaster plan and crisis standards of care;

(b) Sudden unforeseen adverse weather conditions; or

(c) An infectious disease epidemic suffered by hospital staff.

(3)(a) No later than 30 days after a hospital deviates from a written hospital-wide staffing plan under subsection (2)(a) of this section, the hospital incident command shall report to the cochairs of the hospital nurse staffing committee established under ORS 441.154 an assessment of the nurse staffing needs arising from the national or state emergency declaration.

(b) Upon receipt of the report described in paragraph (a) of this subsection, the hospital nurse staffing committee shall convene to develop a contingency nurse staffing plan to address the needs arising from the national or state emergency declaration. The contingency nurse staffing plan must include crisis standards of care.

(c) The hospital's deviation from the written hospital-wide staffing plan may not be in effect for more than 90 days without the approval of the hospital nurse staffing committee.

(4) Upon the occurrence of a national or state emergency declaration or circumstances not described in subsection (2) of this section, either cochair of the hospital nurse staffing committee may require the hospital nurse staffing committee to meet to review and potentially modify the staffing plan in response to the emergency declaration or circumstances. [2015 c.669 §5a; 2021 c.248 §1]

### **ORS 441.166 – Need for replacement staff**

(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 assignment or transfers care to another nursing staff member.

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

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

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

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

(7) If a nursing staff member believes that a hospital unit is engaging in a pattern of requiring direct care nursing staff to work overtime for nonemergency care, the nursing staff member may report that information to the hospital

nurse staffing committee established for the hospital pursuant to ORS 441.154. The hospital nurse staffing committee shall consider the information when reviewing the written hospital-wide staffing plan as required by ORS 441.156.

(8) The provisions of this section do not apply to nursing staff needs:

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

(b) In emergency circumstances identified by the authority by rule. [2001 c.609 §4; 2005 c.665 §1; 2009 c.595 §734; 2015 c.669 §6]

#### **ORS 441.168 – Leaving a patient care assignment**

A registered nurse at a hospital may not place a patient at risk of harm by leaving a patient care assignment during an agreed upon shift or an agreed upon extended shift without authorization from the appropriate supervisory personnel. [2001 c.609 §5]

#### **ORS 441.169 – Public notice**

On each hospital unit, a hospital shall post a notice summarizing the provisions of ORS 441.152 to 441.177 in a place that is clearly visible to the public that includes a phone number for purposes of reporting a violation of the laws. [2015 c.669 §7]

#### **ORS 441.171 – Complaint investigations**

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



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

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

(2) When conducting an investigation of a hospital to ensure compliance with ORS 441.152 to 441.177, the authority shall, if the authority provides notice of the investigation to the hospital, provide notice of the investigation to the cochair of the hospital nurse staffing committee established pursuant to ORS 441.154.

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

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

(a) Take evidence;

(b) Take the depositions of witnesses in the manner provided by law in civil cases;

(c) Compel the appearance of witnesses in the manner provided by law in civil cases;

(d) Require answers to interrogatories; and

(e) Compel the production of books, papers, accounts, documents and testimony pertaining to the matter under investigation. [2015 c.669 §10]

### **ORS 441.173 – Hospital to maintain records; rules**

A hospital shall keep and maintain records necessary to demonstrate compliance with ORS 441.152 to 441.177. For purposes of this section, the Oregon Health Authority shall adopt rules specifying the content of the records and the form and manner of keeping, maintaining and disposing of the records. A hospital must provide records kept and maintained under this section to the authority upon request. [2015 c.669 §8]

### **ORS 441.175 – Civil penalties; suspension or revocation of license; rules; records**

(1) The Oregon Health Authority may impose civil penalties in the manner provided in ORS 183.745 or suspend or revoke a license of a hospital for a violation of any provision of ORS 441.152 to 441.177. The authority shall adopt by rule a schedule establishing the amount of civil penalty that may be imposed for a violation of ORS 441.152 to 441.177 when there is a reasonable belief that safe patient care has been or may be negatively impacted, except that a civil penalty may not exceed \$5,000. Each violation of a written hospital-wide staffing plan shall be considered a separate violation. Any license that is suspended or revoked under this subsection shall be suspended or revoked as provided in ORS 441.030.

(2) The authority shall maintain for public inspection records of any civil penalties or license suspensions or revocations imposed on hospitals

penalized under subsection (1) of this section. [Formerly 441.170]

**ORS 441.177 – Posting of audit reports and civil penalties**

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

- (1) Reports of audits described in ORS 441.157;
- (2) Any report made pursuant to an investigation of whether a hospital is in compliance with ORS 441.152 to 441.177;
- (3) Any order requiring a hospital to implement a plan to correct a violation of ORS 441.152 to 441.177;
- (4) Any order imposing a civil penalty against a hospital or suspending or revoking the license of a hospital pursuant to ORS 441.175; and
- (5) Any other matter recommended by the Nurse Staffing Advisory Board established under ORS 441.152. [2015 c.669 §11]

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# 2022 Year in Review

Health Care Regulation & Quality Improvement

Anna L Davis, JD

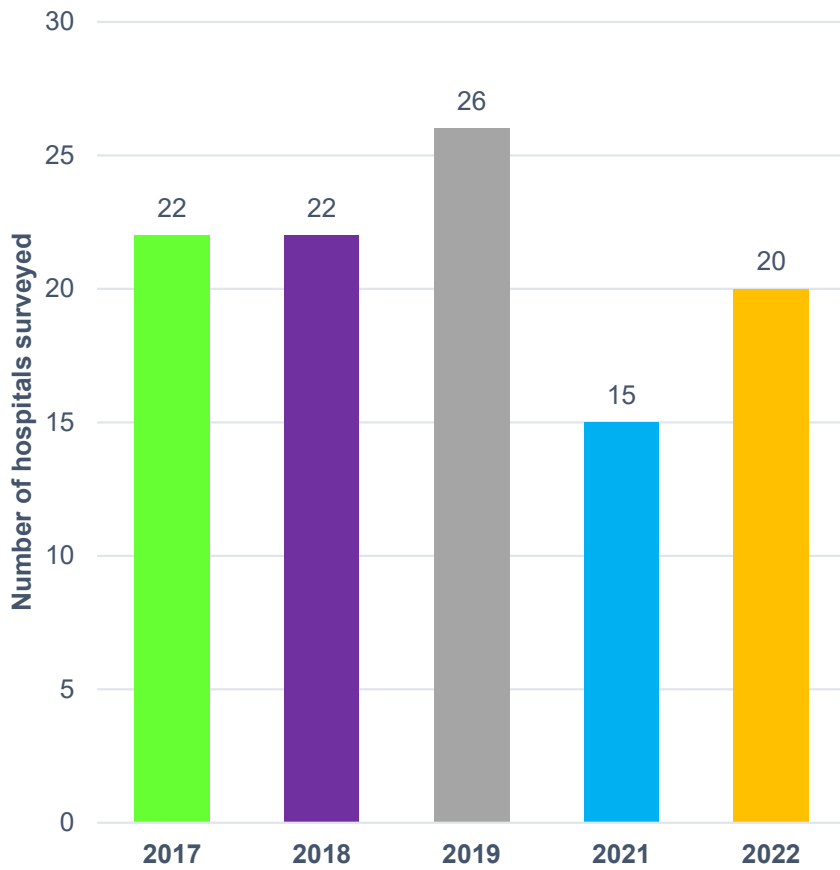
Kimberly Voelker, MPH

The logo for the Oregon Health Authority. It features the word "Oregon" in a smaller, orange, serif font above the word "Health" in a larger, dark blue, serif font. Below "Health" is the word "Authority" in a smaller, orange, serif font. The entire logo is set against a light blue, curved background.

Oregon  
Health  
Authority

# Nurse Staffing Surveys

Number of Nurse Staffing Surveys Completed per Year



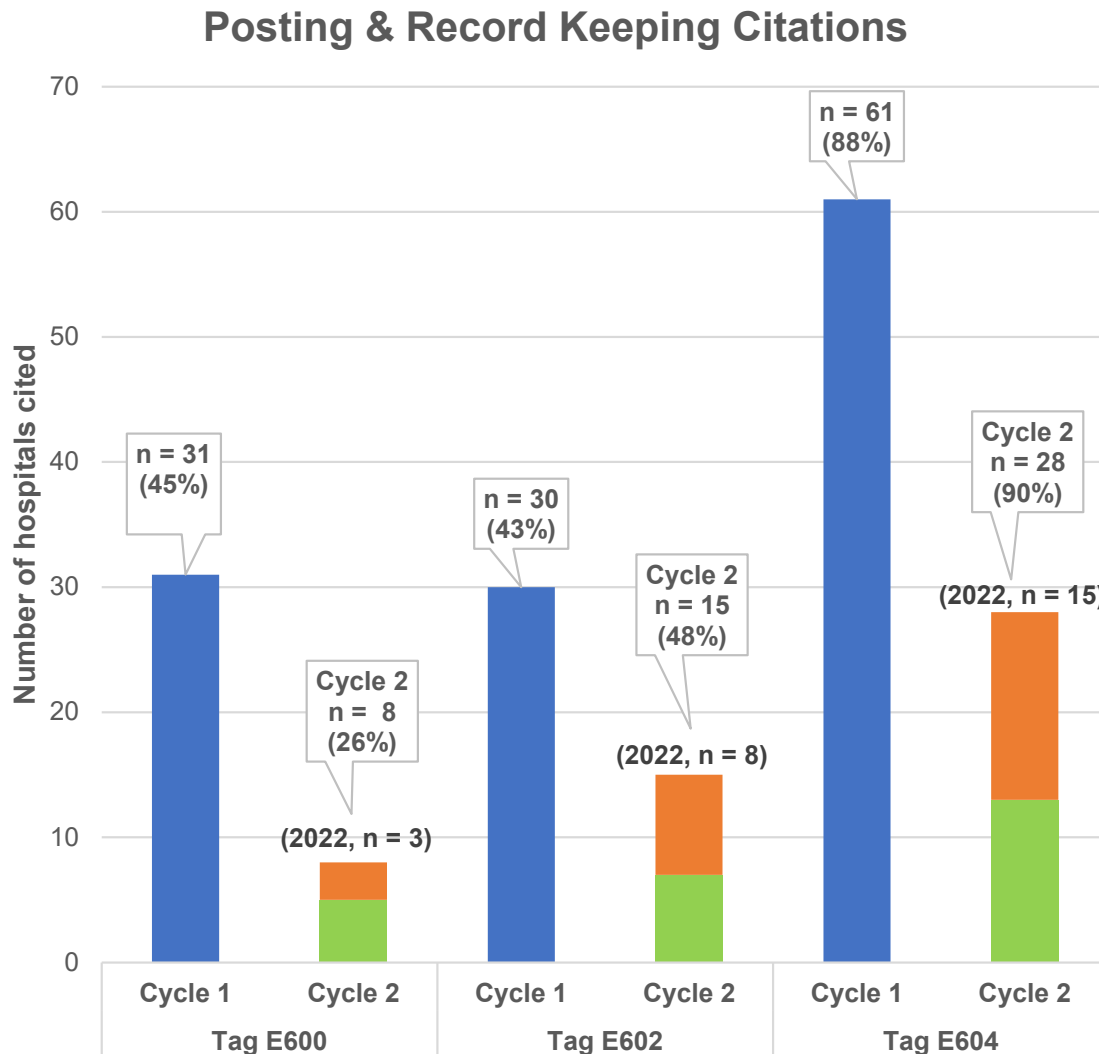
- During Cycle 1, **70** hospitals were surveyed between 2017 – 2019
- Hospitals surveyed in first year of Cycle 1 (2017) scheduled for first year of Cycle 2 (2021)
- For the second year of Cycle 2 (2022), OHA surveyed **20** hospitals
- Due to pandemic, hospital surge and inclement weather in 2021, some hospitals scheduled for survey in 2021 were completed in 2022

# Nurse Staffing Survey Data - Caveats

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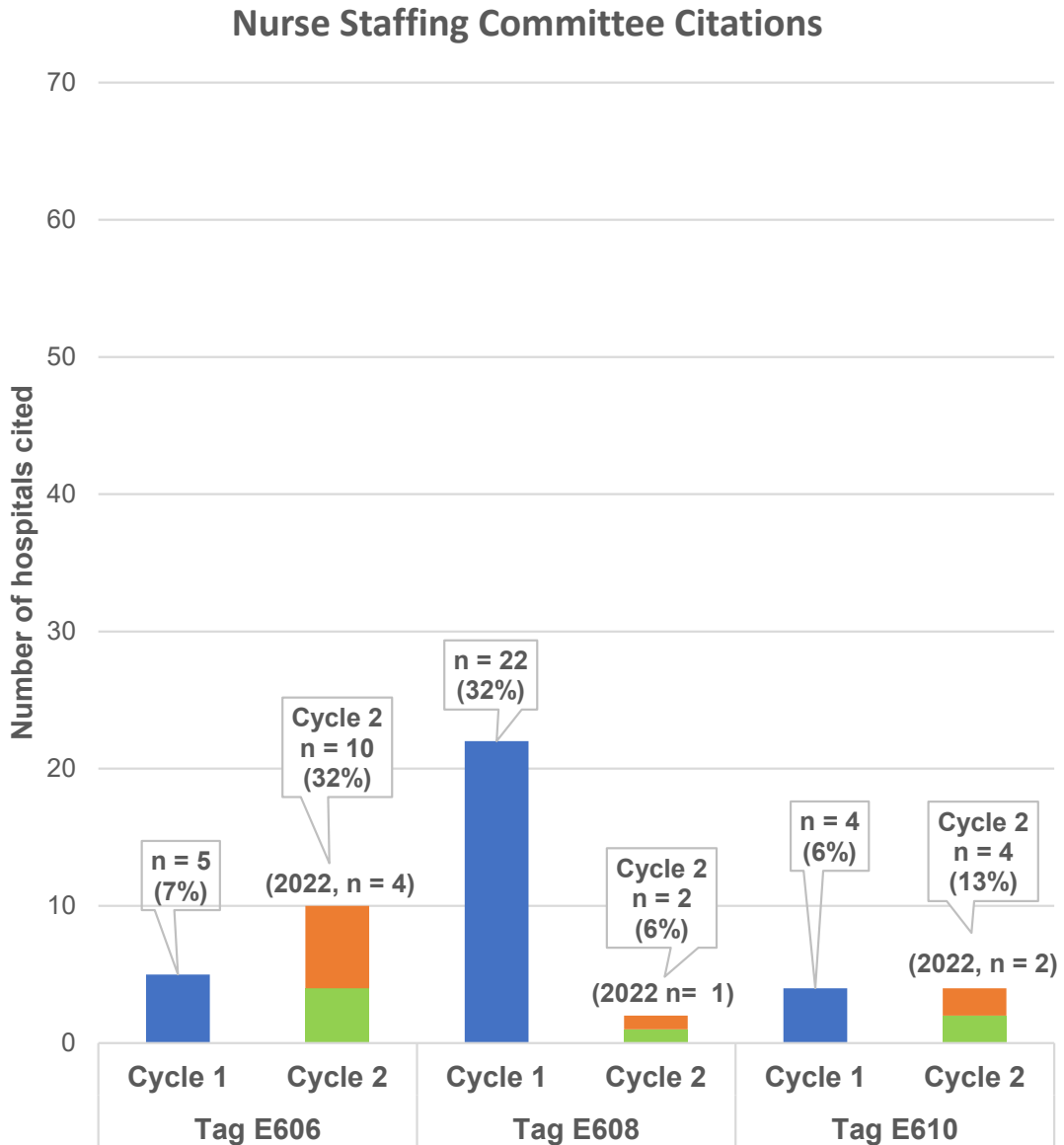
- The data presented for **Cycle 1 (2017 – 2019)** is combined over three survey years and contains data from **69** hospitals
- At the time of drafting this presentation, OHA had completed nurse staffing reports for **31 hospitals** in **Cycle 2 (2021 – 2023)**. Thirty-one hospitals represents 44% of the total number completed in Cycle 1.
- Data for **Cycle 2** continues to show hospitals receiving fewer citations related to Nurse Staffing Committee operations, Nurse Staffing Plan, and MOT requirements

# Posting & Record Keeping Requirements



- **E600:** Post a complaint notice on each hospital unit that is clearly visible to the public
- **E602:** Post an anti-retaliation notice that is clearly visible and is posted where notices to employees and applicants are usually displayed
- **E604:** Maintain required documentation

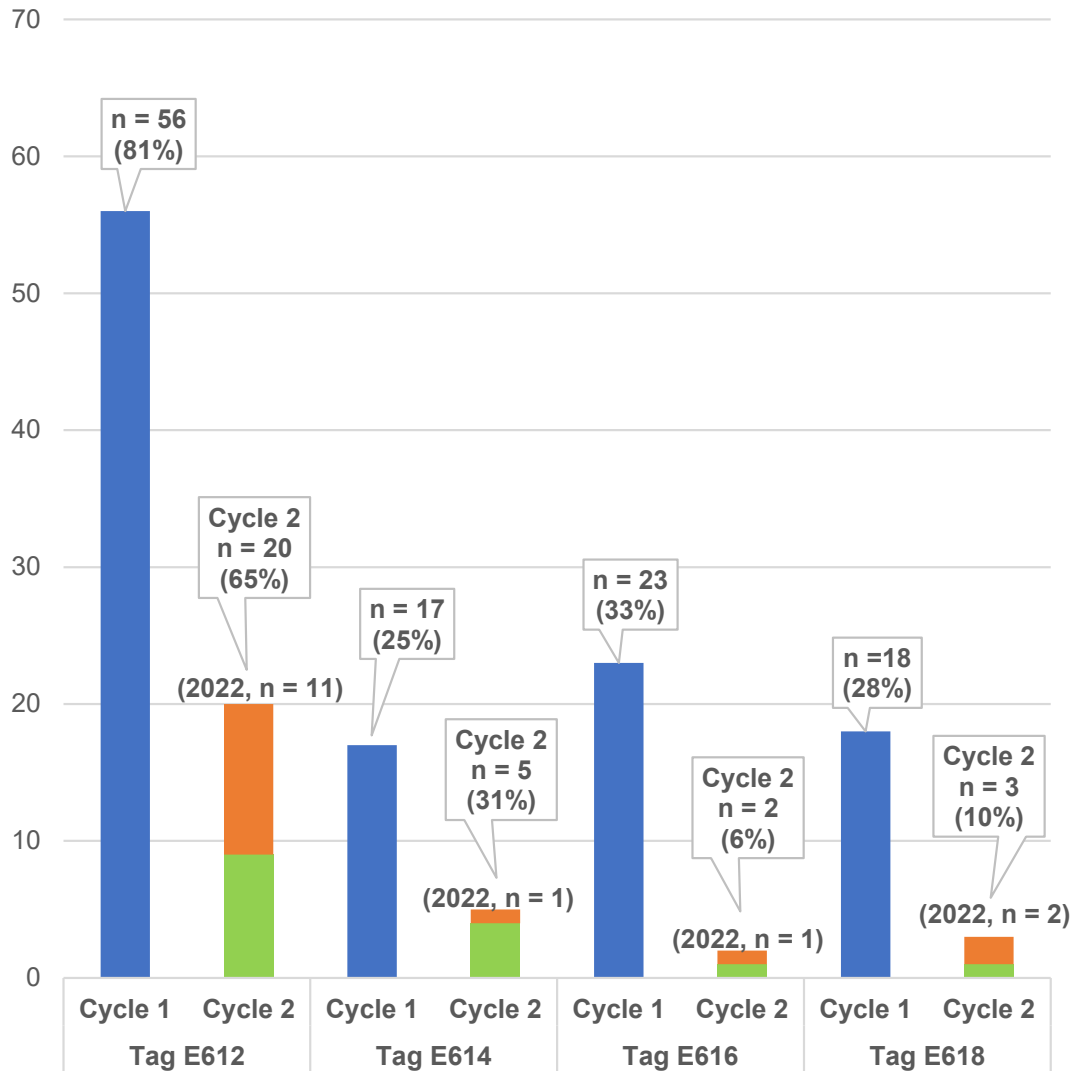
# Nurse Staffing Committee (NSC) Citations



- **E606:** Establish and maintain a nurse staffing committee responsible for developing NSPs
- **E608:** NSC shall meet at least every three months
- **E610:** Release NSC members to attend meetings and provide paid time for this purpose

# Nurse Staffing Committee Citations

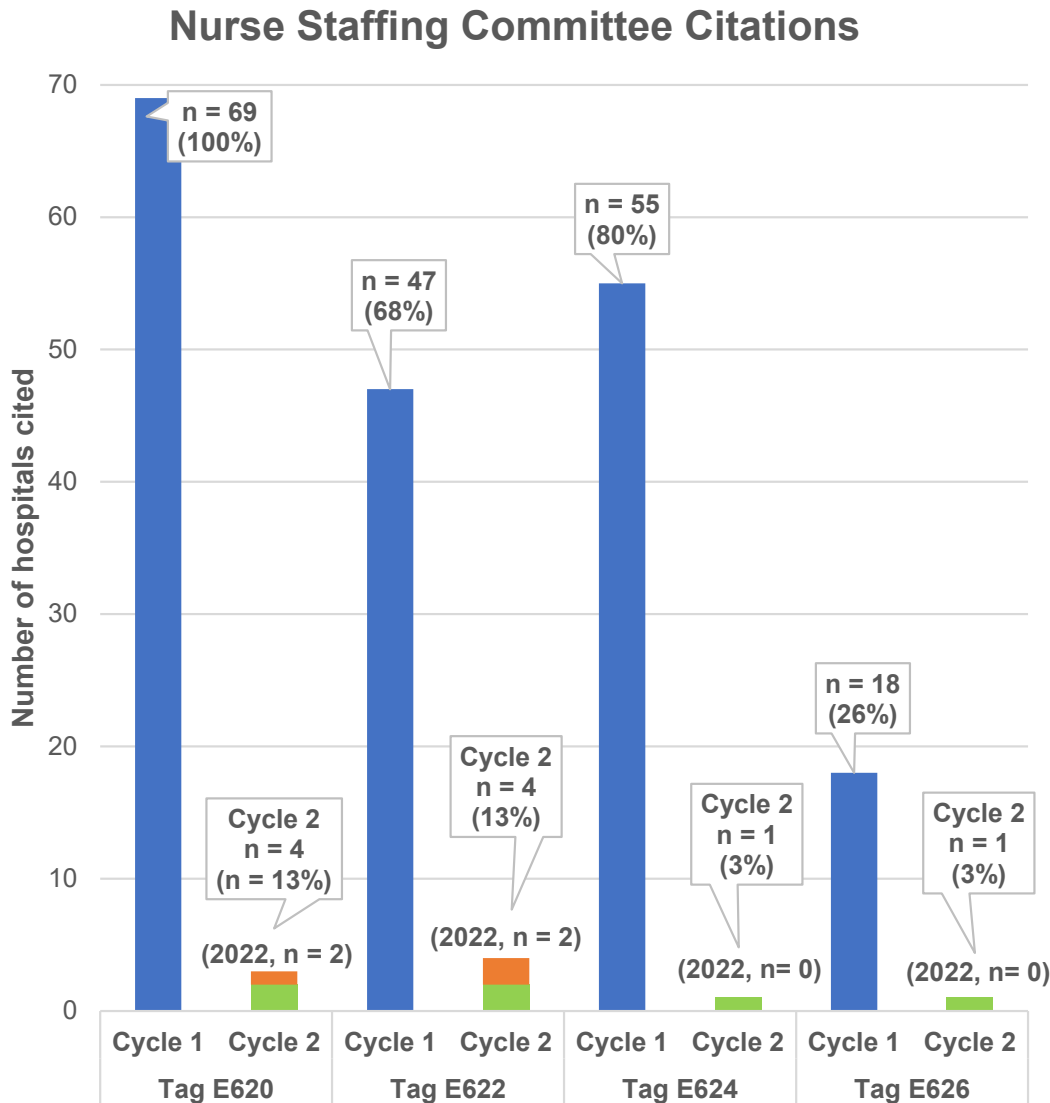
Nurse Staffing Committee Citations



- **E612:** NSC must be comprised of an equal number of direct care and nurse manager members, with direct care representation for each nursing unit.
- **E614:** NSC must have one non-RN (LPN or CNA) direct care member on the NSC
- **E616:** Selection of direct care NSC representatives
- **E618:** Selection of NSC Co-Chairs

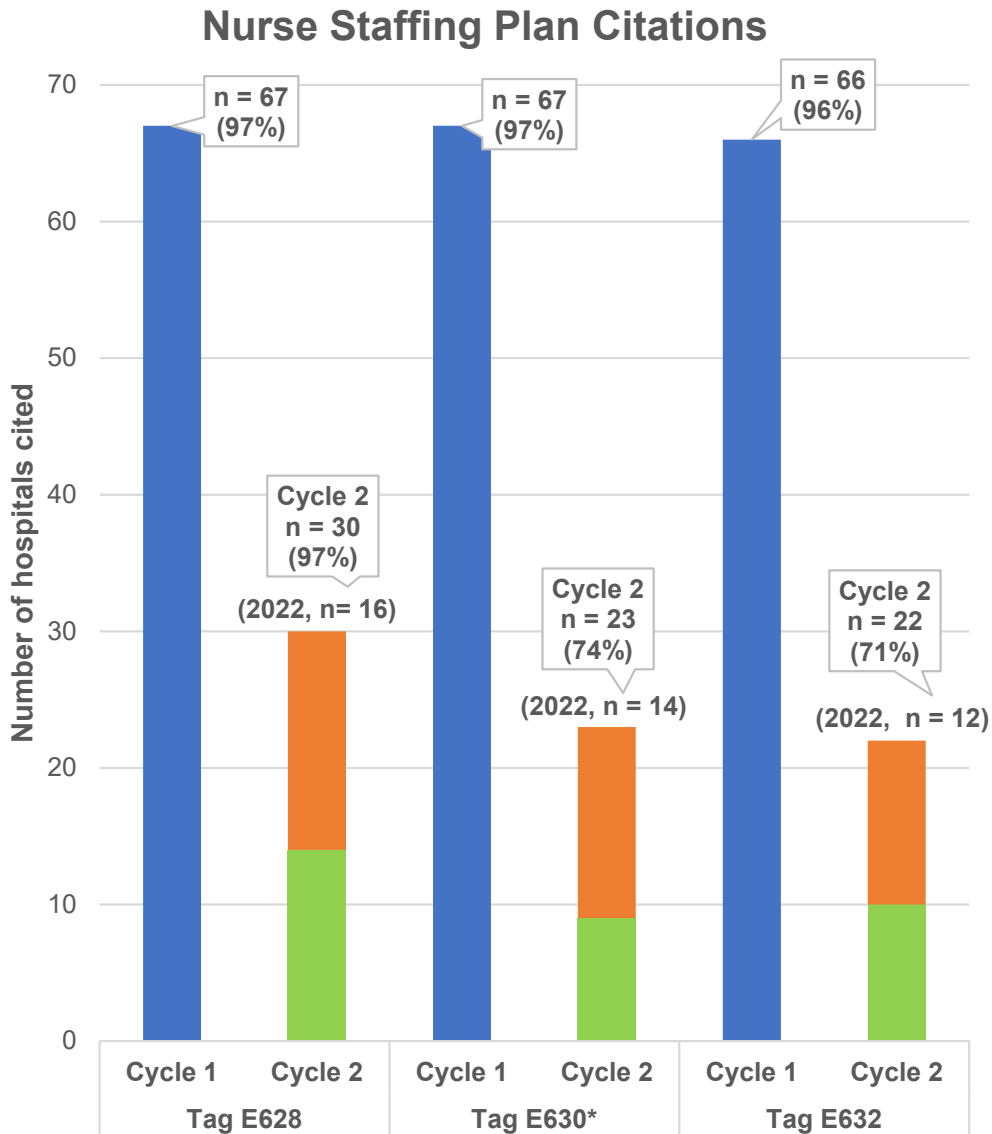


# Nurse Staffing Committee Citations



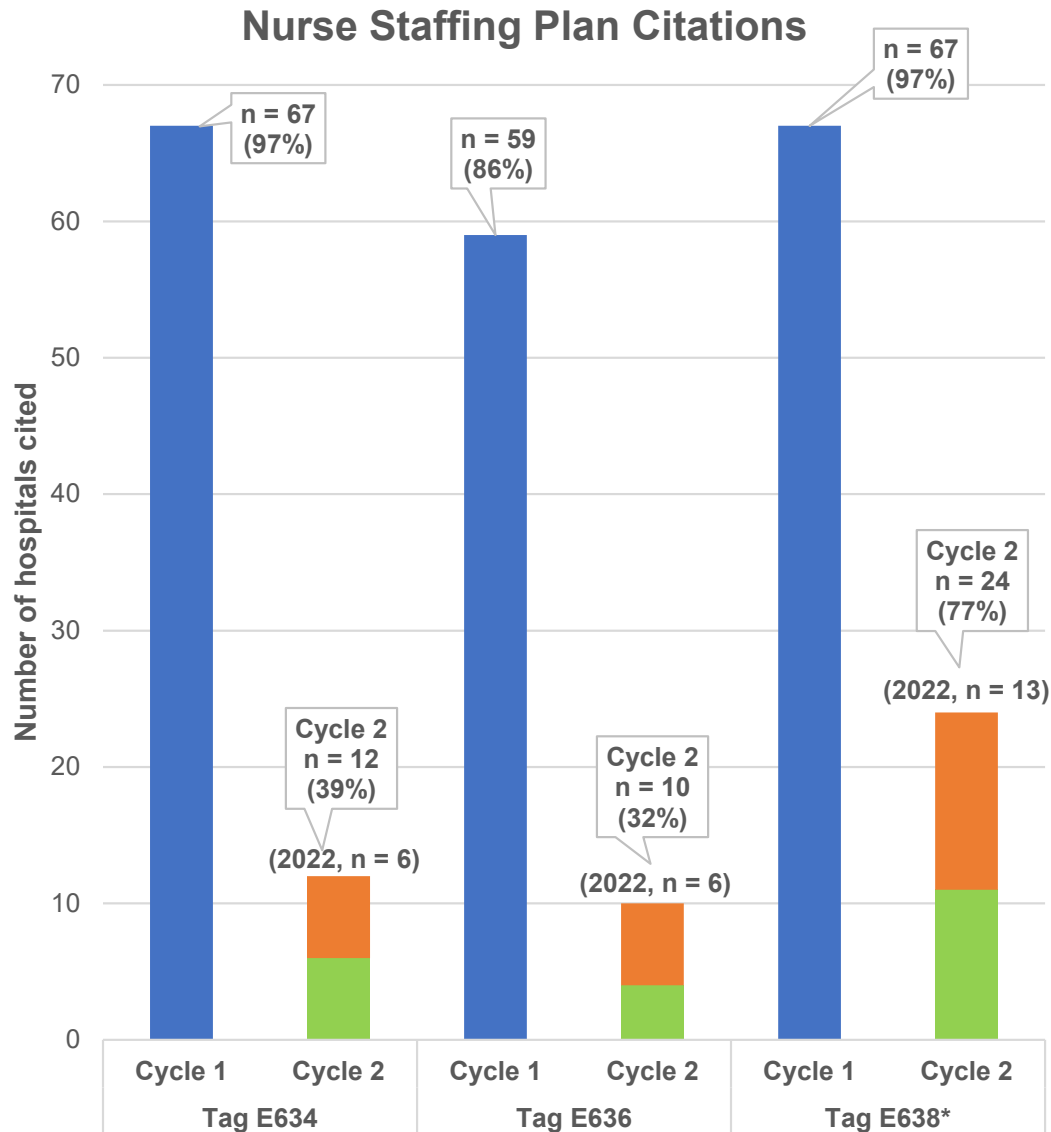
- **E620:** NSC charter requirements
- **E622:** NSC meeting conduct requirements, including quorum and voting
- **E624:** NSC meeting minute requirements
- **E626:** NSC minutes must be approved by NSC and available to NSMs upon request

# Nurse Staffing Plan (NSP) Citations



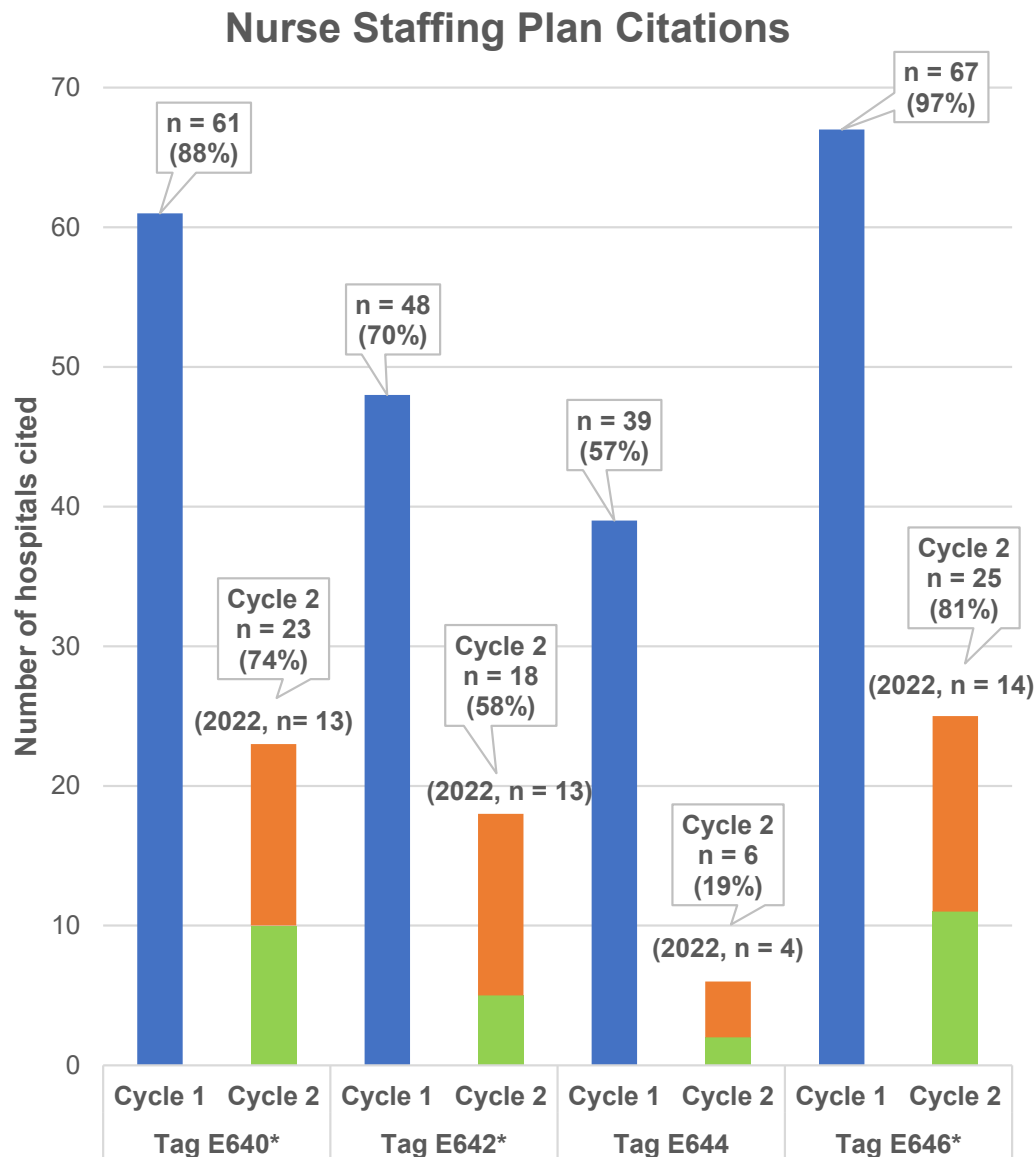
- **E628:** Develop and implement a NSP approved by NSC
- **E630:** NSP must be based on specialized qualifications and competencies
- **E632:** NSP must include rate of ADT and time required for NSMs to complete those tasks

# Nurse Staffing Plan Citations



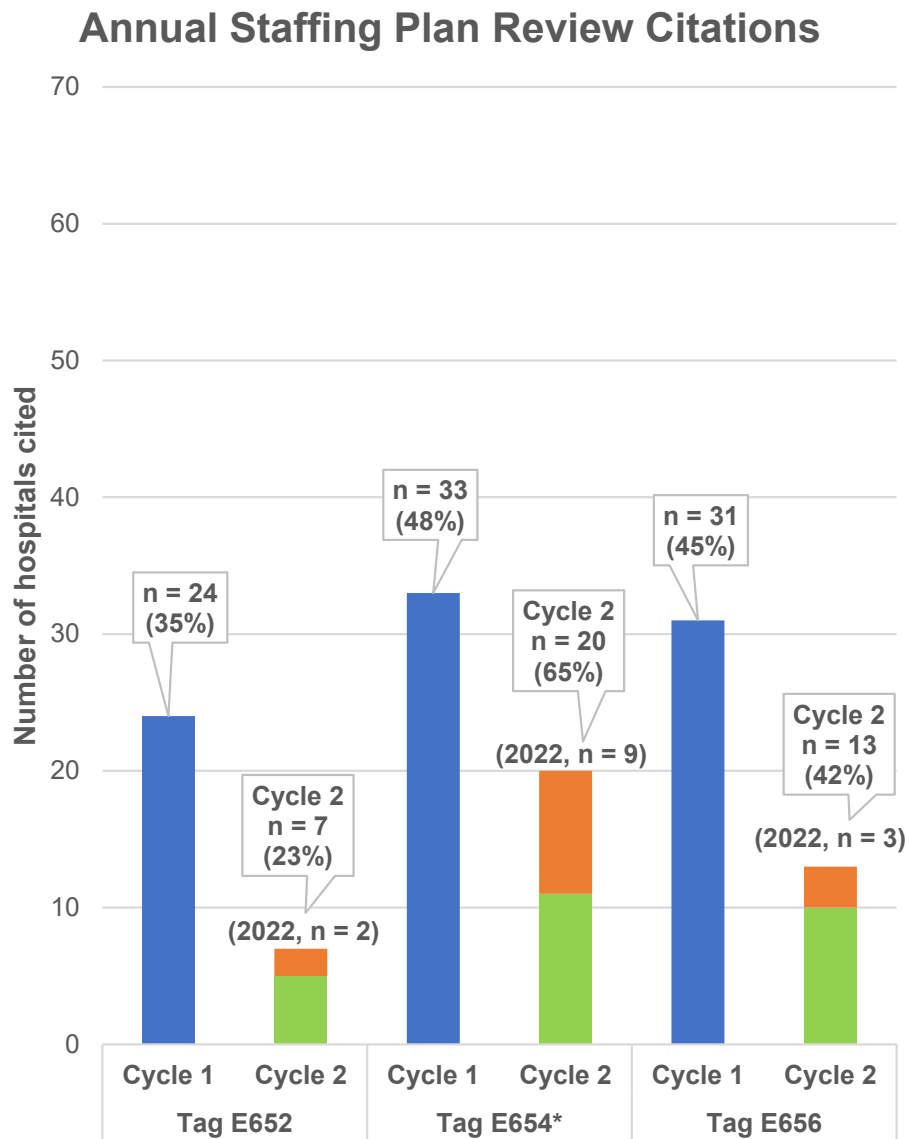
- **E634:** NSP must be based on total diagnoses
- **E636:** NSP must be consistent with nationally recognized evidence-based standards and guidelines
- **E638:** NSP must recognize differences in patient acuity and nursing care intensity

# Nurse Staffing Plan Citations



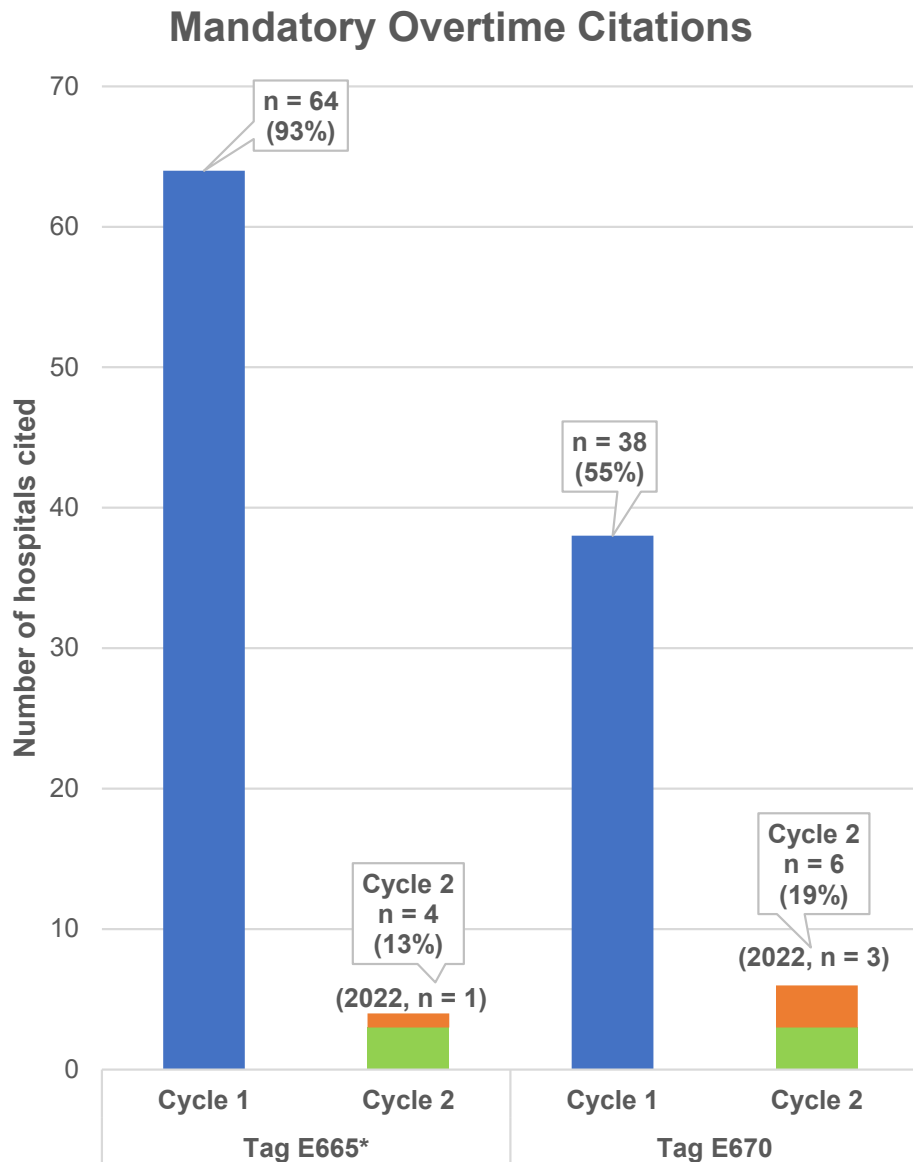
- **E640:** NSP must establish minimum numbers of NSMs on specified shifts
- **E642:** NSP must ensure that there is no less than 1 RN + 1 RN/CNA/LPN on duty in a unit when a patient is present
- **E644:** NSP must include a formal process for evaluating and initiating limitations on admission or diversion
- **E646:** NSP must consider tasks not related to providing direct care, including meal and rest breaks

# Annual Staffing Plan Review Citations



- OHA started surveying annual staffing plan review requirements in the second year of Cycle 1, so 33% of hospitals were not surveyed for compliance with these requirements. Hospitals surveyed in 2021 did not have these requirements reviewed during the first survey cycle
- **E652:** NSC must review NSP at least once per year
- **E654:** NSC must consider certain factors when reviewing the NSP
- **E656:** NSC must issue a written report to the hospital that indicates whether NSP meets patient care needs

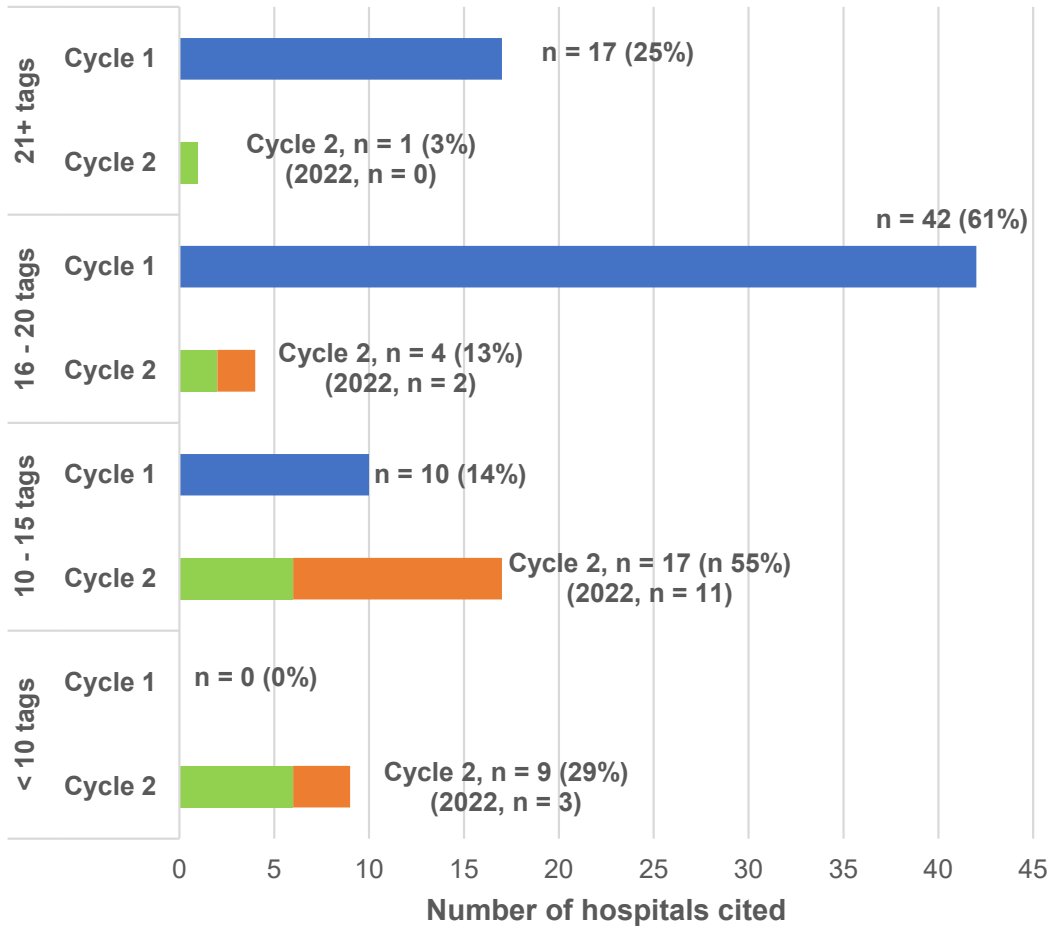
# Mandatory Overtime Citations



- **E665:** Hospital cannot require overtime (mandatory overtime) except in limited circumstances
- **E670:** Hospital must have a policy and procedure to ensure that MOT is documented in writing and that MOT policies and procedures are clearly written, provided new nursing staff members, and readily available to all nursing staff

# Average Number of Citations

Number of Citations per Hospital  
 Cycle 1: n = 69 Hospitals  
 Cycle 2: n = 31 Hospitals



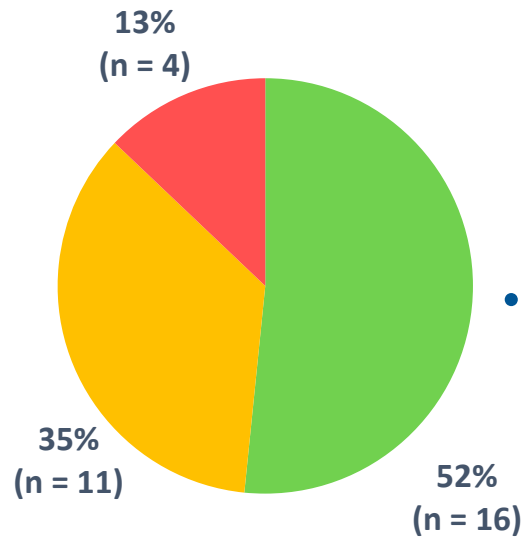
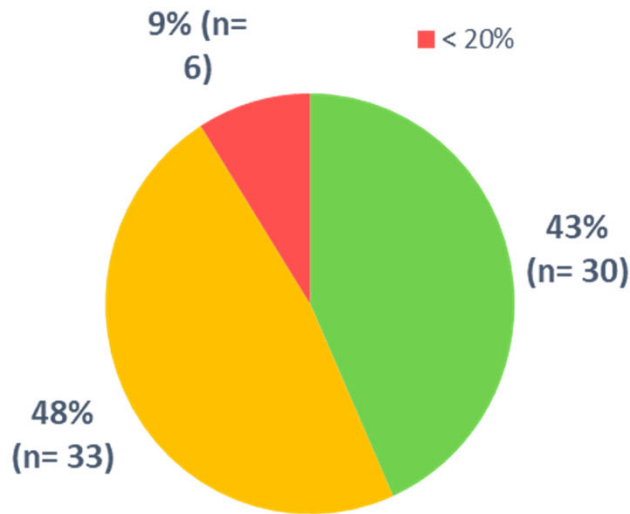
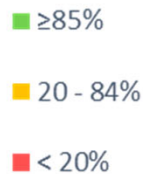
- OHA is citing fewer tags in **Cycle 2** than in **Cycle 1**.
- In **Cycle 1**, the average number of tags cited per survey was **18**. For **Cycle 2**, the average number of tags cited per survey is **11**. (This increased from 9 in 2021 to 11 for 2021 + 2022).

# SurveyMonkey Response Rate

Cycle 1 Survey Monkey Response Rate (n= 69 Hospitals)

Cycle 2 Survey Monkey Response Rate (n = 31 Hospitals)

- OHA roughly correlates the SurveyMonkey response rate based to the number of licensed hospital beds
- During **Cycle 1**, 43% of hospitals (n= 30) had a high response rate ( $\geq 85\%$  of licensed hospital beds), compared to 52% of hospital (n= 16) for **Cycle 2**.
- **Cycle 2** has slightly higher rates of very low SurveyMonkey participation compared to **Cycle 1** (considered  $< 20\%$  of licensed hospital beds)





# Nurse Staffing Resources:

Website: [www.healthoregon.org/nursestaffing](http://www.healthoregon.org/nursestaffing)

- Nurse Staffing Interpretive Guidance
- Nurse Staffing Webinars
- Sample Nurse Staffing Survey Tool Kit
- Nurse Staffing Reports and approved Plans of Correction

*And more!*

# Nurse Staffing Resources:

**Website:** [www.healthoregon.org/nursestaffing](http://www.healthoregon.org/nursestaffing)

**Email:** [mailbox.nursestaffing@odhsoha.oregon.gov](mailto:mailbox.nursestaffing@odhsoha.oregon.gov)

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