WELCOME TO TODAY’S WEBCAST MEETING!

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➢ This webcast will be recorded.
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Today’s Agenda

The purpose of this webcast is to provide comprehensive information and resources to assist you in understanding and implementing the Oregon Nurse Staffing Law at your hospital.
Toolkit Contents

1) History & intent of the Oregon Nurse Staffing Law
2) Current law and rules, including where to find them
3) Core elements of the law
4) Preparing for your survey including waiver requests
5) Implementation strategies
6) Continuing implementation challenges
7) Creating a Plan of Correction
8) Preparing for a revisit
9) Available resources
History & Intent of the Oregon Nurse Staffing Law
In 2001, the Oregon Legislature put into law requirements for direct care Registered Nurse (RN) staffing in hospitals. The original terms of the law:

- Limited the number of hours hospitals could require direct care RNs to work in a 24-hour period
- Required hospitals to post summary notices about hospital nurse staffing laws
- Mandated that Oregon Health Authority (OHA) randomly survey at least seven percent of Oregon hospitals each year to verify that hospitals:
  - Had a written plan for nurse staffing services.
  - Could get replacement-nursing staff.
  - Provided notice to nursing staff about employment outside of the hospital.
- Mandated that OHA prepare summary annual reports of nurse staffing survey results
- Authorized assessment of civil penalties, when appropriate
- Provided whistle-blower protection to complainants
In 2005, the legislature amended the nurse staffing statutes in several key areas:

- Expanded nurse staffing law to cover the following nursing staff members, along with RNs:
  - Licensed practical nurses (LPNs)
  - Certified nursing assistants (CNAs)
- Required establishment of a hospital nurse staffing committee (HNSC) in each hospital that would include equal numbers of direct care RNs and nurse managers
- Defined the composition and administrative processes of HNSCs
- Included factors for HNSCs to consider when creating nurse staffing plans
- Further limited the number of hours hospitals could require nursing staff members to work:
  - In a 24-hour period and within one workweek
  - Treated time nursing staff members spent in meetings, required training and some on-call time as hours worked
In 2015, the Oregon Legislature passed Senate Bill (SB) 469

- The Legislature considered input from the Oregon Nurses Association (ONA) and the Oregon Association of Hospitals and Health Systems (OAHHS). The intent of SB 469 was to continue to refine and improve Oregon’s nurse staffing law.
- Oregon hospitals in collaboration with the Oregon Nurses Association (ONA), supported SB 469
SB 469: Current NS Law

SB 469 made the following changes to the nurse staffing law:

- Established composition and activities of an HNSC
- Provided factors for HNSCs to consider when formulating nurse staffing plans
- Required mediation when a HNSC cannot agree on a nurse staffing plan
- Clarified hospital record-keeping requirements
- Created a statewide Nurse Staffing Advisory Board (NSAB)
- Implemented timelines for OHA nurse staffing complaint investigations
- Increased frequency of OHA nurse staffing audits
- Clarified OHA posting requirements for public records
Goal of the NS Law

• The goal of SB 469 was for hospitals to utilize hospital nurse staffing committees to enable nurse managers and direct care staff to generate staffing plans that address safe and appropriate care in hospital patient care units.
  – Through this process, nurse staffing committees provide a safe venue to address staffing challenges and to promote collaboration between nurse managers and direct care staff.
Oregon Nurse Staffing Law

• 2015 Statutory changes necessitated changes to the nurse staffing administrative rules. OHA amended the rules and the administrative rules went into effect on July 1, 2016 and January 23, 2017.
  – Oregon Administrative Rules Chapter 333, Division 501
  – Oregon Administrative Rules Chapter 333, Division 510
• Rules can also be found on the OHA website: www.healthoregon.org/nursestaffing
Oregon Nurse Staffing Law

- Statutes for Oregon's nurse staffing law are found in Oregon Revised Statutes 441.152 - 441.192
Core Elements of the NS Law
Core elements of the law

Staffing Committee:

• The law requires each hospital to establish and maintain a hospital nurse staffing committee. This committee is charged with developing a written, hospital-wide staffing plan for nursing services to ensure that the hospital has adequate nurse staffing “to meet the health needs of the patients”.

• The law requires the nurse staffing committee must meet at least quarterly and at a time and place specified by at least one of the co-chairs.

• The law requires that the members of the staffing committee must be released from their work assignments to attend meetings and that the time spent in staffing committee meetings will be paid time.
Core elements of the law

Staffing Committee members:

• Will have 2 co-chairs, one of which is a hospital nurse manager and one who is a direct care registered nurse

• Committee membership will be comprised of equal numbers of hospital nurse managers and direct care nursing staff

• Each hospital specialty unit must be represented on the staffing committee by a direct-care RN
  -- The hospital decides what patient care units are included in the HNSC

• There will be one person on the committee that is a direct care staff person that is not a registered nurse (example: CNA)
Core elements of the law

Charter:
• The staffing committee must develop a written charter that documents the policies and procedures of the committee and must include:
  – How meetings are scheduled
  – How members are notified of meetings
  – How agendas are developed
  – How input is solicited and submitted
  – Who may participate in decision making
  – How decisions are made
  – How the committee will monitor, evaluate and modify staffing plans over time
Core elements of the law

Staffing Plans:

• To be based on specialized qualifications & competencies to provide necessary skill mix
• To be based on measurement of unit activity including admissions, discharges & transfers
• To be based on total diagnoses for unit & nursing staff required to manage that set of diagnoses
• To be consistent with nationally recognized standards & guidelines
• Recognize differences in individual patient acuity & nursing care intensity
• Establish minimum nurse staffing numbers
• Include a formal process for initiating limits on admissions & diversions
• Consider tasks not related to direct care including staff breaks
• Cannot be based solely on external benchmarking data
Core elements of the law

Staffing plans:

• Plans passed by HNSCs must be implemented by hospitals, with limited emergency exceptions

• Regular review of staffing plans by HNSCs must be completed annually
  – Annual review to consider: patient outcomes, reports of inadequate staffing, staffing complaints, staff overtime, hours per patient day, deviations from staffing plan, and other pertinent factors determined by the HNSC
Core elements of the law

Staffing Plans:
If an HNSC cannot agree to a staffing plan, either co-chair can call for a 30-day pre-impasse period to work towards a resolution

- After the 30-day pre-impasse period, an HNSC begins a mediation process
- Any agreement reached with a mediator must be based on the staffing plan requirements
- If there is no agreement after 90 days of mediation, the Oregon Health Authority (OHA) may levy a fine against the hospital
Core elements of the law

Overtime:

• Establishes reasonable limits on use of mandatory overtime

• Specifies that nurses cannot be required to work beyond the agreed-upon, prearranged shift
  - Specifies that a hospital must provide a 10-hour rest period if requested after a nurse works 12 hours in a 24-hour period
  - Nurse may waive the 10-hour rest period

• HNSC is to review patterns of overtime utilization
Exceptions

• Maximum Required Hours and Calculation of Hours Worked do not apply
  – In national or state emergencies
  – When the hospital’s facility disaster plan is implemented in the following emergency circumstances:
    • Sudden and unforeseen adverse weather conditions
    • An infectious disease epidemic suffered by hospital staff
    • An unforeseen event preventing replacement staff from approaching or entering the hospital
Voluntary Overtime

• Voluntary overtime is allowed
• Hospitals can require an additional hour of work if:
  • A vacancy in the next shift becomes known at the end of the current shift;
  • To avoid potential harm to a patient if the nurse leaves or transfers care of the patient
Preparing for Your Survey
OHA Survey Overview

Since 2017:

• OHA staff uses a standardized survey process intended to evaluate nurse staffing compliance
• Hospitals are randomly selected for survey from the list of hospitals licensed in the state
• Each hospital is surveyed once every three years
• Surveys include review of relevant records, interviews of both HNSC co-chairs and interviews of any other person(s) deemed necessary to determine compliance
• Hospitals keep and maintain records that demonstrate compliance
• After a survey, OHA sends the hospital and the HNSC co-chairs a written report that explains any nurse staffing concerns found.
• A hospital submits a plan of correction (POC) to address any concerns noted in the OHA's report. Once a POC is approved, OHA will revisit the hospital within 60 days to determine compliance
• OHA maintains and posts audit reports online on their website: OHA Nurse Staffing Website
Proactive Preparation

• It is in your best interest to be prepared:
  – Orient hospital nurse staffing committee members to survey process using OHA archived webinars
  – Run a mock survey using the OHA survey tools
  – Assemble an internal core team to manage survey preparation details
  – Webinars and survey tools can be found at OHA Nurse Staffing Website
How to get started

• Gather and organize documents that are not unit specific (i.e. HNSC minutes, charter, roster, hospital-wide nurse staffing plan, etc.)
• Confirm availability of hospital nurse staffing committee cochair members for survey interviews
• Designate a space that surveyors can use as a work area while they are on-site
• Schedule post-survey and post-report debrief meetings with the HNSC members
What happens next

• OHA issues a nurse staffing survey report no more than 30 business days after the survey closes
• OHA sends a written report to the hospital administrator, CNO, and both cochairs of the hospital nurse staffing committee documenting any noncompliance found during the survey process
• Each citation includes the legal standard, a deficiency statement and findings of fact that support the noncompliance determination
• The report includes a cover letter that explains whether the hospital is required to submit a plan or correction after receiving the report
Resources

• **OHA Nurse Staffing Survey Tool Kit**
  – Tools that surveyors will use while on-site at your hospital

• **Your peers at other hospitals**
  – Learn from others who have had a survey
  – What worked and what did not work
Understanding Waivers

• The OHA may waive one or more of the staffing plan requirements in OAR 333-510-0110 if the waiver is necessary to ensure that the hospital is staffed to meet patient health care needs.

• Waiver requests must
  – Be submitted in writing
  – State the reason the hospital is seeking the waiver
  – Explain how the waiver is necessary for the hospital to meet patient health care needs
  – Include verification that the hospital nurse staffing committee has been notified of the request for waiver

• Hospitals can use the Nurse Staffing Waiver Request Form (pdf) to prepare the written request.
Common waiver requests

• Staffing of a tech (not considered a nursing staff member) as a second care provider to satisfy minimum staffing requirements rather than a second RN, LPN or CNA

  -The waivers are requested for procedural units as well as other care areas that regularly utilize techs
Successful Strategies

Example:

• Engaging and maintaining nursing staff members for the HNSC
  – Welcome culture and consistent orientation a must
  – Clearly defined roles & responsibilities
  – “Your voice matters”
  – Food may be used as an incentive
  – Meeting dates & times identified as far in advance as possible
Example-Legacy Health

• Agenda that is staff driven and solution focused....What is important to staff?
• Meeting enhancements – breaks, food, meeting dates & times, ground rules
• Scheduling
  – No Mondays/Fridays/or holidays
  – Dates & times identified one year in advance
  – Clearly defined representative roles and responsibilities in charter for co-chairs, staff elect, and leadership
Example-St Charles Bend

- Departments grouped together to keep committee size “manageable”
  - Great participation with this approach
- 2017 focus was re-writing charter and developing department staffing plan templates
- 2018 focused on each department working through first pass and report out of staffing plans
Example-Asante Ashland

• Monthly meeting have helped to build relationships
• Working through the past 17 months post survey has brought us together by focusing on how to approach/address improvements
• Messaging the “why” is compelling
• “Your voice matters” takes on new meaning
Successful Strategies

Example:

- **Meal and rest break coverage**
  - Designated break nurse is used in some hospitals
  - Scheduling breaks every shift and maintaining documentation helps to solidify the process and maintain a consistent process
  - Small hospitals tend to engage the house supervisor more often in helping with break coverage
Successful Strategies

Example:

- **Overtime Documentation**
  - Differentiate voluntary from mandatory
  - Electronic system may be helpful
  - Data overload may occur; determine how much is needed and how to utilize
Example-St Charles Bend

• Partnered with Time and Attendance vendor to develop caregiver attestation
• System asks questions based on worked minutes accumulated
• Allows for documentation/attestation for OT as voluntary or mandatory as well as waiver and request of 10 hour rest periods
Successful Strategies

Example:

• **Competency Management**
  – Manage all competencies electronically
  – Develop electronic sign offs for orientations
  – When you see new patient populations- assess staffing needs, develop competencies and update staffing plans
  – Work towards a sustainable goal; process takes time
Example-Legacy Health

• Must have documentation that employee competencies are up-to-date and completed on time

• Long term employees – competency expectations and tracking changes over time
  – Addressing how we validate their competency

• Utilize annual Professional Development Plans for each department/unit
Successful Strategies

Example:

• **Determining what units are in or out when creating Nurse Staffing Plans**
  - Keep it simple: Include physical units that provide direct patient care
  - Exclude units that are support units and deployed to other areas to provide patient care
  - Ask if the RNs working in these departments assume primary responsibility for patient care

  Examples include:
  • Resource Team
  • Vascular Access Team
  • Pediatric Answer Line
  • Pediatric Sedation Team
  • Lactation Department
  • Wound Ostomy Team
Continuing Implementation Challenges
Continuing Challenges

• Areas and issues that remain challenging in nurse staffing law implementation
  – Meal/break process and documentation
  – Acuity process and documentation
• Workgroups and discussions on these topics are ongoing
Creating a Plan of Correction (POC)
What you need to know.....

- A hospital must write a POC if the OHA nurse staffing survey or complaint investigation report identifies noncompliance
  - If you are having problems completing the POC before the deadline, you may contact the surveyor for a possible extension
- The hospital must submit a POC no more than 30 business days after it receives the agency’s report
- The POC should not attempt to disprove the findings or restate a statute or administrative rule as the proposed solution.
What to include in a POC

• The POC must include the first page of the OHA report, which must be signed by the hospital administrator

• Include the HNSC members to assist in finding and implementing solutions to the deficiencies
  – This may increase buy-in and collaboration in addressing process deficiencies
  – The HNSC can also assist in monitoring compliance after process changes are made
What to include in a POC

The POC must respond to each deficiency identified in the report. Each response should include:

– A detailed description of how the hospital plans to correct the deficiency identified in each deficiency statement
– A description of how the hospital will implement the plan to correct the deficiency
– A timeline or date by which the hospital expects to implement the corrective actions
– The description of monitoring procedure(s) that the hospital will perform to prevent a recurrence of the specific deficiency identified
– The title of the person who will be responsible for implementing the corrective actions described
POC Tips

• During the survey exit conference and during a scheduled conference call, surveyors will discuss POC expectations and focus on frequent areas of confusion

• Take advantage of a conference call with OHA; you are not limited to just one call!

• Team approach may be helpful in creating your POC
  – Language is important-be clear and concise
  – Detail is important-be complete
Additional POC Tips

• Please be aware that surveyors look for a POC that reflects that corrections will be implemented wherever that deficiency is present, even if it was in a unit that was not surveyed.

• Acceptable POCs are phrased more generally to ensure that the correction is made wherever necessary.
What happens next

• OHA issues a written determination stating whether the hospitals POC is sufficient no more than 30 business days after receiving it
  – If OHA does not approve the hospital’s POC, the hospital must submit a revised POC no more than 30 business days after receiving the agency’s determination
  – If OHA approves the hospital’s POC, the hospital must implement the approved POC no more than 45 business days after receiving approval
What if your POC is not accepted?

• Common reasons why this may happen
  – Plan to prevent recurrence not specific
  – Description of how deficiency will be corrected not detailed enough
  – Accountable person for process not identified
  – Monitoring timeframe not reasonable to evaluate compliance
  – Corrections not planned to be implemented wherever necessary
Resources

• OHA:
  
  OHA Nurse Staffing Plan of Correction Guidance

• ONSC:
  
  Nurse Staffing Plan of Correction Template

• Peers: Review approved POCs posted online
  
  OHA Nurse Staffing Website
Preparing for a Revisit
Preparing for a Revisit

• OHA will send an email and letter to the hospital CEO, CNO and HNSC co-chairs regarding the OHA revisit details and document request
  – Specific documents will be requested by OHA of corrections and compliance of areas cited on survey
  – Documents due to OHA within 10 days of date of letter
  – After OHA staff has reviewed the submitted documents, they will notify hospital of findings
OHA Resource

• OHA Nurse Staffing Revisit Notice
General Resources
Use Your Resources

• Oregon Health Authority-website and/or staff
• NSAB-contact current co-chairs
• ONSC-contact Danielle Meyer
• Peers-review approved POCs that are posted; follow-up by phone or email
The Nurse Staffing Advisory Board (NSAB) is a 12-member board of hospital nurse managers, direct care registered nurses, and a direct care staff member.

NSAB Members are charged with:
- Providing advice to the Oregon Health Authority on the administration of Oregon's nurse staffing laws.
- Identifying trends, opportunities and concerns related to nurse staffing.
- Making recommendations to the Oregon Health Authority on the basis of those trends, opportunities and concerns.
- Reviewing the enforcement powers and processes under Oregon's nurse staffing laws.

The NSAB submits an annual report to the legislature on the administration of Oregon's nurse staffing laws.

For a current roster of the NSAB members, go to OHA Nurse Staffing Website.
You will find information about ONSC, how to join and nurse staffing resources. Contact Danielle Meyer for details: dmeyer@oahhs.org

**Recently added to ONSC page:**

- Hospital cochair list (will be updated quarterly)
Peers

• View completed Nurse Staffing Surveys and Complaint Investigations from other hospitals; all posted on the OHA nurse staffing webpage

• Network with peers on what works and doesn’t work
Questions
Thank You

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