

Survey and Certification Unit

800 NE Oregon Street, Suite 465

Portland, OR 97232

Voice: (971) 673-0540

Fax: (971) 673-0556

TTY: 711

<http://www.healthoregon.org/nursestaffing>
mailbox.nursestaffing@odhsoha.oregon.gov

Nurse Staffing Report

Facility Name: Bay Area Hospital

Report Publication Date: February 9, 2024

DISCLAIMER: This report was provided to the hospital administrator, chief nursing officer, and both co-chairs of the nurse staffing committee prior to publication. It has also been provided to the union(s) representing the complainant(s), if applicable.

For each violation cited in the report, OHA shall:

- Issue a warning for the first violation in a four-year period
- Impose a civil penalty of \$1,750 for the second violation of the same provision in a four-year period
- Impose a civil penalty of \$2,500 for the third violation of the same provision in a four-year period
- Impose a civil penalty of \$5,00 for the fourth and subsequent violations of the same provision in a four-year period

The enforcement notice issued to the hospital is included at the end of this report.

NOTE: Any violations listed in ORS 441.792 found before June 1, 2025, will not be relied upon for determining the applicable sanction on or after June 1, 2025, the date OHA can begin issuing civil penalties. 2023 Oregon Laws, Chapter 507, Section 29(4). The sanction for a violation of the same provision after June 1, 2024 will be a warning letter.

*If you need this information in an alternate format,
please call our office at (971) 673-0540 or TTY 711*

Survey and Certification Unit

800 NE Oregon Street, Suite 465

Portland, OR 97232

Voice: (971) 673-0540

Fax: (971) 673-0556

TTY: 711

<http://www.healthoregon.org/nursestaffing>
mailbox.nursestaffing@odhsoha.oregon.gov

Hospital: Bay Area Hospital District DBA Bay Area Hospital

Complaint #s: OR44905, OR45205, OR45210, OR45256, and OR45260

HOSPITAL STAFFING COMPLAINT INVESTIGATION REPORT

The Oregon Health Authority, Health Care Regulation and Quality Improvement Program (OHA) is responsible for processing complaints concerning compliance with certain hospital staffing laws. 2023 Oregon Laws, Chapter 507, Section 18. OHA can only investigate valid complaints filed within 60 days from the date of the violation alleged in the complaint. 2023 Oregon Laws, Chapter 507, Section 18(1), (6). A valid complaint means a complaint containing an allegation that if assumed to be true is a violation listed in 2023 Oregon Laws, Chapter 507, Section 20.

Summary of Report Findings: Based on its investigation and the findings of fact set out below, OHA finds:

- One violation of 2023 Oregon Laws, Chapter 507, Section 20(2)(d), as alleged in Complaint OR45256.
- No violations as alleged in the complaints numbered OR44905, OR45205, OR45210, and OR45260.

I. Summary of Complaints

In September 2023, OHA received five complaints (“the complaints”) alleging that the Bay Area Hospital failed to comply with the staffing level in the Medical Care Unit (MCU) Nurse Staffing Plan (NSP) on five different shifts in September 2023. OHA determined that each of the five complaints were valid. The five complaints were investigated at the same time. The written report for each of the complaints are consolidated into this report.

A. Complaint #OR44905

On 09/14/2023, OHA received complaint #OR44905 alleging that Bay Area Hospital failed to comply with the staffing level in the MCU NSP on 09/13/2023, a violation of 2023 Oregon Laws, Chapter 507, Section 20(2)(d). After determining the complaint was timely and valid, OHA opened its investigation on 10/20/2023.

B. Complaint #OR45205

On 09/23/2023, OHA received complaint #OR45205 alleging that Bay Area Hospital failed to comply with the staffing level in the MCU NSP on 09/22/2023, a violation of 2023 Oregon Laws, Chapter 507, Section 20(2)(d). After determining the complaint was timely and valid, OHA opened its investigation on 10/20/2023.

C. Complaint #OR45210

On 09/23/2023, OHA received complaint #OR45210 alleging that Bay Area Hospital failed to comply with the staffing level in the MCU NSP on 09/23/2023, a violation of 2023 Oregon Laws, Chapter 507, Section 20(2)(d). After determining the complaint was timely and valid, OHA opened its investigation on 10/20/2023.

D. Complaint #OR45256

On 09/27/2023, OHA received complaint #OR45256 alleging that Bay Area Hospital failed to comply with the staffing level in the MCU NSP on 09/24/2023 and 09/25/2023, violations of 2023 Oregon Laws, Chapter 507, Section 20(2)(d). After determining the complaint was timely and valid, OHA opened its investigation on 10/20/2023.

E. Complaint #OR45260

On 09/28/2023, OHA received complaint #OR45260 alleging that Bay Area Hospital failed to comply with the staffing level in the MCU NSP on 09/27/2023, a violation of 2023 Oregon Laws, Chapter 507, Section 20(2)(d). After determining the complaint was timely and valid, OHA opened its investigation on 10/20/2023.

II. Findings and Facts

A. MCU NSP

The NSP applicable to the complaints was approved by the nurse staffing committee (NSC) on 07/17/2023 and is referred to as the "MCU NSP" in this report. The MCU NSP established minimum staffing hours for nursing staff members (NSMs) which includes: registered nurses (RNs); charge nurses (Charge); breaker RNs (Breaker); and certified nursing assistants (CNAs), including unit secretaries (US) who are required to be CNAs in this unit.

The MCU NSP states that: “For General Medical patients: Minimum staffing will include one RN and one other nursing personnel when a patient is present.”

In addition, the MCU NSP included a chart as shown below:

**Bay Area Hospital
MEDICAL CARE UNIT (MCU) NURSE STAFFING PLAN**

DAYS Volume:	CNA1/CNA2/US	Breaker	Charge	RN	Hours Spent	Minimum staff	NOCS Volume:	CNA1/CNA2	Breaker	Charge	RN	Hours Spent	Minimum staff
1	0		12	12	24	same	1	0	0	12	12	24	same
2	0		12	12	24	same	2	0	0	12	12	24	same
3	0		12	12	24	same	3	0	0	12	12	24	same
4	0		12	12	24	same	4	0	0	12	12	24	same
5	0		12	12	24	same	5	0	0	12	12	24	same
6	0		12	12	24	same	6	0	0	12	12	24	same
7	0		12	12	24	same	7	0	0	12	12	24	same
8	0		12	24	24	same	8	4	0	12	12	28	same
9	8		12	24	44	same	9	8	0	12	24	44	same
10	8		12	24	44	same	10	8	0	12	24	44	same
11	12		12	24	48	same	11	8	0	12	24	44	same
12	12		12	36	60	48	12	12	0	12	36	48	48
13	12		12	36	60	48	13	12	0	12	36	48	48
14	20		12	36	68	52	14	12	0	12	36	60	48
15	20		12	42	78	52	15	16	0	12	36	64	48
16	20	4	12	42	78	64	16	16	4	12	48	64	64
17	24	4	12	48	88	64	17	24	4	12	48	80	64
18	24	4	12	48	88	64	18	24	4	12	48	80	64
19	24	4	12	56	96	68	19	24	4	12	48	88	68
20	24	4	12	60	100	68	20	24	4	12	48	96	68
21	28	4	12	60	104	80	21	24	4	12	60	100	80
22	28	4	12	60	104	80	22	24	4	12	60	100	80
23	32	4	12	60	108	80	23	24	4	12	60	100	80
24	32	4	12	72	120	80	24	24	4	12	60	100	80
25	32	4	12	72	120	80	25	24	4	12	60	100	80
26	44	4	12	72	132	92	26	24	4	12	72	100	92
27	44	4	12	84	132	92	27	24	4	12	72	112	92
28	44	4	12	84	144	116	28	36	4	12	72	124	116
29	44	4	12	84	144	116	29	36	4	12	72	124	116
30	44	4	12	84	144	116	30	36	4	12	72	124	116

- Charge Nurse usually takes a patient assignment when in the purple.
- Must consider acuity and intensity; adjust staffing as needed.

4 of 4
Reviewed and approved: 7/17/2023
Due to be reviewed: 02/2024

Based on the language in the MCU NSP, the NSP sets two minimum standards. First, that at least one RN and one other nursing personnel must be present when a patient is present. Second, the shift must be staffed for at least the minimum staff hours for the number of patients present. The volume column indicates the number of patients. Minimum staff hours are listed in the far-right column of the MCU NSP chart identified as “Minimum staff.” Minimum staff hours include all hours by CNA1/CNA2/US, breakers, charge, and RN. Because the MCU NSP does not specify otherwise, OHA has no basis to exclude any particular staff type when calculating minimum hours. For the same reason, OHA has no basis to conclude that the NSP requires that the shift be staffed for the hours identified for specific staff in the matrix. Therefore, if the unit meets the first

minimum standard of one RN and one other nursing personnel, the remaining staff hours can be completed by any staff type included within the NSP.

B. Staffing during the shifts

1. Complaint #OR44905:

Review of staffing documentation for the 09/13/2023 day shift reflected:

- There were as many as 25 patients on the unit at any time over the course of the shift.
- CNA1/CNA2/US staff worked a total of 44 hours.
- Breaker staff worked a total of 4 hours.
- Charge RNs worked a total of 12 hours.
- RNs worked a total of 60 hours.
- NSMs worked a combined total of 120 hours during the shift.

2. Complaint #OR45205:

Review of staffing documentation for the 09/22/2023 night shift reflected:

- There were as many as 22 patients on the unit at any time over the course of the shift.
- CNA1/CNA2/US staff worked a total of 12 hours.
- Breaker staff worked a total of 8 hours.
- Charge RNs worked a total of 12 hours.
- RNs worked a total of 60 hours.
- NSMs worked a combined total of 92 hours during the shift.

3. Complaint #OR45210:

Review of staffing documentation for the 09/23/2023 day shift reflected:

- There were as many as 23 patients on the unit at any time over the course of the shift.
- CNA1/CNA2/US staff worked a total of 25 hours.
- There were no breaker staff assigned to the shift.
- Charge RNs worked a total of 12 hours.
- RNs worked a total of 48 hours.
- NSMs worked a combined total of 85 hours during the shift.

4. Complaint #OR45256:

Review of staffing documentation for the 09/24/2023 day shift reflected:

- There were as many as 23 patients on the unit at any time over the course of the shift.
- CNA1/CNA2/US staff worked a total of 15.25 hours.
- There were no breaker staff assigned to the shift.
- Charge RNs worked a total of 12 hours.
- RNs worked a total of 48 hours.
- NSMs worked a combined total of 75.25 hours during the shift.
- Based on information gathered during the investigation, the 9/24/2023 deviation was reported to the NSC by email on 10/11/2023.

Review of staffing documentation for the 09/25/2023 day shift reflected:

- There were as many as 26 patients on the unit at any time over the course of the shift.
- CNA1/CNA2/US staff worked a total of 20 hours.
- Breaker staff worked a total of 8 hours.
- Charge RNs worked a total of 12 hours.
- RNs worked a total of 60 hours.
- NSMs worked a combined total of 100 hours during the shift.

5. Complaint #OR45260

Review of staffing documentation for the 09/27/2023 day shift reflected:

- There were as many as 22 patients on the unit at any time over the course of the shift.
- CNA1/CNA2/US staff worked a total of 32 hours.
- There were no breaker staff assigned to the shift.
- Charge RNs worked a total of 12 hours.
- RNs worked a total of 60 hours.
- NSMs worked a combined total of 104 hours during the shift.

III. Analysis of Alleged Violations

A. Complaint #OR44905

On the 09/13/2023 day shift, the MCU was staffed with 120 NSM hours, and the MCU NSP required a minimum of 80 NSM hours. Staffing on 9/13/2023 for the MCU day shift therefore did not fail to comply with the NSP.

There is no violation of 2023 Oregon Laws, Chapter 507, Section 20(2)(d) under the facts presented by **Complaint #OR44905**.

B. Complaint #OR45205

On the 09/22/2023 night shift, the MCU was staffed with 92 NSM hours, and the MCU NSP required a minimum of 80 NSM hours. Staffing on 09/22/2023 for the MCU night shift therefore did not fail to comply with the NSP.

There is no violation of 2023 Oregon Laws, Chapter 507, Section 20(2)(d) under the facts presented by **Complaint #OR45205**.

C. Complaint #OR45210

On the 09/23/2023 day shift, the MCU was staffed with 85 NSM hours, and the MCU NSP required a minimum of 80 NSM hours. Staffing on 09/23/2023 for MCU day shift therefore did not fail to comply with the NSP.

There is no violation of 2023 Oregon Laws, Chapter 507, Section 20(2)(d) under the facts presented by **Complaint #OR45210**.

D. Complaint #OR45256

On the 09/24/2023 day shift, the MCU was staffed with 72.25 NSM hours, and the MCU NSP required a minimum of 80 NSM hours. Staffing on 09/24/2023 for the MCU day shift therefore failed to comply with the nurse staffing plan. The failure to comply was not an allowed deviation under 2023 Oregon Laws, Chapter 507, Section 6(6), because the unit manager did not notify the hospital nurse staffing committee within 10 days of the deviation. Bay Area Hospital failed to comply with the staffing level in the MCU NSP on 9/24/2023 and was therefore in violation of 2023 Oregon Laws, Chapter 507, Section 20(2)(d).

On the 09/25/2023 day shift, the MCU was staffed with 100 NSM hours, and the MCU NSP required a minimum of 92 NSM hours. Staffing on 09/25/2023 for the MCU day shift therefore did not fail to comply with the NSP.

There is one substantiated violation of 2023 Oregon Laws, Chapter 507, Section 20(2)(d) under the facts presented by **Complaint #OR45256**.

E. Complaint #OR45260

On the 09/27/2023 day shift, the MCU was staffed with 104 NSM hours, and the MCU NSP required a minimum of 80 NSM hours. Staffing on 09/27/2023 for the MCU day shift therefore did not fail to comply with the NSP.

There is no violation of 2023 Oregon Laws, Chapter 507, Section 20(2)(d) under the facts presented by **Complaint #OR45260**.

IV. Conclusion

Based on its investigation, OHA concludes there was one substantiated violation of 2023 Oregon Laws 507, Section 20(2)(d) as alleged in complaint #OR45256. This is the first violation of Section 20(2)(d) by Bay Area Hospital, and a warning will be issued to Bay Area Hospital as indicated by 2023 Oregon Laws 507, Section 20(1)(a). OHA will not take any enforcement action on the other complaints listed above.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 8, 2024, I directed to be served the **HOSPITAL STAFFING COMPLAINT INVESTIGATION REPORT for complaints # OR44905, OR45205, OR45210, OR45256 and OR45260** upon the individuals or entities and by the method indicated below:

- by US First Class and US Certified Mail
- by Hand-Delivery
- Via Fax
- Via E-mail



Kimberly N. Voelker, MPH
Hospital Staffing Policy Analyst

**STATE OF OREGON HEALTH AUTHORITY
PUBLIC HEALTH DIVISION
Health Facility Licensing and Certification**

In the Matter of Bay Area Hospital District dba Bay Area Hospital	Notice of Intent to Issue Warning; Opportunity to Request a Hearing Case No: OR45256
---	--

The Oregon Health Authority, Health Care Regulation and Quality Improvement Program (OHA) is responsible for processing complaints concerning compliance with certain hospital staffing laws. ORS 441.791. This is a Notice of Intent to Issue a Warning (“Notice”) to the Bay Area Hospital District dba Bay Area Hospital (“Bay Area Hospital”) for violation of its nurse staffing plan on September 24, 2023, at its hospital located at 1775 Thompson Road, Coos Bay, Oregon.

This notification is issued pursuant to Oregon Revised Statute (“ORS”) Chapter 183, 441.760 through 441.795.¹

II. Background

State law directs OHA to impose sanctions against a hospital for failing to comply with the staffing level in the nurse staffing plan and the failure to comply is not an allowed deviation described in ORS 441.765(6), ORS 441.792(2)(d).

A hospital must comply with its nurse staffing plan, but it may deviate from a nurse staffing plan “within a period of 12 consecutive hours, no more than six times during a rolling 30-day period, without being in violation of the nurse staffing plan.” ORS 441.765(6). “The unit manager must notify the hospital nurse staffing committee no later than 10 days after each deviation.” ORS 441.765(6); OAR 333-503-0005(2).

OHA is required by law to issue a warning for the first violation in a four-year period. ORS 441.792(1)(a).

On September 27, 2023, OHA received complaint #OR45256 alleging that Bay Area Hospital failed to comply with the staffing level in the Medical Care Unit (MCU) on September 24, 2023. After determining the complaint was timely and valid, OHA timely opened its investigation on October 20, 2023.

¹ This Notice relies on the definitions in ORS 441.760 and in OAR 333-503-0005.
Notice of Intent to Issue Warning; Opportunity to Request a Hearing
Case No: OR45256. Page 1 of 5.

OHA completed its investigation and issued a Hospital Staffing Investigation Report (“investigation report”) on January 8, 2024 to the Bay Area Hospital hospital administrator, the chief nursing officer, the hospital nurse staffing committee co-chairs, and the exclusive representative of the complainant, as required by ORS 441.791(2)(d).

OHA found one violation of ORS 441.792(2)(d), as described below.

III. Violation: Failure to comply with the nurse staffing plan

1. Nurse Staffing Plan

The NSP applicable to complaint #OR45256 was approved by the nurse staffing committee (NSC) on July 17, 2023, and is referred to as the “MCU NSP” in this Notice. The MCU NSP established minimum staffing hours for nursing staff members (NSMs) which includes: registered nurses (RNs); charge nurses (Charge); breaker RNs (Breaker); and certified nursing assistants (CNAs), including unit secretaries (US) who are required to be CNAs in this unit.

The MCU NSP states that: “For General Medical patients: Minimum staffing will include one RN and one other nursing personnel when a patient is present.”

In addition, the MCU NSP included a chart that allocated a certain number of hours for different types of nursing staff members based on the number of patients present on the unit and a minimum number of “staff” hours.

Based on the language in the MCU NSP, the NSP sets two minimum standards. First, that at least one RN and one other nursing personnel must be present when a patient is present. Second, the shift must be staffed for at least the minimum staff hours for the number of patients present. Minimum staff hours include all hours by CNA1/CNA2/US, breakers, charge, and RN. Because the MCU NSP does not specify otherwise, OHA has no basis to exclude any particular staff type when calculating minimum hours. For the same reason, OHA has no basis to conclude that the NSP requires that the shift be staffed for the hours identified for specific staff in the matrix. Therefore, if the unit meets the first minimum standard of one RN and one other nursing personnel, the remaining staff hours can be completed by any staff type included within the NSP.

The MCU NSP provides that for a patient population of 23, there must be minimum of 80 staff hours.

2. Staffing on September 24, 2023

During the September 24, 2023 day shift, there were as many as 23 patients on the unit at any time over the course of the shift. Staffing during the shift was as follows:

- CNA1/CNA2/US staff worked a total of 15.25 hours.
- There were no breaker staff assigned to the shift and 0 hours worked.
- Charge RNs worked a total of 12 hours.

- RNs worked a total of 48 hours.
- NSMs worked a combined total of 75.25 hours during the shift.

3. Violation Finding

Bay Area Hospital did not comply with the staffing level required in its MCU NSP during the day shift on September 24, 2023. On the September 24, 2023 day shift, the MCU was staffed with 72.25 nursing staff member hours, and the MCU NSP required a minimum of 80 nursing staff member hours.

In addition, the failure to comply was not an allowed deviation under ORS 441.765 (6) because it was not timely reported. The September 24, 2023 deviation was reported to the NSC on October 11, 2023, more than 10 days from the deviation. ORS 441.765(6); OAR 333-503-0005(2).

Bay Area Hospital failed to comply with the staffing level in the MCU NSP on September 24, 2023, the deviation was not an allowed deviation, and Bay Area Hospital therefore committed one violation of ORS 441.792(2)(d).

IV. PENALTY SCHEDULE

The violation described above is Bay Area Hospital's first violation in a four-year period. OHA therefore proposes to issue a warning for this violation. ORS 441.792(1)(a).

NOTE: Any violations listed in ORS 441.792(2) found before June 1, 2025, will not be relied upon for determining the applicable sanction on or after June 1, 2025, the date OHA can begin issuing civil penalties. 2023 Oregon Laws, Chapter 507, Section 29(4). The sanction for a violation of the same provision after June 1, 2025, will be a warning letter.

IV. NOTICE OF HEARING RIGHTS

Pursuant to the Administrative Procedures Act (ORS Chapter 183), you have the right to a contested case hearing in this matter. To request a hearing, you must submit your request in writing to the Oregon Health Authority's Health Facility Licensing and Certification Program within 20 days of the date OHA mailed the Notice. The hearing would be held before an administrative law judge pursuant to the Administrative Procedures Act described in the contested case procedures (ORS 183.310 through 183.550), the Attorney General's Model Rules of Procedure for Contested Cases (OAR 137-003-0501 through 137-003-0700).

If you request a hearing, you will be notified of the time and place of the hearing. You will also be given information on the procedures, right of representation, and other rights of parties related to the conduct of the hearing before commencement of the hearing. You may request a hearing by sending your request to:

Oregon Health Authority
Health Facility Licensing and Certification Program

ATTN: Hospital Staffing Team
800 NE Oregon Street, Suite 465
Portland, OR 97232

You may fax your request for hearing to (971) 673-1556 or e-mail your request for hearing to mailbox.nursestaffing@odhsoha.oregon.gov

If you fax your request for hearing it must be received by OHA by 5:00 p.m. PST, within 20 calendar days from the date this Notice was mailed. If you e-mail your request for hearing, it must be received by OHA by 5:00 p.m. PST, within 20 calendar days from the date this Notice was mailed.

If you do not request a hearing within 20 days of the mailing of this Notice, you will have waived your right to hearing and OHA may issue a final order by default and issue the warning. If you waive your right to a hearing, withdraw a hearing request, notify OHA or the Administrative Law Judge that you will not appear at the hearing as scheduled, OHA may also issue a final order by default and issue the warning. OHA has designated the relevant portion of its files on this matter, including all materials that you have submitted relating to this matter, as the record in this case for the purposes of proving a prima facie case upon default.

You may be represented by legal counsel at the hearing. Legal aid organizations may be able to assist those with limited financial resources. Per ORS 413.041, a party that is not a natural person may be represented by an attorney or by any officer or authorized agent or employee of the party. Parties are often represented by an attorney. OHA will be represented by an Assistant Attorney General. You will be provided information on the procedures, right of representation and other rights of parties relating to the conduct of the hearing before commencement of the hearing. Any hearing will be held by an administrative law judge from the Office of Administrative Hearings, assigned as required by ORS 183.635.

Notice to Active Duty Service members. Active duty Servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll-free telephone number.

Dated: 2/2/2024



André Ourso, JD
Administrator
Center for Health Protection
Public Health Division
Oregon Health Authority

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on the _____ day of _____, 2024, I directed to be served the NOTICE OF INTENT TO ISSUE WARNING; OPPORTUNITY TO REQUEST A HEARING upon the parties and by the method indicated below:

Brian Moore
Authorized Representative & Hospital Administrator
Bay Area Hospital
1775 Thompson Road
Coos Bay, OR 97420

- ✓ by US First Class and US Certified Mail
by Hand-Delivery
Via Fax
- ✓ Via E-mail

Copies by email and US First Class mail to:

Jennifer Collins
Chief Nursing Officer
Bay Area Hospital
jennifer.collins@bayareahospital.org
1775 Thompson Road
Coos Bay, OR 97420

Stacey Nelson
Nurse Staffing Committee Co-chair
Stacey.Nelson@bayareahospital.org
Bay Area Hospital
1775 Thompson Road
Coos Bay, OR 97420

Rachel Beissel
Nurse Staffing Committee Co-chair
rachel.beissel@bayareahospital.org
Bay Area Hospital
1775 Thompson Road
Coos Bay, OR 97420

Oregon Nurses Association
staffing@oregonrn.org
18765 SW Boones Ferry Rd., Ste 200
Tualatin, OR 97062

Service performed by:


Jane Gardner