



**OREGON**  
**HEALTH**  
AUTHORITY

**OHA Hospital Staffing  
Special Topics Webinar  
October 11, 2024**

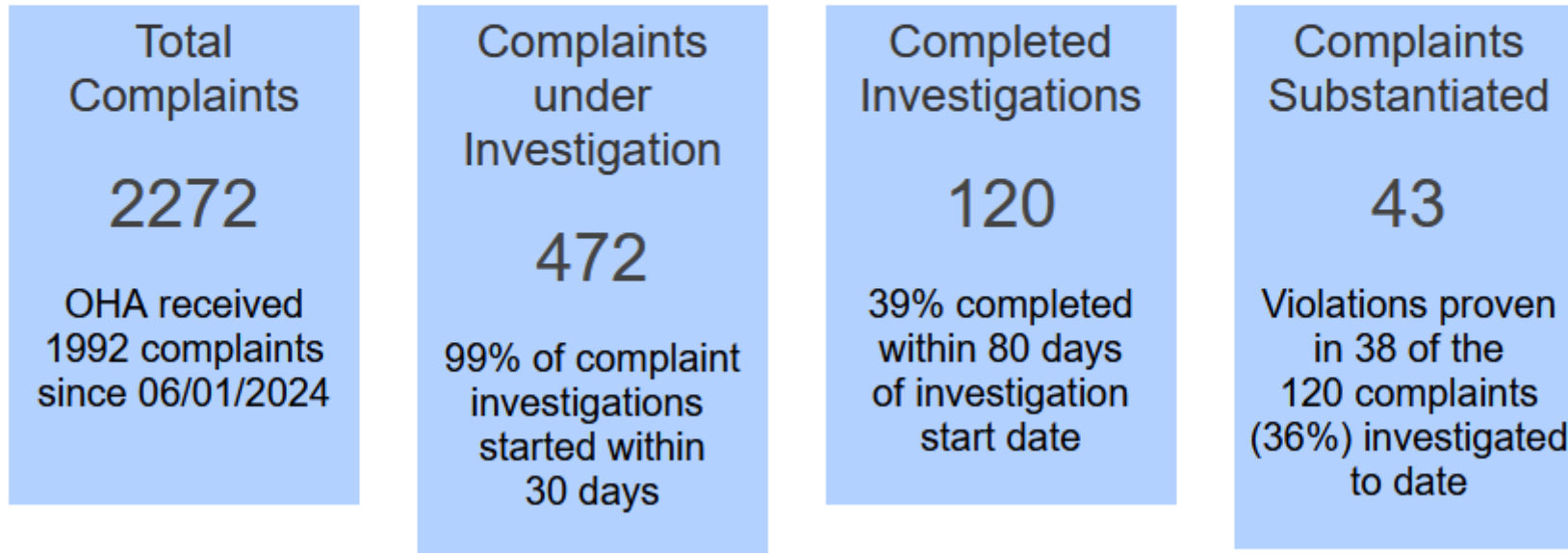
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# OHA Hospital Staffing Complaint Dashboard

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Dashboard of Hospital Staffing Complaints Received Since Sep 1, 2023

Updated October 8, 2024



# Hospital Staffing Special Topics Webinar

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## Agenda

- Variances versus Waivers
- CNA-Specific Issues
- Combined Committees
- Complaints about Staffing Committees
- Staffing Plan Language
- Staffing Plan Approvals
- Staffing Plans posted on OHA Website
- Permitted Deviations versus Safe Harbor
- Safe Table for Hospital Staffing Concerns
- Question & Answer

# Variations vs. Waivers

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## Variations for Type A & Type B Hospitals

- Described in ORS 441.763(6)
- Permits variation from the unit-based ratio requirements in ORS 441.765
- Only available to Type A & Type B hospitals

## Waivers

- Described in ORS 441.778
- Permits variation from staffing plan requirements in ORS 441.761 to 441.795
- Available to any hospital if waiver is “necessary to ensure the hospital is staffed to meet the health care needs of patients”

# Variations vs. Waivers

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Neither variations nor waivers permit hospitals to avoid:

- Requirement to have a staffing committee
- Requirement to have a staffing plan
- Requirement to release staffing committee members to attend staffing committee meeting
- MOT limitations
- BOLI's meal & break requirements

# CNAs: Historically

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- Added to Nurse Staffing Committee and Nurse Staffing Plans in 2005
- Included in the Nursing Staff definition for MOT in ORS 441.770
- Included in Nurse Staffing Advisory Board established in 2015

# CNAs: Under HB 2697

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- CNAs are
  - Still defined as “direct care staff” [ORS 441.760(4)] and
  - Still eligible for membership on the Nurse Staffing Committee [ORS 441.762(1)(a)(B)]
- The law says: “A hospital may not assign a certified nursing assistant to more than seven patients at a time during a day or evening shift or to more than 11 patients at a time during a night shift.” [ORS 441.768] The term “ratio” does not appear in ORS 441.768, the CNA law. Statute titles are added by Legislative Counsel after the bill passes and do not constitute any part of the law.
- ORS 441.792(2)(f) refers to permitted deviations of CNA 7/11 patient maximums as falling under the services staffing law ORS 441.776(12)

# CNAs: Under HB 2697

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HB 2697 did not address

- Whether CNAs should be included only in the Nurse Staffing Plan, only in the Service Staffing Plan, in both staffing plans, or neither
- Individual patients not receiving CNA care in units where CNAs are providing patient care



# Combined Committees

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Under 441.777 the Nurse Staffing, Professional/Technical, and/or Services Staffing Committees can be combined. Combined committee operations means

- Joint meetings
- Separate co-chairs
- Separate voting

Nurse Staffing Plans, Professional/Technical Plans, and Service Staffing Plans cannot be combined – separate plans must still be adopted

# Complaints About Staffing Committees

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Staffing Committee Requirements are outlined in

- Nurse Staffing Committee [ORS 441.762]
- Professional/Technical Staffing Committee [ORS 441.775]
- Service Staffing Committee [ORS 441.776]

OHA can only investigate complaints listed in ORS 441.792. The Committee-related complaints are:

- Failure to establish a Professional/Technical or a Service Staffing Committee
- Failure to create/adopt a staffing plan
- Failure to release staff to attend a staffing committee meeting

# Staffing Plan Language

OHA can only enforce staffing (including statutory ratios) that is written as **required** in the nurse staffing plan

OHA can usually enforce staffing levels that are described as:	OHA may not be able to enforce staffing levels described as:
<ul style="list-style-type: none"><li>• Required</li></ul>	<ul style="list-style-type: none"><li>• Recommended staffing</li></ul>
<ul style="list-style-type: none"><li>• Mandatory</li></ul>	<ul style="list-style-type: none"><li>• Ideal staffing</li></ul>
<ul style="list-style-type: none"><li>• Maximum ratios</li></ul>	<ul style="list-style-type: none"><li>• Core staffing</li></ul>
<ul style="list-style-type: none"><li>• Minimum numbers</li></ul>	<ul style="list-style-type: none"><li>• Allowed staffing</li></ul>
<ul style="list-style-type: none"><li>• Staffing levels “must” or “shall”</li></ul>	<ul style="list-style-type: none"><li>• Staffing levels “may”</li></ul>
	<ul style="list-style-type: none"><li>• Staffing guideline</li></ul>

# Staffing Plan Approvals

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For complaints that allege a violation on or after June 1, 2024, OHA looks for:

- Staffing Committee plan approval on or after September 1, 2023
- Older approval dates reflect that the hospital does not have a plan that meets the new statutory requirements

# Staffing Plans Posted on OHA Website

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- OHA is required to post the plans it receives. OHA does not have authority to review plans for compliance prior to posting.
- Hospitals are responsible for submitting plans that are approved, current, complete, and compliant.
- OHA does not rely on the posted plans in complaint investigations. Instead, during investigations, OHA requests and receives from hospitals plans and information about plan adoption relevant to the complaint(s) under investigation.
- Hospitals are responsible for submitting updated plans including updates made after an investigation.

# Permitted Deviations vs. Safe Harbor

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Permitted Deviations are

- Deviation from required staffing in the approved staffing plan
- Allowed to have up to 6 in a rolling 30-day period in a unit
- Must be reported by the unit manager to the appropriate staffing committee within 10 days of the deviation

# Permitted Deviations vs. Safe Harbor

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Safe Harbor provisions are described in HB 2697 Section 19(4) [ORS 441.793(4)] and if hospital takes the actions described, OHA may not impose a civil penalty.

- Actions the hospital must have taken to avoid civil penalties:
  - Scheduled staff in accordance with the staffing plan;
  - Sought volunteers from available qualified employees to work extra time;
  - Contacted qualified employees who made themselves available to work extra time;
  - Solicited per diem staff to work; and
  - Contact contracted temp agencies, that the hospital regularly uses, if temp staff are permitted to work in the hospital by law or any CBA.
- Safe Harbor efforts are voluntary

# Safe Table for Hospital Staffing

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- Historically, there was a Nurse Staffing Collaborative to facilitate a confidential forum in which hospitals and direct care staff exchanged ideas about challenges and best practices to improve hospital staffing and comply with the law
- There is currently no active safe table for Hospital Staffing



# Q&A

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*Enter your questions into the chat for OHA to answer!*

**The questions and answers are provided for general information only and may not be relied upon for purposes of regulatory compliance. The questions and answers are not legal advice and are not intended to be legally binding on the Oregon Health Authority when conducting a complaint investigation.**



## Hospital Staffing Resources

- Website: [www.healthoregon.org/nursestaffing](http://www.healthoregon.org/nursestaffing)
- Email: [mailbox.nursestaffing@odhsoha.Oregon.gov](mailto:mailbox.nursestaffing@odhsoha.Oregon.gov)
- Complaint form: <https://www.surveymonkey.com/r/OregonHospitalStaffingComplaint>

## Meal and Rest Break Resources - Bureau of Oregon Labor & Industries (BOLI) :

- Website: [www.Oregon.gov/BOLI](http://www.Oregon.gov/BOLI)
- Email: [BOLI\\_Help@boli.Oregon.gov](mailto:BOLI_Help@boli.Oregon.gov)
- File a meal/rest break complaint: <https://complaints.boli.oregon.gov/home/landing>