Oregon Nurses Association at Oregon Health & Science University

Staffing Plans and Your Unit Based Nursing Practice Committee - Requirements and Opportunities

This article describes some of the key requirements for unit staffing plans and the opportunities presented by the Oregon Nurse Staffing Law (ORS 441.162-166) and our Oregon Nurses Association/Association of University Registered Nurses (AURN) contract (Contract) for nurses who would like to improve nurse staffing on their units. Hospital administration typically attempts to maintain complete control over staffing decisions, but this control is limited somewhat by the Oregon Nurse Staffing Law and by the Contract.

According to our Oregon Nurse Staffing Law each hospital must be responsible for the implementation of a written hospital-wide staffing plan for nursing services. The Legislature’s use of the word “implementation” is important, because, it means more than just having a plan, it means following the plan that is created.

Our Contract gives unit-based nursing practice committee’s (UBNPC) authority to create, monitor, and revise the nurse staffing plan (NSP) for their unit.

27.3.2 (excerpted)…The UBNPC is responsible for making recommendations … including but not limited to: The development, implementation, monitoring, evaluation and modification of the unit staffing plan…On an annual basis …a UBNPC meeting agenda item shall include discussion of the unit staffing plan.

Recent negotiations resulted in additional authority for UBNPC’s with regard to adjusting their NSP. UBNPC’s no longer make recommendations for adjusting NSPs, they just make the adjustments. If the changes are approved by the hospital-based nurse staffing committee (HBNSC), they are incorporated into the overall facility plan which must be implemented by the hospital.

27.3.2(b) (excerpted)… On a quarterly basis, the UBNPC will conduct a review of the staffing plan’s performance and make plan adjustments where appropriate. At OHSU, UBNPCs bring their revised plans to the HBNSC for ultimate approval and incorporation into an overall facility nurse staffing plan. The Oregon Nurse Staffing Law requires that the HBNSC be made up of equal numbers of direct care nurses and supervisors from the main divisions of the hospital and must have safe patient care as its primary consideration. The unit budget is a consideration, but the law is clear that patient safety is primary.

The responsibility of UBNPCs to create and monitor NSPs is substantial, and this effort should be a mainstay of your UBNPC agenda. It also represents an important opportunity for ONA/AURN nurses to improve staffing and patient care at OHSU, if your UBNPC grows comfortable utilizing with using the legal and contractual tools available to it. This article is intended to get you started if you are interested in getting involved. You don’t have to actually be a UBNPC member to have a big impact on this process.
The passage of changes to the staffing plan requires the support of a large majority of nurses on the unit.

Nurse Staffing Plans – Some Required Elements

- **Establish minimum numbers of nursing staff required on specified shifts. Oregon Revised Statutes (ORS) 441.162(3)(d)**

  The best practice is to list either a baseline staffing that has been established based on a stable historical census, or to use a grid that shows how many nurses will be on the floor depending on the number of patients. We'll talk later about weighting patients for acuity.

- **Be based on an accurate description of individual and aggregate patient needs. ORS 441.162(3)(a)**

  The plan requires a thorough description of the types of patients, the usual comorbidities and possible complications that arise, and the needs of those patients in terms of nursing care and especially nursing staff, including any special training the nursing staff should have.

- **Be based on the specialized qualifications and competencies of the nursing staff. Oregon Administrative Rule (OAR) 333-510-0045(3)(c)**

  Some of you may work on units where you have a lot of new nurses and the experience level over all is not deep. Some may be working with primarily experienced nurses who may have advanced nursing degrees. These are just generalizations to the wide range of abilities out there, but the experience and qualifications of the staff needs to be addressed in the plan, because it makes a big difference to the safety of the patients and because you need to make sure there is experienced staff on hand at all times and also nursing staff with the specialized qualifications or skills that may be needed for certain parts of your patient population.

- **Be consistent with nationally recognized evidence-based standards and guidelines. ORS 441.162(3)(d)**

  Examples are the Association of Peri-Operative Registered Nurses Association or the Association of Womens Health, Obstetric and Neonatal Nursing. These types of organizations put out nurse staffing standards for typical hospital units that you are required to meet.

- **Recognize differences in patient acuteness. OAR 333-510-0045(5)**

  Staffing plans are required to recognize differences in patient acuity, but is it enough to merely say, “Staffing may change due to acuity” as some OHSU unit plans do, or do plans require a description of the way acuity is measured and what acuity benchmarks result in an increase in staff? We think the latter. The former is merely a statement that we will comply with the law, but no effort at demonstrating compliance. The OHSU Post Anesthesia Care
Unit (PACU) (6A), for example, has a nice description of the acuity factors that increase intensity, but no indication of how they measure them and adjust staffing accordingly. The Adult Bone Marrow Transplant and Labor & Delivery staffing plans do a better job of relating acuity to actual staff numbers.

We think the best practice is for the UBNPC to research ways, or develop their own way, of scoring the acuity of the patients on the floor and having numerical benchmarks set that result in increased staff. Developing these tools can be a creative challenge, but certainly not unsolvable.

- **Include a formal process for evaluating and initiating limitations on admission or diversion of patients to another acute care facility when, in the judgment of the direct care registered nurse, there is an inability to meet patient care needs or a risk of harm to existing and new patients. ORS 441.162(3)(d)**

This is a key measure. Most of our unit staffing plans do not give the direct-care nurse this much discretion. What’s worse we see very similar language popping up in many NSPs essentially stripping the discretion away from the direct care nurse and instead initiating a chain of command (COC) that begins with the charge nurse (CN) and requires multiple levels of approval by supervisory personnel before admissions can be limited. We don’t think this kind of language complies with the intent of the law. In the end, who makes the decision, and how long does it take that decision to get made? We think the best practice is for the staffing plan to include a provision that allows the CN to initiate a limitation on her own while the COC is being initiated and until the COC comes up with a plan that works, “in the judgment of the direct-care nurse.”

**What about budgetary constraints?**

After putting all of the key elements, in your NSP, it may appear that additional staff is necessary. But what about your manager’s budget? *Can we exceed the hours per patient day (HPPD) limitations that OHSU attempts to impose on unit budgets?* The answer is undeniably “Yes”, because when reviewing your NSP the HBNSC must, to the extent possible:

> Have as its primary consideration the provision of safe patient care and an adequate nursing staff. OAR 333-510-0045(3)(c)

What that means is that when OHSU’s House-wide staffing committee is deciding whether to approve the plan your UBNPC develops, HPPD cannot be the limiting factor. If you provide the evidence (such as patient falls, infections, staffing variance form (SVF) data, delays in care, overtime, missed meals and breaks) that the current staffing arrangement is inadequate for patient care, the hospital cannot argue that a budget or HPPD figure they created is a limitation.

Staffing plans have to be reasonable, but part of that consideration is what the employer can afford. OHSU is a very financially successful non-profit organization that is required to plow every last dollar earned back into its mission. Revenues consistently exceed expense by tens of millions of dollars per year. It is appropriate for nurses to push OHSU to spend more of this money on nurse staffing if evidence indicates it is needed.
Filling Holes in the Schedule

Assuming you have a NSP you can live with, the problem becomes scheduling to meet the requirements of the plan. Your NSP should describe how this is accomplished. This has two parts:

1. **Do you have adequate staff to schedule to implement your NSP without overtime?**

   If unit nurses are constantly being called upon to work voluntary and/or mandatory overtime, it’s pretty clear that there’s a lack of staff. It is the hospitals responsibility to staff to a level needed to implement the plan. The NSP should set a total full time equivalent (FTE) required to staff the unit efficiently given the current census and census trends. SVFs should be filled out whenever nurses are required, or imposed upon, to work overtime.

2. **Do you have nursing resources available to cover holes in the schedule caused by scheduled and/or unscheduled sick leave, vacations, required education, and so forth. Oregon requires hospitals to be prepared for these normal contingencies?**

   The hospital must maintain and post a list of on-call nursing staff or staffing agencies that may be called to provide qualified replacement or additional staff in the event of emergencies, sickness, vacations, vacancies and other absences of the nursing staff and that:

   a. Provides a sufficient number of replacement staff for the hospital on a regular basis and,

   b. is available to the individual responsible for obtaining replacement staff. Is the list posted on your unit? OAR 333-510-0045(5)

   If you are working on a staffing plan, you should have access to this list, even if the task of obtaining replacement staff has been relegated to the Central Staffing Office. If you are having trouble filling holes in the schedule, check to see if this list is posted, if not request that it be posted. Find out who is responsible for obtaining replacement staff on your unit. Do they have the list? If not, who does? Any nurse can do this sleuthing.

   **Tip #1:** The staffing resource list should be organized to comply with our Contract Section 7.2.2 which sets the order of scheduling, or who will be called in first.

   When developing the on-call list, the hospital must explore all reasonable options for identifying local replacement staff. That means identifying which nurse staffing agencies can reliably provide staff on both a long-term (13-week contract) and a short-term (24-48 hour) notice basis. The research must be documented (OAR 333-510-0045(6)). So if you are working on a staffing plan, ask for this documentation.

   If you are satisfied with your list of replacement staff, let’s make sure those calls are being made. When a hospital learns about the need for replacement staff, the hospital has to make every reasonable effort to obtain registered nurses, licensed practical nurses or certified nursing assistants for unfilled hours or shifts before requiring a registered nurse, licensed practical nurse or certified nursing assistant to work overtime. (ORS 441.166) Reasonable effort includes the hospital seeking replacement at the time the vacancy is known and contacting all available resources as described above. Such efforts also must be documented. OAR 333-510-0045(7)
Tip #2: When your UBNPC is reviewing a staffing variance form and it says, “none of those called came in”, ask to see the actual documentation of the calls.

Dealing with a resistant manager?

If your nurse manager agrees that an increase in staff is needed but they are concerned about bumping up against an HPPD imposed from above, the staffing plan review process might be their ticket to an increased HPPD! As a member of your UBNPC, your nurse manager can be a great asset in developing patient safety and other data needs to convince the HBNSC that an increase is justified. Our experience watching the HBNSC is that when UBNPCs bring staffing increases to them as part of a staffing plan update and back up those increases with evidence, the HBNSC approves it. So base your increased staffing on evidence, like…

Falls  Patient safety net
Omissions or delays in care  Staffing variance forms
Missed meals and breaks  Overtime

Can a manager ultimately veto your plan?

The answer is “no”. Managers represent just one vote on your UBNPC. Your UBNPC charter describes its membership and voting process. You should know it. Organizing can play a huge role in moving staffing plan improvements forward. Nurses who develop the updated staffing plan should obtain input and eventually buy-in from all of the direct-care nurses on the unit before they present the plan at a UBNPC meeting. Get the staff on board and bring them to the meeting. If many nurses are persuaded to attend the UBNPC meeting, voice their strong support and make arguments in favor of the plan, the plan will likely pass.

Next Steps:
1. Get involved in development and review of your unit staffing plan.
2. Politely insist that the plan have all of the required element and benchmarks.
3. Use patient safety evidence, including missed breaks and meals, to support increasing staff.
4. Ask to see documentation regarding replacement staff research, replacement call list posting, and calls being made when vacancies are known.
5. Post your NSP on the unit.
6. Note violations of your NSP on SVFs.