

2023 Hospital Staffing Law Overview

- WASHINGTON STATE HOSPITAL ASSOCIATION
- WASHINGTON STATE NURSES ASSOCIATION
- UFCW 3000
- SEIU 1199NW





The final language of the legislation is the result of collaboration between the hospitals and unions.



Objectives

At the conclusion of this presentation, the learner will be able to:

- Describe key elements of the hospital staffing law.
- Discuss the purpose and development of a team charter.
- Articulate timeline dates relevant to the hospital staffing committee.



Established by DOH in consultation with L & I

- Membership – 6 hospital representatives & 6 union representatives
- Meetings held monthly beginning September 2023
- Open to the public
- Responsibilities:
 - Advise on development of standard reporting forms
 - Consider innovative hospital staffing and care delivery models
 - Review data provided by DOH and L&I
 - Review study provided by the Washington State Institute for Public Policy
 - Future evaluation of applicability of hospital staffing law



Purpose

- Develop a hospital staffing plan
- Guide unit based direct care staffing practices to promote quality patient care
- Convene direct care staff and hospital management to participate in a collaborative process regarding decisions about direct care staffing



Scope

Primary responsibilities of HSC:

1. Develop and oversee the annual patient care unit and shift-based hospital staffing plan for RNs, LPNs, NA-Cs, and unlicensed assistive personnel (UAP) providing direct patient care based on the needs of patients
2. Review and evaluate the effectiveness of the staffing plan semi-annually against patient needs and known evidence based staffing information, including nurse sensitive quality indicators collected by the hospital
3. Review, assess, and respond to staffing variations, concerns, or complaints presented to the committee



Hospital staffing committees begin Jan 2024

- Expand to include “nursing staff”: RN, LPN, NA-C, and unlicensed assistive nursing personnel (UAP)
- Committee composition/voting members
 - At least 50% direct care nursing staff selected by labor union representative or by peer selection
 - 50% determined by hospital administration
 - CFO, CNO, and dept. managers/directors *or their designees* are required to attend HSC meetings
- Hospitals provide coverage to ensure staff are able to attend meetings
- Members are compensated at the appropriate rate of pay
- HSC Charter due to DOH July 1, 2024

Nursing staff: RNs, LPNs, NA-Cs, and unlicensed assistive nursing personnel providing direct patient care. (RCW 70.41.410)

Unlicensed assistive personnel (UAP): individuals trained to function in an assistive role to nurses in the provision of patient care, as delegated by and under the supervision of the registered nurse.

- Typical UAP activities include (but are not limited to) vital signs, bathing, feeding/dressing patients, assisting patients with transfer/ambulation/toileting.
- UAP definition includes nursing assistants, orderlies, patient care technicians/assistants, and graduate nurses (not yet licensed) who have completed unit orientation.
- UAP definition excludes unit secretaries or clerks, monitor technicians, therapy assistants, student nurses fulfilling educational requirements, and sitters who are not providing typical UAP activities. (WAC 246-320-010)



Nursing assistant: an individual, regardless of title, who, under the direction and supervision of a RN or LPN, assists in the delivery of nursing and nursing-related activities to patients in a health care facility.

The two levels of nursing assistants are:

- Nursing assistant-certified
- Nursing assistant-registered

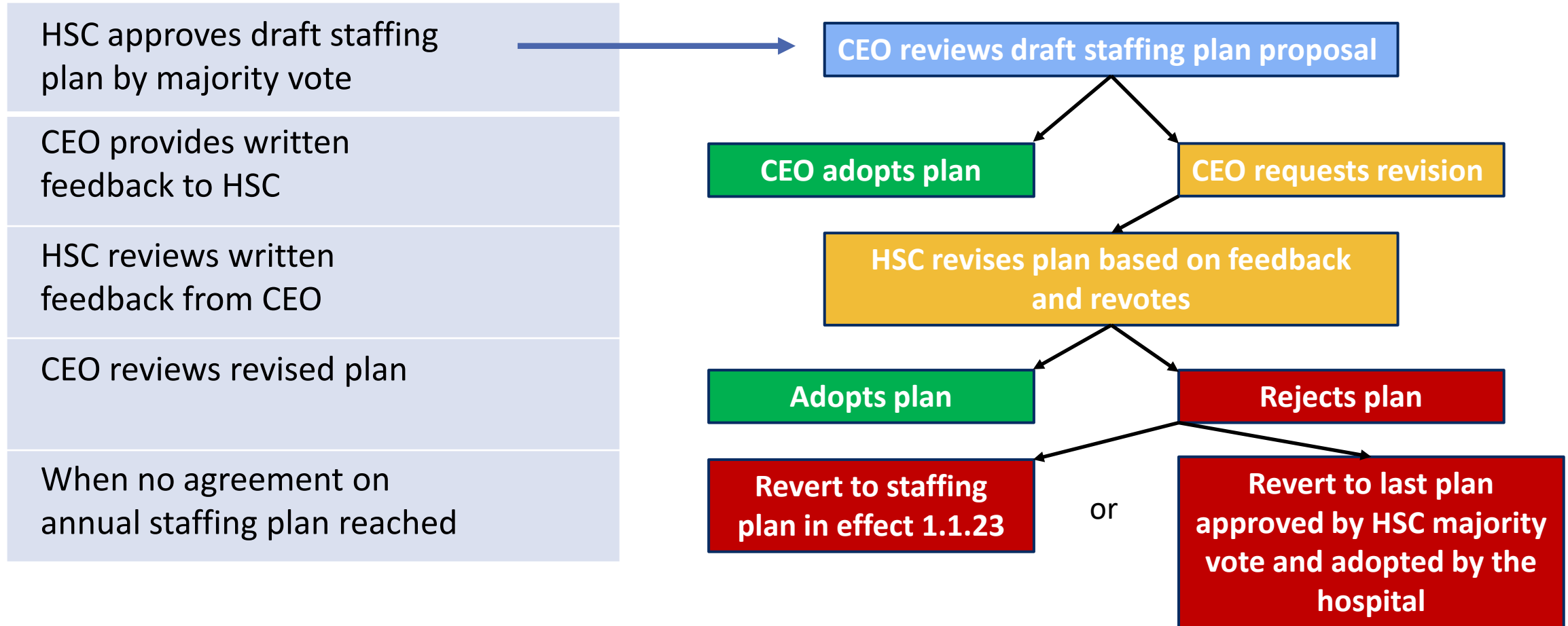
Hospital staffing plan proposal due to CEO by July 1, 2024 & annually thereafter

- Majority (50% + 1) vote required to submit staffing plan proposal
- CEO provides written report (feedback) to committee
- HSC reviews CEO feedback and adjusts the staffing plan proposal as needed.
- If a revised staffing plan is needed, the new HSC proposal is approved by a majority vote prior to being resubmitted to the CEO.
- If the hospital is unable to approve the annual staffing plan, HSC plan reverts to the January 1, 2023 staffing plan or the last HSP approved by HSC majority vote
- HSP due to DOH by January 1, 2025 & annually thereafter and at any time in between that the plan is updated

CEO provides a written report that includes:

- Elements of the proposed staffing plan requested to be changed, if any
- Elements that cause concern regarding financial feasibility, closure of units, or patient care risk, if any
- Status report on implementation of the current staffing plan including:
 - Nurse sensitive quality indicators
 - Patient experience surveys
 - Recruitment & retention efforts
 - Hospital success over the previous six months in filling approved open positions covered by the staffing plan

Hospital Staffing Plan Approval Process



Factors to Consider in Staffing Plan Development



Census, including total numbers of patients on the unit on each shift, patient discharges, admission, and transfers



Patient acuity level, intensity of care needs, and the type of care to be delivered on each shift



Skill mix including experience and specialty certification or training of staff



The need for specialized or intensive equipment



The architecture/geography of the patient care unit (placement of patient rooms, treatment areas, nursing stations, medication preparation areas, and equipment)



RCW 70.41.420

Factors to Consider in Staffing Plan Development – cont.



Staffing guidelines adopted or published by national nursing professional associations, specialty nursing organizations, and other health professional organizations



Compliance with applicable CBA and availability of personnel/patient care staff supporting nursing services



Relevant state and federal laws and rules, including those regarding meal and rest breaks and use of overtime and on-call shifts



Semiannual review of the staffing plan against patient need and known evidence-based staffing information, including the nursing sensitive quality indicators collected by the hospital



Review, assessment, and response to staffing variations or complaints presented to the committee



Hospital finances and resources must be taken into account in the development of the hospital staffing plan

RCW 70.41.420

Hospitals adopt policy regarding compliance with staffing plan

- Tracking begins July 1, 2025
- Reporting compliance is completed by patient care unit
- HSC co-chairs validate data prior to submitting report to DOH

- Reporting
 - Report compliance rate with staffing plan semiannually (every Jan & July beginning 2026)
 - If less than 80% compliance in a month, immediate reporting required–
 - ✓ Report to DOH by 7th of the following month (beginning Aug 2025)
 - ✓ Develop and submit corrective action plan to DOH within 45 days (beginning Jan 2027)

Staffing Complaints

HSC adopts a process for complaint review, investigation, and resolution in its charter that includes:

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- Accepting staffing complaints in all written formats
 - Noting date of complaint receipt
 - Noting initial, contingent, and final disposition of the complaint
 - Noting corrective action (if applicable)
 - Resolving complaint in 90 days (longer with committee approval)
 - Providing complainant a letter stating complaint outcome RCW 70.41.420
- L&I and DOH may investigate if unresolved after 60 days RCW 70.41.425



Hospitals will not be found in violation of the staffing law if investigation reveals:

- There were unforeseeable emergent circumstances
- An individual admission of a patient in need of life-saving care (transferred from another hospital) was the reason for the violation
- The hospital made reasonable efforts to retain or obtain staff

What is considered an unforeseeable emergent circumstance?

- Any unforeseen declared national, state, or municipal emergency
- When a hospital disaster plan is activated
- Any unforeseen disaster or other catastrophic event that substantially affects or increases the need for health care services
- When a hospital is diverting patients to another hospital or hospitals for treatment

RCW 70.41.410

Change to the law

- Duration of 15 days or more
- Status report to HSC
- HSC creates contingency staffing plan
- Deviation from annual staffing plan not in effect > 90 days w/o HSC review

RCW 70.41.420



The employer exhausts/documents the following but is unable to obtain staffing coverage:

- Seeks individuals to consent to work additional time from all available qualified staff who are working
- Contacts qualified employees who have made themselves available to work additional time
- Seeks use of per diem staff
- When practical, seeks personnel from a contracted temporary agency when such staffing is permitted by law or an applicable CBA, and when the employer regularly uses a contracted temporary agency

Uninterrupted meal/rest break requirements expanded (July 2024)

- Includes all staff involved in direct patient care activities or clinical services who are paid hourly or covered by a collective bargaining agreement
- Quarterly reporting of the following begins October 2024 :
 - Number of meal/rest breaks missed in violation
 - Number of meal/rest breaks required during the quarter
- Target 80% or greater compliance
- Employer's designee must attest to the validity of meal/rest break reports





July 1, 2025

Adopt written P&P that require RNs and NA-Cs to receive orientation and demonstrate current competence sufficient to provide care to patients in a unit/clinical area prior to being assigned to that clinical area.



Beginning July 2024

- Mandatory prescheduled on-call time may not be used when a hospital schedules a non-emergent procedure that is expected to exceed the employee's regularly scheduled hours
- Exception: when the provider (responsible for the procedure) determines that a delay would cause a worse clinical outcome
 - Documentation

RCW 49.28.140



Psychologically safe environment

- **Written committee description** (Charter)
- **Effective chair(s)** –interpersonal skills, willingness to compromise and resolve conflicts, foster an inclusive environment
- **Engaged Members** – thoughtfully appointed, diverse, actively participate, solution focused
- **Accountability**–true to purpose, adhere to work plan, clear objectives, measurable outcomes, regular reporting on committee activities
- **Productive meetings** – progress toward solutions



Agreed upon by committee members

- Establishes a common understanding
- Aligns members with the committee's purpose
- Identifies specific objectives and tasks
- Helps a group to work towards a common goal
- Defines committee purpose, authority, responsibilities, and scope for its members
- Establishes the committee's role within the organization
- Serves as a guide for conducting committee business
- Aids in dispute resolution
- Promotes accountability and professional governance
- Supports evaluation of the committee's performance



Key elements of a Committee Charter

Statement of
Purpose

Scope & Authority

Committee
Membership

Chairperson

Committee
Responsibilities

Member Roles &
Duties

Meeting
Organization

System/Procedures



Required Charter Elements

- Process for electing co-chairs and terms of service
- Roles, responsibilities, and processes, including:
 - Patient care staff represented as nonvoting members
 - Number of committee members
 - Process to ensure quorum and attendance
 - Process for replacing members who do not regularly attend
- Meetings scheduled monthly with 30 days' notice
- Process for reviewing, investigating, and resolving complaints within 90 days of receipt (or longer with HSC majority approval)
- New: Process for complainant to receive a letter stating the outcome of the complaint

RCW 70.41.420

- Process for employee to attend HSC when their complaint is discussed and have a labor representative attend if requested by the employee
- Process for the HSC to review:
 - Quarterly - Staff turnover rates, including turnover during the first year
 - Annually - Anonymized aggregate exit interview data
 - Hospital plans for workforce development
- Standards for HSC approval of meeting documentation
- Policy for retention of meeting documentation for minimum 3 years
- Process for hospital to provide HSC with information about complaints involving staffing made through the patient grievance process
- Use of staffing plan compliance reports to inform the staffing plan

“Effective committees don't just happen.
They are a combination of the right individuals,
a mission, good leadership, and good staff work.”
-Unknown

Questions?



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Resources

- RCW 70.41.420
- RCW 70/41/420
- Chapter 18.88A RCW
- WAC 246-320-010
- RCW 70.41.425
- RCW 49.12.480
- RCW 49.28.140

