

Nursing Assistant Staffing & NATCEP Reimbursement Reporting & Enforcement Guide

April 1, 2016

The data collected and submitted by the nursing facilities is based on self-reporting.

February 26, 2016



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Quick View Rule Reference Guide

OAR 411-086-0100

www.dhs.state.or.us/policy/DHS/rules/411_086.pdf

for more information, please go to the Oregon Administrative Rules

Minimum staffing, generally

Resident care needs must be the primary consideration in determining the number and categories of nursing personnel needed. Nursing staff must be **sufficient** in quantity and quality to provide nursing services for each resident as needed, including restorative services that enable each resident to achieve and maintain the highest practicable degree of function, self-care and independence, as determined by the resident's care plan. Such staffing must be provided even though it exceeds other requirements specified by this rule or specified in any waiver.

Ratios

A ratio methodology is used to determine an equivalent number of nursing assistants needed for the total census of a facility to meet the HPRD minimum requirement. To see actual number of full-time staff members required based on the census see the Nursing Assistant (NA) Staff Ratio Chart (SDS 0717A).

- **Beginning April 1, 2014:**

Day shift:	One nursing assistant per 7 residents
Evening shift:	One nursing assistant per 9.5
Night shift:	One nursing assistant per 17 residents

*These numbers **do not represent sufficient nursing staff**; the numbers only represent the minimum number of nursing assistant staff required by rule.

OAR 411-085-0005 Definitions

Nursing Assistant (NA)

“Nursing Assistant” means an individual who assists licensed nurses in the provision of nursing care services. “Nursing Assistant” includes but is not limited to a certified nursing assistant, a certified medication assistant, and individuals who have **successfully completed** a state approved nurse assistant training course.

Certified Nursing Assistant

Means an individual who has been certified as a nursing assistant pursuant to ORS chapter 678 and the rules adopted thereunder.

Certified Medication Assistant (CMA)

The certified medication aide assigned to administer medications must not be counted toward meeting the minimum staffing requirements for direct service of residents, referenced in section (5)(c) of this rule. Direct care CNA/CMA cannot administer medications as part of their assigned duties.

Restorative Aide (RA)

Effective September 1, 2008, nursing assistants serving as restorative aides must not be counted toward the minimum staffing requirement under section (5) (c) of this rule

Mandatory public postings - NA Staffing

1. The facility must have the number of on-duty nursing staff publicly posted 24 hours each day using these forms Direct Care Staff Daily Report ([SDS 0717](#)) and Nursing Assistant (NA) Ratio Chart (SDS 0717A).
 - a. The posted report must be prominently displayed in a public area, readily accessible to residents and visitors, as described in OAR 411-086-0100(2).

Note: "Nursing assistants" in this instance refers to both those nursing assistants who have obtained certification and those in the process of obtaining certification having successfully completed the training and evaluation program.

Nursing Assistant Training and Competency Evaluation Program

OAR 411-070-0470

http://www.dhs.state.or.us/policy/spd/rules/411_070.pdf

Federal Regulation 42 CFR 483.152

<http://www.gpo.gov/fdsys/granule/CFR-2011-title42-vol5/CFR-2011-title42-vol5-sec483-152>

“(2) No nurse aide who is employed by, or who has received an offer of employment from, a facility on the date on which the aide begins a nurse aide competency evaluation program may be charged for any portion of the program.

(3) If an individual who is not employed, or does not have an offer to be employed, as a nurse aide becomes employed by, or receives an offer of employment from, a facility not later than 12 months after completing a nurse aide competency evaluation program, the State must provide for the reimbursement of costs incurred in completing the program on a pro rata basis during the period in which the individual is employed as a nurse aide.”

Quarterly Reporting

Nursing Assistant Staffing and NATCEP Reimbursement Reporting Process

General

1. Each nursing facility is required to submit a report on a quarterly basis per OAR 411-086-0100 (5) (d) and OAR 411-070-0470 (8) (b).
2. This report is to be submitted to DHS.NAStaffing@state.or.us in Excel format.
3. Reporting matrix will be posted annually as an Administrator Alert, please subscribe at: <http://www.oregon.gov/dhs/spd/pages/provtools/newsletters.aspx#aa>

Nursing Facility Licensing Unit website:

<http://www.oregon.gov/dhs/licensing/nflu/Pages/Index.aspx>

REPORTING CRITERIA

1. Each facility must submit a quarterly staffing and hiring report to Office of Licensing & Regulatory Oversight, using an OLRO-approved method and format. The report must provide an accurate daily account of resident census and nursing assistant staffing levels for each shift.
2. The facility must submit the report to OLRO no later than the end of the month immediately following the end of each calendar quarter. (Example: For the calendar quarter ending March 31, the report must be received no later than April 30.)

Part 1- Staffing

- a. The report must specify the shifts in which the minimum staffing standards, as set forth in section (5) (c) of this rule were not met, not met, and the explanation for not meeting the compliance standards.

Part 2 – NATCEP (Calendar dates on the NA Staffing section do not relate to Part 2)

- b. Number of new hire Certified Nursing Assistants
- c. Date of hire or status change to CNA (you may have hired as NA)
- d. Date of certification (CNA is eligible for reimbursement for the period of 12 months from date of certification on a prorated basis).

- e. Projected date of final reimbursement payment (facility has **3 months** to fully reimburse the CNA from date of hire or if hired as an NA date of certification)

Sample

January	*	**	***	
1. Number of New Hire CNAs	2	1	1	
2. Date of Certification	12/12/15	12/12/15	01/01/08	
3. Date of Hire	12/13/15	12/15/15	1/13/16	
4. Date of Reimbursement (Projected)	1/4/16	3/1/16	NE	

- a. Enter number eligible CNAs (1) in the month hired using as many columns as you need for all the monthly hires and the project date of **full reimbursement**. Reimbursements can be made in a lump sum or in incremental payments over a maximum period of **3 months**.
- b. If the new hire is not eligible for reimbursement (see column 3) enter the date of hire and date of certification enter not eligible (NE) on in the box for Date of Reimbursement in the month hired.
- c. Examples:

* Hired 2 CNAs on 12/13/15 who were certified on 12/12/2015 and reimbursed in full on 1/4/2016.

**Hired 1 CNA on 12/13/15 who was certified on 12/12/15 and was reimbursed in full 3/1/2016.

***Hired 1 CNA on 1/13/16 who was certified on 1/1/08 and is not eligible for reimbursement.

Please note: Please do not enter hiring of non-certified nursing assistants, we are only tracking Certified Nursing Assistants. If you have NAs on staff who have successfully passed the certification exam and stay employed with your facility, use the change of status date as the hiring date

The facility must be able to provide documents to support the quarterly staffing and NATCEP reporting upon request.

3. For more information on the NATCEP program see the NATCEP program guides and Frequently asked Questions sections.

Reports

1. On receipt of the quarterly report you will receive an email verification indicating that the report has been received. The report is then reviewed to determine if it is complete.
 - a. If there are any questions, errors or omissions you will receive an email with additional instructions. If additional information is needed, the response or correction is due within 48 hours of the email notification.
 - b. If a facility does not submit the quarterly report by the required due date for the current quarter, department staff will issue an email notification and a **\$150–a-day fine which will beginning accruing for each calendar day the report is overdue.**
 - i. The email notification will be sent as soon as the missing report is noted and the report is due within 48 hours of receipt.
 - ii. If the department does not receive the facility’s report as requested, the matter will be reviewed for sanctions (Civil Penalty Guide) and referral to the Nursing Facility Survey Unit.
 - iii. If an extension for the due date is required, please contact program coordinator prior to the due date. Extension requests are considered on an individual basis.

Review process

1. Reports are electronically saved to the facility’s electronic file folder; and,
 - a. Reviewed and calculated for reported staff vs. required staff; and,
 - b. Timely NATCEP reimbursement of new hire CNAs; and,
 - c. If there are shortages, explanation for each shortage is reviewed. If explanations do not meet the expected level of information i.e. specific to each shortage with information of why it occurred, how the resident care needs were met, and/or are

repetitive in nature the explanation will be considered insufficient; and, a sanction will be assessed.

- d. Reports that show a continued pattern of reassigning CMA, RA, and/or licensed staff to fill vacancies to avoid sanctions for nursing assistant shortages could potentially initiate further investigation; and, non-mitigation.
2. A determination is made regarding the facility's compliance.
 3. When a report has been submitted at Level II or above and/or past deadline, the facility will receive the following:
 - a. A letter of determination detailing the shortages, outcomes, imposed sanctions, assessed penalties, and hearing rights; and/or
 - b. A letter of determination for late reporting and imposed sanctions, assessed penalties, and hearing rights.
 4. Zero self-reported and Level I shortages will be reviewed quarterly and results noted in the Quarterly Summary and posted on the Nursing Facility Licensing Unit website.
 5. Facilities with ongoing shortages at Level I will be reviewed for unsatisfactory trends and contacted as necessary.
 6. After all the data is compiled; the Nursing Facility Nursing Assistant Staffing Quarterly Summary is completed. The summary contains information for each facility related to:
 - a. Shortage/s;
 - b. Number of staff reported above the minimum standard;
 - c. Civil penalties for shortages; late reporting, inaccurate reporting and rule violations related to NATEP.
 - d. Quality Initiative Partnership Plan participants;
 - e. Staffing Plan of Correction participants.

Instruction Guide for Report Form

1. Proper completion and submission of the Nursing Facility NA Quarterly Staffing Report is required for facility compliance with Oregon Administrative Rule 411-086-0100 (5) (d) and OAR 411-070-0470 (9) (b).
2. A completed Nursing Assistant Quarterly Staffing Report must be emailed as an Excel document attachment to DHS.NAStaffing@state.or.us by the last day of the month following the end of each quarter:

Quarter reporting period report due date:

Quarter 1 reporting period Jan 1-Mar 31 (Apr 30)

Quarter 2 reporting period Apr 1-Jun 30 (Jul 31)

Quarter 3 reporting period Jul 1-Sep 30 (Oct 31)

Quarter 4 reporting period Oct 1-Dec 31 (Jan 31)

3. All blank data query fields on the report must be completed for the quarter submitted and Excel workbook format must not be modified before submitting.

Line 1: Reporting period. Field is auto-populated with the month and reporting year.

Line 2: Facility name. Enter Facility's licensed business name to do business as a nursing facility. Do not enter facility corporation owner names.

Line 3: Date of transmission. Enter date report is electronically sent to Office of Licensing & Regulatory Oversight (OLRO).

Lines 5, 9 and 13: Shift census. Enter number of admitted residents present the beginning of each shift for each reported day.

Lines 6, 10 and 14: Required minimum nursing assistant staff. Auto-fill, shift-specific fields that self-populate based on shift census numbers entered into respective *Shift Census* fields (lines 5, 9 and 13.) Required minimum NA staff numbers appear after hitting "tab" or click elsewhere on the reporting form.

Lines 7, 11 and 15: Reported nursing assistant staff on duty. Enter the total number of nursing assistant's full-time equivalents (FTEs) on duty each shift, each day. Number(s) should include **only** those nursing assistants with direct resident care and service duties as described in 411-086-0100(5) and (6). If a staff member performed resident care duties for only half a shift, you would calculate that employee's FTE number as a decimal fraction, e.g., 0.5.

Lines 8, 12 and 16: +/- from required minimum. Auto-fill shift-specific fields that self-populate based on total shift FTEs entered into the *Reported Nursing Assistant Staff on Duty* fields (Lines 7, 11 and 15). Field totals represent the number of FTEs staffing over or under the minimum required. Parenthetical number values displayed as (1) in these fields indicate negative staffing numbers, which means the nursing assistant staffing ratio for the respective shift was below the required minimum.

New Section-*No relationship to NA staffing levels. Separate report incorporated into already existing report matrix to simplify new reporting criteria for facility.*

Lines 19, 20, 21, and 22: Number of CNAs reimbursed in current the month, please use a separate column for each date of **projected** reimbursement if the dates are different (see page 6). Include the date of hire, date of certification, and the **projected** date of final reimbursement payment. If additional remarks or comments are needed, please go to the explanation page. If a non-eligible CNA/s are hired put **NE** in the column in the reimbursement date cell.

Occurrences below staffing ratio`

- Column is located on the far right of the form. Data represents total number of shifts facility staffing was below the minimum staffing ratio for the identified month.
- Other columns indicate the number of staff below and above the minimum and total number of hours of staff shortages based on an 8-hour shift.

Explanation tab (Excel worksheet)

- Explanation worksheet pages appear behind each corresponding reporting month. Briefly explain the steps taken during each shift that the facility is below the minimum required staffing ratio. Explanation(s) must be provided. Enter shift date, the shift, reason for staffing shortage and specific steps taken to secure required staff. The information must be specific to that particular shift and the events surrounding the incident. Copying and pasting repetitive explanations is not accepted for mitigation of the shortage.

** See attached additional instructions and examples.*

- Please direct questions regarding the Nursing Facility Quarterly Staffing Report requirements to:

Joanne Birney
Nursing Assistant Program Coordinator
Department of Human Services
Office of Licensing & Regulatory Oversight
503-373-1964
Joanne.Birney@state.or.us

**Refer to pages 11 and 13 for Nursing Facility Quarterly Staffing Report instructions for the explanation section and examples.*

Instructions for Explanation Section

1. If a specific facility is short multiple days with multiple staff shortages on an ongoing basis, and the same explanation is being used constantly without showing significant improvement in the number of staffing shortages, the reason/s may not be mitigated.
2. If the explanation is not specifically related to the specific shift, date and event, it may not be accepted for mitigation.
3. If direct care staff are **reassigned** from a specialty unit, such as an ACU/ECU, to the general portion of nursing facility, please indicate if the facility maintained its nursing assistant resident ratios and provision of care in accordance with the ACU/ECU requirements. And if the opposite reassignment occurs.
4. If an RA, CMA, LPN or RN were **reassigned** to duties as direct care staff to ensure required staffing levels and to meet care needs of residents, please indicate how the other duties of the **reassigned** staff were met without adversely affecting resident care (“helping out” is not being reassigned).
5. When RA, CMA, LPN or RN staff are **assigned or reassigned** as direct care staff to ensure required staffing levels, please indicate the number of residents they were assigned and hours worked as direct care staff.
6. If nursing assistants who have other specified job titles such as ward clerks or activities staff are **reassigned** to direct care staff duties, please indicate the number of residents assigned and number of hours the individual worked as direct care staff.

7. If the NA direct care staff shortage is due to a resident admission, explain the circumstances. **(Routine admission should be planned for and facilities should have the required number of staff available for resident care and sufficient staff to meet the residents' needs.)**
8. If staff are called in to cover a shift as direct care staff and are only able to partially cover the normal number of standard shift hours, please state the time of arrival and number of hours worked.
9. Please indicate the reason the nursing assistant is not available to work his or her shift such as illness or other emergency. Note a general reason for the call-in (this also includes agency staff), but do not include personal information about the individual.
10. If you have direct care staff that do not show up for their shift, quit without notice, report late for duty, or leave early for whatever reason, please note it on your explanation (this also includes agency staff).
11. Please do not mark the quarterly report as zero (0) nursing assistant short if another discipline has worked in the nursing assistant's place. The shortage of a nursing assistant has still occurred; however, the explanation explain that another discipline was assigned residents.
11. Nursing assistant staff on restricted duty (light duty) can only be counted if they can meet the specifics as listed in rule OAR 411-086-0100(5) (g).
12. If additional information needs to be noted for the NATEP section of the report, please use the explanation section.

Note: Please give as much pertinent, concise information as possible.

Reporting Period: January 2016		Occurrences Below Staffing Ratio (Per Month)																														
Facility Name: Remember to enter name																																
Date of Transmission:																																
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Day Shift Census	Required Minimum NA Staff 1-7	7	7	7	7	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Reported NA Staff on Duty		1	1	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
+/- From Required Minimum		0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Evening Shift Census	Required Minimum NA Staff 1-9.5	7	7	7	7	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Reported NA Staff on Duty		1	1	7	7	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
+/- From Required Minimum		0.0	0.0	6.0	6.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Night Shift Census	Required Minimum NA Staff 1-17	7	7	7	7	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Reported NA Staff on Duty		1	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
+/- From Required Minimum		0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Totals																																
NATCEP Reimbursement		Definition of +/- From Required Minimum Results* Field: Results in brackets = Below minimum ratio																														
Number of New Hire CNAs		2	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Date of Certification		12/21/15	12/21/15	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	
Date of Hire		12/13/15	12/13/15	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	
Date of Reimbursement		1/4/16	2/1/16	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	00/00/00	

Shift	Examples that <i>would not</i> mitigate a civil penalty
All shifts	We always strive to have proper numbers of staff. If someone calls off, sometimes someone will stay over and help us. We will ask agency staff who are working to fill in. Prior to the day shift, if someone calls off it is usually very difficult to fill a shift at the last minute. <i>Note: This was repeated throughout each month of the quarter.</i>
Day	Could only secure partial shift coverage.
Night	Staff on FMLA
Day	Staff on vacation
Day	Could not fill partial shift.
Night	Staff called in ill; called for replacement; no one available (how was resident care managed)
Day	No one available.
Day	Scheduling error; failed to schedule correct number of staff.
Eve	Not enough staff.
Night	Saturday night — only four scheduled.

Shift	Examples of explanations that <i>would</i> potentially mitigate a civil penalty
Night	NA became very ill and had to go home at 0200. Called all day-shift staff and could not find anyone willing to come in early or anyone who answered phone. Unable to replace for the last four hours of shift from 2–6 a.m. NAs and charge nurse worked together to provide care.
Evening	No call, no show. Administrative RN stayed as charge nurse on one unit. The scheduled LPN was reassigned to direct care of 11 residents and worked as NA.
Night	Called in sick half-hour prior to start of shift. Calls placed to on-call NA; calls placed to five other NAs; calls placed to seven agencies. Unable to find replacement. Evening charge nurse stayed over two hours from 10 p.m.–midnight to help with first rounds; day charge came in early at 4 a.m.
Evening	Called in just prior to shift due to family emergency. Calls placed to off-duty aides, bonus offered, all day-shift aides approached, no one able to stay; call placed to all agencies, no available aides. RN supervisor did first med pass and med aide reassigned to direct care of 12 residents. Medication aide cannot be assigned to direct resident care and continue working as CMA (411-086-0100 (6) (b)).
Day	We had two call-ins due to illness for this shift. A restorative aide came in and was assigned to direct care of nine residents. No one was available to cover the second call-in, as it was a holiday weekend. The weekend manager and CMAs helped with meal times. The day went smoothly. Evening shift made up the showers.

Compliance & Enforcement

General enforcement process

1. All information will be reviewed by the Nursing Assistant Program Coordinator, processed through the Corrective Action Coordinator, and reviewed by an OLRO manager prior to sanctions being issued to the nursing facility.
2. Additionally, the CNA reimbursement reporting information will be processed through the Medicaid Long-Term Care Policy Analyst.
3. All submitted information will be used in the decision-making process as well as previous quarterly reports, survey information, and other submitted facility-related information such as complaints.
4. Failures to correct the deficiency may result in additional sanctions and referrals other than civil penalties.

Decision Matrix Staffing Rule Noncompliance

History and explanations will be considered for aggravating and mitigation for all sanctions.

<p>Level 0: Failed to submit a timely report; Failed to provide a comprehensive report; Failed to provide accurate staffing information</p>	<ul style="list-style-type: none"> • Discretionary Letter of Determination • Discretionary civil penalty (for all), based on mitigating and aggravating factors • Discretionary referral to Survey
<p>Level I: Minimum understaffing (≤ 3 percent total nursing assistants) with staffing ratio</p>	<ul style="list-style-type: none"> • Discretionary internal review • Discretionary Letter of Determination • Discretionary civil penalty • Discretionary plan of correction • Discretionary referral to Survey
<p>Level II: Moderate understaffing ($>3-9$ percent total nursing assistants) with staffing ratio</p>	<ul style="list-style-type: none"> • Letter of determination • Civil penalty • Staffing Plan of Correction for trend • Discretionary quality assurance audit • Discretionary referral to Survey
<p>Level III: Significant understaffing ($>9-15$ percent total nursing assistants) with staffing ratio</p>	<ul style="list-style-type: none"> • Letter of determination • Civil penalty • Staffing Plan of Correction • Discretionary quality assurance audit • Discretionary restriction of admissions • Discretionary referral to Survey
<p>Level IV: Severe understaffing (>15 percent total nursing assistants) with staffing ratio</p>	<ul style="list-style-type: none"> • Letter of determination • Civil penalty • Referral to Survey • Staffing Plan of Correction • Discretionary restriction of admissions

Sanction and Civil Penalty Guide

When the identified nursing facility is unable to comply with the OAR reporting and nursing assistant staffing requirements, the following matrix establishes a system for assigning a corresponding civil penalty. More than one staffing rule violation may be applicable. Civil penalties will be calculated for noncompliance and aggravating factors of nursing assistant staffing shortages for current quarter.

Staffing noncompliance	Corresponding civil penalties
Level I - Staffing noncompliance	<ul style="list-style-type: none"> • \$50/staff person short • \$100/staff person short • \$150/ staff person short
Level II – Staffing noncompliance	<ul style="list-style-type: none"> • \$150/staff person short <i>CP aggravated if shortage continues over time</i>
Level III – Staffing noncompliance	<ul style="list-style-type: none"> • \$150/staff person short <i>CP aggravated if shortage continues over time</i>
Level IV – Staffing noncompliance	<ul style="list-style-type: none"> • \$150/staff person short <i>CP aggravated if shortage continues over time</i>

Level 0 Reporting noncompliance	Corresponding civil penalties
Type 1 – Failed to submit timely report	<ul style="list-style-type: none"> • \$150 per day late, up to 30 days (discretionary referral to Survey)
Type 2 – Failed to provide comprehensive report	<ul style="list-style-type: none"> • \$50–\$150 per occurrence, based on mitigating and aggravating factors (discretionary referral to Survey)
Type 3 – Failed to provide accurate staffing information	<ul style="list-style-type: none"> • \$50–\$150 per occurrence, based on audit or report review (discretionary Survey referral)

Sanction and Civil Penalty Guide NATCEP

When a nursing facility does not comply with the NATCEP reimbursement regulation the following matrix establishes a system for assigning a corresponding civil penalty. More than one rule violation may be applicable. Civil penalties will be calculated for noncompliance and aggravating factors.

Noncompliance	Corresponding civil penalties
Level I- NATCEP rule noncompliance	<ul style="list-style-type: none"> • \$1,600.00 for single CNA failure to reimburse • Potential for cumulative civil penalty per CNA.
Level II – Multiple incidents of noncompliance	<ul style="list-style-type: none"> • \$1,600.00 Civil Penalty per CNA <i>CP aggravated if failure to reimburse continues over time with \$150.00 per incident or if history of previous failures to reimburse.</i>
Level III - Failure to reimburse after direction by DHS	<ul style="list-style-type: none"> • Aggravation of \$100.00 per day of noncompliance based on facility intent.
Reporting noncompliance	Corresponding civil penalties
Type 1 – Failed to submit timely report	<ul style="list-style-type: none"> • \$150 per day late, up to 30 days (discretionary referral to Medicaid Payment Unit)

Staffing Plan of Correction (SPOC)

General

- A staffing plan of correction is a sanction for nursing assistant staffing rule noncompliance for a facility reporting a Level II (moderate), Level III (significant) and Level IV (severe) nursing assistant shortages.
- The staffing plan of correction is for both facilities that have had staffing shortages mitigated as well as those that have not. Although shortages may have been mitigated, the shortage still occurred and a staffing plan of correction may be required.
- Nursing facility providers may be required to develop a staffing plan of correction if they have been identified as having Level II nursing assistant shortages and have not implemented a shortage improvement plan to reduce the shortages. SPOCs will be monitored and additional sanctions may be applied for ongoing rule noncompliance. Level III and Level IV shortages will automatically result in a SPOC.
- The facilities will be notified of the deficiencies in writing. The letter of deficiency will identify any discrepancies and indicate the steps facilities must follow for staffing plan of correction compliance.

Requirements

1. The written staffing plan of correction is due within 10 working days of receipt of the certified letter of deficiency. Send the plan to the following address:

Nursing Assistant Staffing
DHS, Office of Licensing & Regulatory Oversight
PO Box 14530
Salem, OR 97309

or

Joanne.Birney@state.or.us

2. SPOCs must contain detailed timelines of the implementation phases and plan completion.

3. A plan needs to include issues that affect consistent staffing to meet the staffing minimum standards for number of shortages; the associated plan is to correct those factors.
4. Facility's required to submit a monthly staffing report as part of their SPOC must submit their report within five working days from the end of each reporting month.

Quality Initiative Partnership Plan (QIPP)

Quality Initiative Partnership Plan

The Quality Initiative Partnership Plan is an alternative to paying an assessed civil penalty for nursing assistant shortages based on specific qualifications when offered by the Department.

The plan allows the provider to invest the equivalent amount of a civil penalty (CP), which would have been incurred for nursing assistant staffing shortages or discrepancies in a quality assurance audit, in a **sustainable** program that would affect the recruitment and retention of quality nursing assistant staff and the quality of care and life of the facility's residents.

Process:

1. The nursing facility provider, if chosen and approved by OLRO to participate, could decline and choose the option to pay the monetary fine. Those providers who are approved and choose to participate will be required to submit a plan they have developed or developed in partnership with OLRO for approval.
2. The plan must have a finite date by which it would be implemented and it cannot be part of the facility's ongoing business plan. The CP equivalent cannot be used for activities such as advertising or bonuses or any business-related activities.
3. The plan must identify how it will directly affect positive outcomes for quality of care and quality of life for residents through established goals and how the plan will either directly or indirectly affect the recruitment and retention of quality nursing assistant staff.
4. If the nursing facility had a staffing plan of correction already in development, the QIPP could potentially be incorporated into the SPOC.
5. The QIPP plan participant information would be included in the Nursing Assistant Staffing Report Summary.
6. The participating facility will receive a letter of determination that notes the shortage/s and the participation in the QIPP plan.

7. Participation in the plan does not exclude the participating provider from other sanctions related to nursing assistant staffing shortages.
8. If approved and barriers identified, providers may be allowed to revise the plan with prior approval. This may rule out the reinstatement of the original monetary fine or a prorated fine if the plan is not completed.

Decision Matrix QIPP

When reviewing the nursing facility provider's compliance history, the following criteria will be reviewed to determine whether the provider can participate in the quality initiative partnership plan (QIPP). A panel of nursing facility program staff will review the provider's history for the applicable reporting quarters.

1. The civil penalty sanction would have been issued for the following reasons:
 - a. It failed to provide accurate staffing information based on the quality assurance audit or review.
 - b. Staffing shortages at Level I-III have not been mitigated.
2. The following information will be used in making a determination:
 - a. Compliance Survey and Adult Protective Service history — if any of the following have occurred in the past 12 months the provider would be automatically excluded from participating in QIPP.
 - i. Findings of substantiated abuse;
 - ii. A rule violation that results in actual harm to residents, including a state severity Level 3 or higher; survey at Level G or higher; and/or
 - iii. A finding of substandard quality of care;
 - iv. A finding of immediate jeopardy;

- v. History of repeated citations or findings for the same issue/issues.
- b. Nursing assistant staffing history — if any of the following have occurred the provider would automatically be excluded the option of participating in QIPP.
 - i. Level IV understaffing for the current reporting quarter.
 - ii. Failed to provide requested information for a quality assurance audit or review in the past 12 months.
 - iii. Unreported shortages at Levels II–IV were identified through the QA process in the past 12 months.

Note: If a facility is currently in DOPNA (denial of payments for new admissions) or has any negative licensing action pending such as revocation, denial of license, suspension of license or failure to pay a previous civil penalty, the provider may not participate.

Sample QIPP Plans

- Develop a NA Mentor Program.
- Support a committee with nursing assistants to discuss retention and turnover issues.
- Conduct team building exercises for all nursing care staff.
- Develop or add to a fund/scholarship that would support education for uncompensated tuition expenses, equipment or supply purchase for the individual trainee, and/or child care expenses during the training course period.
- Develop or add to a fund that would allow nursing assistants to attend the memorial/funeral services of residents with whom they were close.
- Form a committee with nursing assistants to discuss issues related to coverage, call-ins or other staffing issues.
- Fund “life enrichment module” courses for nursing assistants aimed at enhancing the resident/nursing assistant relationship.
- Create training courses for licensed nursing staff on supervision/leadership.
- Fund a culture change project.
- Develop a dining transformation project.

Note: These are just samples ideas that have been shared through a variety of sources such as facilities either in Oregon or in other states. We want the individual provider to develop a plan specific to that facility’s culture, staff, and residents.

Quality Assurance Audit (QAA)

Audit Request Process

1. Requests will be sent via **certified mail**.
 - a. The envelope will be addressed to the facility administrator.
 - b. Within the address area it will state that it is related to “**CNA Staffing**”; if an administrator needs to delegate the task to another individual, it will be easily identified.
2. Due dates for the information to be returned to OLRO will be identified within the letter and the standard will be **10 business days**.
 - a. Audit documents are to be returned to OLRO by either mailing, email, or shipping. Please do not fax information because all information may not be received or be complete, which may cause you to have to re-submit your information.
 - b. If the information sent is incomplete or additional explanation is required, one additional request will be made. The additional information will be required within five business days of the request or it will not meet the reporting criteria.
 - c. If the requested information for the review is not submitted, it will not meet the reporting criteria and will be referred to the Corrective Action Unit.
 - d. All information received will be logged with the date received, the date the review was completed, and the date a response was submitted to the facility.
 - e. Please send the information to the following address:

Joanne M Birney
Nursing Assistant Program Coordinator
DHS, Office of Licensing & Regulatory Oversight
PO Box 14530
Salem, OR 97309
Joanne.Birney@state.or.us

3. Information required (needs to be legible)

- a. Nursing assistant payroll records (time clock detail reports) for the time periods requested including the number of hours a NA worked per shift. Licensed nurse staff payroll records (time clock details) if report explanation sheet for a specific day/shift, noted a licensed nurse was used to replace absent nursing assistant staff or scheduled shift.
- b. Assignment schedules for all nursing staff that indicate the assigned wing/s, floor/s and/or the number of residents assigned.
- c. The discipline of each staff, i.e., NA, CNA, RA and/or CMA. Also please indicate if you use specific NAs for specified tasks such as bath aides and ensure they are noted on assignment sheets.
- d. Documentation if agency nursing assistant staff were used and their assignments.
- e. Resident census for the period requested.
- f. Copy of the facilities staffing policy related to acquiring nursing assistant staff when a staffing shortage has been identified.
- g. If you have chronic shortages, the steps taken to correct the shortage.
- h. Explanation of any coding that might be used on schedules or payrolls to denote shifts, duties or disciplines.
- i. Hire dates of any nursing assistants who have not obtained their certification.
- j. Direct Care Staff Daily Report (SDS 0717).

Determinations

1. An advisory letter stating that the review was completed; or
2. An advisory letter stating that there were discrepancies or failure to comply with the audit request and the action to be taken, i.e., a potential referral to the Corrective Action Unit and sanction.

Review selection process

1. The selection of dates to be audited and the reason for the review may be selected based on any number of different factors related to nursing assistant staff including:
 - a. Random selection;
 - b. Significant shortages reported on an ongoing basis;
 - c. Complaints from the public, residents, residents' families or other sources;
 - d. Complaints of shortages or workload issues from facility staff;
 - e. Information from Adult Protective Service Unit's;
 - f. Information from the Ombudsman's Office.
 - g. Survey and complaint history or referral;
 - h. Ratios of NAs vs. CNAs;
 - i. Reports of nursing assistants on duty listed as restricted duty status and are being counted toward meeting the minimum standard.

NATCEP- CNA Reimbursement Audit

1. Requests will be sent via **email** from the Medicaid Long-Term Care Unit (MLTCU).
 - a. The email will be addressed to the facility administrator.
 1. Information required (needs to be legible)
 - a. Nursing assistant payroll records that show the reimbursement payment.
 - b. Date of hire
 - c. Date of certification
 - d. Hire dates of any nursing assistants who have not obtained their certification.
2. Due dates for the information to be returned to MLTCPOU will be identified within the letter and the standard will be **10 business days**.
 - a. Audit documents are to be returned to MLTCPOU by email to Cynthia.Susee@state.or.us Please do not fax information because all information may not be received or be complete, which may cause you to have to re-submit your information.
3. If the information sent is incomplete or additional explanation is required, one additional request will be made. The additional information will be required within five business days of the request or it will not meet the reporting criteria.
4. If the requested information for the review is not submitted, it will not meet the reporting criteria and will be referred to the Office of Licensing & Regulatory Oversight Corrective Action Unit.
5. All information received will be logged with the date received, the date the review was completed, and the date a response was submitted to the facility.
6. Please send the information to the following address:

**Cynthia Susee,
Nursing Facility Reimbursement Coordinator
DHS, Medicaid Long-Term Care Unit
500 Summer St NE, E-10
Salem, OR 97301
Cynthia.Susee@state.or.us**

Note: Other financial audits may be required for payments made to a facility for training courses with different requirements as requested by any DHS unit.

Determination - QAA NATCEP

1. An advisory letter stating that the review was completed; or
2. An advisory letter stating that there were discrepancies or failure to comply with the audit request and the action to be taken, i.e., a potential referral to the Office of Licensing & Regulatory Oversight Corrective Action Unit and sanction.

Review selection process

1. The selection of dates to be audited and the reason for the review for a specific quarter may be selected based on any number of different factors related to nursing assistant staff including:
 - a. Random selection;
 - b. Reported non-reimbursement on an ongoing basis;
 - c. Complaints from CNA, Oregon State Board of Nursing, and/or NA Level 1 training programs;
 - d. Failure to report;
 - e. Requested facility reimbursements.

Contact & Resource Information

Contacts

Nursing Facility Licensing Unit Manager

Dave Allm

503-373-0945

Email: David.C.Allm@state.or.us

Nursing Assistant Program Coordinator

Joanne M. Birney

503-373-1964

Email: Joanne.Birney@state.or.us

Medicaid Reimbursement Program Coordinator

Cynthia Susee

503-945-6448

Email: Cynthia.Susee@state.or.us

Resources

Advancing Excellence in America's Nursing Homes
<http://www.nhqualitycampaign.org/>

American Health Care Association
<http://www.ahcancal.org/>

Jobs to Careers
<http://jobs2careers.org/>

Leading Age (formerly AAHSA)
<http://www.leadingage.org/>

Making Oregon Vital For Elders
<http://www.orculturechange.org/>

Paraprofessional Healthcare Institute (PHI National)
<http://phinational.org/>

Pioneer Network
<http://www.pioneernetwork.net/>

Oregon Health Care Association
<http://www.ohca.com/>

