

2019

>> OHA Nurse Staffing Advisory Board

2019 Legislative Report



Oregon
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Executive summary

Oregon's nurse staffing laws require hospitals and direct care nursing staff to work together to promote safe patient care. These laws have been part of Oregon's commitment to improve health care since 2001. In 2015, changes in law expanded these requirements. These changes also provided for creation of a Nurse Staffing Advisory Board (NSAB) within the Oregon Health Authority (OHA).

OHA has made progress completing on-site nurse staffing surveys. OHA is on track to complete on-site surveys within the three-year cycle set by the Legislature. However, there has been a delay in follow-up reports and legislatively-mandated revisits. There has also been a delay in complaint investigations.

OHA continues to receive valuable input from NSAB. In July, OHA and several NSAB members took part in a day-long facilitated work session. The purpose was to discuss an ideal state for the nurse staffing program. In addition, OHA hosted conference calls with more than 40 hospitals to discuss their specific Plans of Correction (POC) concerns.

The full legislative report is available at www.healthoregon.org/nursestaffing.

Key achievements

OHA staff and several NSAB members met in July to discuss the current state. Also, to develop recommendations for an ideal state for the nurse staffing program.

Since starting the nurse staffing law, the Legislature has updated the statutes twice (2005 and 2015). The most recent and most significant changes were in 2015. Since then, there have been concerns about implementation of the revised law. This includes an effort to make changes in the 2019 session. Concerns were elevated to the Governor's office.

As a result, the Governor's office invited the Nurse Staff Advisory Board co-chairs to Salem to talk about ways to improve the current nurse staffing law. Following that conversation, the co-chairs worked with OHA to organize a facilitated session for the board to discuss the current state and develop recommendations for an ideal state. They could then send the recommendations to the Governor's office in a formal letter.

OHA, in collaboration with the board co-chairs, hosted an all-day discussion on July 24, 2019. An outside consultant, Donna Silverberg from DS Consulting, facilitated. Nine of the eleven board members and OHA staff took part. The purpose was for the board and OHA staff to work together in a guided session to reflect on, discuss and suggest nurse staffing program improvements. The goal is to achieve a shared "ideal state" to:

- ▶ Emphasize safety
- ▶ Assure quality
- ▶ Support nurses, and
- ▶ Make sure surveys are efficient and effective.

Board members and OHA staff identified three main areas of opportunity. A list of recommendations to achieve these are in the full report:

1. Opportunities to improve and focus the survey process
2. Ensure OHA has the resources, knowledge and capacity to meet the needs of the program, and,
3. Ensure the NSAB is helps drive the successful implementation of the state law in each hospital in Oregon.

OHA and board co-chairs sent the letter with recommendations to the Governor on Aug. 5, 2019. All board members approved this letter. The board thinks these recommendations would improve the current nurse staffing program to:

- ▶ Emphasize safety
- ▶ Assure quality
- ▶ Support nurses, and
- ▶ Make sure OHA's hospital surveys are efficient and effective.

The board co-chairs anticipate:

- ▶ A future meeting of the co-chairs with the Governor
- ▶ An opportunity for the board to prioritize recommendations, and
- ▶ For OHA to reflect on current and future resources for the recommendations.

Survey reports and Plans of Correction

OHA completed 44 hospital surveys in 2017 and 2018. This represents about two-thirds of covered facilities. As of Oct. 10, 2019, OHA has conducted 23 on-site surveys. The survey team is on target to complete surveys of all Oregon hospitals within the three-year cycle set by the Legislature.

After OHA completes a hospital survey, OHA sends a report to the hospital with Plan of Correction (POC) requirements and processes.

- ▶ By the end of 2019, all hospitals that provide nursing services will have been surveyed. All these hospitals have received or will receive a survey report that lists their deficiencies under the current law. Sixty-three facilities have received their initial survey report.
- ▶ Hospitals are required to submit a POC to address deficiencies identified in the survey report. As of Sept. 1, 2019:
 - Fifty-eight hospitals submitted POCs.
 - Forty POCs are approved.
 - Forty-two hospitals took part in one or more conference calls with OHA staff to discuss specific survey and POC concerns.
- ▶ As of Nov. 4, 2019, 13 facilities are waiting for acceptance from OHA on their plan of correction.
- ▶ Once OHA accepts a POC, the hospital has 45 days to complete their plan actions. At this 45-day mark, OHA conducts a second audit to determine if the previously identified deficiencies are resolved. As of Sept. 1, 2019:
 - Thirty-seven hospitals are awaiting their second audit.

Waivers

- ▶ As of Nov. 1, 2019, OHA has nurse staffing waiver requests from 49 hospitals.
- ▶ Waiver requests are from:
 - 16 Critical Access Hospitals (CAHs) in rural areas or Special Inpatient Care Facilities
 - 16 hospitals with 26-149 licensed beds
 - 17 hospitals of 150 or more licensed beds
- ▶ Over 90 percent of waiver requests relate to the statutory requirement for:
 - A minimum number of nursing staff members on duty in a unit when a patient is present, and
 - What staff members can be utilized.
 - » In specialty procedural units, the second staff member is often:
 - ◆ A non-nursing position, and
 - ◆ A trained technician that takes part in patient care.
- ▶ Waiver requests may cover one or more units. Therefore, total units may exceed the number of requests.
- ▶ OHA continues to ask for guidance from the board on waiver criteria.
- ▶ OHA has:
 - Responded to 100 percent of waiver requests received, and
 - Resolved 95 percent of requests.
- ▶ OHA staff provides regular updates to the board on the nature and status of waiver requests.

Other board work in progress

▶ **Acuity Committee**

The Acuity Committee met to discuss patient acuity and review acuity factors in:

- » November 2018
- » December 2018
- » May 2019

The task for the committee was to develop guidance for other hospitals to:

- » Measure patients' acuity, and
- » Comply with nurse staffing law.

The committee drafted a series of questions to guide hospital nurse staffing committees in creating acuity measures. The committee shared the questions with the board in May 2019. The committee will continue to develop guidelines. They expect to provide a report to the full NSAB in November.

▶ **Overtime Committee**

The Overtime Committee met to align agency interpretations with hospital and nursing staff member documentation practices on mandatory nurse overtime.

They met in:

- » October 2018
- » July 2019

This included the review of overtime-related:

- » Oregon Revised Statutes
- » Oregon Administrative Rules, and
- » Nurse Staffing Interpretive Guidance.

Discussion focused on:

- » What hospitals are documenting to meet the requirements, and
- » How to show compliance with overtime rules which prohibit mandatory overtime except in specific circumstances

Some members of NSAB and hospitals who have undergone a survey have provided significant feedback to OHA.

▶ **Total Diagnosis Committee**

In April 2019, the Total Diagnosis Committee met to review how facilities interpret the requirement to include “total diagnoses” in a nurse staffing plan. The committee discussed how facilities:

- » View data on total diagnoses, and
- » Use data to inform nurse staffing plans.

Using information from conference calls with hospitals and committee members, OHA staff developed guidance for NSAB members to review.

Plan for the coming year

- ▶ NSAB will continue to provide feedback to OHA on administering nurse staffing law and rules from:
 - Hospital-based direct care RNs
 - Hospital administrators and nurse managers
 - Stakeholder organizations
- ▶ The board will continue to accept public comment at each quarterly NSAB meeting.
- ▶ The board will continue to encourage members and partners from across the state to attend in person or by phone.
- ▶ The board will continue to discuss more ways to gain feedback, this includes the hospital survey.
- ▶ The board will provide advice to OHA staff on major parts of staffing law, relying on the Department of Justice for legal interpretations. The board will make it a priority to advise OHA on strategies to make the surveys more efficient and effective.
- ▶ NSAB will continue to work closely with OHA to build a shared understanding the current patient care issues of staffing and scheduling.
- ▶ NSAB committees will continue to address issues such as:
 - Mandatory overtime documentation
 - Patient acuity, and,
 - Total diagnosis
- ▶ More committees will form as new issues arise.
- ▶ NSAB will continue to work closely with OHA to address issues raised in the facilitated work session.

Conclusion

NSAB members agree there has been significant progress in carrying out Oregon's revised nurse staffing laws. NSAB members continue to work collaboratively with one another and with OHA staff. The all-day work session in July provided both NSAB members and OHA staff time to reflect on the current state of nurse staffing in Oregon. Also, it provided an opportunity to discuss a proposed future state of the program. Stakeholder interest reflects that Oregon hospitals and direct care nursing staff members are working to understand and fulfill the regulatory framework.

While ambiguities remain, NSAB members agree that future survey and complaint investigations will likely produce valuable data. NSAB members and OHA can use the data to evaluate new trends in nurse staffing. Meanwhile, NSAB members will take the actions identified above and continue to advise OHA on administration of these rules.



You can get this document in other languages, large print, braille or a format you prefer. Contact Matt Gilman at 971-673-2317 or email matt.s.gilman@dhsoha.state.or.us.

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