

Oregon Nurse Staffing Advisory Board (NSAB)

Wednesday, July 28, 2021

1:00 PM – 5:00 PM

Meeting Minutes

Cochairs	Susan King, MS, RN, CEN, FAAN (presiding); Debbie Robinson, RN, MSN
Members present	Zennia Ceniza, RN, MA, CCRN, ACNP-BC, NE-BC; Uzo Izunagbara, RN; Jenni Word, RN; Rick Rhoton, MHA, RN, BSN; Barbara Merrifield, MSN, RN; Joel Hernandez, RN;
Members absent	Kelsey Betts, RN; Rob Campbell, CP, ADN, RN
PHD staff present	Dana Selover, MD, MPH; Anna Davis, JD; Matt Gilman, MPPA; Kimberly Voelker, MPH; Karyn Thrapp, RN; Michelle Ingram, RN

Guests present	Nancy Mitchell (Santiam Memorial Hospital); Beth Dimler (Lower Umpqua Hospital District); Danielle Meyer (OAHHS); Donell Owens (Kaiser Sunnyside Medical Center); Nancy Deyhle (Sacred Heart Riverbend); Belle Shepherd (OHA); Christy Simila (ONA); Jesse Kennedy (ONA); Lace Velk (OHSU); Steve Hardin (St. Anthony Hospital); Therese Hooft (ONA); Rachelle Lyons-Schatz (Legacy Meridian); Robin Reed (Nursingale); Matthew Freeman (Kaiser Westside Medical Center); Matt Calzia (ONA); Lynne Terry (The Lund Report); Shavon Albee (Providence Portland); Kyle Furukawa (Good Shepherd); Erica Drury (Maxim Healthcare Services)
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Agenda Item 1	<i>Call to Order</i>
The meeting was conducted as an online Zoom meeting with computer and phone audio options. The meeting was called to order and members confirmed their presence on the meeting via roll call. All other individuals present identified themselves.	

Agenda Item 2	<i>Minutes</i>
Board co-chair asked if the board had any corrections, additions, or questions about the minutes from the April 28, 2021 meeting.	

Motion to approve April minutes as written: Susan King
 Seconded: Debbie Robinson
 Motion passed

Agenda Item 3	<i>Membership Updates & Program Updates</i>
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K. Voelker stated that there were two nurse manager and one direct care position open. She stated that R. Rhoton had accepted a new position that made him ineligible for the board and that this would be his final meeting on the NSAB. She thanked R. Rhoton for his service on the board and stated that after this meeting, there would be three nurse manager positions open.

Board co-chair asked for an update with candidate applications.

K. Voelker stated that OHA had recommended candidates to the Governor's Office.

D. Selover stated that OHA had received applications from three direct care candidates and ten nurse manager candidates. She stated that the Governor's Office was attempting to get more applications to the board and explained that OHA preferred to have a pool of candidates to choose from.

Board co-chair asked about OHA mandatory training requirements for board members and whether the training was for all board members or only new members.

K. Voelker was uncertain whether continuing board members were required to take the mandatory trainings and stated she would confirm who needed to take the trainings.

K. Voelker announced that that management of the NSAB support was moving from M. Gilman to A. Davis due to internal reorganization.

D. Selover stated that OHA was reorganizing because OHA had received funding for new positions and stated that OHA would give the board updates on the new positions. D. Selover also thanked M. Gilman for his work with the board and explained that he was still in the same program but now working on regulation of In-Home Care agencies.

Board co-chair asked what new positions OHA was going to fill first.

D. Selover stated that hiring additional surveyors was OHA's top priority and that OHA had already started the process to hire additional surveyors.

Action Item(s)	<ul style="list-style-type: none"> OHA to confirm whether continuing board members are required to complete mandatory trainings
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Agenda Item 4	<i>Status Updates</i>
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Nurse Staffing Waivers

K. Voelker presented the nurse staffing waiver dashboard showing the number of initial, subsequent, renewal, partial denial, expired, and lapsed nurse staffing requests for large hospitals.

Board member asked about the process for renewing waivers after the waivers had expired.

K. Voelker explained that OHA requests hospitals to submit renewal requests one month before the waiver expires, and if the waiver expires while OHA is processing the renewal request, OHA will extend the expiration date for the existing waiver. She explained that any request initiated after a waiver's expiration would be considered a lapsed request.

A. Davis clarified that hospitals only needed a waiver if the proposed staffing deviated from rule requirements. She explained that waiver approval letters contain the waiver's expiration date, but hospitals sometimes struggled with tracking that information, especially if there was a change in nursing leadership at the hospital.

K. Voelker presented a chart showing the types of units covered by granted nurse staffing waivers and noted that most waivers covered procedural units. She stated that the "Other" category contained pediatric and medical/surgical units, as well as specialized care.

Board co-chair asked whether hospitals were requesting psychiatric technicians to count towards the minimum number for units covered in the psychiatric category.

K. Voelker confirmed that psychiatric units were requesting psychiatric technicians and mental health technicians to count towards minimum number requirements.

K. Voelker announced that OHA had received a waiver request that would utilize technicians in a way that OHA had not seen and stated that OHA wanted the board's guidance on the waiver request.

A. Davis stated that the request was for the entire hospital to use technicians in lieu of the second nursing staff member, and she stated that OHA had not seen this type of hospital-wide request except at specialty hospitals.

Board co-chair stated that this could be a misapplication of the waiver and that she would like the board to discuss the waiver more.

K. Voelker asked the board to confirm whether it wanted OHA to invite the hospital to discuss its waiver at the October 2021 board meeting. The NSAB confirmed that it wanted OHA to invite the hospital to present its waiver request at the next NSAB meeting.

K. Voelker presented charts showing the initial, subsequent and renewal waiver requests by year. The board did not have any follow-up questions on these charts.

Nurse Staffing Surveys

K. Voelker presented the survey dashboard for Cycle 1 and explained that Wallowa had had its Plan of Correction (POC) accepted after the dashboard was created. She presented the Cycle 2 dashboard and explained that OHA had completed eight surveys during Cycle 2, which was the same number of surveys completed by July in Cycle 1. She stated that surveyors were not needing to delay the exit dates for Cycle 2; for Cycle 1, surveyors needed to delay the exit date for four out of eight surveys in the early months of survey.

Board co-chair noted that OHSU's POC looked like it was late, and she asked OHA to explain its process for checking-in with hospitals with overdue POCs.

K. Voelker stated that OHSU had requested an extension, which OHA had granted. She stated that OHSU had since submitted its POC and that OHA was in the process of reviewing it.

A. Davis clarified that because the dashboards are now sent out with the board packet, the information is not as up to date.

Nurse Staffing Complaint Investigations

K. Voelker presented the nurse staffing complaint investigation dashboard and highlighted new information, including the investigation completed at Legacy Emanuel Medical Center and the revisit survey completed at Good Samaritan Regional Medical Center. She stated that OHA had used the new process proposed by the Process Improvement Committee (PIC) for Good Samaritan Regional Medical Center's revisit survey.

A. Davis added that Good Samaritan Regional Medical Center's revisit survey reflected the hospital had returned to compliance and that the full report was posted on the nurse staffing website.

Board member asked for more information about the complaint intake process.

K. Voelker stated that when OHA receives complaints, it completes an initial review of the complaint to determine if more information is needed. If more information is needed, OHA contacts the complainant to get more information. Once OHA receives additional information, the complaint goes to the Hospital Complaint Triage Team for review, which will determine what actions OHA has the authority to take, such as an unannounced investigation. K. Voelker stressed the importance of complaints including the date of the problem, the name of the individual affected by the problem, the unit where the problem happened, and a clear description of the problem.

Board member asked how many complaints OHA closed because it did not receive additional information from the complainant.

K. Voelker stated that she did not have that information available, and she stressed the importance of responding when OHA asks follow-up questions. She stated that OHA usually

keeps the complaint open for three weeks to let complainants respond, but that OHA eventually closes the complaint if it cannot get information needed to determine jurisdiction. She stated that OHA sends nurse staffing complainants a letter explaining why OHA closed the complaint.

A. Davis explained that if complainants send more information after OHA closes the complaint, OHA would reopen the complaint.

Board member asked if OHA made referrals if the complaint was not within HCRQI's jurisdiction.

A. Davis confirmed that OHA referred complainants to the correct group if it was not within HCRQI's jurisdiction. She clarified that referrals were more common for patient care complaints than nurse staffing complaints.

Board member asked how OHA processes complaints sent in by nursing unions.

A. Davis states that those complaints go through the same process as complaints sent in by individuals. She stated that if OHA receives the complaint from a third-party, OHA will need to find out who can provide additional information about the complaint.

K. Voelker stated that OHA's preference was to receive complaints from firsthand sources, but that OHA accepted complaints regardless of who sent them in.

Board member asked whether the Hospital Complaint Triage Team was a committee at OHA and asked if it maintained agendas and meeting minutes.

A. Davis stated that the Hospital Complaint Triage Team was made up of hospital surveyors and surveyors from other programs, like hospice and home health, but that the team focused on hospital complaints. She explained that the team did not keep minutes because they discussed complaints, which were confidential, and that the agendas were just lists of complaints they were reviewing. She explained that she was part of those meetings, as well as K. Voelker and an administrative support person.

Board co-chair noted that the OHA website included the Complaint Intake Form and the Nurse Staffing Addendum, and she asked whether OHA would accept a complaint if the complainant only submitted the Nurse Staffing Addendum.

K. Voelker confirmed that OHA would still accept the complaint and stated that OHA would follow-up with the complainant if any information was missing. She stated that OHA would also accept the complaint if the complainant only submitted the Complaint Intake Form and would also follow up to request any missing information.

D. Selover stated that if OHA receives multiple complaints for the same facility, OHA will combine those complaints into a single investigation and report. She also explained how hospitals are expected to address deficiencies hospital-wide, and not only in surveyed units.

Board member expressed concern about seeing meaningful staffing changes and noted that some direct care nurses were now filing concerns with the Bureau of Labor and Industries (BOLI) and the Centers for Medicare & Medicaid (CMS).

A. Davis clarified that BOLI and CMS had different areas of jurisdiction and were not responsible for enforcing the nurse staffing law.

Board co-chair proposed that OHA add time to the January 2022 meeting to discuss the difference between state and federal complaints.

A. Davis confirmed that OHA would add that topic as an agenda item for January 2022 and stated that OHA could also add it to the board member orientation.

Board member asked about the notification process for when an unannounced complaint investigation is combined with an announced triennial survey.

A. Davis stated that OHA announces the survey but not the complaint investigation, and OHA informs the hospital about the complaint investigation during the entrance conference.

K. Voelker updated the board on the status of Cycle 2 surveys and noted that OHA was in the process of creating additional Explanation Guides. She stated that OHA could create a nurse staffing survey process FAQ and asked the board whether that would be helpful.

Board co-chair asked whether there were additional questions not addressed in existing interpretive guidance.

K. Voelker stated that there were some questions that were not addressed in interpretive guidance that surveyors address while on site.

Board co-chair was uncertain whether the nurse staffing survey process FAQ would be helpful and stated that the board could ask the surveyors more about it later in the meeting.

Action Item(s)	<ul style="list-style-type: none"> • OHA to invite hospital to speak at the October 2021 quarterly meeting regarding its waiver request • OHA to add time to the January 2022 quarterly meeting to discuss the difference between state and federal complaints • OHA to add state and federal complaints discussion to the NSAB member orientation
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Agenda Item 5	<i>Committee Updates</i>
<i>Acuity Committee</i>	

K. Voelker updated the board on the status of the Acuity & Intensity Interpretive Guidance and stated that OHA had distributed it via its listerv, emailed it directly to hospital CNOs and nurse staffing committee co-chairs, and shared the guidance with the Oregon Nurse Staffing Collaborative. She stated that OHA had not received any questions about the interpretive guidance.

Board co-chair stated the board could ask surveyors about utilization of the interpretive guidance later in the meeting.

Civil Monetary Penalties Committee

K. Voelker stated that the Civil Monetary Penalties (CMP) Committee had held its first meeting on July 26, 2021, during which the committee approved its charter and goals. She explained that the CMP Committee intended to fulfill its charter by the end of 2021 so it could present its work at the January 2022 NSAB meeting, and she stated that she would send the finalized charter to the full board.

Action Item(s)	<ul style="list-style-type: none">• OHA to send NSAB finalized CMP Committee charter
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Agenda Item 6	<i>Open Action Items</i>
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Hospital Surge

D. Selover discussed the hospital surge and stated that OHA Incident Management Team, led by the Health Security and Preparedness (HSPR) program, met regularly to discuss hospital capacity. She noted how patients had delayed care during the pandemic, leading to higher acuity when they presented to the hospital for treatment. She stated that hospitals were seeing record patient volumes and record admissions, and that OHA was looking at solutions to help address the patient surge.

Board co-chair asked whether HSPR was a committee within OHA.

D. Selover explained that HSPR was the program at OHA responsible for managing disaster preparedness and response.

Board co-chair asked whether HSPR advised on the hospital surge and whether the board could expect any recommendations from the program.

D. Selover stated there were ongoing workgroups to address issues related to COVID, wildfires, and the hospital surge. She stated that the workgroup was unlikely to issue a formal recommendation and could communicate solutions to the Area Trauma Advisory Board (ATAB).

Board member noted that there were more patients who would normally be overnight being moved to same-day surgeries and asked whether OHA would provide any guidance to facilities on elective surgeries.

D. Selover stated that decisions related to individual patients' treatment were made by providers and facilities. She also stated that hospitals were cancelling some procedures that required inpatient beds and that those decisions are made by providers.

Plan of Correction (POC) Challenges

K. Voelker presented slides showing challenges with Plans of Correction (POCs) during the first survey cycle. For the three hospitals still in the Cycle 1 POC approval process, she showed how many POCs OHA had reviewed, how many tags the hospital still needed to correct, and whether OHA had a conference call with the hospital. She shared common challenges, how many hospitals had submitted five or more POCs, and how many tags each hospital with at least five POCs needed to correct per POC version. She stated that sometimes hospitals would get close to having an acceptable POC and then change previously approved tags, causing the hospital to have to re-address those tags.

Board member stated that tags that were closest to the patient were more significant and asked whether OHA could weight more significant tags.

K. Voelker stated that the Process Improvement Committee (PIC) had addressed that issue by recommending changes to how surveyors focused their time during triennial and revisit surveys. She explained that OHA does not weight tags differently and that any deficiency found during a survey would require a POC.

K. Voelker presented slides showing the most challenging tags for hospitals to address during the POC approval process, the reasons why hospitals struggled with these tags, and what conference calls focused on. She explained the ways OHA offers conference calls to hospitals struggling with their POCs.

Board co-chair stated that a change in nursing leadership should not result in difficulty getting a POC submitted since there were other regulatory requirements hospitals were used to adapting to during leadership changes.

Board member asked why Tag E646, related to meal and rest break requirements, was not included in the slides. He noted that the board had had many discussions about meal and rest breaks being a continuing challenge.

K. Voelker explained that Tag E646 was often cited during Cycle 1, but that hospitals had not struggled with correcting that deficiency during the POC approval process.

Board co-chair stressed the importance of completing a revisit survey to ensure that POCs are implemented.

K. Voelker stated that OHA planned to complete revisit surveys for the second cycle in line with statutory requirements.

Annual Legislative Report

K. Voelker provided an update on the status of the legislative report and stated that board co-chairs were currently reviewing the draft. She stated that OHA was going to add more information about HB 3016 and additional funding to the report.

Board co-chair explained the drafting process to new members and confirmed that the NSAB approved of the current drafting process.

Agenda Item 7 | *Break*

Board co-chair called for a five-minute break.

Agenda Item 8 | *Program Improvement*

A. Davis presented slides about the rulemaking process and the role of Rules Advisory Committees (RACs). She explained that the NSAB members made up the RAC for HB 3016, but the board could form a committee to workshop the proposed rule. She stated that the board could propose other rule changes but due to the short timeline for HB 3016, OHA would only be able to address consensus proposals at this time.

Board co-chair asked about the possibility of creating temporary rules for HB 3016 so the board could have time to complete a comprehensive rule review.

A. Davis stated that temporary rules can only last six months, which may not be enough time for the board to complete a comprehensive rule review.

Board co-chair stated that the board should focus on HB 3016 now and create a new committee to complete a comprehensive rule review at a future date.

D. Selover suggested that members in the HB 3016 Rules Committee could continue serving in 2022 if they were still interested in reviewing other rules.

A. Davis discussed the requirements created by HB 3016 and highlighted what the RAC would need to address.

Board co-chair asked whether the board agreed with forming a Rules Committee to look at HB 3016 immediately and to address other rule proposals in the future.

Board co-chair wondered if the committee could look at the issue of allowing technicians to count towards the minimum number and asked OHA if that could be addressed under rule.

A. Davis stated that allowing technicians to count towards the minimum number would require a statutory change.

D. Selover stated that consensus proposals that did not have an associated financial impact could be added to the OHA housekeeping bill.

Board co-chair asked about the timeline for the OHA housekeeping bill.

D. Selover stated that the bill was presented for odd-year sessions, but that OHA should be aware of the NSAB proposals by the end of 2021.

Board co-chair requested that statute changes be discussed at the next NSAB meeting and stated she agreed with the other board co-chair that the Rules Committee should only focus on HB 3016.

Motion to form a Rules Committee for HB 3016 – Debbie Robinson

Seconded – Jenni Word

Motion passes

The following board members volunteered to participate on the Rules Committee for HB 3016: Joel Hernandez, Jenni Word, Susan King, Uzo Izunagbara, Debbie Robinson, and Zennia Ceniza.

Action Item(s)

- NSAB to discuss consensus statute change requests at October 2021 quarterly meeting
- OHA to schedule meetings for Rules Committee for HB 3016

Agenda Item 9

Nurse staffing surveyor discusses survey activities

A. Davis introduced surveyors K. Thrapp and M. Ingram to the board and noted the board had questions about onsite investigations, issues happening with onsite interviews, and surveyors' experience with tools that were being completed by the hospital.

K. Thrapp stated that OHA had completed eight surveys during the second survey cycle, for a total of 22 units surveyed. She stated that the interviews on the units took about an hour to complete and that surveyors were receiving useful information during that interview that aligned with documentation the surveyors reviewed.

Board co-chair noted she had heard confusion about minimum numbers and asked for the difference between minimum, core and target staffing.

K. Thrapp stated that core staffing and target staffing could mean different things in different organizations, so OHA did not use that language and used the minimum number definition. She stated that surveyors encountered different language during surveys and that they worked with hospitals to determine how the numbers were being used.

Board member suggested that nurse staffing plans be developed to state that nurses will not exceed a certain number of patients.

K. Thrapp clarified that that would be considered a staffing ratio and that the rules required nurse staffing plans to state the minimum numbers of nursing staff members on specified shifts. She clarified that hospitals could have a ratio in the plan as reference but that

hospitals would not meet rule requirements if the plan did not also include the minimum numbers.

Board member asked whether surveyors had experienced difficulty enforcing the nurse staffing rules during the pandemic due to implementation of facility disaster plans.

K. Thrapp explained that there were varying levels of understanding of when hospitals implemented their facility disaster plans, and surveyors were finding that some hospital staff thought facility disaster plans had been implemented when they had not. She stated that most units that reported the facility disaster plan was implemented also reported that their unit was unaffected by the implementation.

A. Davis added that OHA had created a new Facility Disaster Plan tool to help surveyors assess whether a facility disaster plan was implemented.

Board member asked whether surveyors were seeing short-stay or pop-up units being created due to the pandemic, and whether those units had nurse staffing plans approved by the hospital nurse staffing committee.

K. Thrapp said that surveyors had not seen that very often, but that they had investigated a complaint about that earlier in the year.

Board member asked whether the temporary unit would require an approved nurse staffing plan before or after developing the unit.

K. Thrapp confirmed that the unit would need a nurse staffing plan before staffing the unit.

Board co-chair thanked the surveyors for their time speaking with the board.

Agenda Item 10	<i>Emerging Issues in nurse staffing</i>
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Board member requested more information from nurse managers on the board about how their hospitals are managing the surge.

Board member discussed how his hospital had created surge-related nurse staffing plans well in advance of the current surge but was still having difficulty finding spaces for patients due to patient census throughout the region. He explained how his hospital had twice daily huddles to plan for staffing.

Board member stated that her hospital was having difficulty finding beds for patients and I was struggling with transferring patients due to the strain throughout her region. She explained that her hospital was on divert due to lack of nursing staff.

Board co-chair asked if there were any other emerging issues the board would like to bring forward.

Board member asked how hospitals staffed for units that had RNs in dual roles who were pulled off the unit to respond to events in other hospital units, especially for long-term situations.

Board members had not encountered this at their hospitals. A. Davis stated that some Critical Access Hospitals (CAHs) had waivers that allowed the unit to staff with one RN and one technician if another RN was called away from the unit, but she had not seen any waivers that addressed what would happen if the RN was required to be off the unit for an extended period of time.

Agenda Item 11	<i>Public comment</i>
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Board co-chair invited members of the public to speak and reminded the board to listen intently but not engage in dialogue during public comment.

M. Calzia (ONA) responded to the board member's previous question about staffing with dual-role RNs and noted that hospitals he worked at typically provided extra resources to plan for a code. He also thanked the NSAB for discussing the surge and making time for public comment. He stated that nurses were fatigued and demoralized, and that the problem of not having enough staff had existed for some time. He requested the NSAB include in its legislative report how bedside nurses were facing more injury, and he called on OHA to provide more enforcement of the nurse staffing law. He requested that the board and OHA create a clear definition of minimum numbers.

Agenda Item 12	<i>Meeting Adjourned</i>
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Approved by the NSAB October 27, 2021

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please call our office at (971) 673-0540 or TTY 711.