

**Oregon Nurse Staffing Advisory Board (NSAB)**

*Wednesday, July 27, 2022*

*1:00 PM – 5:00 PM*

Meeting Minutes

Cochairs	Uzo Izunagbara, DNP, MSN, MHA, RN (presiding); Debbie Robinson, RN, MSN
Members present	Jenni Word, RN; Barbara Merrifield, MSN, RN; Joel Hernandez, RN; Kelsey Betts, RN; Shannon Edgar, RN, MBA; Lace Velk, RN; Mariah Hayes, MN, RN, NE-BC; Todd Luther, RN, CEN; Becky Wise, RN
Members absent	Chandra Ferrell, CNA;
PHD staff present	Dana Selover, MD, MPH; Anna Davis, JD; Kimberly Voelker, MPH; Michelle Ingram, RN; Phyllis Lebo, RN; Mónica Petersen, RN
Additional Oregon State employees present	Kimberly Goddard (Chief of Staff, Representative Rachel Prusak)

Guests present	Donell Owens (Kaiser Sunnyside), Mary Coffelt (Kaiser Sunnyside), KATU News, Rachelle Lyons-Schatz (Legacy Health), Thomas Cuomo (Markee and Associates), Danielle Meyer (OAHHS), Sarina Roher (OFNHP), Elisa Youngman (OHSU), Emily Krug (OHSU), Erica Swartz (OHSU), Christy Simila (ONA), Matt Calzia (ONA), Eugenia Liu (Oregon Health Care Association), Nicolette Reilly (Oregon Health Care Association), Ruth Miles (Salem Health), Kerry Kilgore (Samaritan Lebanon Community Hospital), Denise Moland (Samaritan North Lincoln Hospital), Natika Didericksen (Shangri-La), Shane Erslund (State of Reform),
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<b>Agenda Item 1</b>	<i>Call to Order</i>
<p>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. Board co-chair greeted board members and asked that cameras be turned on.</p>	

<b>Agenda Item 2</b>	<i>Minutes</i>
<p>Board co-chair asked if the board had any corrections, additions, or questions about the minutes from the April 2022 Quarterly NSAB meeting.</p> <p>Motion to approve April minutes as written: Kelsey Betts Seconded: Lace Velk Motion passed</p>	

<b>Agenda Item 3</b>	<i>Membership &amp; Program Updates</i>
<p>K. Voelker updated the board about previous Direct Care Co-Chair Susan King's departure in April 2022. She also introduced U. Izunagbara as the new Direct Care Co-Chair. New direct care member, Becky Wise from St. Anthony's Hospital, was introduced and welcomed.</p> <p>Board co-chair and K. Voelker asked board members introduce themselves by name, hospital, and title. D. Robinson, B. Merrifield, J. Word, K. Betts, J. Hernandez, L. Velk, T. Luther, M. Hayes, S. Edgar follow suit. C. Ferrell was not present.</p> <p>K. Voelker introduced new OHA employees, T. McIntosh and P. Lebo, to the board.</p> <p>A. Davis provided an update on two new full-time surveyor positions, both of which had been filled. Updates on the position description for a public health nurse were also given.</p> <p>K. Voelker encouraged interested parties to apply for the NSAB.</p>	

<b>Agenda Item 4</b>	
<p><i>Nurse Staffing Waivers</i></p> <p>K. Voelker presented the nurse staffing waiver dashboard, which included charts showing the initial, subsequent, renewal, partial denial, expired and lapsed nurse staffing waiver requests for large, medium, and critical access hospitals; a chart showing the patient care areas covered under approved waivers; and a chart showing the number of waivers expiring in 2022 and the months the waivers expired. They explained that an update on waivers is presented to the board in January and in July.</p> <p>Board co-chair asked for an update on the Curry General Hospital waiver request, acknowledging that the hospital needed to resubmit their request.</p>	

K. Voelker stated that Curry General Hospital had submitted a new request with more information and that the new request is under review. They explained that the NSAB will be updated on the outcome of the request at a future meeting. A. Davis clarified details of this resubmission.

#### *Nurse Staffing Surveys*

K. Voelker presented the survey dashboard for Cycle 1 (2017 – 2019) and noted that only one hospital, Cedar Hills Hospital, did not have an approved Plan of Correction (POC). They stated they were on their 6<sup>th</sup> POC and that OHA had met with the hospital multiple times to address questions about the POC.

K. Voelker presented the survey dashboard for Cycle 2 (2021 – 2023) and stated that Shriners had their POC accepted and passed their revisit with no deficiencies. They explained that Legacy Emanuel is pending their second revisit because they had their POC accepted but their revisit survey showed deficiencies. K. Voelker continued to show the board how to read the survey dashboard for Cycle 2.

Board member, J. Hernandez, asked whether a hospital would incur civil monetary penalties for the number of POCs submitted.

K. Voelker stated this question would be something for the Civil Monetary Penalties Committee would consider as part of their work.

Board member, L. Velk, asked if OHA is behind with any of the cycle surveys and if so, by how many months.

K. Voelker stated that some surveys that were supposed to occur in 2021 were delayed to 2022, due to the pandemic.

A. Davis stated that OHA scheduled surveys not by month, but rather by the year. Therefore, 2021 surveys were still being wrapped up because OHA started surveying in March 2021 and was required to pause surveys in August – September 2021. However, surveys scheduled for 2022 had already started. Other factors OHA considered when deciding which facility to survey were pending complaints, weather conditions, and wildfire conditions. Hospital capacity and COVID impacts was also considered during the height of the pandemic and whether OHA presence would affect patient care.

Board member asked about increased enforcement for deficiencies related to a revisit survey. They also asked whether OHA would go back and issue Civil Monetary Penalties (CMPs) for hospitals with previous noncompliance, or whether the CMPs were only for future noncompliance.

A. Davis stated that the focus for CMPs is more on Cycle 2 surveys than Cycle 1 surveys with accepted POCs, and that once the committee is completed, OHA can use the

committee guidance to determine whether to assess CMPs . They also noted that Cycle 1 revisits occurred later than they're supposed to and that it may have made it more difficult to measure the effectiveness of POCs.

Board member asked if the data regarding revisit citations was available to the board.

A. Davis explained that a dashboard is available that illustrates the upcoming revisits which will also likely be incorporated in the year-end review in January.

K. Voelker stated that the slides and dashboards will be made available after feedback.

Board co-chair asked to clarify who to email for requesting public records.

K. Voelker answered that there is an OHA Public Records Team and stated that public records requests should be sent to them.

A. Davis provided the OHA Public Records team's email and website;  
<https://www.oregon.gov/oha/erd/pages/records.aspx> and  
oha.publicrecords@odhsoha.oregon.gov

Board co-chair asked whether there was a record of who requested public records.

K. Voelker stated that public record requests are also public records and are available on the OHA Public Records website.

#### *Nurse Staffing Complaint Investigations*

K. Voelker presented the Nurse Staffing Complaint Investigation dashboard and asked for feedback on the dashboard. They asked whether the current format was the most effective way to illustrate the information.

Board member stated that they preferred seeing past complaints so that patterns could be identified.

Board member agreed and stated that they preferred the current format so they could see what ongoing issues might be.

A. Davis explained how to read the information on page 2 of the dashboard and showed how multiple complaints from a single facility may appear.

Board co-chair stated that seeing the history is beneficial and that it would be helpful for past information to be displayed as trends instead of in details.

Board member stated that dates and details are helpful.

Board co-chair reiterated the struggle in seeing trends with the current display of the dashboard with many details.

A. Davis suggested that the dashboard may be sorted by facility and a mix of dates for one facility could be seen. They stated that there are some hospitals that have been the subject of any complaints.

D. Selover commented that the dashboard reflects a database more than a dashboard and that it would be helpful to know what kinds of questions the dashboard should be trying to answer first.

Board co-chair noted that they will require more time to reflect on what changes they might like to see. They stated that the data base is helpful to the CMP Committee. They believed that display of the outcomes on the dashboard would be more important, as well as whether a complaint was substantiated.

Board member, L. Velk, asked whether delays in complaint investigations were caused by the pandemic.

K. Voelker answered that there was a delay partly due to the pandemic but also noted a couple pauses in schedule that took place, prioritization of the regular nurse staffing surveys, and processes that involved multiple submissions of POCs.

A. Davis explained that after the 2015 nurse staffing law passed, OHA had not been able to meet the new statutory timelines for complaint investigations. They stated the issue is being alleviated with new nurse staffing surveyor positions, though the time needed for new surveyor training means that improvement will take time.

K. Voelker thanked the board for the discussion and moved to the Nurse Staffing Revisit Survey slides, which showed the background and activities from Cycle 1 (2017 – 2019) and Cycle 2 (2021 – 2023), as well as combined revisit surveys and standalone revisit surveys.

Board co-chair asked how the surveyors identify findings related to the revisit for revisits combined with full nurse staffing surveys.

K. Voelker explained that the NS administrative team notated for the survey team which units had been a part of a previous survey, and surveyors picked some of those specific units intentionally for revisit.

A. Davis specified that revisit tags are clearly indicated on the reports.

The board did not have any additional questions or comments about the dashboards.

<b>Action Item(s)</b>	
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|  | <ul style="list-style-type: none"><li>• OHA to update survey dashboard and complaint investigation dashboard to show overall trends, while maintaining data present in current dashboards</li></ul> |
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<b>Agenda Item 5</b>	<i>Committee updates</i>
<p data-bbox="168 380 675 413"><i>Civil Monetary Penalties Committee</i></p> <p data-bbox="168 455 1468 632">K. Voelker provided updates on the Civil Monetary Penalties (CMP) Committee, explaining the committee had met five times and reviewed the rules related to civil monetary penalties. The decision-making matrix tool had been drafted and presented to the committee. A report regarding unsafe patient care was being written and would be presented at the next meeting on August 10<sup>th</sup>.</p> <p data-bbox="168 674 1260 707">A. Davis gave updates on a public records request to a member of the media.</p> <p data-bbox="168 749 1013 783">There were no further questions about the CMP Committee.</p> <p data-bbox="168 825 526 858"><i>Rules Review Committee</i></p> <p data-bbox="168 900 1451 997">K. Voelker presented slides for the Rules Review Committee and summarized the previous quarterly meeting in April, including issues flagged for future rulemaking and recommendations.</p> <p data-bbox="168 1039 1333 1115">Board member asked a question regarding the definition of Hospital Nurse Staffing Committee quorum and whether this could be changed in rulemaking.</p> <p data-bbox="168 1157 1474 1232">K. Voelker clarified the definition of quorum and that it is directly out of statute so it cannot be changed in rulemaking; it would require a statutory change.</p> <p data-bbox="168 1274 1360 1350">A. Davis stated that there is a 2023 housekeeping bill progressing which would allow complaint investigations to be conducted remotely.</p> <p data-bbox="168 1392 1401 1467">Board member asked about a Hospital Nurse Staffing Committee quorum being 50% of voting numbers or voting members and alternate members.</p> <p data-bbox="168 1509 1438 1635">A. Davis clarified that a quorum is 50% plus one and the statute does not require alternate members. Alternate members are only a possibility when the staffing committee charter specifies that there will be alternate members and when the primary members are not present.</p> <p data-bbox="168 1677 1468 1753">K. Voelker asked the board if the Nurse Staffing Committee would be an area that the Rules Review Committee should focus on.</p> <p data-bbox="168 1795 756 1829">Board co-chair supported this suggestion.</p> <p data-bbox="168 1871 841 1904">Two board members supported this suggestion.</p>	

Board co-chair asked nurse managers present if the Rules Review Committee should focus on this area.

Two board members stated that their concerns about the Hospital Nurse Staffing Committee were related to scheduling meetings.

Board co-chair asked for any other remarks, questions, or comments. They asked K. Voelker to make a note for the Rules Review Committee to discuss meals and rest break requirements.

There were no other requests related to the Rules Review Committee.

<b>Action Item(s)</b>	<ul style="list-style-type: none"><li>OHA to add “Nurse Staffing Committee requirements” and “Meal and Rest Break requirements” to areas of focus for the Rules Review Committee</li></ul>
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<b>Agenda Item 6</b>	<i>Break</i>
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Board co-chair called for a five-minute break.
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<b>Agenda Item 7</b>	<i>Annual Legislative Report</i>
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K. Voelker presented slides and background information pertaining to the Nurse Staffing Advisory Board Annual Legislative Report and explained that a report updating the Legislature on the board’s activities was to be submitted no later than September 15<sup>th</sup>. This agenda item was to discuss priorities for the report and to confirm OHA’s tentative timelines. K. Voelker asked what should be add, removed, and emphasized in the report.

*Priorities*

Board co-chair suggested the work of the board, such as redesigning the survey process, more interaction with direct care nurses, and a more direct approach in obtaining feedback, should be highlighted. Summaries from Cycle 1 and Cycle 2 should also be highlighted as well as the continued areas of focus for Cycle 2.

Board member stated that it would be interesting to see how Oregon compares to other states’ nurse staffing laws.

K. Voelker stated that Oregon’s nurse staffing laws are unique and some states do not have nurse staffing laws.

A. Davis reiterated that there are a vast majority of states that do not have nurse staffing laws. The most similar to Oregon’s laws would be Washington’s new nurse staffing law, but even that law is significantly different. Further, because the report is focused on the work of the board, the regulations in other states are outside the scope of the annual report.

Board co-chair asked if there was a way to quantify the fiscal impact on OHA and hospitals as it related to implementation of the nurse staffing law.

A. Davis stated OHA does not have financial records from hospitals, so that data is unobtainable.

D. Selover noted that when a law passes, rules are drafted to go with that law. There is process that is built in into the existing statute that we need to report back five years after the rule is passed and its financial impacts. That may be the only fiscal information that would be available, but it would be a large project and they reiterated that OHA does not have information from hospitals on the fiscal impacts of the law.

Board co-chair mentioned the nurse workforce shortage should be focused on and have a section dedicated to this matter.

Board co-chair agreed and commented that the continuing trends from survey activities should be included.

D. Selover stated that the nurse workforce shortage impacts all areas where nurses work and had impacts beyond the nurse staffing law, so it may be an offline conversation with other relevant groups to discuss where the overlaps and boundaries are.

#### *Timelines*

K. Voelker presented a slide with dates ranging from July to September for the report timeline. They explained that the timeline was tentative and welcomed any suggestions and changes.

Board co-chair commented that commitment is required to carry out this timeline.

Board co-chair asked if there is any feedback from the Legislature about the report.

D. Selover noted that it likely depends on the topic. Certain advisory committees are invited on legislative days to give input and present, which has happened once for nurse staffing. This process is generally a “one-way street.”

K. Voelker asked if there are any additional comments or questions. The board supported the tentative timeline.

<b>Agenda Item 8</b>	<i>Nurse Staffing Surveyor discusses survey activities</i>
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The board welcomed OHA surveyors M. Ingram and P. Lebo.

Board co-chairs asked surveyors for information about the selection and conversation with direct care nurses as part of the unit onsite tour.



M. Ingram answered that the hospital decided which direct care nursing staff member they would speak with and that it's generally a charge nurse. They stated that they were able to obtain substantial information regarding acuity and intensity, and meal and rest breaks, among other information.

Board member expressed concern with the hospital choosing who the surveyors interview. They asked if surveyors have the ability to talk to other staff and whether OHA talks to staff in private, away from their managers.

M. Ingrams answered that the interviews are done in private and it's just the surveyor and the unit direct care representative. As it related to interviewing other staff, they explained that OHA no longer does this, although it used to be common practice for individuals to self-select for interview. M. Ingram has never interviewed other staff since they've been working. They mentioned that there is a SurveyMonkey that hospital staff may utilize and is anonymous. There is also the option to submit complaints and other information via email.

A. Davis clarified that hospital staff is made aware of confidentiality and that it is maintained. SurveyMonkey has been the most useful tool in gathering a broad range of information from direct care staff.

Board co-chair asked how many complaints specific to retaliation had been received related to nurse staffing.

A. Davis answered that retaliation complaints would go through BOLI because retaliation pertains to the impact on a person's employment, so any retaliation complaints the OHA gets would be passed on.

Board member asked whether the NSAB is able to help direct and reprioritize the surveying that is being done so that more serious staffing concerns are addressed if they're missed.

Board co-chair reiterated the SurveyMonkey purpose, though they do like the idea of the open forum to gather input from staff.

A. Davis explained that the co-chair interview is required as it is in the statute. There is also the pre-questionnaire and follow-up questions that help direct the survey, which is available as part of the Sample Survey Toolkit on the website. Surveyors are also allowed to deviate from the list of prepared questions and ask additional questions. The shift from additional interviews to the SurveyMonkey method was due to lack of quantitative data gathered by and the significant amount of time necessary for open interviews.

Board member asked who is chosen for the direct care interview if the charge nurse is unavailable.

M. Ingram answered that surveyors interview someone who is familiar with the nurse staffing plan since most of the questions pertain to it. Usually, the nurse manager chooses who does the interview.

Board member expressed concern with the nurse manager choosing who to interview because there were aware of nurse managers choosing traveler nurses, which they felt was inappropriate. They stated that the interviewee should always be a hospital-employed direct care nurse who was involved with implementing the nurse staffing plan.

M. Ingram agreed and explained they have had experience with being presented a traveler nurse.

A. Davis noted that OHA does not usually interview travelers but there are some situations where the travelers end up being the most available and most familiar with the nurse staffing plan.

Board member continued to express that there should be some guidelines about who surveyors interview, especially since the hospitals are made aware ahead of time about the survey.

Board co-chair suggested that the co-chair of the hospital could delegate someone to make sure the direct care nurse was scheduled the day of arrival.

Board member thanked the surveyors for their work.

Board member asked about how often Hospital Nurse Staffing Committee meetings needed to occur.

M. Ingram answered that if a quarterly meeting is missed then it would result in noncompliance. There needs to be a meeting every three months.

Board co-chair suggested that referencing the meetings as required every three months is better than “quarterly.”

A. Davis noted that the statute says “every three months.”

Board co-chair asked surveyors what they would like to change to improve the survey process.

M. Ingram answered that the recent changes in the process with new cycles have helped already.

There were no additional questions for surveyors. Board co-chair thanked the surveyors for speaking with the board.

<b>Agenda Item 9</b>	<i>Emerging Issues in Nurse Staffing</i>
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*The board started Agenda Item 9 – Emerging Issues in nurse staffing while waiting for OHA surveyors to arrive. The board transitioned to Agenda Item 9 upon the surveyors’ arrival,*

*before moving back to Emerging Issues. The entirety of the Emerging Issues discussion is below.*

Board member brought up an issue regarding nurse shortage and asked whether not having enough nursing staff due to availability or finances constituted a state emergency in which hospitals could then deviate from approved staffing plans.

A. Davis clarified that the hospital could only deviate from the approved staffing plan when it is an emergency under OAR 333-510-0140(1). They stated that nurse staffing committees could meet and revise plans as described under OAR 333-510-0140(6) for hospitals that are experiencing an emergency situation that does not meet the requirements of section (1) of the rule.

Board co-chair expressed concern on how facilities might define emergency circumstances, stating that it can be too fluid. They noted that more clarification may be required for what an emergency is.

A. Davis reiterated that there are only three types of emergencies that allowed hospitals to deviate from their nurse staffing plans, citing subsection (1)(a), (1)(b), and (1)(c). They clarified that the emergencies in subsection (1)(a) must be declared.

K. Voelker explained that state or federal emergencies may only be declared if it comes from the Governor of Oregon (state emergency) or the President of the United States (national emergency).

Board co-chairs asked if nurse staffing shortage would be an emergency circumstance.

A. Davis stated that there is currently not a declared emergency for nurse staffing shortage. There is a federal public health emergency for COVID-19, but it is the only declared emergency affecting Oregon.

Board co-chair asked whether emergencies unique to specific hospitals, such as a nurse staffing shortage, would be considered by surveyors.

K. Voelker noted that emergencies under section (1) are the only three routes that allow the suspension of a nurse staffing plan. They explained that section (6) primarily means that either nurse staffing committee co-chair can call a committee meeting to figure out a different plan moving forward or to modify a plan. section (6) does not allow the hospital to unilaterally suspend of nurse staffing plans.

A. Davis explained that in an emergency, surveyor practice is for surveyors to consult with OHA so that they go through the rule and facts together for consistency.

D. Selover further explained that around August 2020, HB 3016 had not passed yet and section (1) had not been updated. It was more permissive to suspend nurse staffing plans.

However, the statute was updated during the 2021 legislative session. The board put out a guidance recommendation to use section (6), especially during the pandemic.

Board member asked if there had been nurse staffing complaints related to staffing committee processes.

A. Davis clarified that section (6) is for emergencies that are not declared, and it is to create a contingency plan to put in place. Any contingency plan would need to go through and be approved by the committee.

Board member explained a trend where direct care nurses need more cooperation from hospitals when nurse staffing plans are being implemented. The delays are brought up multiple times. They asked how collaboration can be promoted.

Board co-chair answered that the structure of the surveys and revisits is consistently safe environment.

K. Voelker noted that there is an anti-retaliation law for nurse staffing.

Board co-chair asked nurse manager members for their perspective on challenges with the nurse staffing law.

Board co-chair stated that their number one challenge was having enough resources and staff to care for patients adequately, every day.

Board co-chair asked to clarify whether nursing shortage allowed hospitals to deviate from the nurse staffing plans.

A. Davis answered the nurse staffing law requires hospitals to follow approved nurse staffing plans except in emergency situations previously discussed. The staffing committee is tasked with setting the plan because it has the most insight on available resources and is the unit's patient population.

Regarding staff working different capacity, K. Volker stated the nurse staffing plan would have to specify what those rules are for that unit and the minimum numbers of nursing staff members.

Board co-chair asked for clarification on minimum numbers and stated that not having enough staff was not justification for following the nurse staffing law.

K. Voelker explained that there are two ways that the OHA measures minimum numbers on the unit. Tag E640 sets the minimum number on specified shifts. The other requirement is that there must be one RN and one other nursing staff member when there is one patient present. The nurse staffing plan needs to establish both requirements.

Board co-chair suggested that issues related to minimum numbers be added to the Rules Review Committee, particularly as it related to ratios and capacity.

Board member suggested that if the survey is simplified, there would be more compliance.

Board member stated that there have been many improvements to the survey process already.

There were no further question or comments related to emerging issues.

<b>Action Item(s)</b>	<ul style="list-style-type: none"><li>OHA to add minimum numbers as an area of focus for the Rules Review Committee</li></ul>
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<b>Agenda Item 10</b>	<i>Public Comment</i>
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K. Voelker noted that there are a few people signed up to make a public comment. Board co-chair invited members of the public to speak for two minutes.

M. Coffelt (Kaiser Sunnyside) commented that as the nurse staffing co-chair for their hospital, there were never involved in the surveys or complaint investigations. They believed actively engaging with the nurse staffing committee co-chairs should be encouraged. Though the nurse manager co-chair was interviewed, M. Coffelt was not privileged to any of the information. They stated that OHA also did not provide the investigation materials to them the information and that they had to wait until the report was completed.

M. Calzia (ONA) commented that they are hopeful that the NSAB would consider defining and adding to the rules a definition for minimum staffing, particularly for more clarification. They asked that the members of the NSAB look back at the previous meetings and notice that the same talking points and issues arise and that there is not much enforcement of the nurse staffing laws during a health crisis in the state of Oregon. They stated that the lag in surveys and complaint investigations leads to nurses leaving the profession.

E. Krug (OHSU) commented on the interviewees picked for surveys. They agreed with concerns of who is picked because they have witnessed management selecting those who are new or inexperienced. At their hospital, there is a buddy system which they find unsafe and inappropriate.

<b>Agenda Item 11</b>	<i>Meeting adjourned</i>
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**Approved by the NSAB October 26, 2022**

If you need this information in an alternate format,  
please call our office at (971) 673-0540 or TTY 711.