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**Oregon Nurse Staffing Advisory Board (NSAB)**  
 Wednesday, February 28, 2018  
 1:00 PM – 5:00 PM

Meeting Minutes

Cochairs	Susan King, MS, RN, CEN, FAAN (Presiding); Carol Bradley, MSN, RN, CENP
Members present	Trece Gurrad, RN, MSN; Carolyn Starnes, ASN, RN; Debbie Robinson, RN, MSN; Jennifer Burrows, RN, BN, BSc, MBA (phone); Rob Campbell, CP, ADN, RN; Virginia Smith, BSN, RN-BC; Amanda Newman, CNA; Shannon Carefoot, BSN, RN
PHD staff present	Dana Selover, MD, MPH; Anna Davis, JD
Guests present	Therese Hooft; Jordan Ferris; Uzoma Izunagbara; Barb Merrifield (phone); Aisha Krebs (phone); Danielle Meyer

<b>Agenda Item 1</b>	<i>Call to Order – Susan King</i>
The meeting was called to order and all individuals present and on the phone identified themselves.	

<b>Agenda Item 2</b>	<i>November 29, 2017 Board Minutes – Susan King</i>
<p>Agenda item 5, page 3, paragraph 7, revise sentence as follows: "Overtime policies that are cited if they reference eite outdated rule language or eliminate the requirement of consent to voluntary overtime."</p> <p>Agenda item 6, page 5, paragraph 4, add the following sentence: "Questions were asked regarding the validity and reliability of tool."</p> <p>Carol Bradley moved to approve the minutes as corrected. Debbie Robinson seconded the motion.</p> <p>The minutes were approved as corrected.</p>	
<b>Action Item</b>	<ul style="list-style-type: none"> <li>OHA will make the corrections to pages 3 and 5 of the minutes.</li> </ul>

	<ul style="list-style-type: none"> <li>• It was requested that Board members be notified when corrected minutes are posted to the Web.</li> </ul>
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<b>Agenda Item 3</b>	<i>Waiver Update – Anna Davis</i>
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Anna Davis shared that waivers are slowing down and since the NSAB last met, only two waiver requests have been received. There are currently 4 pending waiver requests – three of which the Health Care Regulation & Quality Improvement (HCRQI) program is waiting for additional information.

A. Davis provided an overview of the nature of the waivers at the request of the presiding chair for new board member. A majority of waiver requests relate to minimum staffing (can hospital use a tech, primarily in procedural areas, in place of 2<sup>nd</sup> nurse staff member). A waiver request form has been created that asks specific questions to find out if the 2<sup>nd</sup> staff person is acting in place of a nurse staff member, whether they have appropriate qualifications and what happens if another patient comes in.

Most waivers have been approved. Waivers that have been denied are due to requests that the HCRQI program does not have the authority to waive or a request for a minimum staffing waiver proposes using a single staff member rather than using a second caregiver in lieu of a second nursing staff member. Committee agreed that the following elements should be included in future waiver reports:

- Total number of requests
- Number approved
- Number denied
- Subject matter of the waiver including general remarks on why a request was denied.
- Type of hospital (e.g. critical access hospital – 25 beds or less, medium hospital (26-150 beds) or large (greater than 150 beds).

Presiding chair requested that the waiver report be considered a consent agenda item in the future. The waiver report would be considered a routine item that rarely needs any discussion or debate and will allow the board to approve without discussion or individual motions. Committee concurred.

<b>Action Item</b>	<ul style="list-style-type: none"> <li>• Waiver report will be identified as a consent agenda item in the future and include the following elements:                     <ul style="list-style-type: none"> <li>- Total number of requests</li> <li>- Number approved</li> <li>- Number denied</li> <li>- Subject matter of the waiver including general remarks on why a request was denied.</li> <li>- Type of hospital (CAH/small ≤25 beds; medium - 26-150 beds or large &gt;150 beds)</li> </ul> </li> </ul>
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<b>Agenda Item 4</b>	<i>Nurse Staffing Survey Update – Anna Davis</i>
<p>A. Davis provided an overview of nurse staffing surveys conducted in 2017 including rates of citations based on topic. This information is available in the NSAB meeting material or may be requested from the HCRQI program. All survey reports can be found on the nurse staffing website.</p> <p>Committee member inquired about high failure rate and committee discussed. Comments included:</p> <ul style="list-style-type: none"><li>• Failure of hospitals to take law seriously and are now being held accountable;</li><li>• Documentation requirements and struggle to produce the records necessary to show compliance (e.g. no system in place that can immediately provide information on ADT; vendor used for new hires does not allow customized required posting)</li><li>• Articulating compliance with the plan;</li><li>• Interpretation of the law and what is needed for compliance. Certain forms of documentation are expected yet hospitals do not know what that is.</li></ul> <p>The NSAB Survey Dashboard was reviewed and discussed. It was noted that the HCRQI program is not taking action against hospitals that have submitted Plans of Correction (POC) late which the NSAB may wish to consider.</p> <p>Committee member asked about the second on site audit and it was clarified that the second on site audit does not occur until after the POC is approved. D. Selover noted that staff are working carefully on the POC approvals so that the 2<sup>nd</sup> on-site audit is successful.</p> <p>Committee member asked whether the program is still planning to conduct a POC webinar. Staff responded yes and noted that once the guidance handout is finalized additional steps will be taken to plan the webinar.</p> <p>Staff reviewed the proposed survey monkey which will request feedback on nurse staffing issues prior to a scheduled audit. The proposed survey was shared with everyone at the May 2017 meeting and was also shared with the Nurse Staffing Collaborative. The four main areas covered in the survey include the staffing plan, committee, replacement staff and overtime and are concurrent with administrative rules. The tool is meant to be supportive documentation and used in conjunction with other material obtained during an audit including observations and interviews. The survey will never be used independently to issue a citation. Survey is open to direct care staff, nurse staff managers, patients and families and others to provide input. It was noted that the survey will skip certain questions if the respondent identifies as a patient or family member. Discussion:</p> <ul style="list-style-type: none"><li>• Concern noted about the availability of the link to all staff. Staff responded that the HCRQI program cannot force the hospital to send out the link but strongly encourage the hospital to do so. The HCRQI program also does not have the</li></ul>	

Revised May 9, 2018

- electronic means to notify every employee of a hospital, whereas the hospitals likely have email groups, etc.
- Process was reviewed and it was noted that information about the survey is required to be physically posted for one week and includes information on how staff can access the link. Approximately 90% of responses are from nurse staff members.
  - Committee member inquired about an abandonment rate which staff noted has not been calculated. All questions on the survey may be skipped with the exception of the first two.
  - Committee member suggested that a few editorial changes may increase response rate to survey. Language is not reflective of what hospitals use and some departments are missing. It was suggested a subcommittee be formed to collaborate on possible language changes that includes members of the Nurse Staffing Collaborative. A formal request to the Nurse Staffing Collaborative co-chairs will be sent and ask for volunteers. Volunteers from NSAB to serve are Debbie Robinson and Carolyn Starnes.
  - Electronic distribution is difficult when staff may work three 12 hours shifts and may go days without reading email. It was suggested that the link be shared with the first audit notification. It was also suggested that the link be active for longer than 1 week.
  - Perception of people reading the audit report is that the results of the survey are being reflected as in-person interviews not as data obtained from the survey. Committee member suggested that the report needs to clearly identify whether information was obtained from survey or in-person interview.
  - Committee member suggested that if hospitals need get the link widely distributed to optimize response rate, there needs to be a feedback loop to the hospital including releasing survey aggregate data. Question was raised whether the survey participation rate may influence the audit findings and plan of correction. It was noted that surveyors do not see results of survey until after the site visit is over.
  - Committee member suggested that the questions be looked at carefully to ensure that they are directly related to compliance.

<p><b>Action Item</b></p>	<ul style="list-style-type: none"> <li>• Slides will be forwarded to B. Merrifield and A.Krebs.</li> <li>• Invite the Nurse Staffing Collaborative co-chairs or representatives to participate in NSAB subcommittee to review language used in survey.</li> <li>• Staff to consider sharing aggregate survey data with the hospital and hospital nurse staffing committee including response rates from staff and others; demographic distribution across the facility; and responses to questions. Staff will inquire with legal counsel on the ability to share</li> </ul>
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	unit based aggregate data due to confidentiality concerns.
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<b>Agenda Item 5</b>	<i>Plans of Correction – Anna Davis</i>
<p>A. Davis reviewed information about Plans of Correction and guidance that is being developed. Highlights of the guidance can be found in the NSAB meeting material or may be requested from the HCRQI program. Discussion:</p> <ul style="list-style-type: none"> <li>• Committee member questioned how a hospital can dispute findings if a surveyor has made a mistake. Subsequent question was raised on how a hospital can have a dialogue about findings whereas it is believed the documentation does satisfy a requirement. Staff noted that the hospital may bring issues to the HCRQI program's attention, but it should not occur in the Plan of Correction. During the audit, staff are reviewing information with the nurse manager and others and that is an opportunity to dialogue about documentation. Otherwise, the hospital should schedule a conference call with HCRQI program staff to discuss.</li> <li>• Total diagnoses language in statute was an attempt to try and capture what the hospital unit looked like and may require different staffing configurations.</li> </ul> <p>A. Davis noted that the guidance goes over items to focus on and items not to put in the plan of correction. Page 3 is an example of a survey page that identifies the different components to help clarify what are the issues that should be responded to and the items that are informational. Rule text will be listed first, followed by the deficiency statement that identifies what was wrong, and then the findings are listed which state the facts the surveyors observed during the audit. Discussion:</p> <ul style="list-style-type: none"> <li>• Committee member requested including an example of a best practice in the guidance document or more detail on how HCRQI staff review the plan of correction.</li> <li>• Committee questioned why the anti-retaliation posting needs to be posted on-line</li> <li>• Grace period for late submission of plan of correction.</li> </ul>	

<b>Agenda Item 6</b>	<i>NSAB Member Memos – Susan King</i>
<p>The presiding chair gave an overview describing these memos as brain storming documents looking ahead at focusing on compliance with the core of the nurse staffing law. The intent of these guidelines was to help surveyors and move the survey focus to patient needs and what kind of outcomes does the HCRQI program want to look at to help make determinations. It was suggested that surveyors attend the NSAB meetings as their time allows.</p> <p>It was suggested that the memo on overtime be delayed to future meeting. The interpretation of the overtime administrative rule has created more confusion and a</p>	

more thorough discussion would be helpful so everyone has the same understanding.

Intent of the memo, "OHA Survey Guidelines – Staffing based on Patient Need" is to keep patient need at the forefront when trying to determine compliance with the law. There is too much focus on bureaucratic items (charter, board members, voting, etc.) versus items that are more patient focused (the lack of staff and a staffing plan.) HCRQI staff noted that the survey must be based on statute and rule and committee could discuss whether additional changes to either are necessary. Presiding chair noted that the core of the nurse staffing law since 2005 is staffing in the hospital is based on the needs of the patients and facilities are responsible for a collaborative process to plan and implement the plan. It is thus relevant to determine how the agency would test to identify patient acuity and intensity. Rules and statutes do not need to be revised.

Committee member remarked that there is a perceived imbalance on the administrative process versus patient outcome and outcomes need to be the focus. The staffing process has to be dynamic and responsive to ongoing changes. There is a need to look at what are the clinical outcomes that are being achieved with the staffing process and what is the impact on the workforce.

Presiding chair requested that HCRQI staff share the guidance memos with surveyors and seek suggested changes and feedback that can be shared and discussed at next meeting.

**Action Item**

- Add Overtime on future agenda.
- Surveyors should review the proposed guidance memos and provide feedback for discussion at next meeting.
- Invite surveyors to next meeting.

**Agenda Item 7**

*Emerging Issues in Nurse Staffing – All*

Committee member inquired about the triage process for complaints. HCRQI staff noted that the program is experiencing some staffing issues and is behind on complaint investigations. There are currently only two surveyors available for routine hospital surveys, complaint investigations, EMTALA investigations, nursing staffing audits, etc. The HCRQI program is down four surveyor positions and currently recruiting.

Complaints must be reasonably specific to an allegation of non-compliance and can't be 3<sup>rd</sup> or 4<sup>th</sup> hand information. Staff are careful to explain to complainants how information is protected to try and encourage first hand, credible information. The same surveyors who conduct complaint surveys are the same people who handle the triage.

Committee member inquired about a possible hospital that had filed an impasse. HCRQI staff confirmed there has been one hospital that has filed an impasse and

requested mediation. Committee member asked about the role of the NSAB in terms of mediation requests. It was noted that it would be helpful for the NSAB to know about the issues that lead to the impasse. Staff remarked that the statute remains silent on this issue. The mediation itself including documentation and what is agreed upon is between the mediator and the hospital. A short report was shared with the HCRQI program that agreement had been reached and plan needed to be approved at the next nurse staffing committee meeting. Template tools will be developed and shared. Committee member noted that lesson learned would be helpful to know. Committee member stated that the root cause of the disagreement would be helpful to know and staff responded that it's not certain whether that information is known at this point. Staff will review report and determine what information can or cannot be shared.

Committee member shared that it's been heard that a hospital is conducting its own survey and if findings differ from the State, the hospital will not submit a plan of correction.

Committee member inquired whether a complainant will receive a response within 60 days. HCRQI staff noted that the process includes acknowledgment of receipt of complaint. Since complaints are unannounced it's feasible that a complaint survey may be conducted at the same time as another type of survey.

Committee member inquired whether the nurse staffing laws will apply to extended stay centers, a new type of licensed health care facility based on passage of HB 4020. HCRQI staff remarked no since they are not considered a hospital. Hospitals, health care systems and ASCs will be involved in the rulemaking and staffing will likely be discussed.

Presiding chair requested that the NSAB invite the Nurse Staffing Collaborative co-chairs to attend the NSAB meetings. Committee concurred.

<b>Action Item</b>	<ul style="list-style-type: none"> <li>• HCRQI staff to identify:             <ul style="list-style-type: none"> <li>- notification process for declaration of impasse; and</li> <li>- what findings and conclusions can be shared.</li> </ul> </li> <li>• HCRQI staff will send e-mail to NSAB members that identifies action items from this meeting.</li> </ul>
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<b>Agenda Item 8</b>	<i>Public Comment –</i>
<p>Uzoma Izunagbara with Kaiser asked whether there is any interface between the Joint Commission, OHA and OR-OSHA on enforcement of the nurse staffing law and how is that managed. He remarked from a resources perspective they should be align. He also asked what is the NSABs position on a best practice for covering breaks. The presiding chair noted that based on previous HCRQI staff interpretation,</p>	

the patient ratio must be kept throughout the shift. HCRQI staff noted that the FAQ posted on the nurse staffing web site includes information about this.

Committee member noted that depending on a hospital's staffing plan there might be a significant range of the appropriate number of patients per nurse and the intent is not to have a fixed ratio. Certain units may have a 1:1 ratio based on the needs of the patient, but on the other end of the floor there might be a 1:5 ratio.

U.Izunagbara remarked that acuity should be the driving factor and there should be a ceiling.

Committee member noted that nurse staffing plans should be based on patient acuity and intensity and best practices.

Committee member referenced safe patient care for further consideration.

In response to first question, presiding chair noted there is no direct link between the Joint Commission and OR-OSHA to the state nurse staffing law. Committee member did note that there is overlapping language between the JC and state law and parallels can be made. HCRQI staff noted that the JC is only one accrediting organization out of a few others. Expectations of each organization are different. U. Izunagbara suggested that the State should notify accrediting organizations of nurse staffing compliance problems. Presiding chair suggested that he submit his suggestion to the State for further review and consideration.

Committee member asked HCRQI staff to consider adding to the complaint process, a description of the triage process. It was also requested that frequency statistics be provided on complaints (e.g. number of complaints accepted, number denied, a summary of outcome, etc.) Staff need to consider further. It was noted that other staffing committees may be able to learn from these issues. Committee member suggest updating the FAQ to include information about who to contact regarding following up on a reported complaint.

<b>Action:</b>	<ul style="list-style-type: none"><li>• HCRQI staff to consider request for complaint frequency data.</li><li>• HCRQI staff to consider revising the complaint investigation guidance to include information about the complaint triage process.</li><li>• HCRQI staff to consider FAQ about follow-up on reported complaint.</li></ul>
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