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Oregon Nurse Staffing Advisory Board (NSAB)
 Wednesday, May 30, 2018
 1:00 PM – 5:00 PM

Meeting Minutes

Cochairs	Carol Bradley, MSN, RN, CENP (Presiding); Susan King, MS, RN, CEN, FAAN
Members present	Trece Gurrad, RN, MSN; Carolyn Starnes, ASN, RN; Debbie Robinson, RN, MSN; Jennifer Burrows, RN, BN, BSc, MBA; Rob Campbell, CP, ADN, RN; Virginia Smith, BSN, RN-BC; Amanda Newman, CNA; Shannon Carefoot, BSN, RN; Zennia Ceniza, RN, MA, CCRN, ACNP-BC, NE-BC
PHD staff present	Dana Selover, MD, MPH; Anna Davis, JD; Matt Gilman, MPPA; Holly Heiberg (phone)
DOJ staff present	Shannon O’Fallon
Guests present	Diane Waldo; Danielle Meyer; Beth Callison; Nicole Cantu; Therese Hooft; Kathryn Vandewalle; Leah Emmett; Suly Lopez; Sarah Cole; Crystal Smith; Becky Ellison; Kristin Harman; Andi Eason; Barb Merrifield (phone); Nancy Mitchell (phone); Terri Brandt-Correa (phone); Aisha Krebs (phone)

Agenda Item 1	<i>Call to Order</i>
<p>The meeting was called to order and all individuals present and on the phone identified themselves.</p> <p>Dana Selover announced changes within HCRQI and described the roles of managers Matt Gilman and Anna Davis. Matt Gilman is currently recruiting a new Nurse Staffing Policy Analyst to replace Anna Davis.</p>	

Agenda Item 2	<i>February 28, 2018 Board Minutes</i>
<p>The minutes were approved as written.</p>	

Agenda Item 3	<i>Status Updates</i>
<p>A. Davis shared the new waiver dashboard using criteria discussed at the February NSAB meeting. The hospital size-groupings were specified by the NSAB. For reference, there are 65 hospitals in Oregon.</p> <ul style="list-style-type: none">• Twenty-three percent of waiver requests came from small hospitals, which make up 28% of the total number of hospitals.• Forty percent of waiver requests came from medium-size hospitals, which make up 45% of the total number of hospitals.• Thirty-seven percent of waiver requests came from large hospitals, which make up 28% of the total number of hospitals. <p>The waiver dashboard breaks down the waiver grants and denials by hospital size. and analyzes pending waiver requests. Pending requests have all been returned to the hospitals for additional information. Denials involve situations in which the request falls outside the agency's authority or situations in which the hospital requested a waiver of the minimum staffing number requirement and proposed an alternate solution in which there was no additional staff in lieu of the second nursing staff member or the additional staff's regular duties would limit his/her availability to assist the RN. Requests that fall outside the agency's authority have been previously described at NSAB meetings and examples are requests to waive the mandatory overtime limits and requests to waive the requirement to have a hospital nurse staffing committee.</p> <p>Board member asked about denials in which the additional staff is an advanced practice nurse or other hospital medical staff.</p> <p>A. Davis stated that when this issue has been raised before, the question is whether the medical staff member's duties during the time covered by the waiver are to act as a nursing staff member. If the duties are to act as a medical staff member and that individual continues to perform regular duties, then the medical staff member is not available to act as a second nursing staff member. That analysis of advanced practice nurses is reflected in the nurse staffing FAQ.</p> <p>Board member suggested that the NSAB reconsider this analysis for situations in which there is a single patient in the unit. Board member stated the advance practice nurse can respond in an emergency and provide the same or more services than a second a nursing staff member. Further, when there are a small number of patients, the nursing needs are being met by the RN at the bedside and the second nursing staff member is for emergency situations.</p> <p>A. Davis asked how this aligned with the definition of nursing staff members, which does not include medical staff members.</p>	

Board member requested that the waiver report include the subject matter of the waiver further and the patient care of areas in which the waivers are requested.

Board member suggested that the medical staff issue be addressed at a future meeting.

Board member suggested that the issue hinges on whether the medical staff member is generally available to provide services in the unit or has responsibilities elsewhere in the hospital.

D. Selover stated that the agency will consider this issue and determine whether a waiver could address minimum staffing requirements for a specific period of time with a specific number of patients. The NSAB could put this on the agenda in the future for additional consideration.

A. Davis stated this information will be provided to the extent that the agency can group units based on the unit descriptions provided by hospitals requesting waivers.

Board member asked whether there are trends in the waiver requests.

A. Davis stated that the majority of waivers relate to minimum staffing numbers. The majority of waivers are for procedural units, but there some small hospitals that requests waivers for non-procedural units.

A. Davis shared the survey dashboard. The dashboard reflects the 22 surveys that were completed in 2017 and the 12 that have been completed in 2018. The dashboard now reflects the number of times each hospital has submitted its Plan of Correction. Five Plans of Correction have been approved.

Board member asked when approved Plans of Correction will be posted to the nurse staffing website.

A. Davis stated approved Plans of Correction have already been posted with the related survey report. Approved Plans are posted immediately after approval.

D. Selover stated that the second audit may be on-site or remote. Some issues are suitable for a remote second audit. For example, a committee charter can be reviewed without surveyors going to the hospital. To avoid finding unresolved compliance issues during the second audit, there is a significant focus on ensuring that Plans of Correction adequately address deficiencies identified in the original survey report. The agency has updated the Plan of Correction guidance and there is a Plan of Correction webinar on June 8, 2018. OHA staff are available to have individual conversations with hospitals to discuss Plan of Correction issues both before and after Plans have been submitted.

Board member asked for clarification about whether any second audits have been completed yet.

A. Davis stated that none have been completed thus far.

A. Davis stated that the SurveyMonkey committee met on May 4 and has a second meeting set. Committee meetings are open to the public. The committee talked

about how the tool is used and is going through the SurveyMonkey tool and suggesting changes.

SurveyMonkey committee member stated that they are streamlining questions and gathering information about which questions provide valuable information to the surveyors.

Board member asked whether there will be a draft available for review at the August NSAB meeting. Hospitals have a lot of feedback regarding the SurveyMonkey and so this is a pressing issue.

D. Selover stated that a draft will be available at the August meeting.

Action Item

- Waiver report will identify units in which waivers are requested
- Draft of revised SurveyMonkey tool will be presented at August NSAB meeting

Agenda Item 4

Plans of Correction

A. Davis described resources OHA provides to help hospitals in the Plan of Correction process. The nurse staffing team has conference calls with individual hospitals to clarify deficiencies and discuss issues identified in submitted Plans of Correction. OHA staff goes through the individual hospital's Plan of Correction tag by tag. Common issues with Plans of Correction are the frequency of monitoring to ensure that changes are implemented and the number of individuals identified as responsible for implementing the changes.

Board member asked for clarification of whether two responsible individuals can be identified.

A. Davis stated that it depends on the deficiency tag, but one responsible individual is best and in some situations two individuals can be identified. The other significant issue is whether the Plan of Correction clearly spells out the plan or the procedure for resolving the deficiency. The conferences calls include the surveyor who reviews Plans of Correction.

Board member asked if there is a specific acceptable frequency of monitoring.

A. Davis stated that monitoring frequency depends on the deficiency, but annual monitoring is not sufficient to correct a deficiency. In many situations quarterly monitoring is acceptable. Once regular compliance is demonstrated for a reasonable period of time monitoring may be less frequent.

Board member stated that hospital quality improvement personnel do not have the experience or knowledge to participate in formulating a nurse staffing Plan of Correction. Board member suggested that Plan of Correction problems relate more to the interpretations of the rules than to the survey report or Plan-writing processes.

Board member stated that quality improvement personnel have been helpful in the Plan of Correction process at some hospitals.

Board member asked if the Plan of Correction webinar will use specific examples.

A. Davis confirmed that the webinar will use examples. The webinar announcement was sent to the nurse staffing listserv and announced on the nurse staffing website.

Board member stated that there are situations in which the hospital interprets the rule differently and there is no opportunity to challenge the audit findings. Hospitals usually have a dialogue about deficiencies with accrediting organizations. Some nurse staffing issues involve complex interpretations and the rules may not provide sufficient guidance. One example of this is the requirement to list the total diagnoses for a unit.

Board member suggested that hospitals can reach out to OHA before submitting a Plan of Correction or after a Plan of Correction has been rejected for guidance.

Board member stated that the interpretation of the requirement to consider total diagnoses is an example of how the rules are arbitrary. Board member stated nurses know their patient populations best.

Board member stated that the nursing staff members talk about patient populations instead of specific diagnoses. Board member suggested this requirement may not be part of the best practices and may not guide hospitals to better outcomes.

Board member suggested that statutory language came from a desire to include a legal requirement to describe the patient population of the unit. This is a topic on which the NSAB can come together and provide guidance to the OHA.

D. Selover stated that the intention of the surveyors is to follow the law. The NSAB can provide information to shape OHA's interpretations. NSAB can do that by providing feedback on the nurse staffing survey tools that surveyors use in the field. In addition, surveyors do not make conclusions in the field, and use the tools to gather information. NSAB previously reviewed the tools before the surveys began and can do so again now that there is experience in the field. The survey tools are available on the nurse staffing website.

Board member stated that one of the frustrations is that OHA letters regarding Plans of Correction do not provide specific guidance.

Board member suggested that it would be helpful to understand the trends of what citations are issued and which tools are used for those citations.

Board member suggested that a surveyor be present to talk about how the tools are used.

Board member suggested that individual board members could submit feedback on tools to OHA or a smaller committee could review the survey tool kit together.

D. Selover stated that OHA could let the committee know which tools relate to the most frequent citations. The tool changes will need to fit within the limits of the law.

Board member suggested that the agency use a SurveyMonkey survey to gather feedback on the tools.

Volunteers for the committee are:

- Virginia Smith;
- Trece Gurrad;
- Carol Bradley; and
- Susan King.

Action Item

- OHA will schedule a committee meeting to review the survey tools.

Agenda Item 5

NSAB Member Memos

Board member stated that different groups of members wrote position statements or content statements on overtime, survey measures and outcomes. The member asked whether there is value in editing these memos further.

Board member asked what surveyors are seeing in the field regarding overtime.

W. Edwards stated surveys show that the challenge is documenting overtime.

Board member suggested that surveyors look at overtime differently than nursing staff members. Nursing staff members consider rates of pay, whereas surveyors look at whether the nurse is required to work more than originally scheduled.

W. Edwards confirmed that surveyors consider rule language regarding agreed-upon and prearranged shifts as compared to and what the documentation shows.

Board member asked if a hospital policy describing how mandatory overtime is documented and stating that all overtime not documented in that manner is automatically voluntary would be acceptable.

W. Edwards stated that this is not a surveyor decision and surveyors rely on interpretation they have been given.

Board member suggested that it is very difficult to get voluntary overtime documented. The number of hours of overtime that must be documented is extraordinary.

Board member suggested that the rule does not require a specific type of documentation; therefore, it is unclear how overtime should be documented.

S. O'Fallon stated the concern is that is a policy which only describes how mandatory overtime will be documented, creates a possibility that the policy will not be followed. There needs to be a way that the OHA determine whether nursing staff members are being required to work additional hours.

Board member stated that the rule allows nursing staff members to complain if they are being required to work additional hours.

Board member asked if there is a different way to survey compliance.

Board member stated that the idea that there's always a discussion prior to the overtime accruing is not realistic.

Board member stated that there is a culture in nursing of staying late and not letting colleagues down, creating voluntary overtime that would otherwise have been mandatory.

Board member asked whether there is a purpose for the overtime memo and asked how further dialogue should be structured.

Board member stated that the overtime memo was intended to be a tool for the surveyors and the memo as drafted goes beyond that providing hospital-specific information that may not be generally applicable. It may be more valuable to review the related survey tool. Board member suggested that a decision tree might be more valuable than a memo.

Board member agreed that it would be helpful to review and modify current survey expectations related to overtime documentation.

Board member asked how surveyors currently review overtime records.

W. Edwards stated that surveyors review overtime records for documentation indicating whether the overtime is voluntary or mandatory. Surveyors consult with the survey manager and the nurse staffing policy analyst before citing in a survey report. The citations do not state that mandatory overtime occurred, and instead indicate that there was insufficient documentation to determine whether overtime was mandatory or voluntary. Also, in complaint investigations the lack of documentation can mean that it is the nursing staff member's word against the manager's word regarding whether overtime was voluntary or mandatory.

Board member asked whether surveyors reviewed the NSAB member memos and how surveyors would use these documents.

W. Edwards stated that the memos might be helpful for hospitals doing the annual review of nurse staffing plans to guide the discussion regarding patient outcomes. The memos include items beyond the nurse staffing rules and would be beyond the OHA's authority to review. Ultimately the hospital will use this type of information in the annual review and will show surveyors how the information was used in the annual review.

A. Davis stated that this information might be useful at the next stage of the survey process. Currently surveyors are focused on situations in which nurse staffing plans do not include specific measures, so to ask how those measures are working is premature.

D. Selover stated that these questions could be considered for inclusion during the tool review.

Board member suggested that there are several topics that need additional exploration including acuity and outcomes. The rules indicate that these need to be

considered in formulating a nurse staffing plan, but the rules are not specific as to how this should be done.	
Action Item	<ul style="list-style-type: none"> Board members working on the survey tool review committee will specifically consider overtime, acuity and outcomes during tool review.

Agenda Item 6	<i>NSAB Annual Legislative Report</i>
<p>A. Davis described the requirement for the NSAB to report annually to the legislature. The report is due to the legislature and must be approved by the board a month before the due date of mid-September.</p> <p>Board member asked about the audience for the report. The 2016 and 2017 reports were lengthy. Board member proposes sending instead an executive summary.</p> <p>A. Davis stated that the legislature requires the board provide a 2-page executive summary. All legislators receive the executive summary, which includes a link to the full report. A shorter report is possible, and legislators already receive a short document.</p> <p>Board member questioned the value of providing the full history of Oregon’s hospital nurse staffing regulation instead of focusing on what is currently happening.</p> <p>Board member agreed that the report should be focused on</p> <ul style="list-style-type: none"> • areas of interest • future work; and • areas in which the board can advise the agency. <p>Board member would like the report to be candid about challenges of surveys. Board member suggests that there would be value in soliciting feedback from hospitals that have been surveyed on whether the survey achieved the objectives of the legislation.</p> <p>Board member indicated that it would be helpful to include in the report trends in the complaints.</p> <p>Board member stated that the agenda for the next year that was included in last year’s report was very helpful.</p> <p>M. Gilman suggested that a SWOT (strengths, weaknesses, opportunities, threats) analysis or similar structure might be a useful.</p> <p>D. Selover suggested that successes and challenges could be a structure to use followed by recommendations for the future.</p> <p>Board member asked when the board should review the by-laws, because the mission and work of the board may evolve over time.</p> <p>D. Selover stated that the board can review by-laws any time. The by-laws are procedural. The charge of the board is contained in statute. Within that charge the</p>	

board's advice may change, but the underlying authority and purpose remains the same unless changed by the legislature.

Board member stated that writing a report when only part way through the year is a challenge. Board member suggested that the co-chairs send an outline to OHA staff and then have OHA draft the report. Much of the information could be some of the statistics and charts that the board is receiving on dashboards.

Board member stated that in 2016 NSAB co-chairs presented the report to the legislature.

Action Item

- Board co-chairs will draft questions to solicit feedback on surveys from hospital nurse staffing committee co-chairs.
- Board co-chairs will send an outline to OHA for the draft report.

Agenda Item 7

Emerging Issues in Nurse Staffing

Board member inquired about the timeline for complaints and the OHA's triage process. Board member would like this information added to the dashboard. Nursing staff members are reporting compliance issues and indicate they did not receive a response from OHA. Board member suggested NSAB could be available to assist with the triage of complaints.

D. Selover stated that there is a backlog of complaints due to staffing changes at OHA. HCRQI has prioritized meeting statutory survey frequency requirements. Some complaints are combined with full surveys. There are some outstanding complaints that are not connected to a full survey. The complaint triage process must protect the identity of the complainant, so triage is a confidential process. The basic allegations of the complaint are reflected in the complaint investigation report. Surveyors follow up when complaints are received, but may not be able to investigate immediately.

Board member requested that the board receive regular information on how many nurse staffing complaints are received.

Board member requested that the board also receive information about the time from complaint to resolution.

A. Davis stated that the time to resolution will be similar to the nurse staffing survey calendar, because the complaint investigation, report, Plan of Correction and revisit follow the same timelines.

Board member asked for the total number of surveyors assigned to nurse staffing issues.

D. Selover stated that there are 14 positions, of whom there are 13 RNs surveying 22 different program types. The legislature provided 1 FTE for nurse staffing surveys. Surveyors focus on specific areas. HCRQI does not have a specific complaint investigation unit, so surveyors fit complaint investigations in with their regular survey

<p>schedule. The surveyors who survey nurse staffing are part of the hospital survey team and serve additional programs. The timing of investigations also relates to recent staff vacancies.</p> <p>A. Davis stated OHA has three new surveyors who are learning the survey process along with specific subject areas like nurse staffing.</p> <p>Board member stated that there is concern that the surveys are focusing on administrative areas that are less important and perhaps complaints would be a way to focus more on issues that are important.</p> <p>Board member stated that there is a challenge for hospitals to document how they are working to demonstrate compliance with the nurse staffing laws.</p> <p>Board member stated that the willingness of OHA to have conversations about the Plans of Corrections is helpful and should be applauded.</p> <p>Board member asked about the possibility of a legislative solution so that minimum number waivers would not be necessary.</p> <p>A. Davis stated that rulemaking takes nine months and rulemaking cannot occur during legislative sessions. There is also a question about whether this can be fixed through rulemaking or is instead something that requires a statutory change.</p> <p>D. Selover noted that if a legislative fix is necessary and the fix does not have a fiscal impact and all stakeholders are in agreement, then the change can be made in a housekeeping bill in an odd-numbered year's session.</p> <p>Board member suggested that the group could discuss whether a change to the definition of nursing staff member in limited circumstances would be a possible housekeeping fix.</p> <p>Board member discussed whether meeting more than quarterly would be appropriate.</p>	
Action Item	<ul style="list-style-type: none"> • OHA staff to provide information on complaint numbers

Agenda Item 8	<i>Public Comment</i>
<p>Multiple members of the public provided feedback on their survey experiences. The NSAB appreciated this candid input.</p>	

Approved by the NSAB August 29, 2018

Revised August 22, 2018