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

Wednesday, May 22, 2019  
 1:00 PM – 5:00 PM

<http://www.healthoregon.org/nursestaffing>  
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Meeting Minutes

Cochairs	Jennifer Burrows, RN, BN, BSc, MBA (Presiding); Susan King, MS, RN, CEN, FAAN
Members present	Rob Campbell, CP, ADN, RN; Shannon Carefoot, RN, BSN, CCRN, CNML; Uzo Izunagbara, RN; Carolyn Starnes, ASN, RN; Carol Bradley, MSN, RN, CENP (phone); Debbie Robinson, RN, MSN (phone); Virginia Smith, BSN, RN-BC (phone)
Members absent	Amanda Newman, CNA; Zennia Ceniza, RN, MA, CCRN, ACNP-BC, NE-BC
PHD staff present	Dana Selover, MD, MPH; Anna Davis, JD; Matt Gilman, MPPA; Karyn Thrapp, RN; Wendy Edwards, RN
DOJ staff present	Shannon O'Fallon
Guests present	Andi Easton (OAHHS), Danielle Meyer (OAHHS)(phone), nursing students from University of Portland and Oregon Health Sciences University

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

<b>Agenda Item 2</b>	<b><i>February 27, 2019 Board Minutes</i></b>
Board member comment suggesting a correction to a typo on page four. OHA staff will make edits.	
Motion to approve minutes, with correction: Shannon Carefoot	
Seconded by: Rob Campbell	
Motion passed	

<b>Agenda Item 3</b>	<b><i>Status Updates</i></b>
Board co-chair asked if OHA has made progress in determining whether de-identified SurveyMonkey data gathered during nurse staffing surveys can be shared with the board.	

D. Selover stated that OHA needs to explore this further with DOJ before any data can be shared.

M. Gilman and D. Selover shared the status of the vacant Nurse Staffing Coordinator position and requested that board members share the posting with their networks when it opens. M. Gilman requested NSAB member participation on the interview panels.

D. Selover acknowledged the feedback that the NSAB members have provided to OHA regarding the desirability of having a registered nurse in the Nurse Staffing Policy Analyst position.

### *Survey Dashboard*

A. Davis stated that OHA has completed 54 on site surveys since April 2017. The dashboard categorizes surveys by their status relative to revisit, approved Plan of Correction (POC) or in the POC process, or in the report-writing process.

Board co-chair asked about the hospitals in the revisit status and if there OHA has seen any trends from revisits so far.

A. Davis stated none of the revisits are far enough into the process to be able to assess for any trends.

Board co-chair asked about the amount of time between the survey being conducted to the point of POC approval. The co-chair asked if OHA staff to describe the outstanding issues have been identified with the POCs that have been submitted and have not been approved.

A. Davis stated that it is difficult to narrow the issues down to a few “typical” issues. The first review usually reveals several outstanding issues. However, the issues generally decline relative to the number of calls the facility has with OHA. A. Davis stated that data show POCs submitted closer in time to the first surveys in took longer than those submitted more recently. It is also believed that the time frame has decreased because facilities are reviewing approved POCs on the Nurse Staffing website. Likely reasons for the decrease in approval time are the conference calls hospitals have to discuss specific aspects of the nurse staffing reports and the POCs as well as the resources available on the nurse staffing website.

Board member asked about POC approval versus the implementing what is in the POC. The member stated that implementation can be harder. The member asked if having the POC approved is a matter of semantics.

A. Davis stated there are three main areas to focus on when measuring implementation. First, surveyors look for the person responsible to make sure the change will happen. Next, surveyors look for monitoring of the correction. There is often confusion because statute states that annual review of the Nurse Staffing Plan is required. However, the

POC should state that monitoring occurs much more frequently than once per year. The annual review of the Nurse Staffing Plan is significantly different from the monitoring to determine that a specific correction of the Plan or to the functioning of the committee has been implemented and is continuing. Finally, and perhaps the biggest problem, is that some POCs do not explain what the hospital is going to do to correct the deficiency. There is a delicate balance around how much detail is provided in the POC and simply reciting the law or providing all the language from the corrected documents. The POC should describe what the hospital is going to do to return to compliance.

Board co-chair reminded board members that they highly recommend reaching out to OHA whenever there are questions regarding POCs. The co-chair stated this was also discussed at the Nurse Staffing Summit.

Board member stated that their hospital's Chief Nursing Officer (CNO) attended one of the breakout sessions at the summit and reiterated the need to reach out to ask questions and partner so that everyone is successful.

Board member asked if non-approved POCs could be posted to the OHA's website.

A. Davis stated that posting POCs that haven't been approved causes concerns because the accepted plans and non-accepted plans look very similar and could be easily confused.

D. Selover stated that instead of posting POCs that have not been approved on the OHA's website, perhaps the Oregon Nurse Staffing Collaborative (ONSC) might be a good place to share POCs that were not approved in order to allow for some learning. POCs use different templates, and the Collaborative could pull out the salient language for comparisons.

Board co-chair asked when the OHA will have one or two surveys complete the revisit process.

A. Davis stated that the revisit process is remarkably slow because OHA is working to complete the 24 nurse staffing surveys. She stated there had also been a slowdown in the POC reviews and those reviews must be caught up before time is spent on revisits.

Board co-chair stated that they would like OHA to stay on the current schedule. However, before OHA starts pushing to get the year four surveys done, OHA should make sure all the revisit follow up has been completed. The co-chair made a recommendation to consider how OHA process works in terms of survey timing.

Board co-chair stated that she believes completing revisits before the second cycle will make the survey process more meaningful.

A. Davis stated that the goal is for the second cycle of surveys to be more efficient than the first cycle. Ideally this will be a combination of fewer citations as hospitals are more

familiar with the requirements of the law after completing the first cycle, and increased familiarity with the survey process itself.

Board member asked if it would be possible to identify a couple of hospitals who could be used as a case study, perhaps of all different sizes. The Board member suggested that the revisit information for these hospitals could be reviewed by the board.

A. Davis stated that the revisit reports will be posted online when they are completed.

#### *Complaint Dashboard*

A. Davis stated staff performed a large clean-up of the spreadsheets used to create the dashboards. This work has allowed for additional clarity and accuracy of the data.

Board co-chair asked about a facility currently on its fifth POC and inquired about the status.

A. Davis stated that this facility had some recent staffing changes but the POC is still moving along in the process.

Board member asked where the date OHA received the POC is documented on the dashboard.

A. Davis responded that the date received can be found on the far-left side of the spreadsheet.

Board co-chair asked if there are themes in the complaints that OHA can identify.

A. Davis stated that the complaints tend to be limited in nature and more focused. A small number of complaints are regarding committee functioning. Some complaints are regarding the staffing plan, and some are about overtime. OHA has not seen much overlap between those categories.

Board co-chair asked if OHA could begin tracking complaint tags in a similar fashion as the regular nurse staffing survey tag.

A. Davis stated that these data would be hard to acquire because of the way the surveys are designed. It can be done when surveys and complaints are completed separately, but it is extremely difficult when they are rolled into one. When a survey is combined with a complaint, then the tags of the complaint are integrated with the regular survey findings and it is impossible to tell for any hospital or unit whether the tag was a result of the survey or the complaint investigation. The agency could provide tag numbers on the complaint investigations, but this would provide an incomplete picture.

Board co-chair asked about how a complainant would know when a complaint was being followed up on.

A. Davis stated that the complainant is sent a letter to notify them that a complaint is going to be investigated. Once the report is completed the complainant is sent a letter stating whether the complaint was substantiated or unsubstantiated and a copy of the report.

D. Selover shared a reminder that any time a complainant calls, that information is confidential and will not be shared.

Board member asked about three-year timeframe of surveys, SODs, and POCs. Board member stated that perhaps OHA needs more surveyors and staff to make the law more effective.

D. Selover stated that both of those recommendations are resource issues and the agency has had conversations with leadership regarding this issue.

#### *Waiver Dashboard*

A. Davis stated that the Board indicated it would review the waiver dashboard twice annually. A. Davis shared that the numbers have changed a little bit from last time and that waivers are currently counted by hospital, but a hospital can have one or more waivers. The agency does not count the total number of waivers issued. A. Davis reminded board members that when a hospital requests multiple waivers, even when the requests are made at different times, the waivers will be issued to expire at the same time.

A. Davis stated that the first dashboard looks at all waivers. A. Davis shared that a third of waivers received have come from large hospitals, a third have come from medium-sized hospitals and third have come from critical access hospitals (CAHs). A. Davis shared that the number denied waivers for each hospital type is small. There are also four pending waiver requests at medium and large hospitals. In all these cases, OHA has reached out to the hospital and are waiting for them to respond.

Board member asked about types of problems and issues related to waivers.

A. Davis stated that some waivers are related to a tech, but the waiver request fails to state when the waiver will be in effect.

A. Davis shared the last waiver dashboard looks at waivers by patient care area. This category is inexact because of the naming conventions that hospitals use for their units. For example, psychiatric unit may mean adult, adolescent, and geriatric psychiatric unit.

A. Davis stated that there are many waiver requests for surgery and/or Cath labs. The difficulty in these areas is that the types of techs vary as does the training that they each go through.

Board co-chair stated that within the psychiatric and surgery units, waiver requests may be related to the second nursing staff member, such as a mental health tech.

A. Davis stated surgical technicians must go through a formalized training program, whereas behavioral health technicians and mental health technicians do not have a similar, widely-recognized training program.

Board member asked about a specific waiver that was requested and subsequently withdrawn. The member also asked about waiver denials for CAHs.

A Davis stated these waivers were requested and resolved in 2016 and 2017. The waiver was withdrawn because the unit did not regularly provide nursing services and therefore, did not need a nurse staffing plan; therefore, it did not need a waiver of an element of that plan. The denials for the CAHs were related to those hospitals not using a second person in lieu of a second nurse staffing member, but instead just staffing with one registered nurse.

<b>Action Items</b>	None
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<b>Agenda Item 4</b>	<b><i>Committee Updates</i></b>
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*Acuity Committee*

M. Gilman stated that this committee last met in May. He reminded members that the purpose of this committee was to discuss acuity and to review acuity factors. The group discussed developing a SurveyMonkey tool for the Acuity Committee to structure its ideas and then to develop guidance that could be shared with Hospital Nurse Staffing Committees (HNSCs).

Board co-chair asked if the intention was to share the SurveyMonkey with the HNSC or the NSAB.

Board co-chair clarified that the SurveyMonkey would be kept within the NSAB committee and results would be shared with the NSAB.

Board member stated that they didn't think the survey would be shared with the HNSCs.

M. Gilman agreed that the SurveyMonkey results would indeed be shared with the NSAB committee and with the larger NSAB, not with HNSCs.

Board member stated that nurses need to raise the bar and create a framework that can be used universally, this includes determining nursing intensity factors. Nurses' default to needing more nurses while it may be possible to anticipate and predict. Obviously, there is more work to be done.

Board co-chair stated the goal of the committee was to come up with guidance. Facilities have verbalized a lack of ability to measure acuity; therefore, the goal of creating guidance should be to create a resource for those who are writing a nurse staffing plan. The co-chair stated that board members know hospitals will be surveyed on this. This topic was brought up at the Nurse Staffing Summit and there was concern that OHA or the NSAB would mandate a tool. Our response was the Board would not mandate a tool because there are many ways to look at this. The Board re-iterated that they will have guidance this year.

Board co-chair stated that based on feedback received during the Nurse Staffing Summit, there is a need for guidance that clarifies the difference between acuity and intensity and how to measure these factors. The guidance needed is more basic than what the NSAB had previously contemplated, and this feedback can inform the committee work. The co-chair stated that having guidance out will be helpful and the crux of the staffing law is around the knowledge and decision-making information the charge nurse uses that may make the plan look different. The nurse staffing plan needs to ensure that decisions made on Tuesday morning are the same as the ones made on Friday night.

Board member stated that the committee is looking for feedback. The member asked if the list could be sent out again and whether could it be narrowed down.

Board co-chair stated the acuity is cumulative of what the patient's needs are in the department. The patients' needs dictate the number of CNAs and RNs on the floor and these staff need to know the plan. For example, OHSU has a great tool to measure acuity, but it's not as predictive as they would like it to be. The co-chair asked board members to consider how this information could be captured.

Board co-chair suggested circulating the draft among the committee members. Perhaps those facilities who are struggling with these concepts could use the additional guidance and it may cause them to do business differently.

A. Davis stated that measuring acuity is not a new requirement. Frequency has increased and surveyors ask how the plan reflects the factors used by charge nurses to make decisions. The goals are to provide clear factors, so all nurse staff members are aware of the factors and the decisions are made using those same factors.

Board co-chair shared that there is a lot of literature available regarding this and the literature speaks to nurse classifications; different levels of nursing, including a nurse's strengths; and, discusses merging those together to describe what is needed.

A. Davis stated that the skills and competencies of individual nursing staff members are accounted for in a different section of the nurse staffing plan requirements.

*Total Diagnosis Committee*

M. Gilman stated this committee last met in April. The purpose was to discuss total diagnoses and the group reviewed ORSs, OARs, IG, and had a broad conversation about the phrase total diagnosis. Additionally, the group discussed how the phrase is interpreted, what the surveyors are looking for during a survey, and how facilities are documenting total diagnoses in their nurse staffing plans.

Board member stated there is a difficulty changing medical diagnosis to nursing outcomes. The member questioned the redundancy of the language in the rule. The member did not see how care would be different. Additionally, the member asked how they would assign a nurse based on the list. The member if diagnoses should be in acuity measurement tools. The member stated that the group determined they did not need to meet again.

Board co-chair asked the status of the draft Interpretive Guidance and if the board would be able to review it in August.

M. Gilman responded that the board would be able to review draft guidance during the August meeting.

*Overtime Committee*

M. Gilman stated that the committee reviewed the crosswalk document, ORSs, OARs, and IG. Additionally, Shannon O’Fallon, Assistant Attorney General from the Department of Justice was invited to this meeting to discuss overtime-related questions board members have.

Action Item	<ul style="list-style-type: none"> <li>• Staff will combine information from last acuity committee meeting and put that information it into SurveyMonkey or a shared document environment; share the results with acuity committee.</li> <li>• Staff will develop Interpretive Guidance for total diagnoses requirement.</li> </ul>
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**Agenda Item 5**      ***Overtime Documentation Discussion***

Board member asked whether agreeing to work in a certain unit means the nurse gives up the right to challenge overtime work. The member provided the example of the need to work overtime on evenings and weekends.

S. O’Fallon stated that the law has restriction on mandatory overtime. This can be challenging when discussing an employment contract. For instance, a nurse might accept a position and that position is presented as requiring a certain number of hours per week. Ultimately, the nurse has the choice to take the job or not, but there should be clarity in the number and timing of hours to be worked. This is a difficult question to answer in the abstract and would require some specific analysis. Documentation in this situation is very important, especially when OHA must investigate instances of mandatory overtime.

Board member asked if all overtime should be considered mandatory overtime. The board member suggested that due to the nature of nursing, overtime is inherently mandatory. The member stated that on one hand, hospitals may document that the nurse volunteered, however, if no one volunteered, it would be mandatory.

S. O'Fallon responded that is not how the statute would view that. The statute does not prohibit someone from volunteering to work an extra shift.

Board member stated that the fact that a nurse wanted overtime means that there was an identified need for overtime. The hospital may not have had the right amount of staff, so the analysis can't be simply whether the nurse wants to stay or not. The bigger issue is that there is a need that not being met by the current number of nurses on staff.

Board member stated that if there not a nurse to take over, you must stay because leaving would put the patient's safety at risk. The member stated that typically, this is something the nurse manager or charge nurse can figure out. Perhaps the unit works short or perhaps there is another option.

Board co-chair stated that there are two types of overtime – required and agreed upon. The co-chair stated that “agreed upon” is how her facility has chosen to manage overtime within surgical services. This allows for addressing call burden plus the cases that are emergency. Additional time must be agreed upon. If not, it falls outside the law. This is not something the board can legislate and as nurses, we do not want to impose a burden on our colleagues. The board has moved the needle significantly since the law was passed and the burden of mandatory overtime has been significantly pared down.

Board member stated that in his endoscopy unit they regularly take call. The member added that they rarely work more than 40 hours, however, allowances happen for the convenience of the doctors, but there must be a line somewhere.

Board co-chair stated that the way overtime is currently measured is by whether it is mandatory or voluntary. The board made a commitment to decrease the cumulative effects of how overtime is being analyzed. To be successful with this takes partnership. Overtime tracking and documentation creates a significant burden on hospitals and many hospitals have written their contracts to follow the overtime law. The co-chair also shared that even the best hospitals are running at 3% overtime in their nursing departments and asked the impact of this on nursing.

Board co-chair reiterated the purpose of the overtime committee was to determine, for the purposes of the survey, if all overtime needed to be documented or if only mandatory overtime should be documented.

D. Selover reminded the board that OHA surveyors are at the meeting and can answer questions related to how overtime documentation is reviewed during a survey. The questions about mandatory overtime do not just involve what needs to be documented. The questions on survey also address that the hospital must have a plan and a policy

that has been approved by the hospital's nurse staffing committee. For example, if, during a complaint investigation, a nurse was told that they had to stay longer to cover part of the shift, the nurse manager may think this is voluntary overtime while the direct care nurse may feel this is mandatory overtime. Surveyors must take the information presented to them and determine whether the complaint is substantiated or not. The surveyors consider the documentation in order to make this determination.

Board co-chair stated that they recognize the concept is very messy and asked whether there's a way for hospitals to not have to submit reams of data. The co-chair stated that the underlying issue is that the board was told that it was not clear that they could provide the OHA with advice regarding the documentation of overtime.

S. O'Fallon stated that the board is free to give guidance regarding the nurse staffing law, however, the board should also keep in mind that while the board can provide the guidance, the guidance is advisory and the OHA is not obligated to adhere to its guidance.

Board co-chair stated that the conversation is really about the authority of this advisory committee. The specific recommendation was that OHA should only require documentation of mandatory overtime. The co-chair stated their understanding was that the board needed DOJ review before they could provide guidance. The co-chair asked why they were told they could not make a formal recommendation.

S. O'Fallon stated she was not aware of anything that would prevent them making a recommendation regarding the documentation of mandatory versus voluntary overtime.

Board co-chair stated that the recommendation would be that only documentation of mandatory overtime be required. The co-chair stated that the board understood if they made the recommendation, it would still be up to OHA to make the decision.

Board member expressed concern about only documenting mandatory overtime because of the other overtime events that might be missed, particularly in surgical services.

Board co-chair stated that the topic of this conversation would be something to put forward to the Governor's office, particularly as it relates to parts of the law that need to change.

Board member asked the surveyors if they saw a discrepancy between what the managers are reporting for mandatory overtime and what direct care nurses are reporting.

K. Thrapp asked whether this question referred to seeking information from managers side versus nursing staff members.

Board member responded that a hospital may state that they do not have mandatory overtime, so there is not a need to have a policy for mandatory overtime.

K. Thrapp stated that there are several aspects to the question. First, in over two years of conducting nurse staffing surveys, hospitals have been cited for not have a policy for mandatory overtime – hopefully that is improving. This is a conversation that occurs with facilities when surveyors are on site, because it ensures that everyone is on the same page. Second, direct care nurses and managers do see the mandatory overtime conversation differently. Some direct care nurses have the impression that if they responded to what they would call an urgent request, the nature of the urgent request meant it should be considered mandatory overtime. However, surveyors recognize that this is not always the case. If there is a message is broadcast that there is an urgent need, and nurses respond to that, it would be viewed as voluntary overtime. Finally, as the board has discussed, there is some confusion about what mandatory overtime is, which highlights the importance of having a policy and procedure.

Board member suggested that is why all overtime should be tracked.

W. Edwards stated that during interviews during surveys direct care nurses may express that some overtime feels mandatory, even though it might not be mandatory.

K. Thrapp stated that mandatory overtime is defined in Oregon Administrative Rule as “to make compulsory as a condition of employment whether as a result of a previously scheduled shift or hours actually worked during time spent on call or on standby.” Board member asked about hospitals that stated about not having mandatory overtime.

W. Edwards stated that hospitals simply state they do not have mandatory overtime.

Board member asserted that it just was not possible that a hospital would not have any mandatory overtime.

K. Thrapp stated that this is the reason why documentation related to overtime is reviewed. Surveyors review time capture data and compare the data while sitting with hospital staff. Surveyors ask the staff if overtime was mandatory or voluntary and how the hospital can demonstrate that it was not mandatory.

Board member stated that for the reason just shared, it is extremely important to document all overtime.

D. Selover referred board members to the document handouts provided, which reflect the issues surveyors ask during the survey. Within the handouts are examples of citations and report language so board members can see what a finding looks like. D. Selover stated that if board members can suggest other sources of overtime documentation, surveyors could review that documentation instead.

W. Edwards stated that the review occurs with HNSC co-chairs and/or someone from the hospital's human resources team to assist in the review of timekeeping documentation.

Board member asked about the process of the initial auditing survey and the burden of documentation currently on the hospitals. The member asked if it was required that the labor side co-chair be present to review the documentation. The member stressed the importance of having the labor co-chair present to ensure that the integrity of the data.

K. Trapp stated in all survey activity, the surveyor's practice is not to dictate to the hospital. Therefore, surveyors do not specify who from the hospital staff assists with document reviews. It is up to the hospital leadership team to decide who is available and knowledgeable about the issues being addressed.

Board member stated that the added insight from the labor co-chair could be valuable to the conversation and could show the viewpoint from both the management side and the labor side.

K. Thrapp stated that during the survey process, objective documents are reviewed in a straightforward manner.

Board member stated that the recommendation would be to make sure all are present who need to be.

A. Davis stated that the timekeeping review may not be the best use of limited direct care staff time as many of the documents relate to specific shifts that a co-chair may not have direct knowledge of. It might be more important to get input from nurse staffing members using the SurveyMonkey tool.

W. Edwards stated that co-chairs have been present for most of the surveys, even though their presence is not mandatory.

Board member stated there is a difference in the interpretation of what is happening between the bedside nurse and the nurse manager. The member asked how surveyors interpret when a nurse is asked to come back within ten hours.

K. Thrapp described the documentation is reviewed to measure compliance with this rule.

Board co-chair stated there are two parts to this issue. First, the egregious use of mandatory overtime that was previously rampant and has decreased over the course of the last few years. Second, there is concern about the level of documentation that the board was being told was required by OHA and that hospitals were supplying reams of paper full of data. The co-chair suggested that it might be time to rethink what is being asked of the hospitals; however, given what has been shared by the surveyors, it

sounds like the process is more iterative, with a focus on specific instances with specific questions about occurrences of overtime.

Board co-chair provided clarification that surveyors cannot assume that, unless it's documented, overtime is mandatory or voluntary.

K. Thrapp confirmed that the reports reflect when there was not sufficient documentation that would allow the surveyors to determine what kind of overtime was worked.

S. O'Fallon stated that surveyors will not assume that everything not documented is voluntary, because that may not necessarily be true. While the documentation burden may be a problem, it is something that must be reviewed during the survey; this provides protection for both sides if there is a consent to work overtime, and whether it is mandatory or voluntary. While the OHA does not dictate the type of documentation required, they do have broad authority in rule to set standards and request evidence that a hospital is complying with nurse staffing laws.

Board co-chair stated they did not want to minimize the burden of documentation or the resources that are needed. Their point was to question whether all the resources going into overtime documentation was worth the energy. The co-chair stated they have read their hospital's POC regarding overtime. Their facility printed timesheets and went back to ask nurses which overtime hours were mandatory and which were voluntary. If we underpin the rationale of the law of keeping patients safe and taking care of Oregonians, this examination of overtime may be expending energy that can be used elsewhere. Compliance with law cost that hospital \$150,000, which is not unsubstantial. The goal is to make sure the focus is on the right issues.

Board co-chair stated that the amount of documentation required should not be minimized, nor should the amount of resources needed to obtain the documentation. The co-chair stated that the level of difficulty in gathering the data required to demonstrate compliance varies tremendously, based on the size of the hospital and how many nursing staff are working in the hospital. The co-chair stressed the importance of the purpose of the nurse staffing law.

D. Selover described the tool that is used to assess for compliance with overtime rules. She has heard that the nurses say that it's important even though it is a lot of work. The tool is the mechanism that surveyors use to measure compliance. If board wants to make recommendations, it is encouraged to do so.

K. Thrapp added that when documentation is requested, hospitals can submit anything and there is no special form and no prescribed format. Handwritten documentation has been submitted before and surveyors have also reviewed text messages and emails.

W. Edwards stated that many times information obtained during a survey has been brought back to the office to review and discuss. This has been especially important when the information provided has not been easy to understand.

Board member stated that overtime tracking data is very useful as it may inform quality improvement affordability projects. The member asked how board members can improve the continuity of care, while members know that providing care delivery is expensive. The member asked OHA a question about complaints submitted related to overtime.

K. Thrapp stated complaints related to overtime have been received.

Board member stated that was good to hear that nurses are stating their concerns.

K. Thrapp stated that, anecdotally, complaints about nurse staffing have been on the decline and the program has not seen any mandatory overtime complaints recently. She reiterated that is difficult to substantiate a complaint if there is not any documentation that supports it. Surveyors would use interviews, but this might not be sufficient by itself to determine whether overtime was mandatory or voluntary.

Board member asked if the tool that was shared was the current tool that was being used to assess overtime usage.

A. Davis confirmed that the tool that was previously shared was the current one.

Board member stated that some of the smaller hospitals may not have the capacity to track all overtime. The member asked the board if there was a way to share best practices.

K. Thrapp stated if a hospital lacks electronic systems, surveyors will accept any documentation. There are numerous practices that hospitals are using to track their overtime.

Board co-chair stated that if a hospital has a policy that the charge nurse on the unit will document overtime in some fashion, the unit should have sufficient documentation.

S. O'Fallon stated that the hospital has a disincentive to document in this fashion and while it might be legally sufficient, it would be difficult to assess.

Board member stated there needs to be a culture change and asked if there is any other way the overtime can be mitigated. The member stated nurses have the option to stay and work or call the on-call nurse.

Board co-chair stated there should be another overtime committee meeting to discuss these issues because they have heard a lot from other hospitals on this topic. The co-chair stated that everyone who has had a survey has had an issue with overtime documentation.

D. Selover stated that the survey tool that is used to document overtime can be changed if the board has a best practice to document. The tool is a reflection of the current law.	
<b>Action Item</b>	• Staff will schedule an Overtime Committee meeting.

<b>Agenda Item 6</b>	<b><i>Nurse Staffing Complaints</i></b>
<p>M. Gilman stated the complaint form was shared with board members and described how the form can be submitted to OHA. Surveyors attended to discuss the complaint process and the form.</p> <p>Board co-chair reminded board members that the reason surveyors were invited to join the meeting was to speak to the complaint process.</p> <p>K. Thrapp stated most complaints are submitted in writing and one of the first tasks for surveyors is to determine whether the OHA has jurisdiction over the complaint. Complaints that are not within the OHA's jurisdiction are referred to the appropriate agency. Surveyors must then determine if there is enough information in the complaint received to determine what rules might be at issue and described the challenge of getting adequate information. Complaints received are both broad and specific, and in either case, surveyors seek to obtain more information. Surveyors request the date the alleged violation occurred. She added that if no additional information is received in a timely manner, the complaint is closed. Some complaints allege multiple rule violations or multiple violations of the same rule, whereas other complaints allege a single violation; complaints are investigated regardless of how many potential violations are presented.</p> <p>W. Edwards stated that once the allegations are clear, surveyors will develop a needs list. Complaint investigations are conducted concurrently with standard surveys when possible. Surveys are conducted in a standard format, and documentation is requested to determine whether there is evidence that a rule violation has occurred. Surveyors review whatever documentation the facility has that pertains to the allegations. Complaint investigations conducted separately from a full survey are more narrowly focused and typically take one day to complete the on-site portion of the investigation.</p> <p>K. Thrapp stated that the same principles and analyses are used in both complaints and standard surveys and this practice allows surveyors to maintain confidentiality of complainants. She stated there are two decisions the surveyor must make. First, did the alleged conduct occur. Second, if the conduct occurred, was it a violation of a rule?</p> <p>Board member asked about work load and how are cases prioritized.</p> <p>A. Davis stated that prioritization fits within the larger context of all surveys and complaints including those involving federal regulations and other state regulations. Surveys are calendared out to allow surveyors to plan for all the work that needs to be done; complaint investigations are added to that schedule and the schedule is adjusted as needed.</p>	

Board member suggested that the board could look at the complaint form for revision.

Board member suggested that a complaint form be created that is specific to the nurse staffing law.

D. Selover stated that there were a few options. One would be to have a specific complaint form for nurse staffing, however, this presents a problem because there are frequently overlaps between nurse staffing complaints and other complaints. This overlap would create more work and would not allow the program to capture the information that is needed on a single form. Another option would be to provide some reference in the existing form and provide guidance on nurse staffing information. She asked what questions that surveyors would need answered in order to clarify an allegation. She asked surveyors if there was previous guidance or questions that have been asked specific to nurse staffing.

K. Thrapp stated that an outline was shared that described the process and discussed the credible pieces of information that surveyors use to determine the level of complaint. This outline was created prior to the law change in 2015.

Board member stated that it would be helpful if the board could see what information is obtained. The member suggested the form could be in box format instead of narrative as this would help with data analytics. The member stated there could be drop down questions added, specific to what the complaint is in reference to. The member acknowledged this requires resources to put together.

A. Davis stated that the form is formatted in a way that allows a complainant to describe what happened to them.

K. Thrapp stated that employee status is included because of specific legislation. Hospitals are charged fees when there is a complaint investigation. Complaints that were filed by current employees are exempt from the fees.

Board member stated that another possible change was to the gender classification on the complaint form. Currently, the form has only a binary option.

K. Thrapp stated that the information is collected to identify the patient.

Board member stated that the binary questions do not allow for the identification of disparities of gender.

D. Selover stated that the purpose of the demographic information is to get enough information to investigate the complaint and pull that individual's records from similarly named hospital patient records without revealing the complainant's identity. The responses are not used for studies or for looking at disparities.

Board co-chair stated there is nothing on the form that says, “if applicable” or “if relevant”.

K. Thrapp stated that a majority of received complaints do not have information listed in all of the boxes when the complaint is submitted to the program.

Board co-chair asked which legislative bill referenced the collection of fees for complaint investigations.

D. Selover stated that it was House Bill (HB) 158.

A. Davis stated that the nine-page explanatory notes could be shared with the board if they wanted it.

D. Selover stated only the purpose of the legislation was to have complaints with complaints bear the burden of paying for the complaint investigation. The idea was that facilities with more complaints should pay more.

A. Davis stated there is an upper limit of \$5,000.

D. Selover stated there is also a rolling three years max.

Board co-chair asked how many positions were created to track complaint fee billing.

D. Selover responded that no positions were created for the work.

<b>Action Items</b>	None
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<b>Agenda Item 7</b>	<b><i>Emerging issues in nurse staffing</i></b>
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Board co-chair stated there are a couple of topics to discuss, including the Governor’s office discussion and staffing summit update. The co-chair reminded meeting attendees that the emerging issues agenda item is a time for board members to raise comments prior to the public comment period. The co-chairs were invited to speak with Governor’s Office staff regarding a number of issues that have come forward during the legislative session. Several bills recommended changes with no overlap. The board could further discuss how to work with what available resources and what would be the ideal state for the nurse staffing law. Further, the board could consider what it would take to reach the idea state, including administrative rule changes and increases in resources. Board co-chairs have heard a lot of information that people were struggling with the law. Over time the board has grown and developed. The board has offered suggestions and how they’re taken or not taken is not the board’s purview. The board has not established a process on how the board would come to consensus. The board is not always unified in making recommendations. The board appreciates the presence of the surveyors at board meetings. The board wants the new OPA 3 to have the resources and skills and competencies to provide guidance for the nurse staffing law. The Governor’s staff asked that the board craft a letter to the Governor’s office now. The letter is due in August. The board can set the agenda for how to do this work

Board co-chair discussed using a facilitator to overcome the issues that have been brought up in the board. OHA has secured someone who can facilitate.

D. Selover stated that the facilitator will plan the meeting with the co-chairs. The meeting time will be as accessible as possible.

Board co-chair stated an extra meeting would be required to meet the Governor's deadline.

Board co-chair stated that there would a report that could be voted on and endorsed.

D. Selover stated the facilitator can take notes and provide a report that the board can use to report back to the Governor.

M. Gilman stated that a Doodle poll will be shared with NSAB members.

Board co-chair stated that getting the dates out as soon as possible is important because it's summer and schedules can get busy.

D. Selover stated a poll would be shared shortly.

Board co-chair stated a meeting with the facilitator should occur prior to the facilitated meeting.

Board member stated they are very excited about the meeting occurring. The member expressed excitement about the ideal state, particularly around expanding the board's role and authority. The member expressed confusion regarding the link and role with the Oregon Nurse Staffing Collaborative as compared to the role of the NSAB and the OHA.

Board member stated that hospital nurse staffing committee co-chairs are invited to the Oregon Nurse Staffing Collaborative. Their participation is strongly encouraged.

Board member asked if the Collaborative was an informal group. The member stated that they wanted to use the collective wisdom. The member stated that they did not feel that the NSAB and its role is widely known.

Board co-chair stated members should be ready to share their availability for the facilitated work group meeting that OHA would be scheduling.

Board co-chair discussed the recent Nurse Staffing Summit and ask members to share their experiences.

Board co-chair stated the two NSAB co-chairs provided an update to summit meeting participants and discussed the work going on by the Acuity and Intensity committees. There was formal discussion and less formal conversation. One of most interesting

presentations was around acuity and intensity. Presenters discussed the use of EPIC to assess both acuity and intensity. The co-chair stated one of biggest questions was how EPIC can prioritize the biggest issue for a patient and whether the EPIC tool is sensitive enough to forecast. The co-chair stated EPIC was sophisticated enough to do that. The available information begins to identify the elements of care that drive staffing, both by patient and by unit. The co-chair stated there is a trainer that worked with summit participants to think creatively about solutions to nurse staffing issues.

Board co-chair stated a couple of sessions generated a tremendous amount of interest, particularly around the use of EPIC to evaluate acuity and intensity. The co-chair stated the other presentation that created a lot of interest was from BOLI. The presentation focused on how laws are based on an eight hour shift rather than a twelve-hour shift. The co-chair asked how to amplify the voice of nurses who typically work a twelve-hour shift. The co-chair expressed the belief that meal and rest break was more about the staffing law and less about BOLI laws. The co-chair stated that attendance was perhaps a couple hundred. There was a good mix of nurse managers and direct care nurses. The theme was “We’re Still Learning” and looked at how excellence in nurse staffing is demonstrated in the state.

Board member stated the value came from both the speakers and the networking that occurred with other nursing staff who were attending the summit. At one point, it was very overwhelming because there was so much to learn. The solutions were to focus on one thing that can be done.

Board co-chair asked the group if there were any other topics that members wanted to raise or if there were ideas to address at the next NSAB meeting.

Board member stated there is constant change and learning required. Nurses’ other responsibilities limit their resources to fully implement the law. The member stated the data is important to review.

Board co-chair asked board members on the phone if they had additional comments.

Board member stated they echoed what previous member stated regarding nurses understanding the staffing laws in Oregon and hoped they understood the laws are there to ensure the continued advocacy for nurses.

Action Item	<ul style="list-style-type: none"> <li>Schedule facilitated meeting</li> </ul>
<b>Agenda Item 8</b>	<b><i>Public Comment</i></b>
No public comments received	

**Approved by the NSAB August 28, 2019**