

Survey & Certification Unit
 800 NE Oregon Street, Suite 465
 Portland, OR 97232
 Voice: (971) 673-0540
 Fax: (971) 673-0556
 TTY: 711
<http://www.healthoregon.org/hclc>
mailbox.hclc@state.or.us

Oregon Nurse Staffing Advisory Board (NSAB)
 Wednesday, November 29, 2017
 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 (phone); Carolyn Starnes, ASN, RN; Debbie Robinson, RN, MSN; Jennifer Burrows, RN, BN, BSc, MBA; Rob Campbell, CP, ADN, RN (phone); Virginia Smith, BSN, RN-BC; Amanda Newman, CNA; Margie Gutierrez, RN
PHD staff present	Dana Selover, MD, MPH; Annabelle Henry, JD, MBA; Anna Davis, JD; Lisa Finkle; Holly Heiberg
Guests present	Shannon O’Fallon; Andi Easton; Danielle Meyer; Nicole Cantu; Therese Hooft; Molly McGrew; Barb Merrifield (phone); Shannon Carefoot (phone)

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

Agenda Item 2	<i>August 30, 2017 Board Minutes – Carol Bradley</i>
Board member noted typographical errors on pages 4 and 9 of the minutes. Margie Gutierrez moved to approve the minutes as corrected. Rob Campbell seconded the motion.	

The minutes were approved as corrected.	
Action Item	<ul style="list-style-type: none"> OHA will make the corrections to pages 4 and 9 of the minutes.

Agenda Item 3	<i>Waiver Update – Anna Davis</i>
<p>Anna Davis provided information regarding the number of waiver requests received and resolved this year as well as the subject matter of the requests. Currently there are five waiver requests pending for which hospitals have been asked to submit additional information.</p> <p>Committee member asked about waivers that have been denied. The same denials were discussed at previous meetings and involve requests for waivers that are not permitted by the waiver statute.</p> <p>Committee member asked about the term of waivers. Waivers are being granted for a 3-year period.</p>	

Agenda Item 4	<i>Nurse Staffing Survey Update – Carol Bradley</i>
<p>Anna Davis presented the dashboard, which shows the status of surveys that have completed the on-site evaluation.</p> <p>Committee members expressed concern that Plans of Correction have been deemed insufficient.</p> <p>Annabelle Henry explained that the Plans of Correction reflect confusion regarding the purpose and requirements of Plans of Correction. The OHA is planning to provide additional education about Plans of Correction by hosting a webinar in 2018.</p> <p>Committee member noted that survey results reflect varied compliance across the state, and stated that these results were expected.</p> <p>Committee member expressed concern that surveys do not measure patient safety.</p> <p>Committee member noted that there are two issues to consider when discussing nurse staffing surveys:</p> <ul style="list-style-type: none"> how the nurse staffing committee is functioning; and whether the committee function issues are related to patients' needs. <p>Annabelle Henry noted that the agency expects to survey 22 hospitals each year, and the survey team is on target to meet that goal for 2017. Surveys reflect that the process is sequential. Surveyors focus first on committee function and plan elements. Questions about how plans are used can be explored once compliant plans are in place.</p>	

Committee member requested that the dashboard reflect the process steps that occur after the Plan of Correction is submitted.	
Action Item	<ul style="list-style-type: none"> OHA will provide additional information regarding post-report timelines in the survey dashboards going forward.

Agenda Item 5	<i>NSAB Subcommittees – Carol Bradley</i>
----------------------	---

In August 2017 the Board discussed setting up subcommittees to discuss overtime, survey outcomes and survey procedures. There were documents generated since the last meeting to reflect activities by board members outside of the meeting.

One of the documents reflects BOLI and overtime pay information from a hospital system's human resources office. The intersection of employment laws with the nurse staffing laws related to mandatory overtime is creating confusion. In addition, there is a description of general practices related to call programs. There is a second document related to overtime that has not been incorporated into the first document.

Committee member asked about the intended use of the document. It was intended to be informational for OHA staff.

Committee member asked what type of information OHA needs to better interpret nurse staffing information observed on-site in the hospitals.

Annabelle Henry noted that there are procedural questions about the document and whether the document is endorsed by the board. The document reflects different viewpoints regarding overtime, whereas the language in the survey reports states that it cannot be determined whether specific overtime is mandatory or voluntary based on the available information. If the standard report language is being interpreted as a statement that overtime is mandatory, then OHA can work to clarify that point. The board could also have additional conversation and recommend that OHA treat that overtime in a specific way.

Committee member expressed concern about the documentation burden placed on management and staff to document overtime.

Annabelle Henry described the survey practice regarding documenting patterns of overtime and asking follow-up questions of hospital staff. Surveyors do not make decisions on-site; they gather information and then review the information back at the office, and their reports are reviewed at multiple levels. Overtime policies that are cited reference outdated rule language or eliminate the requirement of consent to voluntary overtime. The OHA will consider recommendations of the board. Annabelle Henry confirmed that surveyors do not generally cite overtime of 15 minutes or less.

Committee members requested that the board be consulted regarding questions related to overtime.

Committee member asked if it would be possible to identify patterns and problems without reviewing reams of data.

Annabelle Henry discussed the intersection of nurse staffing laws and BOLI overtime/employment laws.

Committee member stated that hospitals are looking for ways of documenting that are clear, but not arduous, and asked whether a hospital could write a policy that would interpret nurse staffing overtime differentiation in a way that would comply with the regulations.

Annabelle Henry stated that a policy could do so and noted the difficulty of speaking about hypothetical policies. She suggested that the board could look closely at a report or a sample of surveys to get a clearer understanding of how this issue is being interpreted.

Committee member suggested that the board could look at a report and the underlying documentation.

Committee member stated policies have not been treated as sufficient evidence of compliance, so hospitals then rely on documentation. Committee member stated all parties agree that mandatory overtime should be avoided at all costs.

Committee member stated this is a learning process, but there is a risk that the law will create additional, unnecessary bureaucratic processes.

Committee member presented on an outcomes document that was created outside of the meeting. The document describes outcomes that can be used to measure the success of a nurse staffing plan, such as patterns staffing complaints, patient outcomes and nursing sensitive indicators, and patient and nurse satisfaction.

Annabelle Henry noted that this document could be helpful to hospitals when they review their nurse staffing plans and could also be shared with the Oregon Nurse Staffing Collaborative. These specific measures are beyond the scope of the OHA's authority to survey. The survey asks how the hospital is considering outcomes during annual plan review, and these measures are some of the ways of establishing that outcomes were considered.

Committee member presented a document regarding survey recommendations that was created outside of the meeting.

Shannon O'Fallon suggested that the documents submitted by committee members that are created outside of board meetings should indicate the author and intended audience as these are public records.

Committee member suggested that the three documents and issues be revisited at the February 2018 board meeting.

Shannon O'Fallon provided a refresher on public meetings law, public records and the board by-laws. The board is a public body and a governing body. Whenever the board meets public meetings law governs notice, record keeping, and public attendance. The by-laws require the subcommittees to comply with public meetings law. Meetings of two or more board members are treated as a quorum for public

meetings law purposes. Electronic communications, including serial email communications, are also treated as public meetings and also subject to public records laws. Shannon O’Fallon acknowledged there is overlap between what the board does and what the board members do professionally; when board members do board business, they are governed by public meetings law.

Dana Selover stated that OHA staff is available to help set up meetings to ensure compliance with public meetings law.

Action Item

- The board will continue discussion of the three documents in February 2018.

Agenda Item 6

Emerging issues in nurse staffing – Carol Bradley

Committee member asked whether a hospital can mandate call shifts for a unit that does not regularly have a call system as part of staffing during the flu season.

Committee members agreed that this issue should be addressed by the hospital-wide nurse staffing committee, and that the call shifts would need to comply with overtime regulations.

Committee member asked about posting of nurse staffing reports online prior to completion of the audit cycle. Nurse staffing reports are posted after each step in the survey process is completed. The report is posted with the cover letter, then an accepted Plan of Correction is posted with the cover letter, then a revisit report is posted with a cover letter, etc. Posting on the web is new under the 2015 legal changes.

Committee member asked about the use of interviews in the nurse staffing survey reports. Questions were asked regarding the validity of the tool as it is currently in use. Relevant surveymonkey results are included if there is a statistically significant response rate. Surveymonkey allows for a larger response rate than individual interviews and is available to all nursing staff members regardless of their schedule. Surveyors also confirm findings in interviews with nurse managers, nurse staffing committee cochairs, and other staff.

Committee member asked about the use of the buddy system to cover nursing staff member breaks. Buddy systems are not all alike, and the question is whether the coverage complies with the unit’s nurse staffing plan during the break.

Committee member discussed the requirement for plans to include a process for nursing staff members to initiate determination of whether a limitation on admission or divert status is necessary.

Committee member discussed the use of nurse staffing matrices as target staffing and the use of ranges instead of a single number of staff members. There are times when the number of staff for a given census varies. Some hospitals use hours per

patient per day instead of ratios. This will be an area of increased focus after issues of nurse staffing committee operations are resolved.

Agenda Item 7	<i>Public Comment – Carol Bradley</i>
<p>Andi Easton discussed OAHHS support of nurse staffing regulation to encourage cooperation in hospital nurse staffing. This is a learning process. Hospitals have raised concerns about the survey process and whether the surveys measure safe staffing. OAHHS is committed to continuing to work to improve the survey process.</p> <p>Linda Jones expressed concern that surveyors and hospital staff do not have shared terminology.</p> <p>Uzama Izunagbara discussed the difference between acuity-based staffing and ratio-based staffing. Ratios can be hard stops, but acuity often requires an adjustment in staffing. He also expressed concern about use of the buddy system.</p> <p>Dana Selover noted that Andre Ourse, the administrator for the Center for Health Protection attended part of the meeting.</p> <p>Annabelle Henry announced that she will be leaving the OHA on Friday, December 1. Her position will be filled, and the surveyors will be consistent throughout the transition.</p> <p>Board cochair noted that there is still a vacant position on the board. There are also positions that are expiring and those members need to renew. Staff will confirm the status of renewing members.</p>	

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