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**Oregon Nurse Staffing Advisory Board (NSAB)**  
 Wednesday, November 20, 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; Uzo Izunagbara, RN; Carolyn Starnes, ASN, RN; Debbie Robinson, RN, MSN; Virginia Smith, BSN, RN-BC; Zennia Ceniza, RN, MA, CCRN, ACNP-BC, NE-BC (phone), Jenni Word, RN (phone)
Members absent	
PHD staff present	Dana Selover, MD, MPH; Anna Davis, JD; Matt Gilman, MPPA; Sarah McCarthy; Wendy Edwards, RN
Guests present	Jesse Kennedy (ONA), Matt Calzia (ONA), Danielle Meyer (OAHHS), Donnell Owens (KSMC)

<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>August 28, 2019 Board Minutes</i></b>
Motion to approve minutes: Virginia Smith Seconded: Carolyn Starnes  Motion passed	

<b>Agenda Item 3</b>	<b><i>Membership Updates</i></b>
Board co-chair inquired about NSAB membership updates.  M. Gilman introduced our new nurse manager member, Jenni Word from Wallowa Memorial Hospital. He also stated that three members have terms that will expire at the end of the calendar year. Those members are Z. Ceniza, C. Starnes, and V. Smith. As per the governor’s office, expiring members can continue to participate until roles are filled.  Board member asked if they could serve another term after their term expired.	

<p>A. Davis stated that the rules state that members can serve nonconsecutively, noting the time between membership is not entirely clear.</p> <p>M. Gilman stated he will contact the governor's office to fill the vacancy for the direct care non-RN position, and the open nurse manager positions.</p> <p>A. Davis stated that the vacancies have been shared with the Nurse Staffing Collaborative and will be shared with the Nurse Staffing Listserv.</p> <p>D. Selover stated that OHA looks to have a diverse representation of Board members, ensuring that members come from across the state and from both large and small hospitals. Additionally, OHA looks for members from both union and non-union hospitals.</p> <p>M. Gilman presented Certificates of Appreciation to C. Starnes and V. Smith.</p> <p>M. Gilman provided an update regarding the vacant Nurse Staffing Policy Analyst recruitment.</p> <p>Board member asked if there was an opportunity to edit the policy analyst position description to include a requirement for RN license.</p> <p>M. Gilman stated that RN license is a requested skill in the policy analyst job description.</p>	
<b>Action Item(s)</b>	<ul style="list-style-type: none"> <li>• Share the Policy Analyst job description with the Nurse Staffing Listserv.</li> </ul>

<b>Agenda Item 4</b>	<b>Status Updates</b>
<i>Nurse Staffing Waivers</i>	
<p>A. Davis noted minimal change from the last waiver update. The number of waivers denied, and the number of pending waivers has not changed. OHA has reached out to hospitals to request more information in order to make a waiver decision. Two new hospitals have sought waivers. Many waivers will need to be renewed in 2020 because the bulk of waiver requests came in 2017.</p> <p>Board member inquired if it is up to the hospital to know when their waiver expires and if there was a fast track for hospitals to reapply for their waivers.</p> <p>A. Davis stated it would be the same application process, but hospitals can reuse text from their last waiver request. Every waiver granted does list the expiration date which is always the first of the month.</p> <p>Board co-chair questioned if the OHA has received additional information regarding the open hospice waiver.</p> <p>A. Davis stated the original hospice waiver request is still open and no additional information has been received since it was previously discussed with the Board.</p>	

Board co-chair asked if the decision to be licensed as an acute care hospital was the hospice's choice.

D. Selover stated that hospices are special in-patient care facilities (SICF), which are a subtype of a hospital.

A. Davis stated these hospices would need a statutory change to keep certificate of need and leave the category they are currently in. Additionally, she added that OHA has not granted any waivers where the waiver request is for less than two nurses present.

Board co-chair stated that if the hospice provides care for one or two patients with two staff members, the concern is will they have a third staff member, or will they just tell nurses they cannot take breaks.

A. Davis stated that similar issues arise from critical access hospitals who have low patient census on night shifts. She added that no critical access hospitals have requested this specific type of waiver.

Board co-chair stated concern around hospices that chose to be categorized as a SICF, but to not allow variance to what the staffing law says about minimum numbers. The co-chair stated that this request does not meet the need for a waiver. The co-chair stated that the Board would welcome the requesting hospice to attend a future Board meeting to discuss the waiver request.

A. Davis stated OHA can accept the Board's recommendation to issue a waiver denial to the requesting hospice.

Board co-chair requested that the denial state that the board has had discussions regarding the waiver request on two separate occasions.

#### *Nurse Staffing Survey*

A. Davis stated that all 2017 surveys have approved plans of correction (POCs). She stated at least half of the 2018 surveys have approved POCs, and the first hospitals surveyed in 2019 also have approved POCs.

A. Davis stated there has been a decrease in the amount of time to approve a POC, with more hospitals closing their survey process before two hundred days. She stated that hospitals who have been through several POC drafts have had multiple teleconferences. She stated that a guide to writing a POC is shared with the hospital during the initial report, and in person during the survey. She stated that OHA does not put a limit on the number of teleconferences and will have as many as a hospital requests.

A. Davis stated that, in addition to teleconferences, hospitals are directed to the OHA nurse staffing website, as well the Oregon Nurse Staffing Collaborative (ONSC) for guidance.

Board member asked about civil penalties should a hospital fail to have an approvable POC in a reasonable amount of time.

D. Selover stated the NSAB will be included to provide recommendations if civil penalties become a requirement.

Board member stated that there are real life consequences for hospitals that do not follow the rules and the hospitals need to be held accountable. Member stated that these requirements are much like what is required by the Joint Commission in order to maintain accreditation.

Board co-chair stated that teleconferences need to be strongly encouraged. Co-chair stated that she has a draft of a letter that can be shared with hospitals by OHA. She added that it is hard to know if surveys are getting caught up in the bureaucratic process or if hospitals are stalling in returning to compliance.

#### *Complaint Dashboard*

A. Davis shared the current complaint dashboard, stating that, when possible, complaints are combined with surveys.

Board co-chair stated that in her experience, many complaints are due to egregious errors that are made, not simply an inadequate review of minutes or review of a plan. She stated that this data does not help the Board to assess the problems and the timeline for follow up does not allow nurses to feel confident that their complaint is being investigated in a timely manner.

A. Davis stated there are issues with the spreadsheet that don't allow for a granular look at the types of complaints that are received.

Board member asked if there were patterns in hospitals regarding types of complaints.

A. Davis stated that the spreadsheet shows that there is one complaint from a hospital, regardless of whether multiple complaints have been received from that hospital.

Board member asked if a complaint carried more weight than a finding on a survey.

A. Davis stated that a finding is a finding, regardless of how it was received.

Board member asked if OHA had determined if complaints could be separated from surveys. Member also asked if the complainant received feedback that their complaint has been received.

A. Davis stated that a surveyor would be joining the NSAB meeting and could provide additional details regarding that.

D. Selover stated that staff have been added to the hospital program to improve the complaint triage process.

A. Davis shared the nurse staffing complaint allegations dashboard, broken down by the complaint tags. She shared that 2019 triage numbers were not yet completed. She stated that there are certain tags that do not have any complaints while there are some tags that comprise many complaint allegations.

Board member asked if there was a trend between survey tags and complaint tags. He asked if OHA had seen similar trends between the two.

A. Davis stated this comparison would be extremely difficult to make because complaints call for a specific focus on the complaint allegation while the survey process is a larger review of multiple areas.

Board member asked about how OHA would investigate a specific tag, for example the tag for rest and meal breaks. Member asked when a civil penalties discussion would happen.

A. Davis stated civil penalties were something that OHA would like NSAB guidance on.

Board member asked if civil penalties could be discussed at the meeting today.

Board co-chair stated that recommendations regarding civil penalties should be added to the agenda of the next NSAB meeting.

Board member noted the positive trend of a reduced number of complaints being submitted but stated that perhaps this could also mean that complainants are not seeing positive change from prior complaints and are reluctant to submit additional complaints. Board member stated that a question could be added to the Survey Monkey to ask nursing staff how many times they have submitted a complaint without receipt of any information regarding the investigation of that complaint.

Board co-chair stated concern about the assumption that all nurses understand everything about the nurse staffing law. Co-chair stated that institutions should be assessing for the trends of complaints that their facility is getting.

<b>Action Item(s)</b>	<ul style="list-style-type: none"><li>• OHA to issue a denial to the current hospice nurse staffing waiver.</li><li>• OHA to add the discussion of civil penalties to the next NSAB meeting agenda.</li></ul>
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<i>Acuity Committee</i>	
M. Gilman stated the Acuity Committee’s goal was to develop guidelines to ensure nurse staffing plans include how to staff to patient acuity and nursing intensity, and how a hospital can demonstrate compliance. Member stated current members of this committee included J. Burrows, U. Izunagbara, V. Smith, and Z. Ceniza.	
<i>Overtime Committee</i>	
M. Gilman stated the Overtime Committee’s goal was to develop recommendations regarding the documentation OHA requires for measuring compliance with mandatory overtime. He stated that current members of this committee include D. Robinson, Jenni W., R. Campbell, and S. King.	
<b>Action Item(s)</b>	<ul style="list-style-type: none"> <li>• Schedule committee meetings and bring committee recommendations to next NSAB meeting.</li> </ul>

<b>Agenda Item 6</b>	<b><i>Open Action Items</i></b>
<i>Meeting Dates</i>	
M. Gilman stated that OHA would like to propose moving quarterly NSAB meetings to January, April, July and October instead of February, August, May and November. He stated that changing these meeting dates would allow NSAB meetings to align with other meetings, such as the ONSC meetings.	
Board member asked if February meeting could be held as planned and then move forward with the new proposal.	
D. Selover stated that OHA would like to have NSAB meetings prior to ONSC meetings to allow information to be shared with the Board first and with ONSC second. She stated that the ONSC is very important to OHA and attendance at ONSC is part of planned outreach.	
Board co-chair stated that while the ONSC is extremely valuable, it is not part of the regulatory structure. Co-chair stated that priority should be given to NSAB members and to agenda items that the NSAB wants to discuss.	
Board member stated that the NSAB references the ONSC often, however it is important to distinguish between the two. Member asked if the ONSC could provide a presentation. Member also asked if ONSC could be added to the NSAB agenda as a standard update.	
Board member stated that the ONSC should be collaborating with NSAB.	
Board co-chair stated the new meeting dates would be the normal time in February and the fourth Wednesday in April, July and October.	

*Legislative Report*

M. Gilman provided a draft of the report and stated that OHA Publications was reviewing the draft that was being shared with the Board.

Board co-chair walked NSAB through the legislative report for edits, paying attention to key achievements.

Board member suggested omitting information regarding subcommittees that have not met.

Board co-chair stated that she and the other co-chair would review the next draft received by OHA Publications and would review for any minor edits. Co-chairs will give final approval with the Board's endorsement.

Board member stated that it would be helpful to have a person not involved in the nurse staffing to review the legislative report.

Board co-chair shared a draft letter, written by the co-chairs to highlight suggestions to help hospitals work through the survey process and POC drafting. The letter would stress the importance of having nurse co-chairs involved in the survey process and the need to send the survey link out to a broad audience. The letter would be included in the initial survey toolkit that goes out to surveyed hospitals.

*Survey Monkey Result Sharing*

A. Davis shared the response from the OHA Department of Justice (DOJ) attorney regarding sharing confidential survey tools. To share SurveyMonkey data, identifying information would need to be redacted. In order to redact, OHA staff would need to seek DOJ input on every survey that was submitted. In terms of providing aggregate data, if the identifying information is removed, the information could be provided.

D. Selover stated that data could be used for research purposes and that perhaps there were researchers in Oregon who could use the data.

Board co-chair asked if data could be shared if comment sections were deleted when the data were released.

Board member asked if there are thoughts about aggregating the data going forward so that data collected in future surveys could be shared more easily.

A. Davis stated that creating surveys differently, having collectors set up in a larger survey providing we can close that survey at different times. If the survey was created differently it would allow data to be collected as one and then filtered out in different ways. It was noted that names are required in the survey to discourage multiple

completions by one person. With the right survey built, answers to questions could be filtered out.

Board co-chair stated that her recommendation would be to remove parts of the SurveyMonkey survey that make it harder to share the data.

Board member asked if the hospital being surveyed ever gets to see their SurveyMonkey data.

A. Davis stated the data are not shared with the responding hospital.

D. Selover stated that the narrative portion of the SurveyMonkey survey is very important to the surveyors when they are conducting their survey. These data may be used to corroborate survey findings.

Board member asked about natural language processing tools and if OHA has access to those tools.

A. Davis stated that there were not resources available to assess for these.

Board member stated that he would recommend a subcommittee to review the survey for statistical predictors.

Board co-chair stated this could be added to the list of goals and priorities for 2020. Co-chair asked members if there were additional items that should be added to the goals and priorities for 2020.

<b>Action Item(s)</b>	Add NSAB edits to the legislative report.
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<b>Agenda Item 7</b>	<b><i>Nurse Staffing Surveyor discusses survey activities</i></b>
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*Complaint Form and Process*

W. Edwards stated the importance of the complaint form and the information it elicits. She stated the information is reviewed for non-compliance and violations regarding the state administrative rule including nurse staffing rules, requirements regarding EMTALAs, and Federal CMS rules. OHA frequently follows up with complainants over the phone when more information is needed, and the complainant's identity is always kept confidential. W. Edwards stated that complainants receive a letter from OHA, communicating whether an investigation will occur or not. She shared that on some occasions, OHA does not have jurisdiction. She shared when this occurs, these complaints are referred to another agency. Some complaints may involve allegations of an immediate jeopardy and there is a federally required timeline to investigate. In order to be more efficient, OHA combines surveys with complaints when possible. If a complaint is received regarding critical care, OHA would include that department in one of the units surveyed. When the investigation is completed, the hospital receives a statement of deficiency (SOD) report and the steps required to create a POC. The complainant would receive a letter about the complaint, the outcome of the investigation and the SOD. The POC is posted on the OHA Nurse Staffing website once approved.

A. Davis reiterated that the complainant identity is confidential, however there is no statutory protection on the other complaint information. OHA has recently had record requests that include complaints. Federal complaints are protected by Federal law.

D. Selover stated that public records law in Oregon are written to promote transparency and this is an issue that must be considered carefully when survey records are requested.

W. Edwards described the demographic information that is gathered in case additional information is needed regarding the complaint. She stated that, specific to nurse staffing complaints, it is very important to collect accurate time and date information.

Board member asked if the electronic form expanded to allow complainants to write more information.

Board co-chair asked about how the client or patient is identified and stated that she has provided guidance to other nurses to provide a unit, date, and time.

W. Edwards stated that this would be important information to gather in order to substantiate a complaint.

Board member asked if surveyors are looking for specific OARs that have been violated.

W. Edwards stated that depended on the type of alleged violation.

Board member asked about the timeline regarding communication with the complainant, stating that nurses struggle with timelines for complaint communication and this may lead to a loss in trust in the process.

A. Davis stated that while the complainant correspondence is not tracked, OHA is continually working on the complaint triage process. A complaint triage overhaul is forthcoming.

D. Selover stated that OHA could share the complaint triage process improvement work at a future meeting.

Board member asked if combining the survey and complaint is burdensome.

W. Edwards shared that the extra work does not impact the integrity of the investigation and stated it works quite well.

Board member stated there was an initial excitement regarding our regulatory body, but nurses are looking elsewhere for support. Member stated they would like an independent pillar that solely looks at complaints because more feedback should be occurring.

Board co-chair added that a request to the governor was made to separate the triennial survey from the complaint process. She also shared that an expedited complaint follow-up and review would be welcomed. *Timeframe Selection*

W. Edwards shared the survey process, including what units are chosen to investigate. She shared that a unit may have core staffing but not the minimum staff numbers. Additionally, units may have had a hard time demonstrating whether staffing was based on acuity or intensity. If the nurse staffing plan is not clear, then it is hard for the hospital to articulate if the staffing was appropriate for the chosen block of time.

Board co-chair stated that surveyors are doing a good job of going line by line through the rules and confirming the information needed. Co-chair stated an emergency room may have a staffing plan that does not highlight the minimum number of nurses needed to be present in the department when there are no patients. She stated that would be viewed as a deficiency because they need a plan, even though the emergency department rarely has no patients. The law demands a staffing plan regardless. Critical access hospitals have minimum staffing written in their plans due to low censuses.

A. Davis stated there was a question from the Board about selecting blocks of time from the present, instead of retrospectively.

W. Edwards stated there were questions about the process of the survey. Specifically, she shared it might be difficult, based on how a hospital documents their current shift, for the hospital to demonstrate compliance with staffing.

Board co-chair stated the NSAB's request for live audits. She stated that nurse managers understand how the survey process works. However, direct care staff members are less involved and do not know as much as their nurse manager colleagues. The co-chair stated that having a surveyor question staff would allow for a collection of real time information and would allow surveyors to educate direct care RNs about the nurse staffing law. Finally, the co-chair added that it is important for staff to be directly involved in the process to truly understand how the staffing law works. Board member suggested the information gained could be lumped into survey monkey results. Similar to a real time survey monkey in person.

D. Selover noted in the past that the board has referred to the survey as burdensome and complicated and would not want to add to that without a return on investment.

Board co-chair shared that there may not be resources to add to the survey process, but the recent letter to the governor does ask for more resources. Should parts of the law be prioritized over another? How important are minutes versus can a hospital demonstrate that they are staffing to the patient populations?

Board member stated that OHA having visibility in the hospital is valuable. Member stated that having a presence on unit floors would be welcomed.

A. Davis asked if W. Edwards could address Total Diagnosis interpretive guidance draft language that was drafted by the NSAB's Total Diagnosis subcommittee.	
W. Edwards stated that upon review, she did not have a lot of feedback as the document encompassed much of what is required and provided good guidance	
<b>Action Item(s)</b>	• Create a complaint triage update for the next NSAB meeting

<b>Agenda Item 8</b>	<b><i>Emerging Issues in nurse staffing</i></b>
<i>Response to the co-chairs letter to the governor</i>	
D. Selover shared that OHA has had internal meetings to discuss resources. The Governor's office asked OHA to focus on a few areas that the co-chairs asked for. These included nurse staffing program improvements involving timeliness of complaints, POCs, reduction in complexity, nurse staffing expertise, and the need for more visibility. She acknowledged that turnaround times need to change and some of these are within OHA's span of control to improve. Going forward, OHA wants a balance between compliance with nurse staffing laws and burden placed on hospitals to demonstrate compliance. She shared that revisits and the next cycle of surveys will need feedback from the board. Additionally, OHA will seek Board input for civil monetary penalties.	
Board member asked if temporary contractors could help with the revisit process.	
A. Davis stated there is not enough resources to hire and train temporary nurse surveyors. She stated the training process takes between 18 and 24 months to complete. She also shared that OHA currently has two surveyor vacancies and recruitment is difficult; the positions have been vacant for over 11 months.	
Board member asked if OHA knew it was hard to fill the nurse surveyor positions.	
A. Davis shared that it is difficult to find RNs when the pay scale is not enticing. She shared that few nurses want to leave the bedside and travel the state fifty percent of the time.	
Board member offered an optimistic view, noting that next year the board can hammer out an end scenario with civil penalties. Civil penalties may bring increased compliance.	
<b>Action Item(s)</b>	• Draft revisit changes.

<b>Agenda Item 9</b>	<b><i>Public Comment</i></b>
<i>Letter from the Oregon Nurse Staffing Collaborative</i>	
D. Meyer shared a letter with board highlighting recommendations made by the collaborative. Modifying year, one revisits to take one or two items of noncompliance from the revisit process and incorporating those into the second round of surveys. Hospitals in the end of the first cycle of surveys be early in the first round of the second cycle. The collaborative also recommended an added thirty-day notice for surveys and modifying the second survey process to enable hospitals to attest to a minimum before	

surveyors are on site. OHA should take technical advantage of hospital advanced systems.	
<b>Action Item(s)</b>	

<b>Agenda Item 10</b>	<b><i>Adjournment</i></b>

**Approved by the NSAB February 26, 2020 with corrections**

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