



Oregon

Tina Kotek, Governor

Board of Nursing

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Meeting Topic: OAR Chapter 851 Division 61
Rules Advisory Committee (RAC) Meeting
Meeting Date: 7/16/2024
Meeting Time: 12:00 pm – 4:00 pm

Location: Electronic Media Only

Facilitator: Barbara Ju
Recorded: Yes

ATTENDEES:

Barbara Ju
Rachel Prusak
Kimberly Goddard
Selina Redbird
Ashlee O'Meara
Carole Nice
Debbie Rayburn
Kristin Mulligan
Lisa Rye
Mary Ann Vaughan
Nicolette Riley
Sean Scott
Christina (Tina) Kotson
Virginia (Virn) Chambers

AFFILIATION

Oregon State Board of Nursing - Policy Analyst
Oregon State Board of Nursing - Executive Director
Oregon State Board of Nursing - Chief of Staff
Oregon State Board of Nursing - Admin. Assistant
Kaiser Permanente – NW Hospitals Regional Director
Dallas Retirement Village NA - Program Director/Instructor
LeadingAge Oregon – Healthcare consultant
LeadingAge Oregon – CEO
Mt Hood Comm College NA/CNA2 – Program Director/Instructor
EMT Associates NA/CNA2 – Owner/CNA2 Program Director
Oregon Health Care Association – Senior VP of Quality
OR Dept of Human Services – Operations and Policy Analyst
Clatsop Community College – NA and Nursing program
Clackamas Community College -Director of Health Sciences

Other Attendees:

None

TOPIC	Comments
Welcome. Attendance, and ground rules for today's RAC meeting	Self-introductions - affiliation and title
RAC member reactions to proposed rule language in draft OAR 851-061	
851-061-0010	No comments
851-061-0030	<ul style="list-style-type: none">Question by Nicolette Riley: Where are the application form for approval? Barbara: application is in Edvera (new system).Question by Virn Chambers: Teaching methodology, is it referring to online? In (C), what is it referring to? Barbara: Yes, referring to online and various teaching activities used.Question by Nicolette Riley: should examples in (C)? Barbara – Highlight for review and consider adding examples for clarity.Question by Kristin Mulligan: Denial of program is there a timeline of notification of deficiencies? Should it be included? Barbara: during 90-day period, there is communication between program applicant and OSBN. OSBN collaborates and supports new program applicants on how they can

	<p>meet the requirements for approval. This process can be quite lengthy and it varies from program to program.</p> <ul style="list-style-type: none"> Question by Debbie Rayburn: Tag on previous comment - is the 90 days the limit to approve/correct? Barbara: 90 days can be approval or initial response if more work is needed by the applicant. Applicants are given information to fix issues for approval, not the timeline to be approved. OSBN works with applicant for program approval and sometime this takes months. Comment by Nicolette Riley: Need more clarification on timeline, there is no accountability for OSBN to respond in timely manner, meaning it may not be giving response until day before program starts, giving the program no time to adjust.
851-061-0035	<ul style="list-style-type: none"> Question/Comment by Nicolette Riley: (3)(a) where is requirement from? Need a CFR reference in division? Why is under routine periodic survey, if required should it be in opening paragraph. Barbara: required by Fed regulations to be surveyed at least every two years. Ask for any additional information from Scott. Will add CFR reference for clarity. Sean Scott: will find CFR for reference. Question Debbie Rayburn: (3)(b) any criteria for self-evaluation? Barbara: Board approved self-evaluation report template is provided to programs. Question by Debbie Rayburn: Is that why we took out narrative? Too prescriptive? Barbara: It is a standardized template with comment section for each standard. Question by Nicolette Riley: Can the programs make their own? Barbara: No. Comment by Nicolette Riley: Should say Board-approved self-evaluation, otherwise they can do their own.
851-061-0040	<ul style="list-style-type: none"> Question by Debbie Rayburn: (3) Give guidance of “satisfactory evidence”? Barbara: Depends on many variables such as a new program director, how much time lapsed in between, and other changes in the program. Satisfactory evidence is to ensure documentation is present to support they are meeting program standards.
851-061-0050	<ul style="list-style-type: none"> Comment by Nicolette Riley: For grammar, add if or when at the end of (1) Question by Kristin Mulligan: (1)(a) Is there any parameters what “consistently maintained” means? Are there indicators? What are the indicators? Barbara: Each standard is rated as “met, partially met, or not met.” There are three standards that are considered key that they are expected to be 75% or higher to be approved for two years. As an example, if the pass rates continue to be below standards, then that may be a reason to bring the program before the Board. Comment by Debbie Rayburn: In the world of long-term care, we are surveyed and its very precise system that says if you don’t meet this, this happens, and you have X amount of time to fix it. Comment by Nicolette Riley: (a)-(d) are the criteria when the Board would withdraw approval of a program. (e)-(h) are steps after Board has pulled your program and should be formatted (2)-(5). Barbara: Thank you, we will clean it up as we further refine the language in the division.

	<ul style="list-style-type: none"> Question by Virn Chambers: Clarifying question about self-evaluations, rubric, and process for evaluating whether or not a program maintains approval and compliance. A program must have a systematic plan of evaluation, correct? Barbara: yes, having a written evaluation plan is a standard towards the end of division. Comment by Virn Chambers – Seems like that is helpful to know for some of the comments that were made about compliance and what is satisfactory standards. These pieces that are in place as part of that may not be super clear and evident here but they are in the program evaluation standards. Comment by Nicolette Riley: (h) and (2) are saying the exact same thing. Barbara: That might address Nicolette’s previous suggestion for renumbering? Comment by Nicolette Riley: yes, except for (e)-(g).
851-061-0070	<ul style="list-style-type: none"> Comment by Virn Chambers: Wanted to say thank you publicly out loud for removing the writing within 15 days.” It is a challenge to report changes with the curriculum, staffing, or other changes within that 15-day window. Thank you for removing that and having more flexibility. Barbara: thank you for that comment. Questions by Debbie Rayburn: Tag on for clarification - only submit if ownership changes results in changes to the actual program? Barbara: Correct Debbie: So, no obligation to report if nothing else changes? Barbara: Correct Debbie Rayburn: No parameters on how soon a report should be submitted if it was going to create changes to the program? Barbara: Program faculty is highlighted in other section of the division that only Board approved faculty must be used as well as Board approved curriculum and education sites. This is more of an overview of changes that need to be reported. Debbie – Would people interpret the word “ownership” to mean the faculty or the location? When I think of ownership, I think of one of the community colleges is offering it and they’re the owner of it. Barbara: the ownership of program is who owns the program. If a company ownerships changes, then notify the Board of the change. Perhaps referring to it as the program parent company makes it clearer. Question by Mary Ann Vaughan: Is (2) redundant because we always have to file those with OSBN. Barbara: Included so everyone knows what needs to be reported.
851-061-0075	No comments
851-061-0080	<ul style="list-style-type: none"> Question by Tina Kotson: Clarifying question about NA program director qualifications– (1)(b) no longer says LTC? Barbara: LTC is federal requirement and supervision of a NA program must be done by (2)(a) a program director who has at least one year of LTC nursing experience or (b) All primary instructors must have at least one year of LTC experience. Comment by Virn Chambers: LTC requirement is federal regulation, not state – would like to change.

	<p>Barbara: Many people in Oregon support this change, and there is movement in other states working through their legislative process to bring this forward to federal leaders.</p> <p>Sean Scott: Of course, we could bring it forward but cannot make them listen to us.</p> <ul style="list-style-type: none"> <p>Question by Mary Ann Vaughan: Is there a requirement for program directors or instructors must have some acute care experience?</p> <p>Barbara: Removed all references related to the requirements for CNA2 program.</p> <p>Rachel Prusak: Will help in role but creates barriers.</p> <p>Question by Virn Chambers: (3)(a) how do programs demonstrate compliance?</p> <p>Barbara: subjective based on response from program director, do not want to be too prescriptive and outline your operational decisions. Are the program directors given enough time to carry out their administrative duties?</p> <p>Question by Nicolette Riley: (1) and (4) is duplicative, should they be combined?</p> <p>Barbara: (1) addresses program directors' requirements and (4) is for primary instructors but will look at it again.</p> <p>Comment by Nicolette Riley: discussion about LTC - beneficial to put CFR reference.</p> <p>Comment by Carole Nice: Background check new language says needs to be passed not just initiated.</p> <p>Barbara: current rule states background check has to be initiated. Does that proposed change create an undue hardship?</p> <p>Response to keep results back before clinical: Tina Kotson, Nicolette Reilly, Mary Ann Vaughan, Lisa Rye</p> <p>Question by Tina Kotson: Is (9) an exhaustive list with everything they are allowed to do or are these just suggestions?</p> <p>Barbara: Combining what CTAs currently do and adding key elements that are currently on a separate form-LPN Guidelines to clarify their role. Is anything missing that we need to add that CTAs can do? Take home message here is PI is in charge of didactic and lab with the CTA assisting with the clinical portion of the program; CTA can assist with lab but not the owner of the lab portion of the program.</p> <p>Question by Debbie Rayburn: (10) how is resident care manager (RCM) defined? A RCM in a skilled is usually an RN and didn't know if that role exists in assisted living.</p> <p>Barbara: RCM is a defined role within facilities.</p> <p>Comment by Carole Nice: RCMs in our skilled facility are usually the unit managers, and are RNs.</p> <p>Question by Debbie Rayburn: can Director of Nursing (DON)/Care manager not act as CTA?</p> <p>Barbara: While in the CTA role with students, they cannot do their usual job at the same time.</p> <p>Comment by Lisa Rye: Director of Nursing/Care manager if they are supervising, they are not doing their regular job, and cannot do either job well.</p> <p>Comment by Debbie Rayburn: Federal regulations speak of specifically that a skilled nursing must have full time director of nursing but does not say a full time RCM. In a skilled setting, this does not give flexibility to use RCM as CTA.</p> <p>Barbara: For the MA program, clinical portion requires 24 hours of 1:1 clinical supervision. If they are doing other duties, there is no way they can provide 1:1 supervision.</p>
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	<ul style="list-style-type: none"> • Comment by Debbie Rayburn: May be that could be spelled it out because I might have a facility with several half time RCM and would be nice to use them as a CTA. • Question by Tina Kotson: Clarification- if we had an RCM who works 3 days a week and wants to teach on off days, is that different? Barbara: Correct. It is like adjusting your staffing when you have two RCMs and only one RCM is needed then the second RCM can be reassigned to be a CTA. • Comment by Mary Ann Vaughan: (10) While working as RCM, DON, they are prohibited also acting as clinical teaching associates for MA students. Just clarify while you are at work under one job hat, that's the only hat you wear. Keep it simple. • Comment by Lisa Rye: It must be clear and is listed this way to protect workers from having too much responsibility that a facility may try to assign when "staffing is low". You cannot do both jobs (at the same time) well. • Comment by Carole Nice: Are there in the regulations about director of nursing, assistant directors of nursing and RCMs? The jobs they can or cannot do because they have to account for so many hours of doing what they are supposed to be doing. Barbara: That is outside this division and scope of our work. • Barbara: Are we in agreement that CTA for MA needs to be ONLY doing 1 to 1 clinical supervision? Want to make sure that is clear, and we are compliant with federal and state requirements. • Comment by Debbie Rayburn: The way it is worded seems like Board is taking responsibility for how RCM is doing their job, that is facility responsibility. Needs to be clarified or removed. All of (10) seems to be speaking of skilled nursing settings.
851-061-0090	<ul style="list-style-type: none"> • Comments/question by Virn Chambers: Higher Education Coordination Commission (HECC) uses a different ratio when it comes to credits and hours. HECC also have different definitions on hybrid and online. So, the OSBN rules and what HECC use they don't crosswalk or translate. Is there a rationale on how we came up with 37 hours, not 33 (1 credit)? 2 credits is 44 hours. We had to do some magic with numbers to make it a 6.5 credit course. Barbara: The revised curriculum with at least 37 hours was the product of curriculum task force recommendations from early 2023. Their focus was to keep essential content an entry level CNA needs to know then hours were determined after and came up with at least 37 hours of didactic, 28 hours of lab, and 40 hours of clinical. Previous version has didactic and lab hours combined but the Board asked for hours to be separated. • Comment by Virn Chambers: Helps us too in 3 buckets, must follow HECC definitions what of hybrid and online. They must follow HECC, and same with college course credits. • Comment by Kimberly Goddard: We could take back for collaborative conversations with HECC. • Comment by Nicolette Riley: please do not remove the hybrid and online language. They are different and could create a significant barrier. • Question by Lisa Rye: (4) Is it 6 months part time or full time? • Question by Mary Ann Vaughan: What are we trying to say 6 months full time or equivalent full time? Barbara: Sounds like "6 months full time equivalent work experience" would make it clearer.

	<ul style="list-style-type: none"> Barbara: In person CPR at the provider level is required for healthcare training programs per OAR 409-030-0230.
851-061-0100	Comment by Sean Scott: (2) (a) Should say for <u>nursing</u> facility-based programs.
851-061-0120	No Comments
851-061-0123	<ul style="list-style-type: none"> Comment by Nicolette Riley: 7 years retention is longer than facility-based record retention but aligns with statute of limitations. Barbara: programs have difficulty with the policy “course requirements including satisfactory progress standards”, suggestion on better way to title it? Comment by Debbie Rayburn: what if it said course requirements (for students)? The confusing language is “satisfactory progress standards”. It’s almost redundant to course requirements. Comment by Virn Chambers: I think about the whole syllabus idea. Everything needs to be in the syllabus as part of transparency and accessibility to students and it’s all of these pieces. Comment by Lisa Rye: Wants to keep “satisfactory progress standards” to remind people that they need to be tracking student progress. Question by Debbie Rayburn: Do we need to clarify we are monitoring student progress? Relative to what we require of them. Adding word student to clarify? Barbara: The purpose of this policy is to spell out so the students know exactly what they need to do to complete the program. Is your program tracking and showing student’s progress, and informing the students so it is not a surprise at the end. Let them know what the expectations are. Barbara: Need to let them know expectations before program starts and if they are meeting or not meeting standards throughout program Question by Virn Chambers: Can we keep student files electronically? Barbara: Yes, how you maintain records is operational decisions as long as they are kept for a period of seven years in a secure manner.
851-061-0126	<ul style="list-style-type: none"> Question by Barbara to Debbie Rayburn: Does this section help to answer your earlier questions and comments regarding program withdrawal section regarding not meeting or partially meeting? Comment by Debbie Rayburn: Yes, the way I read this section, this is like the quality improvement program for the program. In that other section, I was trying to grasp the operational definition. Reading through the entire division spells out what the program has to have, and satisfactory completion means that you are adhering to the guidelines and in this section, you are making sure that they are.
851-061-0130	<ul style="list-style-type: none"> No comments
Other RAC Comments:	<ul style="list-style-type: none"> Comment by Nicolette Riley: Curious about removing the section in 0050 about the CMS requirements about skilled nursing facilities that have sanctions not being able to keep their NA program. Barbara: OSBN receives monthly civil money penalty (CMP) reports and programs using any of the facilities on the CMP report are notified of ineligibility as an education site. It was removed in 0050 but kept in 0120 stating that facilities used must be in compliance with all applicable federal and state standards.

	<ul style="list-style-type: none"> Question by Mary Ann Vaughan: Does that mean cannot use them as clinical or both classroom as well as clinical? Barbara: OSBN process has been for both. ODHS is looking into getting this clarified.
RAC Member Input 1. How will adoption of these rules affect racial equity in Oregon? 2. What is the possible cost of compliance for your organizations related to the adoption of these rules?	<ul style="list-style-type: none"> No comments Comment by Virn Chambers: It's hard to really know but often it is faculty. It's administrative time and oversight that is hard to quantify. Overall, these changes are positive. Barbara: We will capture as unknown at this time with possible changes with possible impact.
Public Member Reactions	No public members or comments
Summarize/Wrap Up:	Barbara: Thank you for your time for a very collaborative meeting. A summary of today's RAC meeting will be distributed to the RAC membership and posted to the Board's Upcoming Meetings and Minutes webpage. Meeting adjourned at 2:53 p.m.

Minutes completed by Selina Redbird, Administrative Specialist and Barbara Ju Policy Analyst.