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Oregon Nurse Staffing Advisory Board (NSAB)

Wednesday, August 31, 2016
 1:00 PM – 5:00 PM

Meeting Minutes

Cochairs	Carol Bradley, MSN, RN, CENP(Presiding); Susan King, MS, RN, CEN, FAAN
Members present	Carolyn Starnes, ASN, RN; Debbie Robinson, RN, MSN; Jennifer Burrows, RN, BN, BSc, MBA; Rob Campbell, CP, ADN, RN; Ruwani Dissanayake, BSN, RN, PCCN; Virginia Smith, BSN, RN-BC (phone); Zennia Ceniza, RN, MA, CCRN, ACNP-BC, NE-BC
Members not present	Trece Gurrad, RN, MSN; Connie Pullen, BSN, RN, MHA
PHD staff present	Dana Selover, MD, MPH; Annabelle Henry, JD, MBA; Anna Davis, JD; Lisa Finkle
Guests present	Shannon O’Fallon, Oregon Department of Justice; Diane Waldo, Oregon Association of Hospitals and Health Systems

Agenda Item 1	<i>Call to Order – Carol Bradley</i>
The meeting was called to order.	

Agenda Item 2 Time stamp 00:00:42	<i>May 25, 2016 Board Minutes – Carol Bradley</i>
The board received the minutes by email in advance of the meeting. Susan King asked about the meaning of Shannon O’Fallon’s statement on page 10 regarding the multiple ways to reopen rulemaking.	

Annabelle Henry stated that the statement was not specific. There can be a formal petition to open rulemaking and Shannon O’Fallon was referring to less formal options to initiate rulemaking.

Carol Bradley agreed that it would be helpful for the board to understand the options for reopening or modifying rule language. Also, it would be important to know when the agency can take comment, because at the May meeting Shannon O’Fallon stated that the agency could not take comments.

Annabelle Henry offered to add an addendum to the minutes explaining the options and the timeline for those options.

Susan King asked about the meaning of a statement by Annabelle Henry also on page 10.

Annabelle Henry confirmed that this language was related to the role of the non-RN on the hospital nurse staffing committee and that the agency could not provide additional information at the May meeting because the rulemaking was in progress, since then the issue has been resolved. The rule language clarifies that the non-RN on the hospital committee serves in addition to the RNs that represent each unit.

The group agreed to remove Annabelle Henry’s statement on page 10.

The board voted to approve the minutes as corrected.

Action Item	<ul style="list-style-type: none"> • HFLC will correct the minutes before the next meeting and add an addendum explaining the options for initiating rulemaking.
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Agenda Item 3 Time stamp 00:09:07	<i>Open House Update & Nurse Staffing Questions – Carol Bradley</i>
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Anna Davis described the second Open House event that occurred on Thursday, August 25. The archived webcast is available on the website and the PowerPoint from the Open House is also available online. Viewer numbers are higher than the first webcast. In person attendance was minimal. During the live webcast viewers could send in questions, which were answered during the webcast by presenters. The agency received a lot of questions using this system and will look for additional ways to take questions during the next event. The questions from the webcast have been added to a list of questions raised at a meeting of the Oregon Nurse Staffing Collaborative. In addition, the agency received other questions in the first Open House and by email. This combined list has been provided to the NSAB as the source for the FAQ that the agency is creating.

Carol Bradley asked if there’s a record of the source of the questions.

Anna Davis stated that the questions during the webcast show the username of the individual, but that may not be a real name or show hospital affiliation.

Ruwani Dissanayake asked if anyone was taking notes of the questions and answers.

Anna Davis stated that she took notes and that the questions and answers will become part of the FAQ that will be available on the website.

Zennia Ceniza stated that during the Open House staff noted that some of the questions required additional discussion before they could be answered. She asked for confirmation that these questions would also be included in the FAQ.

Dana Selover stated that the list of questions includes questions that already have answers and those that needed further discussion. Some of the questions also come from the questions surveyors receive in the field. Sometimes the OHA cannot answer extremely specific hypotheticals, because there are numerous factors that will impact the final answer and the hypotheticals do not capture all of those factors. It is likely that hypotheticals in the FAQ will be fairly basic and simple.

Carol Bradley asked when the FAQ with answers would be available. Carol Bradley would like to make sure there's an opportunity to review the FAQ and make comments.

Annabelle Henry asked whether Carol Bradley is asking that the NSAB review the FAQ or licensees.

Carol Bradley stated that the NSAB members would be a great source of feedback on the FAQ to make sure that the answers are clear and concise and can be understood.

Annabelle Henry stated that it would be helpful to get feedback from the NSAB and that the target release date is the end of September or early October. Annabelle Henry suggested that email review might work.

Carol Bradley requested that the agency send the draft FAQ out to the members and set a deadline for feedback.

Zennia Ceniza noted that at her site they had 20 people watching the webcast, so the viewer number doesn't necessarily reflect the actual number of viewers.

Action Item	<ul style="list-style-type: none"> • HFLC will send the draft FAQ to the NSAB for feedback.
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Agenda Item 4 Time stamp 00:19:02	<i>Legislative Report – Carol Bradley</i>
<p>Carol Bradley stated that she and Susan King provided input on the draft report and both agreed that the executive summary should be written after the body of the report was complete. The draft report followed the outline provided at the May meeting and incorporated notes from the cochairs on specific topics to be included. Carol Bradley suggested that the group go through each section to make sure that members are comfortable with the content.</p>	

Susan King noted that in Section IIA there was confusion about whether the 2001 law included the hospital nurse staffing committees or whether that requirement was first included in the law in 2005.

Carol Bradley reviewed section IIB and IIC with the group. She noted that the report summarizes information for the legislature. She stated that both she and Susan King had input into Section IIIA, which describe the rule-review process with the NSAB acting as the Rule Advisory Committee.

Jennifer Burrows suggested that Section IIIA should capture the intent that there be structure to the rules, but that the rules allow each hospital to implement the rules in light of their location, size and other variables. NSAB members worked hard to make sure that they weren't being too rigid in setting standards.

Debbie Robinson agreed with this assessment.

Carol Bradley suggested that another bullet could be added to the list of topics addressed by the RAC to reflect that considerations were given to the diversity within the hospital industry with respect to size and other factors.

Carol Bradley stated that Section IIIB is about the rule that the NSAB played in the rulemaking process. Section IIIC includes member concerns about the final rules specifically regarding the lack of transparency and changes to rule language that did not involve NSAB members. Carol Bradley would like members to make sure the language reflects their experience with this process.

Susan King stated that she has several concerns in this section. The word "misunderstandings" applied to the role of the NSAB and when members could provide input would indicate that the NSAB members misunderstood. Susan King would like to see this phrased as "lack of clarification" about the process.

Carol Bradley also noted that there were other sources of input that RAC members were not aware of at the time. Carol Bradley also requested removal of the phrase "members' memories of".

Debbie Robinson and Ruwani Dissanayake agreed with this change.

Carol Bradley suggested that the word "memories" be replaced with "views" later in the same paragraph. Carol Bradley then moved the discussion to Section IIIC.

Jennifer Burrows noted that the discussion of hours when a hospital may require a nurse to work really related to the complexities of overtime.

Carol Bradley stated that the definitions and conditions under which overtime is worked are the concerns. She noted that the group is still struggling with the difference between mandatory and required overtime. She stated that in the hospital universe required does not mean mandatory and therefore that continues to be the main sticking point in how the language is interpreted.

Jennifer Burrows suggests that the language refer to interpretation of overtime provisions.

Susan King noted that from ONA's perspective it would be difficult to support a report that suggested that the NSAB want to consider language that contemplated two alternatives for the Oregon State Hospital exemption and she does not believe the NSAB as a whole would support applying this exemption to all hospitals.

Carol Bradley noted that the state has held itself to a different standard in this situation, and if the standard is defensible and evidence-based, then all hospitals should be held to this standard. Carol Bradley suggested that this type of situation is what the waiver process is for.

Rob Campbell noted that an absence of 20% is a disaster for a hospital. It is a situation that shouldn't happen regularly, therefore it does not make sense as an exemption. Each situation of this magnitude should be something the NSAB would hear about. If this happens repeatedly then there should be exploration of the root cause.

Annabelle Henry noted that it might be helpful to change the language to reflect that NSAB members may recommend that the language be amended or removed.

Susan King noted that the unequal treatment that Carol Bradley raised should be raised in the report.

Annabelle Henry suggested that inequality was addressed elsewhere in the report.

Susan King noted that Carol Bradley's language referred to consistency and standards, which isn't reflected in the report.

Carol Bradley suggested that the discussion in the report would be clearer if it was broken into bullet points. The bullets covered some of the points in the report, but would make them more factual.

Jennifer Burrows suggested that the bullets should be organized in order of importance to the board.

Shannon O'Fallon noted that as a legal matter the language is not an exemption, but is instead a defined emergency circumstance. It doesn't apply equally to hospitals, but the statute gives the agency the authority to define emergencies, and the agency has done so.

The group discussed wording options that avoid the word "exemption".

Carol Bradley discussed the remaining recommendations included in Section IV. These recommendations came from Carol Bradley and Susan King and were organized based on their view of the priorities.

Rob Campbell noted that the report does not reflect the fact that NSAB's main goal is to protect patient safety and the legislature should know that.

Carol Bradley suggested that this point could be made in the conclusion of the report.

Carolyn Starnes and Virginia Smith agree with this suggestion.

Carol Bradley stated that both she and Susan King agreed that a short list of recommendations was better than a longer list.

Debbie Robinson stated that the recommendations get at the core of what the NSAB is concerned about.

Susan King suggested that the last sentence of Section IVB be removed.

Carol Bradley did not object to the deletion, but wanted the report to clearly state that the exemption cannot be made acceptable. The question remains about whether there are any conditions under which the exemption would be acceptable.

Jennifer Burrows noted that the NSAB has not fully debated this topic.

Carol Bradley stated that this conversation would have been different if the question was under what circumstances a hospital should be exempted from the mandatory overtime provisions, and suggested that this is why the waiver process exists.

Shannon O'Fallon noted that this situation is not a waiver, the Oregon State Hospital provision defines what an emergency circumstance is for them, whereas a waiver is a variance to one of the requirements of the nurse staffing plan itself. There is no waiver available for the overtime requirements.

Rob Campbell noted that within the law there are emergencies that are contemplated.

Annabelle Henry suggested that the group might discuss what emergencies are and then whether an exception is warranted. The group could discuss what a waiver is and why it is or is not relevant to this discussion. It might be good to write in the report that the NSAB would like to discuss this issue more and then make a recommendation.

Susan King stated that the statute allowed the agency to define other emergencies and suggested that the NSAB should discuss what the other emergencies might be.

Carol Bradley suggested that the Section IVB be reduced to a single sentence clarifying that further discussion is needed. Carol Bradley thanked Anna Davis and Annabelle Henry for their work on the report and for incorporating the input from a variety of sources.

Rob Campbell moved to approve the report as written with the changes recommended during this meeting. Zennia Ceniza seconded the motion. The motion passed unanimously.

Carol Bradley suggested that an additional recommendation would be to reappoint that board members whose terms will expire in January 2017.

Susan King moved to recommend reappointment of the board members whose terms will expire in January 2017. Debbie Robinson seconded the motion. The motion passed unanimously.

Debbie Robinson asked whether the group will receive a response from the legislature to the legislative report.

Annabelle Henry stated that the agency does not generally receive responses to this type of report.

Dana Selover stated the legislature can ask Susan King and Carol Bradley if they have further questions.

Annabelle Henry stated that the full report will be available on the website.

Carol Bradley would like to make sure that the Executive Summary reflects the report itself.

Anna Davis explained the statutory submission requirements.

Debbie Robinson moved to give the cochairs authority to approve the Executive Summary of the legislative report. Carolyn Starnes seconded the motion. The motion passed unanimously.

Annabelle Henry stated that the draft Executive Summary will be sent to the cochairs on September 8, 2017.

<p>Action Item</p>	<ul style="list-style-type: none"> • HFLC will add language to Section IIB that reflects the effort to build flexibility into the rules to reflect the diversity of Oregon hospitals. • HFLC will change wording in Section IIIB. • HFLC will change wording in Section IIIC to reflect that overtime issue. • HFLC will change wording in Section IV to reflect the OSH language. • HFLC will add a recommendation to Section IV regarding reappointment of board members whose terms expire in January 2017. • HFLC will add language to the conclusion regarding the importance of patient safety. • HFLC will draft the Executive Summary and submit it to the cochairs on September 8, 2016.
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<p>Agenda Item 5 Time stamp 01:14:17</p>	<p><i>Strategic Planning – Carol Bradley</i></p>
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Carol Bradley suggested that this is an opportunity for the group to plan its impact.

Annabelle Henry provided the list of the OHA nurse staffing events for the remainder of 2016. In September or October the agency will release FAQs that have diagrams and clear explanations of common questions. In early November the agency will present to the Oregon Nurse Staffing Collaborative. The NSAB will meet at the end of November. The final Open House will be in December. The focus of the presentation at the Collaborative, the NSAB meeting, and the Open House will present the new nurse staffing survey tools, which are the matrices that surveyors use in the field. The tools standardize nurse staffing audits across the state. The agency hopes to receive input at all of these events. In 2017 the agency expects to host four board meetings and surveys are expected to begin in the second quarter which will allow the hospitals to use their new nurse staffing plans for a quarter before the surveys begin. Once the agency has some survey results, the board can then refocus its research and analysis in different areas.

Carol Bradley asked how NSAB meetings should be scheduled relative to the audits.

Annabelle Henry stated that this is a good question to explore. ORS 441.152(7)(a) and the board's bylaws require the board to meet once every three months. The meeting so far have been set for February, May, August and November. It is possible that this schedule will work well, the conversation in February can focus on the issues raised in the legislative report, in May there will be some preliminary information from complaint investigations, and then by August there will be information from the first surveys. One of the goals today is to set the NSAB meeting dates for next year.

Zennia Ceniza noted that four board member terms are set to expire in January 2017. *The remainder of this discussion appears in the minutes for Agenda Item 4.*

Ruwani Dissanayake asked for information about the Oregon Nurse Staffing Collaborative (ONSC).

Annabelle Henry described the ONSC and explained that the OHA shares information with the ONSC. ONSC meetings provide another way of disseminating OHA practices and also directs licensees to a source of best practices. The agency is required to set minimum legal standards, whereas the ONSC can work together to come up with practical solutions.

Dana Selover pointed out that the agency takes questions at ONSC meetings and hears about problems the hospitals see in practice.

Carol Bradley noted that the ONSC is a forum for similarly situated hospitals to share resources.

Dana Selover stated that when the hospitals are discussing issues, they realize areas of concern that they share and what they would like the agency to address. The ONSC is about sharing problems, sharing good ideas and sharing experiences.

Carol Bradley noted that the ONSC is not a formal input process, but there is a lot of shared learning that goes on in the group.

Zennia Ceniza noted that the ONSC also has working groups to address specific topics.

Debbie Robinson noted that the ONSC has put on workshops in the past and has a repository for sample documents on its website.

Dana Selover clarified that surveys will vary over time, and that once a survey has occurred in April, that doesn't necessarily mean that the same hospital will again be surveyed in April.

Carol Bradley suggested that the hospitals are accustomed to the survey windows that the Joint Commission uses so that hospitals know in which time window their survey cycle begins and ends.

Rob Campbell stated that the NSAB had spoken about this at length and that the notice for survey is three days, not more.

Carol Bradley stated that with the Joint Commission process they only know roughly when the survey will occur.

Rob Campbell stated that the three-day notice is sufficient.

Zennia Ceniza stated that her expectation is that there will be three years between the surveys.

Carol Bradley suggested that the hospitals can't create the nurse staffing documents right before a survey, so that even if hospitals are aware of their survey window, they will have to be ready.

Debbie Robinson agreed that the hospital nurse staffing committee will have been occurring and plans will be in place even if the hospital knows its survey window.

Ruwani Dissanayake stated that giving a specific time will not give an advantage, because hospitals should already be meeting and coming up with their plans.

Zennia Ceniza stated that the mantra at her hospital is "Joint Commission is every day."

Susan King suggested that the agency use the current standard for a while because this was discussed at length during the RAC and the board could reevaluate its recommendation once there is some experience with the new audits.

Jennifer Burrows asked whether the agency will survey every hospital within three years or if every year the agency surveys 1/3 of the hospitals.

Annabelle Henry clarified that the agency will survey 1/3 of the hospitals the first year, another 1/3 the second year, and the final 1/3 in the third year. The standard is that within three years every hospital will have a full survey. If the scope and severity of a complaint is extreme enough a hospital may have additional surveys, it will depend on what surveyors see. The hospital names will be fed into a randomizer and after the first three-year cycle the agency will decide how to rerandomize for the next cycle.

Ruwani Dissanayake asked for further information on the implementation, because there are still very basic questions being asked. She suggested that the agency put on a workshop for hospital nurse staffing committee cochairs.

Annabelle Henry noted that HFLC has gathered the names of the cochairs and can make a point of inviting these individuals to the next Open House.

Carol Bradley suggested that the Collaborative has upcoming educational opportunities and she is always aware of information that has been disseminated within the hospital association and within the ONA. Carol Bradley stressed the importance of communicating with one message.

Jennifer Burrows agreed that sharing is important, but acknowledged that each hospital will come up with its own solutions.

Carol Bradley suggested that HFLC provide an updated calendar.

The 2017 NSAB meetings are tentatively set for

- Wednesday, February 22, 2017
- Wednesday, May 31, 2017
- Wednesday, August 30, 2017
- Wednesday, November 29, 2017

Anna Davis will send out a Doodle Poll to confirm these dates.

Action Item	• Doodle Poll for 2017 NSAB meeting dates
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Agenda Item 6	<i>Rulemaking Update – Carol Bradley</i>
Time stamp 01:46:24	

Annabelle Henry stated that staff provided a copy of the Hearing Officer Report which includes the exhibits. There are also copies of the final rules which went into effect on July 1, 2016.

Carol Bradley would like the printed rules to include the date.

Time stamp 01:48:50	<i>Other Activities – Carol Bradley</i>
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Ruwani Dissanayake would like information regarding other implementation activities of the agency. She's aware of the Open Houses, the website, and doesn't know what else the agency is doing to implement nurse staffing regulations.

Annabelle Henry stated that some of the activity is operational and could be fleshed out in the minutes.

Zennia Ceniza suggested that the hospital nurse staffing committees have the responsibility for sharing information within the hospital.

Ruwani Dissanayake stated that often information does not trickle down to the bedside nurses.

Dana Selover stated that among other activities the agency is getting mediators on board and ready and getting the website ready so that the agency can post the information it is required to post. It might help to bring that in a written format and make sure that's transparent on the website.

Anna Davis stated that the team also did an outreach to hospitals that had or had applied for waivers to explain the new waiver standard.

Annabelle Henry suggested that HFLC can put together a one-page talking point sheet to show our activities.

Carol Bradley asked who can attend NSAB meetings.

Annabelle Henry confirmed that the meetings are open to the public and that the public can sign in. Meeting dates and agendas available are on the website.

Carol Bradley asked whether agenda items can come from the public.

Annabelle Henry confirmed that the cochairs set the agenda.

Susan King noted that the group will discuss waivers at the November meeting.

Annabelle Henry stated that the agency has been preparing to discuss which waivers are still in place and how many waiver applications have been received. The plan has been to spend the majority of the meeting discussing the survey tools.

Dana Selover stated that the agency can share the waiver process and go through the application form.

Carol Bradley stated that she would also like the February NSAB meeting to provide context on the number and nature of complaints the agency receives annually.

Annabelle Henry stated that HFLC can prepare a workload summary that includes the other survey activity as well.

Ruwani Dissanayake asked whether the group will actually see the survey tools at the next meeting.

Annabelle Henry stated that the tools will be available and agreed that HFLC can send them to the NSAB before the Collaborative meeting in early November.

<p>Action Item</p>	<ul style="list-style-type: none"> • HFLC staff will prepare talking points memo. • HFLC will send the nurse staffing survey tools to NSAB members in advance of the November OSNC meeting.
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Agenda Item 7 Time stamp 02:07:27	<i>Public Comments</i>
None	

Approved by the NSAB November 30, 2016.

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