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Oregon Nurse Staffing Advisory Board (NSAB)
Wednesday, February 27, 2019
1:00 PM – 5:00 PM

Meeting Minutes

Cochairs	Susan King, MS, RN, CEN, FAAN (Presiding); Jennifer Burrows, RN, BN, BSc, MBA
Members present	Debbie Robinson, RN, MSN (phone); Virginia Smith, BSN, RN-BC (phone); Amanda Newman, CNA (phone); Rob Campbell, CP, ADN, RN; Uzo Izunagbara, RN; Carol Bradley, MSN, RN, CENP (phone); Zennia Ceniza, RN, MA, CCRN, ACNP-BC, NE-BC (phone); Shannon Carefoot, RN, BSN, CCRN, CNML (phone)
PHD staff present	Dana Selover, MD, MPH; Anna Davis, JD; Matt Gilman, MPPA
Guests present	Danielle Meyer, Jordan Ferris

Agenda Item 1	*Call to Order*

The meeting was called to order and all individuals present and, on the phone, identified themselves.

Agenda Item 2	*Board Recognition*

The board expressed gratitude to Carol Bradley for her service as NSAB co-chair.

Agenda Item 3	*November 28, 2018 Board Minutes*

Board member comment suggesting clarification of agenda item number nine's last paragraph. OHA staff will make edits.

Motion to approve minutes, with amendments to agenda item nine: Rob Campbell
Seconded by: TBD
Motion passed

Agenda Item 4	*POC Guidance*

Board cochair asked what deficiencies cause Plans of Correction (POC) to be rejected.

Items that have resulted in lack of approved POCs in the past include confusion regarding the distinction between an annual review and a POC review, which needs to be more frequent than the annual review. Also, the number of individuals responsible for implementing the plan throughout the hospital. The plans must also provide enough

detail and be clear about what the hospital plans to do to correct the deficiency

A. Davis discussed participation by a variety of staff at the facility on the POC conference calls. The program sends a pre-call email when scheduling calls to help facilities determine which staff members will add value to the call. Frequently, hospitals' support staff attend to take notes in order to capture the discussion, without having to be involved in the discussion itself. OHA sends emails out after the conference calls with general references and resources. Hospitals are invited to have additional conference calls if needed.

Board member stated that utilizing a conference call before submitting their first POC was helpful.

Board cochair asked if OHA has determined the number of times a POC can be revisited in light of the fact that there are more opportunities hospitals to ask for individualized assistance during the POC process.

D. Selover stated that the trend is improving and hospitals should be able to achieve POC approval by the third submission. However, this is a learning process, so some facilities are still falling outside that expectation.

Board cochair asked how three was chosen as a standard.

D. Selover stated that this is a recognition that most facilities are getting approvals in two or three attempts.

Board cochair asked what the Board's responsibility is for helping hospitals that are struggling to get their POC accepted.

Board member suggested a live POC case study at a future advisory board meeting.

D. Selover stated that approved POCs are posted on the nurse staffing website.

Board member stated that the approved POC is posted, but not prior versions.

Board member stated that once every hospital has been surveyed they should know what to expect and the resources that are available. Suggested that fines, while unpleasant, would be a motivator for hospitals to get compliant with standards that are best for patients.

Action Items	• Future NSAB meetings topics: POC case study and discussion about maximum number of POC reviews until possible enforcement action is taken.

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Agenda Item 5	*Status Updates*

Nurse Staffing Survey – Dashboard – see meeting materials

A. Davis stated that surveyors have conducted 47 surveys. Completed surveys, with approved POCs are now moving into the revisit process. OHA target in conducting the surveys as scheduled at this point. At the November NSAB meeting, there were three facilities that were on their fifth POC and two that were on their fourth. Currently, there is only one that is beyond five. Of the 2017 surveys, there are two that don't have an approved POC.

D. Selover asked if the time between the survey and the POC approved days on the dashboard reflects calendar days.

A. Davis stated that the dashboard shows business days.

Board cochair stated that some facilities have been in the POC process for almost a year.

Survey Revisit Update:

A. Davis stated that the revisit process has been slow in getting off the ground, and that OHA is still working on setting up the process.

D. Selover stated that when the second survey cycle is started next year, she expects there to be substantially fewer citations. She believes that for the revisit, 60 days will become manageable because fewer citations equate to less time to review.

Board member stated that the surveyors should utilize the full tool set they use in surveys, in a framework of 360 view. The board member cautioned against making the focus too narrow for efficiency purposes.

A. Davis stated that the surveyors have federal training that instructs them on revisits to look at what was out of compliance in the original survey. The surveyors do not do a full survey of the hospital again during the revisit. The full survey occurs in the regular three-year cycle. When completing a revisit, the focus is whether the POC was implemented and whether the facility is back in compliance.

D. Selover stated that when surveyors are focused on something such as overtime, they are not going to look at the same unit to see if it has been fixed, rather, they will review a different unit.

A. Davis stated that late POCs are accepted and requested that facilities and surveyors have a conversation about the lateness prior to the deadline.

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Complaint Investigation Update

A. Davis stated that when there are multiple complaints about a single facility, the complaints are combined into one complaint investigation, and possibly folded into the full survey as well.

Board member requested to see actual numbers of complaints, categorized specifically to substantiated claims.

A. Davis explained that complaints are not categorized based on substantiated claims. Rather, they are categorized by the administrative rule at issue. When the investigation is folded into a full survey the findings related to the complaint are indistinguishable from findings related to the survey in the report.

A. Davis stated that at the beginning of the SOD, there are individual complaint numbers. These reference numbers reflect the number of individual complaints investigated.

Board member inquired whether anything can be done to make the complaint intake process easier on those filling out complaints.

Board cochair suggested adding that topic to the agenda for the next meeting. The board could develop specific recommendations, such as describing a complaint. The complaint should include the number of patients that are affected, the specific unit, the timeframe, and the specific problem. The group could propose advisory guidelines about what kind of information OHA needs in order to make it easier for an investigation to begin.

D. Selover stated that the form is generic for all facility types and that providing some guidance for nurse staffing complaints specifically is reasonable.

Board member asked what types of obstacles surveyors face when they receive complaints in the format that they currently exist.

A. Davis stated that the most common obstacles are a lack of specificity in the complaint and issues that fall outside of the nurse staffing rules.

Board cochair requested that one or more surveyors attend the meeting to provide input and answer questions about the complaint process from the board.

D. Selover requested that the Board provide questions they have ahead of time so the surveyors can be prepared as surveyors have limited time to attend meetings due to survey workload.

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2018 Survey Year in Review presentation – see PowerPoint materials

A. Davis noted that the survey data shows that 43 on-site nurse staffing surveys have been completed. There were actually 44 occasions when a survey was on site to complete a survey. One facility is a satellite clinic of a California hospital that does not have any nursing services or Registered Nurses (RNs) in Oregon. All approved POCs are available on the website (www.healthoregon.gov/nursestaffing). Each time a POC is approved, it is added to the website.

A. Davis also noted that the 600 tag is the nurse staffing complaint information that must be posted and visible to the public and nurses. The 602 tag is the anti-retaliation notice and the 604 tag is a list of documentation requirements. The 628 tag is a catch-all tag, so any citation in 630-646 will also have 628 cited as well. The 670 tag is the overtime policy, which is a facility-wide citation, not a unit-specific citation.

Action Items	• Future agenda topic: NSAB recommendations for Nurse Staffing- specific guidance on the general complaint form. • NSAB members will submit questions in advance for surveyors to attend and answer questions. • OHA will resend the complaint form to board members.

Agenda Item 6	***Committee Updates***

NSAB SurveyMonkey Committee – see meeting notes and revised survey questions

Board member requested to see data from the survey questionnaire that is administered through SurveyMonkey.

D. Selover stated that this would need to be cleared with Oregon Department of Justice (DOJ) because information collected in the survey is considered confidential by statute. If DOJ approves that OHA may share some aggregate data. The issue then becomes finding the resources needed to extract the data and put it into a useable format. There are 47 surveys to date and each one has responses anywhere from two to 600. The current survey asks about 30 questions for each full-audit site visit. The results from each survey are separate and not currently in a single database for analysis. Putting these responses into a single document would require a significant amount of time, and the nurse staffing program does not currently have the analytical and research capabilities to do that. It might be more reasonable to identify one or two questions that the board would want to look at instead of the entire set. OHA will need to explore realistic options.

A. Davis stated that SurveyMonkey data is not used for every hospital survey report. If there is not a sufficient response rate, or, if there was a reasonable response rate, but the data doesn't support survey findings, the data are not used in the final report.

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Board member asked if surveyors looking for evidence that the facility made that SurveyMonkey tool available to staff.

A. Davis stated that evidence is not requested, but that, based on the response rate, it is clear when the survey monkey link has been broadcast.

Board cochair asked if evidence should be requested because the amount of energy put into the survey was quite large.

A. Davis stated that the surveyors can ask during the entrance conference, but there is currently no requirement that a message be sent out.

D. Selover stated that there is no statutory or rule requirement to send out the link and it is unclear whether there is statutory authority to such a requirement to the rules. The Board could recommend that OHA send a message regarding the survey.

Board member stated that when the survey process began, hospitals may not have been aware that this survey was coming to them. Now that they know what to expect. The board member expressed interest in whether there is an improved response rate now.

D. Selover stated that hospitals have probably improved in sending it out. If DOJ gives the clearance to share data, language would need to be added to the survey to state that the data may be used in that fashion.

Board member asked if OHA is seeing more SurveyMonkey responses per hospital in the latter half of 2018, and first part of 2019 compared, to late 2017 and early 2018.

A. Davis stated that is not a trend at this time.

M. Gilman suggested that a question could be added to the SurveyMonkey, asking how the individual received the survey.

Board member commented that the original purpose of the survey was to solicit input from staff. Board member asked if another source of receiving this feedback might be valid, and whether this survey may be duplicative to other nationally-validated surveys.

Board cochair requested clarification, of whether the question was if one of the national surveys could be substituted for the SurveyMonkey survey.

Board member affirmed that this was the suggestion.

Board member asked if question 37 on the survey was referring to the hospital staffing plan, or to the unit staffing plan.

M. Gilman stated that the question asks about the hospital nurse staffing plan.

A. Davis stated that it is assumed survey respondents answer based on their own experience.

Board member suggested that the question should state whether it is asking about the unit plan or the hospital plan. The board member suggested that it should say "unit."

D. Selover stated that the proposal should be deferred to the SurveyMonkey committee

A. Davis stated that any changes should fit the purpose of the survey.

Board member stated that it would be extremely helpful to have surveyors present for this discussion.

A. Davis stated that surveys used the SurveyMonkey tool as it is for 2017 and 2018. The questions were recently changed, and the new survey is being used for 2019. Therefore, there should be more time to see how the rewritten tool is working before additional revisions are made.

Acuity Committee – see meeting notes

M. Gilman stated that an acuity crosswalk document was created to compare Oregon Revised Statutes (ORS) and Oregon Administrative Rule (OAR) language. A list of factors was discussed regarding patient acuity. The factors were provided to the Oregon Nurse Staffing Collaborative (ONSC) for discussion at their last meeting. The Acuity Committee will reconvene to revisit that discussion.

D. Selover noted that two OHA nurse staffing employees are no longer with the state and reminded Board members to send emails directly to M. Gilman.

A. Davis stated that the mailbox.nursestaffing@state.or.us is monitored and that actual survey correspondence requests for POC phone calls and general questions should still be sent to that address.

Board cochair asked if Acuity committee participants viewed this as the beginning of the work and asked what format would be used for unit-specific acuity measures, which could usually also be intensity measures.

Board member stated that the committee brainstormed the list and wanted to solicit additional input from the ONSC. After this information was collected, it would be shared with the Acuity Committee and then with the NSAB. The member stated that units are creating acuity tools for themselves, rather than the board telling them what they need to do. Board member stated that there is a significant transition occurring with Electronic Medical Record's (EMR) ability to pull data. However, there is not a lot of reliability in it.
Board member stated viewing acuity as assessment, medication, and other specific measures, while they view intensity as the amount of emotional support to the family,

and the amount of time spent with each patient who may have high needs for assistance with activities of daily living (ADL).

Board member commented that the staffing matrix is a self-created problem because the matrices are using ratios, which don't reflect the acuity component.

Board cochair agreed with other comments, and provided the example that occasionally, the sickest patient in terms of diagnosis is the easiest patient to care for. The cochair stated that they would like to see more granular descriptions of factors that reflect the level of nursing care provided, regardless of how sick the patient is.

Board member recommended moving in a direction of standardizing the acuity tool that is generated by an electronic health record.

Board member commented that there is not a good sense of what facilities use to measure acuity. Some are able to use electronic medical records (EMRs), others may not understand the EMRs' functionality, and some may use a 'home grown tool'. Board member wants to make sure that there is focus on providing assistance to facilities, and meeting expectations, and that OHA understands the Boards perspective on this.

Board cochair stated that they do not want to see acuity and/or intensity removed from the electronic health record.

Board cochair recommended that Board members and non-Board members should send their suggestions of the kinds of factors that a unit should consider as they are developing their staffing plan to M. Gilman. He will share the list of suggestions with the Acuity Committee. The Board cochair also requested that the NSAB be informed when the sub-committee meeting is scheduled so that a deadline can be set for any suggestions to be submitted.

M. Gilman stated that he will send out a Doodle Poll to the current committee members and once a date is confirmed he will let the board know.

Survey Tool Committee – refer to meeting materials, summary of changes

M. Gilman stated that survey tool revisions were reviewed, and the changes were proposed did not rise to the level of asking for DOJ's opinion. M. Gilman shared a document that described all suggested changes to the tool and explained why changes were or were not incorporated into the new tool.

Board cochair asked what item 33 was on the second page.

A. Davis stated that the item was related to qualifications and competencies documents that OHA requests.

Board cochair asked whether OHA could request the same things that Joint

Commission requests.

Board member asked if the large number of 'no changes made' were due to the requested edit being tied to a statutes or rule.
A. Davis stated that, where there were no changes, there is a statement explaining the reasoning for not making a change. OHA received suggested changes and edits from three sources and the document provided reflects a reconciliation of all sources of change requests.

Board member asked for clarification on the last question and if they are still reviewing all hours over the scheduled 48- or 12-hour rule.

A. Davis stated that was correct.

Board member expressed the desire to hone in when a surveyor visits a hospital and make sure that they are capturing mandatory overtime and that it is being tracked with the understanding that the goal is to reduce mandatory overtime. The board member expressed concern that people are going to get fixated on having people classify voluntary versus mandatory as opposed reducing mandatory overtime as is the intent of the law.

Overtime Committee

Board cochair stated that the documentation reviewed by surveyors should be for mandatory overtime. Board cochair stated there is still some debate about whether the Board has the authority to say that OHA surveyors should only review mandatory overtime, because that is the Board's recommendation.

M. Gilman stated that there has been discussion about inviting DOJ to attend the next meeting to review the statute and address some of the overtime issues.

D. Selover agreed with inviting DOJ and suggested that it would be beneficial to have surveyors attend that conversation as well.

Board cochair stated that it is a simple question of whether the Board has the authority, in statute and rule, to make the recommendation that overtime review should focus solely on mandatory overtime.

Board member stated the desire to see something changed prior to the next quarterly meeting, and expressed that this is an opportunity to make the law more meaningful and less bureaucratic.

Board member stated that it could be a slippery slope if only mandatory overtime is documented. There is the potential that the law could be diluted if only mandatory overtime is considered, as many nurses will take overtime, even though they don't really want to, but they may feel the need to take overtime for the greater good of the

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team.

Board member questioned whether skipping breaks should be documented as that could be burdensome.

Board member stated that alternatives should be considered, and that the committee needs to reconvene to do additional work.

Action Items	• Invite DOJ to next meeting to address questions regarding mandatory overtime documentation requirements • Develop recommendation of how to address and resolve the mandatory overtime documentation issue • Revisit SurveyMonkey questions at a future meeting, not before end of 2019 • Reconvene Acuity committee • Reconvene Overtime committee

Agenda Item 7	*ONA Nurse Staffing Law – Policy Analysis Survey*

J. Ferris presented the ONA survey results. See PowerPoint presentation in materials

Board member asked for clarification on question nine, where results reflected a gap in how disagreements are handled.

J. Ferris suggested that the slide reinforced the question of whether the staffing committee engaged in collaborative problem solving when there was a disagreement on staffing plans. Both RNs and management responded that, more often than not committees engage in collaborative problem solving when there are disagreements.

Board member asked, in relation to question 12, what the term 'effectiveness' was because it could mean different things to different people.

J. Ferris stated that this term was not defined in the survey, so it was open for interpretation.

Action Item	• None identified

Agenda Item 8	*NSAB Feedback*

Total diagnosis for unit

A. Davis stated that there is often confusion between total diagnoses and acuity. Total diagnoses reflect the general patient population and acuity reflects to the patient on the unit right now. Although the statute and rule say total, surveyors do not expect an exhaustive list, rather they look for the most commonly seen diagnoses.

Board member stated that the rule states "total diagnoses", not "medical diagnoses", and that there is no reference to ICD-10 (International Classification of Diseases, Tenth Revision) codes in the rules.

Board member asked if OHA has observed any tags arising total diagnoses reflected staffing plans.

A. Davis stated that there are a lot of citations. Some nurse staffing plans do not address total diagnoses at all. Other nurse staffing plans list procedures instead of diagnoses.

Board member recommended that OHA review the survey process surrounding total diagnosis and consider whether to keep it if it is not required by statute.

A. Davis stated that it is required by statute and OHA does not have the ability to unilaterally decide they are not going to review it anymore.

Board member suggested that total diagnoses could be defined differently.

Board member proposed that more work is needed on the subject and that it should be a new subcommittee. The board member asked M. Gilman to send out a query to the whole committee to get volunteers for the new subcommittee to make recommendations on how to describe and operationalize the language for total diagnosis.

Wavier parameters

A. Davis stated that the Board has given previously parameters on what to consider for in waiver requests. OHA has received new waiver requests that fall outside of what has been previously discussed. Scenarios for example, whether non-RNs can provide meal and break coverage for an RN.

Board member asked whether this waiver request was related to a specific unit and if there was a single RN on duty in the department. The board member asked if the unit meets the definition of a nursing unit that needs a staffing plan.

A. Davis stated that there are two facilities where this question is coming up. One is an inpatient hospice where, on some shifts, there is only one RN on duty. The other request is from a large hospital. This request is during night shift, when there is only one RN in the unit, and to cover breaks, an RN from another unit is considered to be covering the other RNs breaks.

Board member suggested saying no to this waiver request because it could be a slippery slope to begin allowing non-RNs to cover breaks on a unit. This waiver could create a situation where non-RNs cover for nurses while on breaks and lunches.

Board member concurred with this concern.

Board cochair stated that the context around this question is important because in years past, there have been situations where the "unit" was a room within a larger unit.

This "unit" was treated as a standalone unit. It is important to understand what their specific situation is, so it is difficult to provide a blanket answer.

A. Davis stated that this waiver was for an inpatient hospice, which has only one unit in the facility. It is staffed with one RN and usually has three to four patients.

Board member recommended to deny the waiver request.

D. Selover stated that there are four freestanding inpatient hospice facilities in the state, and when the nurse staffing law was being considered, these facilities did not have the opportunity to provide feedback to the legislature. They are technically hospitals.

Board member asked why they are considered hospitals.

D. Selover stated that, the special inpatient care facilities (SICFs) are a type of hospital. They were later provided the opportunity to remove themselves from the definition of SICFs, but they opted not to.

Board cochair suggested that the best way to deal with these type of facilities is a waiver that would allow a nurse to be off of the unit as long as the nurse has a phone.

A. Davis stated that it is her understanding is that at these facilities, nurses on break are not allowed to leave the facility. If the Board wanted to recommend that nurses must stay at the facility, there could be a BOLI issue.

Board member offered to research national standards for hospice care nursing before the agency makes a decision.

A. Davis stated the second request was for a non-nursing staff member to work in lieu of the second nursing staff member. Generally, this type of request relates to a technician, when the request is for someone with less training than a technician the board could provide additional guidance. A specific request came from a clinic that has one RN, and a secretary who is there to schedule the appointments. Could the secretary count as a second member?

Board member asked what type of clinic it was.

A. Davis stated that it is a wound care clinic.

Board member questioned if this request has already been discussed.

A. Davis stated that this particular request has not been discussed and is a waiver request is for one RN and the secretary.

Board member stated that, similar to the previous discussion, this is another slippery slope. In the board members opinion, the second person needs to meet or exceed the

skills and training of a Certified Nursing Assistant (CNA).

Board member suggested that the law should not apply to this clinic in the first place, and perhaps the clinic should be excluded from the nurse staffing plan.

Board member suggested that the clinic does not meet the definition of a nursing unit in the first place.

Board member asked whether this was something the Board can recommend be excluded as not being a nursing unit.

A. Davis stated that according to the statute, the hospital itself must determine which units are nursing units.

Board member recommended that OHA make it clear to hospitals that by including an area of the hospital as a nursing unit that area will then have to follow all nurse staffing statues and rules.

A. Davis stated that the third waiver request related to minimum staffing when there was one patient in an infusion clinic. The question is whether the clinic can have the medical staff (an MD, for example) and one RN. This type of waiver request has also come up in a wound care unit.

Board member stated that an infusion center must always have a physician present. The physician is not allowed to leave, or the clinic will fail to meet CMSs' Conditions of Participation (CoP).

Board member stated that under each individual circumstance where this question may arise should be looked at on its own merits.

Action Items	• Convene Total Diagnosis Committee • Provide new interpretive guidance and consider nursing diagnosis versus medical diagnosis • Waiver parameters: Board co-chair will review inpatient hospice national nurse staffing guidance/standards.

Agenda Item 9	*Emerging issues in nurse staffing*
No emerging issues.	

Agenda Item 10	*Public Comment*
No public comments received	

Approved by the NSAB May 22, 2019

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