

Oregon Nurse Staffing Advisory Board (NSAB)
Wednesday, January 26, 2022
 1:00 PM – 5:00 PM

Meeting Minutes

Cochairs	Susan King, MS, RN, CEN, FAAN (presiding); Debbie Robinson, RN, MSN
Members present	Uzo Izunagbara, RN; Jenni Word, RN; Barbara Merrifield, MSN, RN; Joel Hernandez, RN; Kelsey Betts, RN; Chandra Ferrell, CNA; Todd Luther, RN, CEN; Lace Velk, RN; Mariah Hayes, MN, RN, NE-BC
Members absent	Shannon Edgar, RN, MBA
PHD staff present	Dana Selover, MD, MPH; Anna Davis, JD; Kimberly Voelker, MPH; Michelle Ingram, RN; Sonya Wasson, RN; Wendy Edwards, RN

Guests present	Jesse Kennedy (ONA); Amber Stevens (JJLM); Natika Didericksen (Shangri-La); Matt Calzia (ONA); Donell Owens (OFNHP); Christy Simila (ONA); Rachelle Lyson-Schatz (Legacy Meridian Park); Juliet Tate (Express Healthcare); Dawne Schoenthal (Oregon Center for Nursing); Mark Peterson (Sacred Heart Medical Center – Riverbend); Kathleen Derby-Ray (Community Action Team); Erica Swartz (OHSU); Therese Hooft (ONA); Ruth Miles (Salem Health); Aunna Lindsay (Deloitte US); Jackie Fabrick (Providence Health System); Beth Dimler (Lower Umpqua Hospital); Lisa Ledson (Kaiser Permanente); Sheila Swan (ONA); Rick Allgeyer (Oregon Center for Nursing); Ruby Jason (OSBN)
----------------	--

Agenda Item 1	<i>Call to Order</i>
The meeting was conducted as an online Zoom meeting with computer and phone audio options. The meeting was called to order and members confirmed their presence on the meeting via roll call. All other individuals present identified themselves.	

K. Voelker introduced the board's new members: T. Luther, L. Velk, and M. Hayes. She also introduced S. Edgar, who was unable to attend the meeting. All other members of the board introduced themselves.

Agenda Item 2	<i>Minutes</i>
<p>Board co-chair asked if the board had any corrections, additions or questions about the minutes from the October 2021 Quarterly NSAB meeting.</p> <p>Motion to approve October minutes as written: Barb Merrifield Seconded: Uzo Izunagbara Motion passed</p> <p>Board co-chair asked if the board had any corrections, additions or questions about the minutes from the November 2021 NSAB RAC meeting.</p> <p>Motion to approve November minutes as written: Joel Hernandez Seconded: Jenni Word Motion passed</p>	

Agenda Item 3	<i>Membership & Program Updates</i>
<p>K. Voelker announced that U. Izunagbara was appointed to the Direct Care Co-Chair position. She congratulated him and thanked S. King for her service in that role.</p> <p>K. Voelker reminded the board that Workday is the platform members use to take required trainings. She stated that if members had any problems logging into their account, they needed to contact her so she could reset their account.</p> <p>D. Selover provided information about HB 2993, which creates new requirements for Rule Advisory Committees (RACs) to include representation from impacted communities on RACs and for the agency to include a statement about the impact of the rule changes on racial equity.</p> <p>Board co-chair asked whether HB 2993 impacted temporary rules.</p> <p>D. Selover stated that temporary rules do not require RACs, so they would not be impacted by HB 2993.</p> <p>A. Davis provided an update on program changes and stated that OHA was looking to hire two new surveyors and a nurse staffing administrative specialist.</p> <p>Board co-chair asked whether OHA had difficulty recruiting surveyors.</p>	

A. Davis stated that OHA had significant difficulty finding candidates for the surveyor position, but that they had recently received some prospective candidates who were in the application process.

There were no additional questions or comments about membership or the nurse staffing program.

Agenda Item 4	<i>Status updates</i>
----------------------	-----------------------

Nurse Staffing Waivers

K. Voelker presented the nurse staffing waiver dashboard, which included charts showing the initial, subsequent, renewal, partial denial, expired and lapsed nurse staffing waiver requests for large, medium and critical access hospitals; a chart showing the patient care areas covered under approved waivers; and a chart showing the number of waivers expiring in 2022 and the months the waivers expired.

Board co-chair asked whether surveyors check whether the hospital is still using its waiver after it has expired.

K. Voelker stated that for surveyed units, surveyors will ask whether the unit is operating under an approved waiver. She stated that some hospitals have discovered that their waivers had expired during nurse staffing surveys.

Board member asked whether there were any updates on the waiver request submitted by Curry General Hospital.

K. Voelker stated the hospital had withdrawn its hospital-wide waiver request and submitted a request for two units. She stated that the waiver request was currently under review.

Board co-chair asked for an update on the status of the waiver request at the next board meeting. She stated that the board had concerns about the hospital's previous request and wanted to know how those concerns were addressed in its current request.

Nurse Staffing Surveys

K. Voelker presented the survey dashboard for Cycle 1 and noted that only one hospital, Cedar Hills Hospital, did not have an approved Plan of Correction (POC). She stated that OHA had met with the hospital to address questions about the POC.

K. Voelker presented the survey dashboard for Cycle 2 and stated that the dashboard did not include Legacy Silverton Medical Center and Peace Harbor Medical Center because surveyors had recently exited the facility. She stated that OHA was in the process of writing survey reports for those hospitals.

Board co-chair expressed surprise that there were hospitals on their fourth POC and wanted to know what the ongoing problem was for those hospitals. She proposed raising this issue with the surveyors later in the meeting.

A. Davis stated that OHA offers conference calls to provide POC guidance, and she stated that OHA contacts the hospital to set up the conference call if OHA has concerns. She noted that the POCs for the second survey cycle had fewer tags to correct.

There were no additional questions about the survey dashboards.

Nurse Staffing Complaint Investigations

K. Voelker presented the nurse staffing complaint investigation dashboard. She explained that “Revisit w/ Cycle 2 survey” referred to standalone investigations whose revisit survey would be combined with the Cycle 2 survey; “Investigation & Revisit Combined w/ NSS” referred to investigations that were combined with the Cycle 1 survey and had their revisit survey combined with the Cycle 2 survey; “Combined w/ Cycle 1 survey” referred to investigations that were combined with the Cycle 1 survey and were awaiting a revisit; and “Revisit: Passed” referred to a standalone investigation that had completed the revisit survey with no deficiencies found on revisit.

Board co-chair noted that there were multiple complaints with an investigation in progress for Kaiser Westside. She asked whether complaints were from the same unit or were from across the hospital.

A. Davis explained that when OHA receives many complaints about a hospital, there are usually some complaints about a single unit, complaints about multiple units, and complaints about hospital-wide conditions.

Board member asked whether the individual who submitted a complaint gets notification that an investigation is in progress.

K. Voelker stated that after the Hospital Complaint Triage Team triages the complaint, OHA will send the complainant a letter explaining whether it will complete an investigation, but OHA does not specify when the investigation will occur because complaint investigations are unannounced. The complainant receives another letter after the investigation is completed with a copy of the investigation report.

Board member asked what the timeframe was for complainants to receive a determination letter stating whether OHA would investigate the concern.

K. Voelker stated that the timeframe varied based on whether OHA needed to gather additional information from the complainant. She stated that OHA tried to get a letter out within two weeks of the triage team’s determination, but that it can sometimes take longer for the complaint to have enough information to be reviewed by the triage team.

A. Davis clarified that while OHA is gathering information, they are in contact with the complainant, so the complainant is aware that OHA is gathering information.

The board did not have any additional questions or comments.

Action Item(s)	<ul style="list-style-type: none">OHA to provide update on Curry General Hospital nurse staffing waiver request
-----------------------	---

Agenda Item 5	<i>2021 Year in Review Presentation</i>
----------------------	---

K. Voelker presented 2021 Year in Review slides. She showed the number of surveys completed in 2017, 2018, 2019 and 2021. She stated that Cycle 1 data was combined from 69 hospitals, whereas Cycle 2 data was combined from the twelve hospitals with completed reports. She stated that based on early data, hospitals were receiving fewer citations related to nurse staffing committee requirements, nurse staffing plan requirements, and mandatory overtime.

K. Voelker presented survey data related to posting and documentation, nurse staffing committee, nurse staffing plan, and annual staffing plan review requirements for Cycle 1 and Cycle 2.

Board member asked if it was too early to compare Cycle 1 and Cycle 2.

K. Voelker stated that all of the data shown in the presentation was preliminary, but that there were some deficiencies were not cited as frequently in Cycle 2.

Board co-chair asked if Tag E644, which covers requirements for nurse staffing plans to address admissions, discharges, and transfers, would be more commonly cited during crisis staffing. She recommended monitoring this tag.

A. Davis clarified that in Cycle 1, mandatory overtime was frequently cited because OHA could not determine whether overtime worked was mandatory or voluntary based on hospital documentation practices.

K. Voelker presented survey data showing that hospitals generally received fewer citations in Cycle 2 than Cycle 1. She presented data showing that response rates to the SurveyMonkey questionnaire were similar in Cycle 1 and Cycle 2.

Board co-chair asked how OHA knew whether nursing staff were adequately notified of the SurveyMonkey questionnaire.

D. Selover stated that OHA did not ask about SurveyMonkey distribution and noted that OHA would probably need a rule change to require it.

A. Davis stated that low response rates could also indicate nurses not participating in the SurveyMonkey, as opposed to not being aware of it.

Board member asked whether the SurveyMonkey is distributed just to direct care nursing staff members.

K. Voelker stated that the SurveyMonkey link and QR code was sent out as part of the survey announcement, which goes to the Hospital Administrator, CNO and both nurse staffing committee co-chairs. The surveyors also provide flyers during the entrance conference, which the hospital can post and make additional copies from. She stated that some hospitals make their own flyers before OHA arrives.

A. Davis added that the SurveyMonkey link is also sometimes posted on the hospital's intranet.

Board member asked whether it was clear who was filling out the SurveyMonkey.

K. Voelker stated that the SurveyMonkey asks for the role of the person filling out the questionnaire, so OHA knew the role of who participated.

A. Davis stated that anyone at the hospital, including patients, could fill out the questionnaire. She stated that the survey uses skip logic so participants are only asked questions related to their role at the hospital.

Board member asked about the integrity of the data provided through the SurveyMonkey.

A. Davis stated that participants have to provide their name and contact information when they fill out the SurveyMonkey. She clarified that the SurveyMonkey is never used as the sole source of a citation and is only used in the report to support findings already established during the course of a survey.

Board co-chair asked whether OHA was still completing investigations remotely.

A. Davis stated that remote complaint investigations were still occurring due to the pandemic. She stated that OHA went onsite for full surveys but completes some work offsite to limit time onsite.

Board member asked whether OHA could share the presentation slides.

K. Voelker confirmed that she would send the slides to board members after the meeting.

Action Item(s)	<ul style="list-style-type: none">OHA to share 2021 Year in Review Slides with NSAB
-----------------------	---

Agenda Item 6	<i>Committee updates</i>
Board co-chair asked for updates on the Civil Monetary Penalties (CMP) Committee.	
K. Voelker stated that the committee met in November and that she was currently writing a report that summarized the committee's recommendations. She was also drafting a decision-making matrix based on the committee's feedback. She stated that she would schedule a	

meeting with the committee to review the report and decision-making matrix before bringing those documents to the full board for review.

Board member asked if the draft matrix was available on the website.

K. Voelker clarified that the matrix was still being drafted.

Board co-chair asked whether changing the amount of CMP issued would be a statutory or rulemaking change.

K. Voelker confirmed that the amounts are already set in statute.

A. Davis stated that changing the upper limit would require a statutory change. She stated that OHA needed guidance from Department of Justice (DOJ) as to what constituted an incident of noncompliance.

Board member asked whether the committee was referring to other frameworks to determine what constituted an incident of noncompliance.

D. Selover stated the statute guides OHA's work and that they would need to follow the guidance provided by DOJ for what constituted an incident of noncompliance.

Board co-chair noted that the committee needed another direct care member because R. Campbell's board term had expired. She asked for a volunteer for the committee.

J. Hernandez volunteered to be on the CMP Committee.

K. Voelker stated that she would send him summaries of previous CMP Committee meetings.

Action Item(s)	<ul style="list-style-type: none"> • OHA to schedule CMP Committee meeting • OHA to draft CMP Committee report and CMP decision-making matrix • OHA to send summaries of past CMP Committee meetings to new CMP Committee member
-----------------------	---

Agenda Item 7	<i>Break</i>
Board co-chair called for a five-minute break.	

Agenda Item 8	<i>Updates on Nurse Staffing Rulemaking</i>
Board co-chair asked whether board members had read the temporary rules about crisis standards of care filed on January 11, 2022.	
Board members indicated that they had read or were aware of those temporary rules.	

Board co-chair asked that OHA place a link to the rules in the chat and provide an overview after discussing the permanent rules for nurse staffing during an emergency.

K. Voelker put the link to the temporary rules in the Zoom chat.

A. Davis presented the rulemaking notice filed with the Secretary of State for the new rules about staffing during an emergency. She reviewed the permanent rule language and directed board members to the draft interpretive guidance for the new rules that had been provided for their review.

Board co-chair asked whether there were any questions or comments on the interpretive guidance. She also stated that R. Jason from the Oregon State Board of Nursing (OSBN) was available to answer questions about the testimony OSBN gave during the rulemaking public hearing.

Board member asked R. Jason to clarify OSBN's testimony about removing nursing practice from the definition for crisis standards of care.

R. Jason stated that the original language referring to changes in nursing service and nursing practice, and she explained that only OSBN can change nursing practice standards. She clarified that nursing services is the body of work rendered by a facility under the scope of the CNO, whereas nursing practice is related to how nurses mitigate individual patient risks to ensure patient safety. She stated that requirements for specific types of screenings, assessments, and documentation practices are related to nursing services and not nursing practice, and she emphasized that crisis standards of care only change nursing services.

Board member spoke about the guidance she had received from a hospital that any unoccupied bed is open for patient care and asked whether that met crisis standards of care requirements. She also asked OSBN about the responsibility of nurse managers in developing and implementing policies that jeopardize patient safety.

Board co-chair asked the board to discuss the first question before OSBN addressed the question about the responsibility of nurse managers in developing policies.

Board co-chair stated that the guidance provided by the hospital would need to be coupled with another set of guidelines and that it doesn't stand by itself. She stated that she would want to see it paired with information about the resources available to meet patient care needs and how that information fits with documentation and assessment practices.

Board co-chair agreed and added that it would need to be part of a set of guidelines.

Board member discussed importance of ensuring patient safety during an emergency and stated that crisis standards of care could not remove tasks that kept patients safe.

Board member agreed and stated that there was a certain level of care that every patient needed to be kept safe.

Board co-chair asked for input from nurse manager members about hospital policies under crisis standards of care that would not make nurses choose between safe patient care and hospital policies.

Board member stated that crisis standards of care is not just about bed availability and that it needed to focus on altering care standards without reducing patient safety.

Board member agreed with previous statements and discussed what duties could be assigned to non-nursing staff members so that nurses could practice at the top of their scope. She provided examples like taking patients' vitals and delivering food.

Board co-chair thanked board members for their feedback. She asked for comments and questions about the interpretive guidance.

Board member asked how the public would be aware that the hospital had implemented its facility disaster plan and crisis standards of care.

D. Selover clarified that public notification was not required under the nurse staffing rules, but that there were temporary hospital rules that required public notification of the implementation of crisis standards of care. She explained that the temporary rules were about critical care resources when resources were constrained and that the temporary rules did not affect the nurse staffing rules.

Board member discussed the importance of providing safe patient care during a crisis and stated that the interpretive guidance needed to be clear that safe patient care was still required during a crisis.

Board co-chair asked for additional feedback on the interpretive guidance.

Board member stated that he thought the interpretive guidance clearly explained the rules.

Board member asked that question 22 regarding factors to include in the contingency plan be removed since he thought it created confusion and was unnecessary.

Board member stated that she thought question 22 provided clarity on what the staffing committee should focus on when drafting a contingency plan and recommended keeping the question in the interpretive guidance.

Board member shared how the term "contingency staffing plan" could be confused with contingency capacity and recommended clarifying the difference between the two terms.

K. Voelker stated that OHA would add a question to differentiate between the two terms.

Board co-chair thanked everyone for their feedback and recommended that OHA distinguish the emergency nurse staffing rules from the hospital critical care resources rules.

D. Selover stated that OHA would add a question explaining the difference between the two sets of rules.

Board co-chair asked whether board members had any additional questions for OSBN.

Board member thanked R. Jason for being at the meeting and asked her to discuss how OSBN accounts for the practice environment when considering nursing practice. He discussed how the pandemic was causing burnout among direct care nurses.

R. Jason agreed that the practice environment is an important factor in the safety of patients and nurses. She explained that the environment of care is the nurse leaders' practice of nursing, and it is the responsibility of nurse leaders to ensure that direct care nurses have the resources they need to provide safe patient care. She stated that the nurse leader's license is dependent on the practice environment they create and that nurse leaders are responsible for the nurses and patients under their supervision. She emphasized that the majority of the discussion around unsafe environment was under the control of nursing services, not nursing practice. She stated that nurse managers are just as responsible for the safety of the patient as the direct care nurse, and that direct care nurses and nurse managers should discuss what services to stop during a crisis to ensure patient safety.

Board co-chair stated that the concern was that direct care nurses were being told to do the best they could in the existing environment and that those conversations were not happening. She asked whether OSBN would investigate the practice environment and take action against nurse managers if there was a complaint made against an individual nurse.

R. Jason stated that OSBN would take action against nurses who contributed to the unsafe care, including nurse managers. She stated that OSBN had taken action against nurse managers and CNOs for implementing policies that were not safe for patient care, but reminded the board that nurses are always responsible for their own decision-making.

Board co-chair thanked R. Jason for the discussion and asked whether she would be willing to answer questions directly sent to her.

R. Jason confirmed her willingness to answer additional questions.

Board co-chair asked OHA to present the temporary hospital rules related to critical care resources allocation.

D. Selover presented slides describing conventional, contingency, and crisis standards of care. She presented the history of crisis standards of care guidance in Oregon and stated that in January 2022, OHA released a critical care triage tool. She explained that OHA released hospital licensing rules about utilization of the triage tool, including transparency and communication to the public. She presented rule language, which included documentation requirements, communication to the public, and notification to OHA about critical care triage.

Board member asked who was required to be part of the triage team.

D. Selover explained that the hospital licensing rules did not specify who was required to be on the triage team.

A. Davis stated that there was guidance available that described who should be involved in triage decision-making, but that the guidance was not required under rule.

Board member expressed appreciation of the OHA triage tool and asked whether nurses were involved in its creation.

D. Selover stated that HFLC had not been involved in creating the tool and could not speak to who participated in its development. She stated that OHA was creating a new committee to develop additional crisis standards of care guidance.

A. Davis put the information for the OHA Resource Allocation Advisory Committee in the Zoom chat.

Board co-chair expressed interest in the OHA Resource Allocation Advisory Committee and asked about the impact of the current guidance on direct care nurses. She suggested that the board invite people who had operated under the temporary hospital rules to speak to the board about what happened and how well it worked.

Board member suggested adding it to the agenda for the July meeting.

Board co-chair thanked OHA for providing more information about the temporary rules and advisory committee.

Action Item(s)	<ul style="list-style-type: none"> • OHA to add questions to the interpretive guidance with a definition of contingency staffing plan and explaining the difference between the nurse staffing emergency rules and hospital licensing triage rules • OHA to provide update at the July NSAB meeting about implementation of crisis standards of care and the triage decision-making tool
-----------------------	--

Agenda Item 9	<i>Open Action Items</i>
<p><i>OHA Complaint Process: Federal vs. State Complaints</i></p> <p>A. Davis presented slides describing OHA’s complain process. She described the difference between federal complaints, which are usually related to care of a single patient and reflect systemic problems, and state complaints, which include patients’ access to support persons, discharge and care planning requirements for patients presenting to the hospital for behavioral health, and nurse staffing requirements. She described how federal complaints are prioritized as Standard-level, Condition-level, and Immediate Jeopardy (IJ), and she</p>	

explained that OHA must receive permission from the Centers for Medicare & Medicaid Services to conduct investigations of Condition-level and IJ complaints at facilities that have received accreditation from an Accrediting Organization (AO) like The Joint Commission; she stated that the AO is responsible for conducting investigations of Standard-level complaints at accredited hospitals.

A. Davis presented the Complaint Intake Form and the Nurse Staffing Additional Questions Form, which are used for nurse staffing complaints. She explained that for nurse staffing complaints, OHA needs contact information for the complainant, as well as information about what happened, when the problem happened, and what unit the problem happened on. She added that for complaints about not following the nurse staffing plan, OHA needed to know what was in the plan and how the unit did not follow the plan.

A. Davis described the complaint process and what types of problems fell under OHA's jurisdiction. She described how OHA triages hospital complaints. She stated that complainants receive a letter describing whether OHA will investigate and include information about any referrals. She explained that if OHA investigates the complaint, the complainant will receive a letter describing the results of the investigation and a copy of the report sent to the hospital.

Board co-chair asked whether complainants were required to put in patient information on the Complaint Intake Form if they had a nurse staffing complaint.

A. Davis stated that if the complaint was about nurse staffing, complainants did not need to put information into the Patient Information section. She stated that if they had information about harm done to a specific patient, they should include that information.

There were no other questions about OHA's complaint process. Board co-chair thanked OHA for its presentation.

Agenda Item 10	<i>Emerging issues in nurse staffing</i>
-----------------------	---

The board welcomed OHA surveyors, W. Edwards, M. Ingram, and S. Wasson.

Board co-chair asked surveyors to share information from the surveys that may be of interest to the board.

W. Edwards explained the importance of fully completing the questionnaires during the survey and of asking surveyors for clarification if there were questions.

M. Ingram agreed and emphasized the importance of fully completing all forms provided to the hospital as part of the survey.

Board co-chair noted that the board may have questions about the impact of crisis standards of care on the implementation of nurse staffing plans.

Board member asked whether surveyors interview direct care members about the implementation of crisis standards of care during the unit tour, and he asked about awareness among direct care members as it related to crisis standards of care.

W. Edwards stated that surveyors usually did not ask about crisis standards of care during the unit tour, but that direct care nurses sometimes address crisis standards of care and the facility disaster plan during the interview.

Board member stated that surveyors should ask about crisis standards of care to improve understanding about which hospitals had implemented its facility disaster plan and crisis standards of care.

K. Voelker clarified that that information is collected on the Hospital Nurse Staffing Plan Unit Questionnaire, which is completed by unit nurse managers and direct care unit representatives. She stated that if surveyors receive information that the hospital has deviated from plans due to an emergency, surveyors have a tool to guide them through seeking additional information regarding the facility disaster plan and crisis standards of care.

W. Edwards agreed and explained that there were a limited number of surveys where the questionnaire reflected the hospital had implemented its facility disaster plan, but she expected to see it more following the omicron surge.

Board member referenced the data presented earlier that reflected hospitals were being cited for mandatory overtime less frequently in Cycle 2, and asked for more information about hospital practices seen during survey.

W. Edwards noted that hospitals had implemented many different ways to track voluntary and mandatory overtime and that many hospitals had built this documentation into their timekeeping system.

Board co-chair referenced previous board discussion about hospitals altering Kronos to capture voluntary and mandatory overtime.

Board co-chair expressed appreciation for the surveyors providing updates to the board on the new survey process.

M. Ingram stated that the new process helped condense the survey and made it more efficient.

There were no additional questions for surveyors. Board co-chair thanked surveyors for speaking with the board.

Agenda Item 11	<i>Public comment</i>
-----------------------	-----------------------

Board co-chair invited members of the public to speak for two minutes.
--

E. Swartz (OHSU) commented on the draft interpretive guidance for HB 3016 rules and asked OHA to ensure the document was descriptive and explicit so that it would be a useful tool to nurse staffing committees. She stated there was confusion around crisis standards of care and contingency plans, and she asked that the interpretive guidance clearly outline those concepts. She appreciated the conversation about the different responsibilities of OHA and OSBN and she asked that OHA develop a document describing the difference between nursing services and nursing practice.

Agenda Item 12	<i>Meeting adjourned</i>
-----------------------	--------------------------

Approved by the NSAB April 27, 2022

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