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Oregon Nurse Staffing Advisory Board (NSAB)
 Wednesday, January 27, 2021
 1:00 PM – 5:00 PM

Meeting Minutes

Cochairs	Susan King, MS, RN, CEN, FAAN (presiding); Jennifer Burrows, RN, BN, BSc, MBA
Members present	Zennia Ceniza, RN, MA, CCRN, ACNP-BC, NE-BC; Uzo Izunagbara, RN; Debbie Robinson, RN, MSN; Kelsey Betts, RN; Jenni Word, RN; Rick Rhoton, MHA, RN, BSN; Barbara Merrifield, MSN, RN; Joel Hernandez, RN
Members absent	Rob Campbell, CP, ADN, RN;
PHD staff present	Dana Selover, MD, MPH; Anna Davis, JD; Matt Gilman, MPPA; Kimberly Voelker, MPH; Wendy Edwards, RN

Guests present	Jesse Kennedy (ONA), Erica Swartz (OHSU), Donell Owens (Kaiser Sunnyside MC), Meg McGowan-Tuttle (Kaiser Sunnyside MC), Kelsey O'Brian (Concordia University – St. Paul), Larlene Dunsmuir (ONA), Danielle Meyer (OAHHS), Matt Calzia (ONA), Jennifer Peterson (St. Anthony Hospital), Melissa Pflieger (Samaritan Albany), Mary Coffelt (Kaiser Sunnyside MC)
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Agenda Item 1	<i>Call to Order</i>
The meeting was conducted as an online Zoom meeting with computer or phone audio options. The meeting was called to order and the new direct care board member introduced himself. All other members confirmed their presence and introduced themselves via roll call. All other individuals present identified 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 and December meeting minutes.</p> <p>Board co-chair asked for clarification regarding the action items under agenda item 4 on the October minutes.</p> <p>A. Davis stated that OHA was looking for a clear set of questions that the board wanted answered about problems with the survey process.</p> <p>Board co-chair asked for clarification about the sentence on the bottom of page 5.</p> <p>K. Voelker clarified that the sentence was meant to explain that the unit cannot drop below the minimum number of nursing staff members specified in the nurse staffing plan during meals and breaks.</p> <p>Board co-chair asked whether OHA had received feedback from the Department of Justice (DOJ) for whether it would be acceptable for OHA to request initial documentation from hospitals upon receiving a nurse staffing complaint.</p> <p>A. Davis stated that OHA was in the process of checking in with the DOJ and had no new information to report at that time.</p> <p>Board co-chair asked if not receiving feedback from the DOJ would affect OHA's ability to use the new processes and tools for the nurse staffing surveys.</p> <p>A. Davis explained that OHA had not restarted the nurse staffing surveys yet but were still investigating complaints. She stated that OHA would talk more about the survey restart later in the meeting.</p> <p>Board member stated that it was unclear in the minutes whether OHA is collecting data about which hospitals have activated their facility disaster plan and asked if OHA could provide that information to the board.</p> <p>D. Selover stated that OHA's Health Facility Licensing and Certification (HFLC) does not collect reports of when hospitals activate their facility disaster plans and explained that a variety of factors influenced when hospitals decided to activate disaster plans.</p> <p>A. Davis added that hospitals that activated their disaster plan didn't necessarily suspend their nurse staffing plan because disaster plans may not impact nurse staffing.</p> <p>Board co-chair agreed and explained that knowing whether a facility had activated its disaster plan would not provide information on whether the facility was still following its nurse staffing plan.</p>

<p>Board member requested that OHA collect information about when facilities activated their disaster plans and how it impacted nurse staffing.</p> <p>Board member supported this request and added that facilities needed to be held accountable for how they used disaster plan with respect to nurse staffing.</p> <p>D. Selover explained how examining the interaction between facility disaster plans and nurse staffing plans would be a large project. She provided examples for how disaster plans could be used without impacting nurse staffing and suggested the board ask the Oregon Nurse Staffing Collaborative (ONSC) to collect this information for the board.</p> <p>Board co-chair proposed that the NSAB discuss facility disaster plans at the next meeting. Board members supported this suggestion.</p> <p>Motion to approve October and December minutes as written: Uzo Izunagbara Seconded: Rick Rhoton Motion passed</p>	
Action Item(s)	<ul style="list-style-type: none"> • NSAB to discuss facility disaster plans at the April meeting • OHA to report to NSAB feedback from the DOJ regarding proposed complaint investigation process

Agenda Item 3	<i>Membership Updates</i>
<p>Board co-chair inquired about membership updates.</p> <p>K. Voelker introduced OHA's new process for recruiting members to the board, which included broad distribution of an FAQ about the NSAB on the nurse staffing website, nurse staffing listserv, and direct emails to hospital nurse staffing committee co-chairs. K. Voelker also explained that OHA would provide specific information to the ONA and OAHHS about current vacancies and board needs.</p> <p>Board co-chair encouraged CNAs and RNs from special inpatient care facilities (SICFs) to apply for membership.</p>	

Agenda Item 4	<i>Status Updates</i>
<i>Nurse Staffing Waivers</i>	
<p>K. Voelker introduced the nurse staffing waiver dashboard showing the number of initial, subsequent, renewal, partial denial, and expired nurse staffing applications for large hospitals.</p> <p>Board co-chair asked whether the partial denial was related to one or more units on the application not meeting the criteria to be granted a waiver with other units meeting the requirements.</p> <p>K. Voelker confirmed this is what partial denial referred to.</p>	

K. Voelker presented the chart for medium hospitals and the chart for Critical Access Hospitals (CAHs). She explained that the partial denial category was not included on this chart because there were no partial denials for CAHs.

K. Voelker presented a chart showing the patient care areas covered by granted nurse staffing waivers, by hospital size. She explained that common patient care areas for the “other” category were obstetrics, pediatrics, oncology, and specialized procedural areas.

Board member asked whether an in-patient hospice would be covered in the “other” unit category.

K. Voelker confirmed that the waiver for an inpatient hospice would be covered under “other” unit type for CAHs.

A. Davis added that there are only four SICFs in Oregon and that only one had requested a waiver.

Board co-chair asked what waiver was granted and what waiver was denied for the SICF.

K. Voelker stated that the SICF denial was the same as what was reviewed during the July 2020 meeting. She confirmed that the SICF approval was an in-patient hospice.

Board co-chair asked whether the waiver granted an exemption to the nurse staffing law.

A. Davis clarified that all nurse staffing waivers are exemptions to the nurse staffing law.

Board co-chair asked what process OHA used to determine that one staff member was appropriate for a group of patients for a certain period of time.

K. Voelker explained that the waiver application process required the hospital to explain the facility’s needs and provide a justification for its request.

A. Davis added that in each situation, OHA examines the hospital’s patient population and plan of care, as well as when the waiver would be in effect.

Board member asked why other SICFs had not come forward to request a waiver and whether the other SICFs were compliant with the nurse staffing law.

A. Davis explained that the other facilities may not operate in the same way and may not require a waiver. She also explained that the SICFs are legally hospitals but operate differently than acute care hospitals.

Board member asked whether the SICF waiver application was expedited due to the pandemic and expressed concern about whether processes were followed safely.

A. Davis stated that the SICF's waiver was not expedited and went through a longer and more rigorous review process than other nurse staffing waiver requests due to its unique nature.

Board co-chair requested that OHA communicate when they grant unusual waivers, especially if the NSAB had expressed concerns about the waiver application.

K. Voelker explained how the concerns raised by the board guided OHA's review of the SICF's application and reassured the board that OHA would communicate with the board when granting unusual waiver requests.

K. Voelker presented the charts showing when initial and subsequent waiver requests were submitted. She also presented charts showing whether hospitals had requested renewals of their original waivers and shared data about expiring waivers.

Board member asked whether there was a way to differentiate which facilities requested which waivers and for what reason.

K. Voelker explained that most of the waivers were related to the requirement for minimum staffing numbers, with most requesting minimum staffing of 1 RN and 1 technician or technologist. She stated that OHA keeps track of which hospitals have submitted waivers and for what reason.

Nurse Staffing Survey Dashboard

K. Voelker presented the dashboard for nurse staffing surveys completed in Cycle 1 and noted that changes from the October 2020 meeting were highlighted.

A. Davis clarified that Sutter Coast had no deficiencies and were not required to submit a POC because the facility does not provide nursing services.

K. Voelker explained that OHA had recently approved the plan of correction (POC) for Willamette Valley Medical Center and that this was not reflected on the dashboard.

Board member stated that the survey dashboard highlighted how long it took for POCs to get approved. She asked whether this was an acceptable timeframe for OHA and whether there was an improvement plan to move the process along faster.

A. Davis stated that the timeframe was not ideal, but it did not show the ongoing work between the hospital and OHA. She explained that many hospitals struggled during the first survey cycle, so OHA facilitated individual conference calls with hospitals, hosted a webinar, and drafted an interpretive guidance for facilities. A. Davis stated that she expected timeframes to shorten for Cycle 2.

Board member asked whether OHA surveyed the hospital after approving its POC to ensure the hospital had implemented its POC.

A. Davis stated that revisit surveys are built into the nurse staffing law but that OHA had not been able to complete those surveys in Cycle 1. She explained that OHA would combine the revisit surveys with the full nurse staffing surveys for Cycle 2. She added that the Process Improvement Committee (PIC) redesigned the revisit survey to help move towards a separate revisit survey.

Board co-chair suggested asking ONSC to collect feedback from Hospital Nurse Staffing Committee (HNSC) co-chairs about challenges with the POC process. She explained that the board could design targeted interventions to help improve the POC process once the NSAB had this information.

A. Davis added that an OHA surveyor would speak with the board about common problems with the POC process and noted that some common problems were a change in leadership at the hospital and hospitals changing already approved tags on the POC.

Nurse Staffing Complaints

K. Voelker presented the nurse staffing complaint investigation dashboard and noted that changes from the October 2020 meeting were highlighted. She stated that the complaint investigations completed in 2020 were remote investigations.

A. Davis added that there was one additional complaint investigation completed in 2020 that was not included on the dashboard because the report was not finished yet.

Board member asked whether OHA had seen complaints about units that were already surveyed during the triennial survey.

D. Selover explained that OHA does not complete that level of analysis and would need to gather more information during the surveys and revisits.

A. Davis clarified that OHA only surveys a sample of hospital units, so there could be problems in a unit that was not surveyed. She also explained that even if the nurse staffing plan met rule requirements during a nurse staffing survey, the unit could fail to implement the plan, which may lead to complaints.

Nurse Staffing Plan of Correction Process

K. Voelker presented charts showing the amount of business days for the hospital to send OHA its POC and the business days for OHA to review hospital POCs.

Board member asked what the consequence was for hospitals who did not submit their POCs on time.

A. Davis explained that hospitals were not penalized in the first cycle for submitting late plans and were given extensions if they requested them. She stated that OHA expected fewer delays for the second cycle.

Board co-chair stressed the importance of reaching out to the hospital if OHA had not received its POC. She agreed with the 30-business timeline for the first POC but requested that OHA reduce the timeline for subsequent POCs. She asked whether it was possible to make this change through the rulemaking process.

A. Davis confirmed that this would be a rulemaking change.

D. Selover stated that this change could be made if there were less deficiencies cited on the Nurse Staffing Reports, since numerous deficiencies made the reports and POCs more complex.

Board co-chair highlighted work completed by the PIC to streamline the survey process and stressed the importance of hospitals implementing their POCs to address deficiencies.

Board member supported reducing the timeframe for subsequent POCs.

D. Selover suggested waiting until OHA had completed some surveys in Cycle 2 so the board could learn more about what was working well and what needed improvement.

Board member asked whether there was a financial penalty to hospitals if they failed to return to compliance.

A. Davis confirmed that OHA could impose civil monetary penalties for non-compliance but that OHA would have to prepare proper legal notice and that this may take time away from surveying.

D. Selover noted that if OHA saw it was not making progress and wanted to issue monetary penalties, OHA would want to receive feedback from the NSAB prior to taking that step.

Board co-chair stated that the NSAB should discuss civil monetary penalties and steps to take if hospitals were intentionally noncompliant at a future NSAB meeting.

Board member stressed the importance of having civil monetary penalties available as a consequence for hospitals not improving deficiencies.

Nurse Staffing Surveyor - Q & A

Board co-chair asked surveyor about the feasibility of reducing the timeframe for hospitals to submit their POCs to OHA after their initial submission.

W. Edwards explained how hospitals had struggled with the POC approval process during the first survey cycle and how the number of tags remaining to correct after the first POC

review varied by hospital. She was optimistic that the second survey cycle would be more efficient.

Board member mentioned the importance of highlighting the key points that needed to be addressed when drafting a POC.

Board co-chair added that there was turnover across the state, so some of the people who would draft a POC for the second survey cycle may be doing so for the first time and still struggle.

W. Edwards added that turnover was one of the common problems she had seen when hospitals had difficulty getting a POC approved.

Board co-chair asked what other trends W. Edwards had seen.

W. Edwards explained that hospitals addressed individual findings, only partially addressed the deficient practice statement, changed previously acceptable tags so that they were no longer acceptable, and were not monitoring for compliance at least quarterly.

Board member asked if the hospital would need to continue monitoring until OHA came back to the hospital for its next survey.

W. Edwards stated that hospitals could decide how long to monitor, but that OHA would expect at least 3 to 4 quarters of monitoring.

Board co-chair asked how many POCs were submitted lacking hospital nurse staffing committee (HNSC) co-chair signatures.

A. Davis clarified that POCs required the signature of the hospital administrator and not the HNSC co-chairs.

Board co-chair stated that she thought HNSC co-chairs were supposed to be involved in drafting the POC and added that it was important if the co-chairs did not agree with the POC.

W. Edwards stated that OHA only required the hospital administrator's signature and clarified that the signature and date only needed to be submitted once.

Board member stated the importance of having the HNSC involved in the POC process.

Board member stated that hospitals could put in the HNSC charter who should be involved in the POC approval process.

Board co-chair explained the amount of work that was involved in drafting the POC and that it would not be feasible for the HNSC to draft the POC. She added that the HNSC should still be aware of the POC and connected to the work.

Board member asked whether OHA was using a video platform to help improve efficiency while doing offsite surveys.

W. Edwards explained that OHA was doing offsite complaint investigations but that OHA had not restarted the full nurse staffing surveys, which would be onsite. She stated that she had not been involved in the offsite nurse staffing complaint investigations.

K. Voelker stated that the surveyor who had completed the offsite complaint investigations used Microsoft Teams.

Board member asked whether the HNSC had purview over the POC and to what extent the HNSC was required to be involved in drafting the POC.

D. Selover explained that legally, the hospital is the responsible party and that OHA can only hold the hospital responsible for drafting the POC. She stated that they encouraged hospitals to work with the HNSC as a best practice but since the hospital is the licensee, they are responsible for signing and submitting the POC.

Board member asked whether the POC would need to go back to the HNSC if the plan involved changing staffing.

A. Davis confirmed that if the POC specified a change to the staffing plan, the change would need to be approved by the HNSC. She clarified that other aspects of the POC would not need to go before the HNSC.

Board co-chair suggested having HNSCs include language in their charters about involving the HNSC in the POC process and asked whether the board wanted to start the rulemaking process to change timelines for POC submission.

Board co-chair proposed reviewing timelines in the summer so the board could see the effects of the changes made by the PIC.

2021 Survey & Complaint Investigation Updates

A. Davis shared OHA's plan to restart the nurse staffing surveys with the new tools and processes in March 2021 and cautioned that OHA might not be able to complete a full survey year in 2021. She shared that OHA would begin revisit investigations if the pandemic prevented OHA from onsite nurse staffing surveys. She added that complaint investigations would continue to be remote during 2021.

Board co-chair asked for clarification about incomplete complaint investigations.

A. Davis explained that incomplete complaint investigations referred to complaints that had already been triaged but had not been investigated. She added that one facility was in the POC process and another facility was in the process of receiving its report.

Action Item(s)	<ul style="list-style-type: none">• OHA to reach out to ONSC and ask whether they could collect feedback from stakeholders about challenges with the POC process• NSAB to discuss civil monetary penalties at the April meeting• NSAB to discuss the rulemaking process at the July meeting
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Agenda Item 5	<i>Committee Updates</i>
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NSAB Process Improvement Committee (PIC)

Board co-chair asked for updates on the PIC's work.

K. Voelker presented the Explanation Guide for the Unit Onsite Review Tool and stated that the Explanation Guide would be posted on the nurse staffing website.

Board member asked for the intended audience for the tool.

K. Voelker explained that surveyors would interview a direct care nursing staff member with knowledge of unit practices and policies, such as a charge nurse.

A. Davis clarified that the Explanation Guide was written to let anyone interested in the tool know how OHA would use it during a survey. She explained that surveyors would interview a direct care nurse with knowledge of the unit and its practices.

Board member asked whether the direct care staff could be a CNA.

A. Davis stated that surveyors could interview a CNA or LPN, but that they would likely speak to a RN because the direct care staff member would need to know practices and policies at the unit-level.

Board co-chair supported the Explanation Guide and stated that she thought it would be helpful.

NSAB Acuity Committee

Board co-chair asked whether the board was ready to approve the Acuity and Intensity Interpretive Guidance.

Board member stated he liked how the guidance was not prescriptive and that it called out its limitations.

Motion to approve the Acuity and Intensity Interpretive Guidance: Uzo Izunagbara

Board co-chair expressed concern with language in the final paragraph and suggested a language change.

Motion to change language in the final paragraph of the Acuity and Intensity Interpretive Guidance: Jennifer Burrows

Board member stated that the NSAB should release the interpretive guidance and get feedback on how it was working. He explained that if the board needed to make changes, they could do so at a later time.

Board co-chair was supportive of the board member's suggestion.

Second to motion to approve Acuity and Intensity Interpretive Guidance: Rick Rhoton
Motion Passed

D. Selover explained that OHA would need to move the document to OHA letterhead.

A. Davis added that OHA would also need to send the interpretive guidance to DOJ for their review.

Board co-chair stated that she thought the DOJ had already looked at the interpretive guidance and asked what delays the board could expect.

A. Davis explained that OHA sends DOJ the final product the board creates and stated that there would not be much of a delay.

Board co-chair asked that the board be kept informed of the status of the interpretive guidance.

Action Item(s)	<ul style="list-style-type: none">• OHA to send Acuity and Intensity Interpretive Guidance to the DOJ for their review• OHA to update the NSAB on the status of the interpretive guidance at the April meeting
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Agenda Item 6	<i>Break</i>
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Board members decided to bypass the break.

Agenda Item 7	<i>Open Action Items</i>
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NSAB and ONSC relationship

Board co-chair invited Danielle Meyer (OAHHS) and Larlene Dunsmuir (ONA) to discuss the Oregon Nurse Staffing Collaborative (ONSC).

D. Meyer shared ONSC's mission statement and stated that meetings are open to all direct care nurses and nurse managers in Oregon. She explained how OHA regularly attends ONSC meetings and provides updates on the NSAB and staffing law and answers questions that members have. She highlighted ONSC's work to date and discussed meeting logistics.

Board member asked about the funding source for ONSC .

D. Meyer explained that the overhead for ONSC was very low and funded as a joint effort between Oregon Association of Hospitals and Health Systems (OAHHS) and Oregon Nurses Association (ONA). She explained that OAHHS and ONA equally shared the expense for large budget items like summits.

L. Dunsmuir added that OAHHS and ONA took turns paying for meeting space and food at meetings.

Board member stated that he liked how ONSC's work was evidence-based. He asked whether ONSC was specified in the nurse staffing law and asked how the NSAB should interface with ONSC.

L. Dunsmuir explained that nothing dictates ONSC and that ONSC came about as a collaboration between ONA and OAHHS when the law was being negotiated. She explained how ONA and OAHHS recognized the need to educate nurses about the law and continue their collaboration through ONSC. She stated that ONSC includes nurses from across the state and not just nurses represented by ONA.

D. Meyer added that all Oregon hospitals are represented by OAHHS.

Board member asked whether membership skewed towards nurse managers because direct care nurses may not be able to attend the meetings.

D. Meyer explained that ONSC always records its meetings and sends its recording and meeting slides to the entire membership after the meeting. She explained that decisions were not made at meetings and that if ONSC makes a decision, it sends out an email to the entire membership after the meeting to get input.

Board member asked for OHA's position on ONSC and asked for clarification regarding the role of ONSC and NSAB.

D. Selover explained how ONSC acts as a way to receive input from direct care nurses and nurse managers. She explained how ONSC is focused on best practice and OHA answers questions from its membership, shares data, and receives input on the nurse staffing rules.

Board co-chair thanked ONSC for their presentation and encouraged people to attend ONSC meetings.

Agenda Item 8	<i>Program Improvement</i>
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Recommendations from NSAB October Meeting

K. Voelker shared the new revisit process based in the PIC's work, which involves hospitals submitting evidence for some tags and signed attestations from the HNSC co-chairs for other tags. She explained the purpose of revisit surveys and stated that OHA will keep the board informed of OHA's progress with revisit surveys.

A. Davis added that the new complaint form that asked questions specific to nurse staffing concerns was now available on the [Health Care Facility Complaints website](#) and included instructions on what forms to submit to OHA.

2021 Legislative Session

D. Selover introduced the bills related to nurse staffing in the Oregon State Legislature: HB 3011, which is a funding bill for OHA nurse staffing; HB 3014, which adds staffing requirements for other types of positions at hospitals; and HB 3016, which adds requirements for hospitals and HNSCs. She explained that OHA is neutral on all bills unless the bill was requested by OHA.

Agenda Item 9	<i>Emerging Issues in Nurse Staffing</i>
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Board member stated that nurses needed clarification regarding staffing pilot programs and explained that units are making changes under pilot programs that are not being approved by HNSCs. He asked OHA to confirm that units needed approval from the HNSC before making any changes under a staffing pilot program.

A. Davis confirmed that any changes to the nurse staffing plan needed to be approved by the HNSC, even if it is a trial or a temporary change.

Board member stressed the importance of knowing which hospitals have declared facility disaster plans since it would inform how the HNSC co-exists with incident command structures.

Board co-chair agreed and stated that this would be added to the agenda for the next meeting.

Board member stated that hospitals are required to report when they have activated their facility disaster plan. She stated that this data does not include information about whether the facility diverged from its staffing plan.

Agenda Item 10	<i>Public Comment</i>
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E. Swartz (OHSU) discussed concerns related to meal and rest breaks and stated that direct care nurses continued to not receive meal and rest breaks even after the hospital's POC was approved by OHA.

Agenda Item 11	<i>Meeting Adjourned</i>
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Approved by the NSAB April 28, 2021

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