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Oregon Nurse Staffing Advisory Board (NSAB)

Wednesday, May 25, 2016
1:00 PM – 5:00 PM

Meeting Minutes

Cochairs	Susan King, MS, RN, CEN, FAAN (Presiding); Carol Bradley, MSN, RN, CENP
Members present	Carolyn Starnes, ASN, RN; Connie Pullen, BSN, RN, MHA; Debbie Robinson, RN, MSN (phone); Jennifer Burrows, RN, BN, BSc, MBA (phone); Rob Campbell, CP, ADN, RN; Ruwani Dissanayake, BSN, RN, PCCN; Trece Gurrad, RN, MSN (phone); Virginia Smith, BSN, RN-BC; Zennia Ceniza, RN, MA, CCRN, ACNP-BC, NE-BC
Members not present	None
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; Monica Freedle, Kaiser Permanente; Pam Scott, Shriners Hospital for Children; Patrick Bunstel, Shriners Hospital for Children; Catie Theisen, Oregon Nurses Association; Andi Easton, Oregon Association of Hospitals and Health Systems

Agenda Item 1	<i>Call to Order – Susan King</i>
The meeting was called to order. Susan King, NSAB members, Public Health Division staff and guests introduced themselves.	

Agenda Item 2 Time stamp 00:04:14	<i>February 24, 2016 Board Minutes – Susan King</i>
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<p>The board received the minutes by email in advance of the meeting. Zennia Ceniza noted a change on page 9 of the minutes. In the second to last sentence of the second paragraph the phrase “staffing plan” should be changed to “staffing request.” Staff will make that change.</p> <p>Carol Bradley moved to approve the minutes as corrected, Zennia Ceniza seconded the motion. The board voted to approve the minutes as corrected.</p>	
Action Item	<ul style="list-style-type: none"> • HFLC will correct the minutes before the next meeting.

Agenda Item 3	<i>Rulemaking Update – Susan King</i>
Time stamp 00:07:00	
<p>Susan King noted that many of the board members attended the public hearing on May 18, 2016. The board also received a written summary report of the rulemaking hearing. Ms. King asked if there was anything that the board members heard at the hearing that they would like to comment on and then asked Dana Selover to comment.</p> <p>Dana Selover stated that the agency needs to comply with the Administrative Procedures Act and have a defined comment period with a fixed end date. The agency cannot receive additional comments, questions, or discussion at this point, otherwise the claim could be made that the comment period has been extended for this group only. Dana Selover stated that there will be opportunities for further discussion after rulemaking and stated that she can talk about next steps and go through highlights, but having any additional discussion would be difficult for OHA at this point. She then apologized for the procedural formality that is required at this point.</p> <p>Susan King asked if there were questions about the summary.</p> <p>No comments were made.</p> <p>Susan King invited Dana Selover to address the language regarding the Oregon State Hospital (OSH) in the rules and noted that there was a lot of testimony about that at the public hearing.</p> <p>Dana Selover noted that the rulemaking had a short timeframe and each agency handles rulemaking somewhat differently. At OHA, it is not uncommon for management to get legal advice from legal counsel or to get feedback from other parts of the agency in addition to the Rules Advisory Committee (RAC). The OSH exemption was a result of feedback from another part of the OHA. Ideally those agency personnel are part of the RAC process and have a formal, open discussion, but sometimes due to timing those discussions are offline.</p> <p>Carol Bradley asked why special status for one hospital was granted. Several members provided feedback on this issue.</p>	

Carol Bradley asked why this emergency circumstance does not apply to all hospitals as opposed to a single hospital.

Dana Selover explained that this was a content question and not a process question because it asks why the agency reached a particular policy position.

Annabelle Henry stated that this agency, unlike others, responds to all comments individually, so the Hearings Officer Report will provide explanations of why the agency reached a specific decision at a future date. The Hearings Officer Report will be issued close in time to the final rules and will address the reasons why the language was drafted so narrowly. That report will be available no later than July 1, 2016.

Zennia Ceniza pointed out that any hospital could have a similar vacancy rate, but would not be entitled to the emergency exemption.

Annabelle Henry stated that the Hearings Officer Report should address that.

Susan King said that it was her experience that the Hearings Officer typically responds to the testimony that was presented and then the agency has made a decision to accept or reject the recommendation that was made in the testimony. This is a little different because the agency made a decision up front to put this rule language in which was not contemplated by the RAC, the legislature, or anyone else except maybe the OSH, so it will be interesting and she would like to see a rationale of where the exception came from and then a response to the testimony. Susan King asked whether the board would receive a copy of the Hearing Officer Report.

Annabelle Henry confirmed that the NSAB members would receive a copy of the report along with a clean copy of all of the written comments received. That will have some of the historical perspective Ms. King is requesting.

Susan King asked if there were any other issues for discussion.

Dana Selover explained that the comment period closed yesterday, we're making sure that staff has everything. Staff will review the comments and group them by theme to make sure that the report responds to all comments. The Hearings Officer Report will have both general and specific language. It will have both the comment, the response, and any relevant rule language. This format makes it easy to follow changes. The report and the rules will come out at the latest on July 1, 2016. The NSAB will receive the report along with all other interested parties. In five years when OHA reviews Nurse Staffing rules as part of the regular 5-year rule review all interested parties, including the NSAB, will receive questions about the efficacy of the rules.

Susan King asked Dana Selover to explain the internal decision-making process. Ms. King is used to other agencies that make their decision in a public board meeting, but the OHA does not. She asked who makes the decision in the OHA and how.

Dana Selover explained that the Anna Davis and Annabelle Henry will have conversations with her and then with legal counsel to make sure the final rules

align with the statute. Then staff will send the rules to the Public Health Division Rules coordinator. The rules next have to be approved by the administrator of the Center for Health Protection Jere High and the Public Health Division director Lillian Shirley. After approval, the final rules are filed with the Secretary of State and are posted.

Susan King stated that when she and Carol Bradley added “enforcement discussion” to the agenda their intent was to get a preview from the agency of the issues that agency staff believe are going to come up when the surveyors begin enforcing the law. This discussion may be premature, but it’s likely to begin coming up soon.

Annabelle Henry said that the agency is looking for a two-way exchange of information and feedback in this discussion. Internally staff are starting to build survey tools that will guide the survey team through a survey. Discussions center on standardizing audits and focusing complaint investigations. The agency will bring the tools to the NSAB, and staff would like to hear what NSAB members are hearing in the field at both the health system and facility level. OHA expects some past trends to continue. For example record management and the need for clear, delineated sources of recordkeeping options and fixed practices have been an issue for surveyors seeking records in the past and that may continue to be problematic going forward. Staff is being proactive about some of these issues and folding them into open house events and materials such as the FAQ. Staff are starting to build those documents. In the past OHA has received feedback on mandatory overtime and expects to receive feedback on that issue again in the future. Staff will address this in training opportunities and on-site. One of the areas where the agency would like feedback would be in developing tools. Also feedback on how long it will take to respond to requests for information would be helpful to balance expectations. Staff is hoping to do as much planning, but there will be surprises during the first year in terms of what information is available and what people understand. Suggestions of possible pitfalls would be appreciated. Annabelle Henry asked the board how they see their role as in the next six months and what areas they think are important for us to focus on as the board shifts focus from policy to operations.

Rob Campbell stated that in the hospital they’re running into issues regarding individual nurses’ feelings about their role in staffing and their role in the matrix. Nurses are trying to determine how many patients they can take, so getting national standards would be helpful. The information is available for staffing solutions, so giving that to nurses in the field would be good.

Virginia Smith stated that hospitals who are developing their nurse staffing committees and plans benefit from seeing the examples from other hospitals. This board could be a resource for examples of plans and charters. The board could reach out to hospitals in earlier stages of committee development. For hospital systems with more established plans that are missing the mark on meeting requirements of the law, this board could act as a task force addressing problems before they become a demerit on a survey or a problem at the hospital.

The board could act as a guide to the rules and the levels of expectations. Ms. Smith suggested that some of the statutes aren't being implemented or followed in some of the hospitals, and when the rules come out there could be FAQs that elaborate on those rules. Those are documents the board could work on together to explain how hospitals can meet the letter of the law. Often hospitals and staffing committees get into disagreements about how much they are expected to follow the rule or what the consequences are if they do not. This would be helpful for openly cooperative committees and for the committees that are less functional.

Rob Campbell stated that he is concerned that hospitals will go through the voting process without following those specific rules on equal numbers.

Annabelle Henry indicated that this type of issue should be reflected in hospital nurse staffing committee meeting minutes.

Dana Selover stated that the expectation has to be refined to be very explicit that if there are unequal numbers, then only the equal numbers get to vote. How the committees will determine who does not get to vote is not in the rules, so that could be something that the board could give advice about, as the Division will not advise on this. It is a serious issue if the hospital committee minutes do not reflect the list of members, how they were chosen, and the minutes. The recordkeeping is a serious task.

Ruwani Dissanayake stated that a lot of the staffing committee concerns come from a lack of knowledge and asked whether the OHA will be providing information in detail to nurse managers and nurses about the requirements of the law.

Annabelle Henry stated that staff is hoping to improve outreach. The first step was having the Open House, which was something this unit had never done before. The next Open House will focus on the rules and should provide a step by step explanation of each of the sections. Annabelle Henry explained that she heard the comments of Ms. Smith and Mr. Campbell as a request for information. Staff will talk internally and with the board about providing more of that kind of in-person training and maybe a resources page. The website is being redesigned now to be more robust by updating content and reflecting current browsing practices. The agency would love to have feedback on the FAQs. For example, staff can fold the information about equal numbers voting into a short, specific FAQ. Staff welcomes any ideas about how to connect with our licensees and the staff who works there.

Dana Selover stated that going from about 5 surveys annually to 22 surveys annually will likely bring up different questions as people become more accustomed to surveyor process.

Ruwani Dissanayake asked for the best way to submit questions.

Annabelle Henry invited board members to give input today and to call or email Anna Davis any time.

<p>Susan King suggested that it would be helpful to receive a periodic report about the questions that staff receive.</p> <p>Annabelle Henry indicated that this can be a standing agenda item.</p> <p>Debbie Robinson stated that questions are coming in because stakeholders need information and want to understand how to interpret the rules and apply them. Education is very important.</p> <p>Ruwani Dissanayake asked whether HFLC will also take feedback in the same way about the tools that are being developed.</p> <p>Annabelle Henry said that the process is not set in stone, but that nurse staffing plans are expected to be in place and operational by January 1, 2017. HFLC has tentatively scheduled the final NSAB meeting for this calendar year and the final Open House for this year will also be focused on the survey tools themselves. These tools should clarify how the survey process goes and how information is collected. Survey tools are very detailed, so staff will share them with the board in person rather than over email in order to provide context and an opportunity to discuss the tools. Given the timeline in 2017 that would give the agency an opportunity to revise the tools before they're actually used.</p> <p>Ruwani Dissanayake is curious as to what the tools actually look like.</p> <p>Annabelle Henry stated that the tools are sometimes grids with guidelines that tell the surveyor how to measure compliance with a particular rule. Survey methods and tools are driven by survey samples so that surveyor results are consistent for all surveyors and results are not subjective. The agency is formalizing the investigatory process itself. For example, in measuring equal voting compliance, the tool will tell the surveyor what to look for in the minutes in order to gather this information and then how to record the results.</p>	
Action Item	<ul style="list-style-type: none"> HFLC will make questions received a standing agenda item.

Agenda Item 4	<i>Open House Events – Susan King</i>
Time stamp 00:46:02	
<p>The board received a summary of the questions raised in the first Open House.</p> <p>Anna Davis stated that the Open House was webcast and is now archived, so it can be watched at any time. There were live webcast viewers and viewers have also watched since then. In the future webcast viewers will be able to submit live questions. Webcast viewers can already submit questions currently, but the responses aren't included in the live webcast.</p> <p>Anna Davis stated that the next Open House will go through the rules section by section. Participants will hear what is in each rule and what stakeholders need to be doing in order to comply with the rule. Each Open House will cover different</p>	

information and provide an opportunity to explore topics in depth. At the December Open House staff will present the survey tools so that stakeholders can see the actual tools and how to best prepare for a survey. The times of the Open Houses vary in order to capture a broader live audience. Ms. Davis asked if there were other topics the board would like to see covered or other ideas about how to publicize and make the Open Houses available.

Susan King said she heard there was interest in having the Open Houses based somewhere other than Portland.

Dana Selover said that the agency is considering doing something outside of the metro area, perhaps in the mid-valley area. It would help if at events outside of Portland the local board member from that area could come and be part of it. It is unlikely to occur this year, but is an idea the agency can explore for next year.

Connie Pullen offered to host an event at her facility.

Debbie Robinson attended and noted that the agency should find a way to take live questions from webcast viewers during future open house events.

Carol Bradley suggested that the number of questions may increase when a few audits have occurred. Stakeholders might not be completely engaged yet, but they will once a few audits are available for them to see.

Connie Pullen asked whether the agency could provide mock surveys before the real surveys start in 2017 in order to provide licensees with relevant information on an informal basis. Connie Pullen explained that with the Joint Commission the hospital sometimes does mock surveys and other times pays a consultant to do them. It might help reduce the fear around audits. If the agency did a mock audit and then release the results it could show where some of the issues are and the agency could provide tools and education to fill in that gap.

Annabelle Henry stated that the agency is unlikely to have the resources to provide mock surveys, but because that is something stakeholders might want, the agency can make survey tools available and stakeholders can take those tools and use them to prepare for or conduct their own mock audit.

Connie Pullen asked whether the concern was the expense.

Annabelle Henry stated that the larger concern is that the role of a surveyor is to provide a regulatory service, whereas providing a consulting service by providing mock audits would take the surveyors outside their scope of authority.

Connie Pullen said that she would be interested in doing a mock audit of her own hospital and would be willing to share the results if that would be helpful.

Dana Selover stated that perhaps OHA could make the tools available in advance of the Open House and if a hospital worked through the tools and did its own survey, then the agency could make that part of the Open House or part of the next board meeting.

Connie Pullen suggested that it would be beneficial to do mock surveys at a small hospital and at a large hospital, because there may be different areas of

concern. She stated that all hospitals want to comply with the laws, but how they achieve that may be very different.

Susan King suggested that a hospital nurse staffing committee could do a mock survey within its hospital.

Carol Bradley stated that as different hospitals work out their own ways of compliance, it would be good to share experiences. Ms. Bradley used the example of meeting minutes. Her hospital created a standing agenda and minutes so that those documents will always look the same. She noted that all of the hospital committees are trying to create infrastructure at this point and it is good to see what the models are.

Connie Pullen stated that her hospital wrote their charter using the draft rules and that they have an administrative secretary come to the meetings to take minutes so that the minutes are of a better quality than when the hospital committee used to pass the job around.

Virginia Smith stated that her committee had a process to determine who would not vote if there were unequal numbers and then included that information in their charter.

Connie Pullen stated that she decided on her hospital's committee if there are too many managers she will recuse herself.

Susan King suggested that there are questions the board needs to answer that arose in the Open House. Ms. King was unsure whether answers were given during the Open House.

Annabelle Henry said that the intent of the summary was to inform the board what interests and concerns were raised at the Open House.

Dana Selover stated that some of the questions were answered, one answer may need to be revised once staff confers with counsel.

Annabelle Henry noted that to the extent that an answer differs from the one given at the Open House then the issue might be related to the pending rulemaking and cannot be discussed now that the public comment period has closed. If the agency goes a different direction and revises any answer provided during the open house event, then the agency will revise the webinar so that those who watch it in the future get the correct information.

Susan King asked that staff go through the summary and give the NSAB the answers that were given during the Open House.

Dana Selover stated that the first question was about combining multiple units. Some of the answers were that the final rules will address this topic. The same answer was given for the second question regarding whether the non-RN on the hospital committee is in lieu of an RN for that unit, or in addition to an RN, which would mean that one unit is represented by both an RN and a non-RN. The third question related to whether hospitals needed to release all committee members from to attend committee members or only a number sufficient to comprise a

quorum. Dr. Selover stated that this type of limited release of staff is not an acceptable interpretation of the statute.

Annabelle Henry stated that staff was also surprised by some of the questions and it indicates that awareness is currently low and will rise as the surveys start. The fourth question regarding inclusion of satellites was one that the subcommittees wrestled with. The answers reflected that the rules were still in draft form and the goal is to have more final answers once the rules are finalized.

Dana Selover pointed out that satellites are covered by the nurse staffing law, because any location covered by a hospital license is subject to the law, but the question is then whether the location needs a nurse staffing plan.

Anna Davis stated that this question shows continuing confusion about what locations are covered by the hospital license and what locations are not covered.

Dana Selover stated that the hospital and satellite locations are all listed on the agency website. There are 65 hospitals and over 160 satellites in Oregon.

Carol Bradley clarified that the question is not whether a location is included under the hospital license, but instead what is part of the staffing plan.

Annabelle Henry stated that the first question is whether a location is part of the hospital and then the second question is whether the location needs a staffing plan.

Dana Selover stated that information about satellites was included in both the presentation at the Oregon Nurses Association annual meeting in April and the presentation to the Oregon Nurse Staffing Collaborative. Surveyors determine which locations are part of the hospital license before beginning a survey. The last two questions were about the roles of technicians and a question about mandatory overtime. These questions were answered with reference to the draft rules.

Susan King wanted to discuss the issue of representation of a nurse specialty or unit by a non-RN. Having worked on the statute, Ms. King believed the language was clear and did not understand why it was described as “unclear.”

Annabelle Henry noted that there are questions about the meaning of “except for” in the statute, but as this is the subject of current rulemaking the discussion is necessarily limited because the public comment period has closed.

Annabelle Henry stated that she read the statute during the Open House and discussed what it meant. The agency has received several comments since that time and whether the agency should go in a different direction is currently under consideration. Staff cannot say more at this point.

Carol Bradley stated that she wished to ask another process question. She asked how the rules go from draft to final and what the role of the NSAB is in that process, because she shares Susan King’s concern that some of these issues are now unclear when they seemed clear before.

Annabelle Henry stated that all but one of the questions refers to confusion on the part of entities that are being licensed, not necessarily on the part of the agency or on the part of RAC members. The issue the agency cannot currently answer is related to non-RNs representing nurse specialties or units on the hospital committee. In terms of process, the agency used a RAC to better inform the drafting of the rules and is obligated to close public comments at a certain date, which is what Dana Selover spoke to earlier. The board is fortunate to have Shannon O'Fallon on the phone and she might be able to speak to those process issues. Ms. Henry's understanding is that once the comment period closes discussion is internal within the agency and it is the agency's responsibility to weigh, review and consider each of the received comments.

Carol Bradley restated the question regarding the role of the committee in the rulemaking at this stage.

Shannon O'Fallon stated that the role is an advisory role, and once the comment period has ended it becomes an internal agency decision under the Administrative Procedures Act. The agency may not receive additional feedback on the draft rules unless it opens the rules again for public comment by everyone. If the agency adopts rules that the board does not like, then the board can have that discussion and rules can always be changed.

Susan King asked whether Shannon O'Fallon is saying that if the answer to a question in the final rules is different from what the statute intended, the only way to correct the problem would be to petition for new rulemaking.

Shannon O'Fallon explained that there is more than one way to reopen rulemaking and that one way may be to have an informal conversation with the agency. However, the agency cannot take comment from the Board at this stage in rulemaking.

Ruwani Dissanayake asks what happened to the content that this board provided to the agency previously in the rulemaking process. It seems that the committees had these discussions and content that committee members provided had clarity.

Annabelle Henry asked for clarification whether answers other than the one related to non-RN representation indicated a disconnect between the information provided during the RAC process.

Ruwani Dissanayake stated that questions about whether a technician could serve as the non-RN have been asked and she felt that was clear, but the rules say something different.

Dana Selover stated that the agency answer regarding technicians has remained the same which is that technicians cannot serve as the non-RN in the committee.

Ruwani Dissanayake then asked for confirmation that the content is still embedded in the rulemaking process and if the content changes then the RAC or board could have those discussions again.

Annabelle Henry stated that the rulemaking record includes the information provided by the RAC and confirmed that there is a lot of confusion outside the agency about what the standards are.

Susan King asked what feedback the agency would like if not answers to the questions raised during the Open House.

Anna Davis asked what other questions board members are receiving so that OHA can enhance Open Houses and training materials.

Annabelle Henry stated that the agency understanding was that staff were sharing information that the agency received and asking for any additional information the board members might have because the agency is trying to shift focus into implementation. This is a small sample set of questions. Attendance was lower than expected, so to the extent that board members are hearing different questions it would be helpful to know what they are.

Dana Selover stated that because the next Open House event is before the August board meeting it would be helpful to know what kind of format would be most efficacious in presenting the rules. The agency will not have all of the answers to the hypothetical questions that come to them. Sometimes the answer is an unsatisfying “that depends,” and Dana Selover asked the board to advise how to provide that information to stakeholders.

Virginia Smith stated that the questions are coming because the staff and nurse managers are experiencing friction. Interpretation that is occurring at their facility affects them directly, so when the answer is “that depends” it leaves the onus on the direct care staff to interpret the new rules and that is very challenging. Speaking from a direct care perspective, nurses look to the rule book to point out to Administrators the applicable rules. When there’s a different interpretation staff are asking where to find the correct interpretation. That explains the urgency of the question. Everyone at a hospital wants to comply and know that their interpretation is correct. If the question becomes a complaint that may be a result of the question not being answered. The question is who holds the authority to determine the meaning of the rules.

Dana Selover explained that the agency cannot discuss a complaint in a webinar, because complaints are confidential, but specific questions about whether something is allowed under the rules can be discussed in different forums.

Virginia Smith stated that even if it is a clarifying question, it’s often personal. She asked at what point a question is inappropriate for the Q&A.

Annabelle Henry stated that the agency can do a better job of clarifying that the agency is the final interpreter of nurse staffing rules. In public forums, critical details may be unintentionally omitted, but the agency wants to be respectful of someone brave enough to share what she or he is going through or to speak about an internal conflict. OHA can do a better job of clarifying that there are

multiple ways to get feedback from the agency. Examples include sending emails or calling staff. Anna Davis's time is dedicated to these issues.

Virginia Smith agreed that that is ultimately what attendees at an Open House are looking for, and knowing who to go to for answers is valuable.

Annabelle Henry stated that one of the reasons for doing written FAQs is that spoken answers can have ambiguity in word choice and interpretation, which may be clarified through written guidance, including graphics. There will always be novel hypothetical questions, and for those the agency can do a better job of offering to discuss the issue in detail outside of the Open House.

Susan King stated that she believed those novel issues are the types of things that will come before the NSAB. Ms. King asked about the process for individuals who attended an Open House and did not receive an answer.

Annabelle Henry stated that for the six major questions that were raised at the first Open House the agency provided answers and at the next Open House and the next Oregon Nurse Staffing Collaborative the agency will go through the rules point by point and provide a very detailed explanation of each rule. Those materials will also be available online and there will be a resources page and FAQ on the website.

Susan King confirmed that this meant that any updated information would be included in those materials.

Agenda Item 5 Time stamp 01:38:28	<i>Legislative Report Planning – Susan King</i>
<p>Susan King stated that board members have a proposal in the written materials. The question is what the board would like to see in the report and what the legislature would expect to see. The template talks about what the report is, what the board has accomplished, etc.</p> <p>Anna Davis stated that the board is required to submit a report on the administration of the nurse staffing laws. The legislation does not provide more details regarding content or structure. The agency looked at samples of what other boards with required reports submit to the legislature. The proposal is tailored around the board's authority to submit recommendations to the legislature. This report will go to every member of the legislature, some of whom will be familiar with the NSAB and nurse staffing issues and some of whom will not. The board can provide good information for both audiences and give a picture of what is coming next.</p> <p>Susan King stated that the first part of the report will be about the staffing law, the rest of the report is what the board has accomplished. She asked for input from the board members as to the lessons and recommendations.</p>	

Carol Bradley suggested that the history and current activities are factual, but it will be difficult to predict what will be included in the lessons and recommendations until the rules are final.

Susan King agreed. Ms. King stated that the board will meet on August 31, 2016, and the report is due in September. Susan King suggested that the board devote its attention to the draft report at the August meeting and stated that she would like to see the first part of the draft report at that meeting and then the board would make suggestions about the lessons and recommendations.

Annabelle Henry explained that waiting until the end of August to make topic suggestions could create a logistical problem as the board will not have time to meet again to approve the draft language, but will need to vote on August 31, 2016. She suggested that the board might consider language earlier in August or in late July and noted that staff will be busy in August with the Open House and the Oregon Nurse Staffing Collaborative presentation. The board could meet earlier or exchange information in advance of the meeting.

Members briefly discussed timelines and content. Annabelle Henry stated that the report is designed to be board's description of history, but also the board's thoughts about existing rules and its vision going forward. Staff will help the board draft the report, but the board signs it and votes on it. A wider timeline will allow the board to give the input necessary to make it a report the board can stand behind. Staff can get a redline version from each board member, but given the number of board members providing input, it will require work on the part of staff to harmonize the varied input of all board members. If the board could provide earlier feedback and earlier identification of issues and that would allow the board to finalize the report at the August meeting.

Susan King agreed that board approval should occur at the August meeting, so it would be best to exchange at least two drafts in advance of the August meeting.

Annabelle Henry suggested the following schedule:

July 15 – First set of input (lessons and recommendations) received from board

July 29 – First report draft sent out by staff

August 12 – Feedback on draft received from board

August 26 – Second report draft sent out by staff

August 31 – NSAB meeting

Carol Bradley asked if the report is transmitted electronically or how it is submitted to the legislature.

Anna Davis stated that every member of the legislature will receive an executive summary of the report and it will also go to interested parties within the agency and in the governor's office. The full report will also be on the nurse staffing website.

Dana Selover stated that legislators may also requires the cochairs to appear at legislative days to present the report and answer questions. Staff would be there and available to answer questions.

Rob Campbell asked whether there is a specific day that the board goes in front of the legislature.

Dana Selover stated that the legislators tell cochairs when to appear if they determine an appearance is necessary.

Susan King explained that in her experience, these are informational hearings and occur either before the session convenes or at the beginning of the session. Susan King restated the schedule for the draft report.

Annabelle Henry asked whether the board wants to see every board member comment received by staff included in the draft or only those comments that are echoed by others' comments. The comments may be phrased differently but cover the same topic.

Carol Bradley stated that she would like to see every comment. She suggested that the cochairs meet in early July to get a sense of the comments and sort them by topic. Ms. Bradley suggested that the board needs to get the essence of these issues into the report.

Susan King agreed that the comments from the board members should be grouped by topic. The topics will be sent to Anna Davis who will forward them to the cochairs.

Ruwani Dissanyake asked what the outline point referring to the Oregon Board of Nursing meant.

Annabelle Henry stated that there is still confusion about the role the various entities have as related to nurse staffing and this is an opportunity to clarify that. If the board would like to eliminate it from the report that can be done.

Ruwani Dissanayake agreed that she would like to see this topic addressed, because even though nurse staffing issues are not a practice issue over which the Board of Nursing has authority, it is something that impacts nursing practice and Ms. Dissanayake would like to see the view of the Board of Nursing on their part of the issue.

Susan King stated that the board will see what this looks like in the report and can remove anything that does not seem to fit.

Ruwani Dissanayake asked how board members can provide feedback regarding tool development and Open Houses. She wondered whether the board should have a task force and expressed a desire for more structure in giving feedback.

Virginia Smith agreed that she has suggestions for how a survey tool could be more useful for both hospitals and surveyors. She suggested that the board could submit the suggestions to the OHA. She asked whether the current tool is being revised

Dana Selover explained that CMS has interpretive guidelines that surveyors use and hospitals can look at to know the basis of the evaluation. The agency does

not have that level of detail in its tools, but the agency starts with a simple grid that incorporates rule language.

Annabelle Henry thanked board members for raising these issues now and explained that the agency will be sharing the survey tools with board members in November. After that meeting, the agency will still have a few months to refine the tools before they are actually used. Ms. Henry invited board members to send input to Anna Davis in the interim. The agency has started high level discussions to guide issue-spotting and will incorporate the rules into the tools once they are finalized. After that the team will work on hypothetical beta testing of the tools as during the summer. The board can discuss this in further detail in November.

Connie Pullen suggested that November will be late for this discussion and wondered whether the first draft will be available in August.

Annabelle Henry explained that although hospital nurse staffing plans should be final and implemented by January, the survey cycle itself will not begin until April 2017. This will provide the necessary audit trail and allow the agency to incorporate any necessary changes to the tools before they are deployed.

Connie Pullen expressed concern that there will be insufficient time for hospitals to review the tools.

Annabelle Henry stated that staff will also incorporate recommendations from the board after the November meeting before the December Open House and include that information in outreach training in the first quarter of 2017.

Connie Pullen stated that if she were not sitting on the board she would be anxiously awaiting the rules and after that she would begin asking the agency for anything that can prepare them for the survey. She would like to find a way to alleviate anxiety. Ms. Pullen referred to the prior discussion about the role of the agency as a regulator and asked whether the agency also has an educational function.

Members discussed the issue of mock surveys again.

Annabelle Henry explained that the agency's philosophical approach is educational and answers and information are provided with this goal in mind.

Dana Selover explained that the agency does not have statutory authority to perform mock surveys and ignore violations found during those mock surveys regardless of when those surveys are conducted.

Dana Selover explained that accrediting agencies have a different role and have opportunities that regulatory agencies enforcing state laws and federal laws do not. The agency tries to do a lot of outreach and answer questions, but there is no place in the rules to do a mock survey.

Annabelle Henry stated that the agency is obligated to survey using the rules currently in effect. As a regulatory entity the agency is required to account for its activities and document them, which would mean that a mock survey would

<p>identify inconsistencies with the current law as opposed to inconsistencies based on future survey standards. When OHA shares the tools in November and December the facilities will still have a number of months to prepare for survey.</p> <p>Susan King pointed out that the first facilities audits may be brought back to the board as evidence of confusion in the field and show us where education is needed.</p> <p>Dana Selover stated that the reports of the audits will also be posted online, so that anyone can view them. The agency has discretion regarding civil penalties and is invested in hospitals providing Plans of Correction that address the concerns surveyors find.</p> <p>Susan King restated that the tools will be shared in November and anything the board members want included in the tools can be sent to staff at any time.</p>	
<p>Action Item</p>	<p>Input for the legislative report will use the following timeline:</p> <ul style="list-style-type: none"> • July 15 – First set of input (lessons and recommendations) received from board • July 29 – First report draft sent out by staff • August 12 – Feedback on draft received from board • August 26 – Second report draft sent out by staff • August 31 – NSAB meeting

<p>Agenda Item 6 Time stamp 02:20:09</p>	<p><i>Public Comments</i></p>
<p>None</p>	

Approved by the NSAB August 31, 2016.

If you need this information in an alternate format,
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Oregon Nurse Staffing Advisory Board (NSAB)

Wednesday, May 25, 2016
 1:00 PM – 5:00 PM

Meeting Minutes Addendum

<p>Agenda Item 4 Time stamp 00:46:02</p>	<p><i>Open House Events – Susan King</i></p>
<p>Original minutes text:</p> <p>Carol Bradley restated the question regarding the role of the committee in the rulemaking at this stage.</p> <p>Shannon O’Fallon stated that the role is an advisory role, and once the comment period has ended it becomes an internal agency decision under the Administrative Procedures Act. The agency can’t have constant feedback on the draft rules unless it opens the rules again for public comment by everyone. If the agency adopts rules that the board does not like, then the board can have that discussion and rules can always be changed.</p> <p>Susan King asked whether Shannon O’Fallon is saying that if the answer to a question in the final rules is different from what the statute intended, the only way to correct the problem would be to petition for new rulemaking.</p> <p>Shannon O’Fallon stated that it may not be a petition, but a conversation with the agency. Further, the agency cannot take comment from this body at this stage in rulemaking.</p>	
<p>Addendum:</p> <p>In reviewing the May minutes at the August 2016 NSAB meeting, board members requested clarification of the above discussion. To that end, this addendum clarifies that the OHA has multiple ways of initiating a process to modify administrative rules:</p>	

- OHA may initiate rulemaking on its own at any time. Possible reasons to initiate rulemaking include: recommendations by staff and informal requests from external stakeholders indicating that there is a need to adopt, amend, or repeal an administrative rule.
- OHA is required to review an administrative rule five years after it was adopted or amended and may initiate rulemaking at that time.
- External stakeholders may formally request that OHA initiate rulemaking by filing a petition that complies with Oregon's Administrative Procedures Act ORS 183.390.

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