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Oregon Nurse Staffing Advisory Board (NSAB)

Wednesday, April 17, 2024

1:00 PM – 5:00 PM

Meeting Minutes

Cochair	Mariah Hayes, MN, RN, NE-BC (presiding)
Members present	Lace Velk, RN; Chandra Ferrell, CNA; Kelsey Betts, RN; Shannon Edgar, RN, MBA; Nicole Hudson, RN, BSN, CEN; Christie Wiles, MBAHM, RN, CNML; Matt Calzia, RN, BSN;
Members absent	Jenni Word, RN; Joel Hernandez, RN; Todd Luther, RN, CEN;
OHA staff present	Dana Selover, MD, MPH; Anna Davis, JD; Kimberly Voelker, MPH; Austin Schmidt, RN; Ilana Kurtzig, MA; Tip McIntosh; Teri-Ann Stofiel, RN; Cara Biddlecom, MPH

Guests present	Heather Thompson (Adventist Health); Megan Tatge (ASRH); Heidi White (Good Samaritan RMC); Danielle Meyer (HAO); Donell Owens (Kaiser Sunnyside); Stacy Armstrong-Blixhavn (Kaiser Permanente); Joshua Dunn (Legacy Health); Beth Dimler (Lower Umpqua); Christy Simila (ONA); Justin Floyd (Peace Health); Jackie Fabrick (Providence); Shauna Cline (Saint Alphonsus); Kerry Kilgore (Samaritan Lebanon); Lois Hine (Sumner College)
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Agenda Item 1	<i>Call to Order</i>
The meeting was conducted as hybrid in-person and online Zoom meeting with computer and phone audio options. Board co-chair greeted board members and initiated rollcall.	

Agenda Item 2	<i>Minutes</i>
Board co-chair asked whether there were any edits, corrections, or questions about the minutes from the January 2024 Quarterly NSAB meeting.	
Motion to approve January minutes as written: Mariah Hayes	
Seconded: Lace Velk	
Motion passed.	

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Agenda Item 3	<i>Membership & Meeting Updates</i>
<p>Board co-chair initiated an ice breaker to welcome new board members.</p> <p>Board discussed whether upcoming Nurse Staffing Advisory Board (NSAB) meetings in July and October should be in-person or hybrid. The board agreed to have the July NSAB virtually due to scheduling and the October NSAB meeting in-person at Portland State Office Building (PSOB) with an option for hybrid.</p> <p>K. Voelker informed the board of Workday prompts and reminded the board that training was due at the end of 2024.</p>	

Agenda Item 4 & 6	<i>HB 2697 Rulemaking Update / Implementation Notes</i>
<p><i>The discussion for Agenda Items 4 and 6 were combined into a single item for the meeting.</i></p> <p>D. Selover updated the board about rulemaking and summarized the public hearing, which occurred the day before. They provided more updates on HB 2697 bill implementation, including HCRQI's coordination with OHA leadership, DOJ, bill advocates, and BOLI. They explained that OHA would keep the NSAB and public informed as they learned more about the bill. They also provided examples of changes in nurse staffing complaint investigations under the previous law compared to hospital staffing complaint investigations under HB 2697.</p> <p>D. Selover noted that there were temporary rules in place and shared the HB 2697 fact sheet with the board. They reminded the board that the hospital staffing law limited OHA's rulemaking authority for hospital staffing.</p> <p>D. Selover stated that because new hospital staffing requirements would go into effect on June 1, 2024, OHA aimed to have the rules adopted by May 15, 2024. They noted that a hospital staffing webinar was planned for June.</p> <p>K. Voelker shared that the public comment for the new hospital staffing rules would close on April 22, 2024 at 5 pm.</p> <p>Board co-chair asked the format of the webinar such as whether it would include a Question-and-Answers (Q&A) section.</p> <p>D. Selover responded that the webinar would be an overview of hospital staffing implementation and an opportunity for OHA to received input from the public.</p> <p>Board co-chair suggested adding a portal where questions could be submitted after someone watched the webinar.</p>	

K. Voelker explained that questions could be submitted to the hospital staffing mailbox (mailbox.nursestaffing@odhsoha.oregon.gov) and that OHA would include a slide at the end of the webinar with that information.

The board co-chair asked whether there were any questions the board had that could be included in the webinar or FAQ. member asked whether a couplet was considered one or two patients.

A. Davis shared that the statute counted one mother and one baby as separate patients.

Board co-chair suggested discussing feedback about the complaint form.

Board co-chair noted that the nurse staffing plans aren't reviewed by OHA prior to posting and that OHA doesn't expect all hospitals to have the same plans.

A. Davis stated that a disclaimer is present on the staffing plan coversheets.

K. Voelker stated that the submission form was active on the website, but none of the hospitals had submitted the plans yet. They showed the submission form posted on the website, including submission form instructions.

Board member asked OHA to confirm that if one unit staffing plan changes, the hospital would need to resubmit staffing plans for all the units.

D. Selover confirmed and explained that OHA did not have capacity to change out specific pages in a packet for each of the 65 hospitals submitting plans.

Board co-chair complimented the FAQ and the thoroughness of the format. They suggested reviewing the FAQ during the webinar.

Board member noted that they anticipated feedback at the webinar about what is expected to be in staffing plans besides the ratio-specific language.

Board member referenced when OHA previously required Plan of Corrections (POC) from hospitals as a consequence of surveys/investigations and how hospitals were accustomed to the significance of language within POCs. They asked for clarification on the current state of the POC process.

A. Davis stated that under the new law, OHA no longer had authority to require or review POCs for nurse staffing.

Board member described confusion about which units were required to have a staffing plan. For units that did not clearly fit in the required ratio board member suggested adding that question to the webinar.

Board co-chair asked for an update on the Arbitration Request Form.

K. Voelker stated that the Arbitration Request Form had been drafted and OHA was seeking feedback from the Department of Justice (DOJ).

Board co-chair asked if there were limitations to which units could request arbitration.

A. Davis stated that OHA was currently looking into that question.

There were no additional questions or comments about the HB 2697 Rulemaking Update or HB 2697 Implementation Updates.

Agenda Item 5	<i>Status Update Consent Agenda</i>
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Board co-chair suggested reviewing the dashboards as a consent agenda item, where the board members could ask questions about the dashboards but not have them presented in detail.

K. Voelker summarized the Hospital Staffing Complaint dashboard which included data for hospital staffing complaints submitted between September 1, 2023, and March 31, 2024.

Board co-chair asked for clarification on the nurse staffing allegation “Hospital required MOT.”

K. Voelker stated that “MOT” stood for “Mandatory Overtime.”

K. Voelker summarized the OHA Hospital Staffing Complaint Snapshot, which showed the hospital staffing complaint process and the number of complaints at each stage, and a hospital staffing complaint chart, which included detailed information about hospital staffing complaints.

Board co-chair suggested that the Hospital Staffing Complaint table be omitted from the packet but should be readily available if requested.

Board member suggested readjusting the Hospital Staffing Complaint dashboard and slides to include allegations and valid complaints.

A. Davis explained the difference between a valid complaint, which is a complaint OHA can investigate, and a substantiated complaint, which is a complaint that has been investigated and one or more violations have been proven in the investigation.

Board member stated that they would like to see information on both valid and substantiated complaints.

Board co-chair asked if the table could be found on the OHA website if it wasn't included in the packet..

K. Voelker stated that if the board would like to see the table during the board meeting, OHA would need at least two weeks' notice given the time it takes to build the table.

Board member suggested that the table not be included in the NSAB packet.

D. Selover clarified that the Hospital Staffing Complaint table was created specifically for the board meeting.

A. Davis added that the table data came from multiple spreadsheets the hospital staffing team used to complete its work. .

Board member noted that they used the table prior to joining the NSAB but they were not opposed to reducing the material in the packet. They asked if the Hospital Staffing Complaint table would be available via public records request.

A. Davis answered that the table would not be available via public records request because OHA is not required to make new records pursuant to a request; because this table is made for NSAB quarterly meetings, OHA would not build the table if the NSAB does not review it for the quarterly meetings.

Board member suggested wanted more time to consider whether removing the table would affect any external partners who rely on it.

Board co-chair stated that during their time on the board, the table was not as heavily utilized as the graphs.

Board co-chair asked whether new hospital staffing investigation reports were posted on the OHA Hospital Staffing Website.

K. Voelker confirmed that investigation reports were posted on the OHA Hospital Staffing website.

Board member urged the board to consider the administrative burden associated with creating the table.

A. Davis also noted that the size of the table never decreases and explained how it was three pages for complaints between 2016 – 2022, but was eleven pages for complaints between September 2023 – March 2024. I

Board co-chair asked if there would be a way to have the information readily available without creating a table.

A. Davis answered that the Nurse Staffing Policy Analyst created the table in 2017 because the previous board wanted to see the detailed progress on the complaints and POCs.

Board member stated that s because OHA no longer reviewed POCs, the board should revisit whether the table was still useful.

Board co-chair urged the board to think about the Hospital Staffing Complaint table and provide feedback at the next board meeting.

A. Davis suggested including the Hospital Staffing Complaint table twice a year instead of every board meeting, similar to the dashboards for nurse staffing waivers under the previous law.

Board co-chair proposed that the board seek feedback from the public about the Hospital Staffing Complaint table, its usage and if there should be improvements t. They suggested including the table at the July 2024 NSAB meeting.

Board moved on to discuss the 2023 Year in Review.

T. McIntosh presented the 2023 Year in Review and K. Voelker shared that the slides included information about activities under the previous law that because it was still in effect through August 2023. The change resulted in a lower number of annual surveys as the new law went into effect.

There were no additional questions or comments about the Year in Review slides.

Agenda Item 6	<i>HB 2697 Implementation Updates</i>
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The discussion for Agenda Items 4 and 6 were combined into a single item for the meeting.

Agenda Item 7	<i>Meet & Greet with Cara Biddlecom (Public Health Director)</i>
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The board welcomed Cara Biddlecom to the meeting.

C. Biddlecom introduced themselves as the OHA Interim Public Health Director and thanked the board for their work in implementing the Nurse Staffing Laws. They shared that the Public Health Division was responsible for improving quality of life, which included having high quality healthcare systems. They offered OHA's support for the NSAB's work.

Board co-chair thanked C. Biddlecom for their encouragement and joining the board's quarterly meeting.

Board member asked whether there were plans for OHA leadership to visit hospitals and observe the hospital environment to help make decisions about hospitals.

C. Biddlecom shared that leadership was discussing where to conduct statewide public health visits and would consider the board's suggestion.

Board member shared their hope that the Public Health Division would collaborate across the state and find solutions to the failures of the broader healthcare system, particularly with Emergency Departments.

C. Biddlecom acknowledged the struggles of the Emergency Departments keeping up with wide variety of patients, including those who seek non-emergency care in Emergency Departments.

Board member added that nursing care intensity had increased since the pandemic.

C. Biddlecom acknowledged the comment and thanked the board member.

The board thanked C. Biddlecom for their time.

There were no additional questions or comments for Cara Biddlecom.

Agenda Item 8	<i>NSAB Upcoming Strategic Planning</i>
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D. Selover provided background information about the board's most recent strategic planning meeting, which was in 2019.

A. Davis explained how the 2019 NSAB strategic planning session was productive due to the constructive feedback and collaborative atmosphere

Board co-chair expressed that they believed there was not enough time since the new law had gone into effect to make proactive decisions in strategic planning.

Board members agreed with board co-chair..

D. Selover proposed planning the strategic meeting in the future so the board would know what issues to talk about at the meeting. They also shared a timeline of when hospital staffing requirements went into effect.

Board co-chair discussed timing for the strategic planning session and noted that weather during the time of the current NSAB meeting was favorable driving conditions.

Board member shared that the best time for the strategic planning session would be between the January 2025 and April 2025 NSAB meeting because members could prepare for the strategic meeting in January, attend the strategic planning session, and then finalize thoughts at the April NSAB meeting before June 1, 2025, when civil monetary penalties went into effect.

Board member summarized the agenda item discussion and confirmed that the board favored a strategic planning session in the springtime of 2025. They also proposed an agenda item to discuss the session during the July 2024 or October 2024 NSAB meeting.

There were no additional questions or comments about the NSAB Strategic Planning Meeting.

Agenda Item 9	<i>Break</i>
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Board co-chair called for a ten-minute break.

Agenda Item 10	<i>Common Hospital Staffing Questions</i>
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Board co-chair welcomed the board back from break and asked for board members and OHA to share any questions they had received about hospital staffing.

K. Voelker shared that hospitals were commonly surprised when OHA started an investigation because they were not aware that investigations had started. Hospitals also had several questions about implementation timelines and enforceable language in a nurse staffing plan.

A. Davis added that nurses and hospitals also had questions about how plans were created and implemented.

Board member stated that there were several questions about charge nurses at their hospital and asked whether OHA had received questions about charge nurses.

A. Davis confirmed that OHA had received questions about whether charge nurses could take patient assignments, cover breaks, and count towards the nurse-to-patient ratio for the unit. They also explained that charge nurses could temporarily cover meal and rest breaks, which may not be considered taking a patient assignment.

Board member asked whether it was considered taking a patient assignment if the charge nurse covered the meal and rest break.

A. Davis stated that it was generally not considered a patient assignment to cover a meal or rest break, and that if the charge nurse was not allowed to cover the meal or rest break, that stipulation should be included in the nurse staffing plan.

Board member asked for clarification about ORS 441.765(8)(a), which related to charge nurses taking a patient assignment.

A. Davis referred to and cited ORS 441.765 (8), which takes effect on June 1, 2024 and state. They described the two different provisions of the statute and noted that OHA had already spoken to DOJ regarding whether language stating when a charge nurse “may” take a patient assignment necessarily means that in other situations a charge nurse may not take a patient assignment.

K. Voelker noted that it was their understanding that this provision did not also prohibit its inverse.

Board co-chair stated that in their hospital, the charge nurses would only make those exceptions to take on patient assignments when there were defined rules included in the approved nurse staffing plan.

Board member asked how the board co-chair worded their nurse staffing plan.

Board co-chair shared the language they used such as “only be allowed to.... under these circumstances”

Board member asked Whether OHA could investigate allegations related to staffing for charge nurses.

K. Voelker confirmed that OHA could investigate allegations related to charge nurses, but noted that staffing requirements and any special provisions related to staffing for charge nurses needed to be included in the nurse staffing plan for it to be enforceable.

A. Davis noted that such issues can fall under the scope of the hospital not having enough nurses on a particular shift including charge nurses.

K. Voelker noted that there is sometimes a disconnect between what hospitals think their plans require and what the plans actually required. They also shared situations in which direct care nurses were unsure whether the unit had a staffing plan or staff did not know what requirements were included in the staffing plan.

Board member stated that they had become aware of hospitals encouraging shorter, less specific plans, and they stressed that based on the discussion at the Rules Advisory Committee meetings and this quarterly meeting, plans needed to be more specific and not simply restate the statutory ratios.

A. Davis agreed that additional requirements, should be reflected in the nurse staffing plan. They stated that they would share that information in the upcoming webinar, especially since the required contents of a hospital staffing plan had changed.

Board member recalled the previous iterations of the law and stated that OHA used to cite hospitals for lacking additional granularity.

A. Davis noted that the previous law required minimum numbers and not ratios, and that OHA no longer enforced other specific elements of nurse staffing plans like acuity measures and total diagnoses.

Board member considered working their staffing plan backwards and focusing on what an investigator might find within the staffing plan to support their allegations.

K. Voelker stated that reviewing the nurse staffing plan is the first thing surveyors do upon an investigation and take note of what was enforceable.

A. Davis offered to share the template Investigation Needs List for hospitals to work from when developing a staffing plan.

A. Davis noted that OHA planned to do a different webinar for professional, technical, and serving staffing later in the year because those staffing plans were likely to be different from nurse staffing.

K. Voelker shared that another common question that OHA had received was how to track deviations from the nurse staffing plan. They noted that several hospitals had relied on the union Staffing Request & Documentation Forms (SRDFs) or Assignment Despite Objection forms (ADOs), which did not always provide enough information for the hospital to identify deviations and may not notify the Nurse Staffing Committee within 10 days of the deviation.

Board member explained that they had thought that hospitals weren't required to start tracking deviations until June 1, 2024, so it was useful to learn that they needed to start tracking deviations now.

Board member asked about how deviations counted for units that shared staff.

A. Davis explained that deviations were for a staffing plan, so if the combined units had the same staffing plan, then it would be one deviation.

Board member asked if nurses working at offsite clinics covered under a hospital license could file a hospital staffing complaint. They also asked what would happen if the nurse and hospital disagreed over whether the clinic required a plan. .

A. Davis confirmed that a nurse would be able to file a complaint and added that the determination of whether a unit required a plan had changed under the hospital staffing law and that OHA no longer made the same determination as under the previous law.

There were no additional questions or comments for about common hospital staffing questions.

Agenda Item 11

Hospital Staffing Surveyor Discusses Survey Activities

K. Voelker introduced hospital surveyor, Austin Schmidt, and welcomed them to the board.

A. Schmidt expressed that A. Davis and K. Voelker had described much of the experiences with the complaint investigations under the new law and asked if there were any more specific questions the board wanted answered.

Board co-chair asked how to find new investigation reports on the hospital staffing website.

K. Voelker stated that the investigations were posted on the website under Reports with a new title: “Hospital Staffing Investigation – Nurse Staffing”.

Board co-chair asked how the current investigations compared to those done under the previous law.

A. Schmidt answered that it was a different experience to conduct investigations remotely, compared to onsite surveys under the previous law. They shared that hospitals were cooperative and that the remote process was working well, although there was a learning curve for the hospitals and OHA.

Board co-chair thanked A. Schmidt for their work.

There were no additional questions or comments for the Hospital Staffing Surveyor.

Agenda Item 12 | *Emerging Issues in Nurse Staffing*

Board co-chair initiated a round robin with K. Voelker facilitating and asked board members to share emerging issues. They started by wondering whether anyone was studying the effects of the new law.

Board member shared that Linda Aiken, who studied nurse staffing, was likely to study the effects of Oregon’s law.

Board member asked if L. Aiken’s studies included qualitative and quantitative data.

Board member was not certain how L. Aiken team conducted their studies but described their previous work.

K. Voelker offered a resource: Oregon Center for Nursing (OCN).

Board member referenced discussion with OHA Public Health Director and expressed concern about ongoing issues for Emergency Departments and necessary support.

Board co-chair supported this concern and encouraged the State to note challenges in Emergency Departments. They wondered if other states in the country also had overwhelmed Emergency Departments.

Board co-chair expressed concern about the state of national healthcare if nurses left other states to practice in Oregon.

Board member offered insight about nurse migration and shared that the International Counsel of Nurses encouraged mobility of nurses to prevent exploitation.

Board member shared that they were concerned with how hospitals would adapt their staffing plans to satisfy statutory requirements.

Board co-chair noted that they were aware that CNA staffing was a challenging issue and changing across the state.

Board member stated that it was also challenging to identify staffing for boarded patients, especially when physical space ran out in the Emergency Department.

Board member noted that there was a significant increase in the number of patients who went to the Emergency Department for non-emergency care. In addition, for patients admitted from the ED, sometimes the nearest bed was out-of-state. They were optimistic that the new law may help reduce the burden on hospitals and staff.

There were no additional questions or comments related to emerging issues in nurse staffing.

Agenda Item 13	<i>Public Comment</i>
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There were no public comments offered at this meeting. Board co-chair thanked the board and adjourned the NSAB meeting.	
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Agenda Item 14	<i>Meeting Adjourned</i>
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Approved by NSAB on July 31, 2024

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