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Oregon Nurse Staffing Advisory Board (NSAB)

Wednesday, October 25, 2023

1:00 PM – 5:00 PM

Meeting Minutes

Cochair	Mariah Hayes, MN, RN, NE-BC (presiding); Uzo Izunagbara, DNP, MSN, MHA, RN
Members present	Jenni Word, RN; Lace Velk, RN; Kitty Rogers, DNP, RN, NEA-BC, CEN, CPEN, TCRN, CPHQ; Kelsey Betts, RN; Joel Hernandez, RN; Todd Luther, RN, CEN; Shannon Edgar, RN, MBA; Becky Wise, RN;
Members absent	Chandra Ferrell, CNA
PHD staff present	Dana Selover, MD, MPH; Anna Davis, JD; Kimberly Voelker, MPH; Austin Schmidt, RN; Ilana Kurtzig; Tip McIntosh
Oregon Department of Justice staff present	Erin Williams

Guests present	Grace Richards (Deloitte); Meghan Slotemaker (HAO); Danielle Meyer (HAO); Aislyn Booth (OHSU); Cheryl Nicponski (OHSU); Chiara Del Giudice (OHSU); Desiree McCue (OHSU); Elisa Youngman (OHSU); John Cockerham (OHSU); Keely Bertak (OHSU); Sacha Olszewski (OHSU); Uche Obiora (OHSU); Brianna White (OHSU); Maggie Guay (OHSU); Carlee Moser (OHSU); Christy Simila (ONA); Jocelyn Pitman (ONA); Therese Hooft (ONA); Justin Floyd (PeaceHealth); Becky Kopecky (Providence); Sasha Walia (Providence); Anna LaRosa (Saint Alphonsus Medical Center – Ontario); Shauna Cline (Saint Alphonsus Medical Center – Baker City); Tia Rodriguez (Salem Health); Nancy Deyhle (Sacred Heart Riverbend); Kerry Kilgore (Samaritan Lebanon); Jennifer Peterson (St. Anthony Hospital)
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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>
<p>Board co-chair asked whether there were any edits, corrections, or questions about the minutes from the April 2023 Quarterly NSAB meeting.</p> <p>Motion to approve July minutes as written: Lace Velk Seconded: Uzo Izunagbara Motion passed.</p>	

Agenda Item 3	<i>Membership & Program Updates</i>
<p>K. Voelker announced that Barb Merrifield and Becky Wise had accepted new positions that made them ineligible for the board and thanked them for their service on the NSAB. They also announced that Uzo Izunagbara's term would end in December, and they thanked him for his leadership on the board.</p> <p>Board thanked U. Izunagbara for his service to the board.</p> <p>D. Selover asked K. Voelker to confirm the number of vacant positions.</p> <p>K. Voelker stated that there would be two direct care positions and one nurse manager position vacant, and they provided information on how to apply to the board.</p> <p>D. Selover introduced Ilana Kurtzig, who was helping Health Care Regulation & Quality Improvement (HCRQI) implement HB 2697. The board welcomed I. Kurtzig.</p> <p>K. Voelker reminded the board about required trainings and asked the board members to contact her directly if they had any problems accessing the trainings via Workday.</p>	

Agenda Item 4	<i>Legislative Report Update</i>
<p>Board co-chair asked for an update on the NSAB Legislative Report.</p> <p>K. Voelker stated that OHA had submitted the annual legislative report to the OHA Publications and that the OHA Publications Team's backlog had slowed finalization of the NSAB's report. K. Voelker shared that they expected the report to be finalized within the coming weeks.</p> <p>Board co-chair looked forward to the report being finalized.</p> <p>Other board co-chair agreed and asked whether K. Voelker would inform the board when the report had been submitted to the Legislature.</p> <p>K. Voelker confirmed that they would inform the board when the report was submitted to the Legislature.</p>	

There were no other questions or comments about the NSAB Legislative Report.

Agenda Item 5 | *Status Updates*

K. Voelker presented the Nurse Staffing Complaint dashboard and explained the data was for hospital staffing complaints submitted since September 1, 2023.

Board member asked why the dashboard included information about six complainants submitting two-thirds of hospital staffing complaints and stated that the factoid felt accusatory. Another board member agreed.

K. Voelker explained that this data was meant to demonstrate that complaints were generally submitted by a small number of individuals, and that there could be limitations to generalizing this information to all Oregon hospitals.

A. Davis added that there may be confusion about new requirements under HB 2697, which was reflected in some complaint submissions.

K. Voelker added OHA would present more on this topic for Agenda Item 7 (Online Complaint Form).

Board member stated that there was confusion about when HB 2697 went into effect and theorized that direct care nurses were not submitting complaints because they did not know what provisions OHA could enforce. They asked about the process for submitting hospital staffing complaints.

K. Voelker stated that OHA had a new online complaint form, which OHA would present in Agenda Item 7 (Online Complaint Form).

Board co-chair asked whether the complaints on the dashboard had been submitted after HB 2697 went into effect on September 1, 2023.

K. Voelker confirmed that the 30 complaints on the dashboard had been submitted after HB 2697 went into effect on September 1, 2023.

Board member asked what “Exclusive Representative” meant.

A. Davis stated that an Exclusive Representative was a union that represented the complainant’s classification at hospitals where nursing staff members are unionized.

K. Voelker presented the Nurse Staffing Complaint chart and explained that the “Hospital Name” and “City” columns were redacted because those investigations were in progress. They noted that complaints numbered 1 – 5 were under investigation at the same hospital.

K. Voelker also explained that OHA could only investigate valid complaints as defined by HB 2697.

Board member asked whether the “Size” column referred to the hospital’s size.

K. Voelker confirmed and noted that “Large” referred to hospitals with more than 150 licensed beds, “Medium” referred to hospitals with 26 – 150 licensed beds, and “CAH” [Critical Access Hospital] referred to hospitals with 25 or less licensed beds. They stated that OHA had not received any hospital staffing complaints against a CAH.

Board member asked for clarification on the timelines for “Complaint Received”, “Union Notification Due” and “Date OHA is required to start investigation”.

A. Davis explained that OHA was required to send a copy of the complaint to the Exclusive Representative within 14 days of receiving the complaint; start an investigation within 30 days of determining whether the complaint was valid; and complete the investigation report within 80 days of starting the investigation. They stated that the letter to the Exclusive Representative reflects that OHA has not determined whether a complaint is valid..

K. Voelker added that the complaint documents were timestamped, so the Exclusive Representative would know exactly when the complaint was submitted to OHA.

Board co-chair asked whether the timelines were measured in business days.

A. Davis clarified that timelines were measured in calendar days.

Board co-chair expressed appreciation for the chart’s format and requested that OHA add a column about whether the complaint was substantiated.

Board member asked for more information about the difference between “Valid” and “Substantiated” complaints.

K. Voelker explained that HB 2697 limited the bases for hospital staffing complaints and that a “valid complaint” was one with allegations that could be investigated under HB 2697. They explained that a “substantiated complaint” was one where the allegations were investigated and proven to be true. They added that OHA had not completed any hospital staffing investigations, so OHA did not know whether the valid complaints listed on the table were substantiated or unsubstantiated. They also explained that the “Complaint Topic Area” column reflected the type of allegation for each complaint.

There were no additional questions or comments about the Nurse Staffing Complaint dashboard. Board co-chair thanked OHA for the presentation.

Agenda Item 6	<i>HB 2697 Implementation Updates</i>
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D. Selover provided 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 and encouraged members of the public to sign up for OHA’s listserv.
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D. Selover provided information about the Implementation FAQ and noted that the FAQ was posted on the Hospital Staffing website (www.healthoregon.org/nursestaffing) and was sent to OHA's listserv and NSAB.

D. Selover also notified the board about upcoming rulemaking for HB 2697. They explained that HB 2697 limited OHA's rulemaking authority.

Board member asked whether NSAB would serve as the Rules Advisory Committee (RAC) for the new rules and stated that it was unclear who would be involved in rulemaking.

D. Selover stated that board members would be on the RAC, along with representatives from the bill advocates and from communities likely to be affected by the rules.

Board member expressed interest in creating a list of challenges from the previous nurse staffing law and preparing for those challenges under HB 2697. They provided examples of past challenges, such as lack of OHA funding, resources, and hospital education.

D. Selover noted that many requirements had changed under HB 2697, so the challenges from before HB 2697 may not provide much insight into future hospital staffing challenges.

Board co-chair suggested keeping a list of wins and challenges related to HB 2697 implementation.

Board member stressed the importance of communication and advocating for other types of hospital staff. They wondered whether the rules could require hospitals to report to OHA when they deviated from the hospital staffing law.

Board co-chair asked whether HB 2697 allowed professional, technical, and service staff to serve on the NSAB and emphasized the importance of hearing from these hospital staff.

A. Davis stated that HB 2697 did not change statutory language for composition of the NSAB, which requires six nurse managers, five direct care RNs, and a direct care RN, LPN, or CNA.

D. Selover explained that OHA would seek input from professional, technical, and service staff through a variety of methods, and agreed that these new types of hospital staff could not be members of the NSAB.

D. Selover invited K. Voelker to provide an update on Plans of Correction (POC), the new complaint form, and the hospital contact form.

K. Voelker explained that because OHA did not have the authority to request or review POCs under HB 2697, OHA had sent letters to hospitals explaining that open surveys and investigations were closed without POCs.

Board member asked whether incomplete reports for investigations before September 1, 2023 would still be sent to the hospital and posted on the OHA Hospital Staffing website.

A. Davis stated there was one outstanding report and confirmed that OHA would send it to the hospital and post the report on the website when it was completed.

K. Voelker announced that OHA had created a new hospital staffing complaint form and provided the web link to access the form (www.healthoregon.org/facilitycomplaints). They stated that they would review the complaint form in more detail during the next agenda item (Online Complaint Form).

Board member asked whether the complaint form could also be accessed from the OHA Hospital Staffing website.

A. Davis stated the link was not posted on the Hospital Staffing website, but that OHA would add it there.

K. Voelker shared that OHA had created a new online form for hospitals to notify OHA of a change in contact information for CNOs, Nurse Staffing Committee Co-Chairs, Professional/Technical Staffing Committee Co-Chairs, Service Staffing Co-Chairs, and Exclusive Representatives.

Board member asked whether hospitals were still required to complete an update form PDF to send to OHA.

A. Davis stated that the new online form replaced the previous PDF.

There were no additional questions related to the contact form. Board member asked if they could go over a question on the HB 2697 Implementation FAQ. Board member asked for clarification related to waivers under HB 2697.

A. Davis explained that the requirements OHA used to waive no longer exist under HB 2697. They stated that OHA could still grant waivers, but because the requirements that were previously waived no longer exist, it was unlikely OHA would receive waiver requests. They explained that hospitals could seek alternate staffing through innovative care models or variances for Type A and Type B hospitals, which was introduced in the new bill.

Board co-chair asked if the why hospitals were required to send notice of the Nurse Staffing Committee approving a variance.

D. Selover responded that it was a statutory requirement.

Board co-chair stated that it could be interesting to compare the accuracy of the information reported to OHA with what is measured during an investigation.

D. Selover stated OHA cannot investigate whether hospitals provided up-to-date documents as that is not enforceable through the violation process under HB 2697.

Board co-chair asked if there was a list of allegations OHA could investigate under HB 2697.

A. Davis asked to scroll to Question 16 on the Implementation FAQ and identified the list of valid complaints.

Board member asked whether OHA would be able to investigate a complaint that hospital unit did not have a nurse staffing plan.

A. Davis stated that HB 2697 allowed OHA to investigate complaints that the hospital had not adopted a nurse staffing plan.

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

Agenda Item 7	<i>Online Complaint Form</i>
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K. Voelker presented information on the new hospital staffing complaint form, including the list of allegations that are valid complaints under HB 2697.

Board members reviewed the OHA Facility Complaints webpage and discussed opportunities to distinguish between the form for patient care complaints and the form for hospital staffing complaints.

D. Selover noted that complaints about meal and rest break violations could be submitted via the hospital staffing complaint form, which redirects to BOLI or are submitted to OHA, depending on the complainant's preference.

Board member asked if complaints sent to BOLI were tracked.

K. Voelker confirmed that OHA tracked when a meal and rest break was sent to BOLI.

K. Voelker presented major themes from the feedback provided by hospital staffing partners and stated that the feedback illustrated common areas of misunderstanding. They also discussed how OHA would improve the form based on the feedback provided.

Board co-chair asked whether the public could test the complaint form.

K. Voelker answered that the test version of the form had been turned off.

A. Davis offered alternatives for people to access the test version of the complaint form.

Board member suggested using SurveyMonkey to print out logic flow as a resource.

A. Davis noted that due to the amount of skip logic on the form, the print outs would not be cohesive.

Board co-chair noted that feedback on the form was asked for before the law was implemented and asked if OHA would ask for feedback again within a year.

A. Davis stated that they believe feedback should be collected more than a year later, since more requirements would be in effect..

Board co-chair asked about how the complaint form was updated to align with BOLI's feedback.

K. Voelker answered that OHA was still in the process of updating the form and would likely be completed on the following week. They stated that BOLI advised on language to clarify BOLI's jurisdiction over meal and rest break complaints and that BOLI begins investigations under HB 2697 in 2025.

A. Davis stated that BOLI could currently investigate complaints that occurred at non-union hospitals.

Board co-chair suggested that staff at hospitals with unions complete union forms as well as OHA's hospital staffing complaint form to ensure that complaints are acted upon.

A. Davis reiterated that OHA's role in issues related to meal and rest breaks are to forward them to BOLI.

Board member requested that BOLI attend a NSAB meeting to get insight from BOLI about their processes.

D. Selover stated that OHA would be as transparent as possible when relaying information from BOLI, but that OHA cannot speak on behalf of BOLI.

Agenda Item 8	<i>Break</i>
Board co-chair called for a twelve-minute break.	

Agenda Item 9	<i>NSAB Bylaws</i>
K. Voelker stated that bylaws had last been reviewed in the fall of 2018.	
D. Selover explained that bylaws often came from statute and DOJ guidance. They explained that NSAB's bylaws align with format and style of other OHA boards.	
Board co-chair recalled how the NSAB's vote on civil monetary penalties during an ad hoc meeting did not include equal numbers of direct care and nurse manager members. They	

stated that though the votes were a recommendation, they felt the bylaws should include a requirement for equal numbers of direct care and nurse manager members.

Board member noted that equal number voting was required for nurse staffing committees, so it made sense to require it for NSAB.

A. Davis stated that they would ask DOJ whether this could be added to the bylaws.

Board member spotted a punctuation error in the bylaws.

Board co-chair emphasized that board should strive for a consensus approach and worried that voting led to polarization.

K. Voelker shared how past NSAB committees had worked well under consensus but was unsure whether language about consensus could be added to the bylaws.

Board member noted that from their experience on a governing body, they are more responsible for providing ideas instead of voting on specific proposals.

Board member agreed and noted that most committees come to a consensus on next steps regardless of their disagreements on outcome.

Board member said that they never had been in a consensus committee and asked how a group reaches a consensus.

D. Selover paraphrased the board co-chair's point about need for a statement of goals that the board would make recommendations by consensus, but they are unsure if that it could be added to the bylaws.

Board member asked whether this would remove the voting process.

D. Selover answered that under statute, NSAB members are allowed to vote.

K. Voelker noted that OHA offered NSAB orientation for newly appointed members and that the board's goal for consensus could be added to the training.

Board member agreed about including a goal that recommendations are made on consensus due to the board's advisory role.

Board co-chair agreed with other members statement and discussed the NSAB's role as an advisory board.

D. Selover flagged Article IV – Officers section and suggested that co-chair terms should be reduced from three years to two years so that board members can orient to the board prior to serving as a co-chair.

A. Davis noted that the board had discussed this change in 2018, but the bylaws were never brought back for NSAB approval.

Board co-chair expressed concerns with the Governor being able to appoint a Co-Chair who had never served on the NSAB.

D. Selover and A. Davis discussed that the board had previously recommended to the Governor that Co-Chairs are selected from amongst sitting NSAB members.

K. Voelker read the proposed bylaw changes from 2018.

A. Davis reassured members that if the co-chair term was reduced to two-years, the board members would still serve their two three -year terms on the board.

Board co-chair asked OHA to follow up on Article V (E) (regarding voting procedures) with DOJ to ensure that future changes are consistent with statute.

Motion to accept proposed changes to the board bylaws: Todd Luther
Seconded: Lace Velk
Motion passed

Board member asked whether the bylaws could include language about committee involvement and attendance.

D. Selover confirmed and referred board member to Article III (F).

Board co-chair asked why board member names were not consistently listed in the minutes when the board voted. They suggested listing board member names during voting.

K. Voelker stated minutes did not identify by name for routine voting procedures, such as voting to approve minutes. They explained that voting on recommendations, such as civil monetary penalties, often listed board member names.

D. Selover clarified that NSAB minutes were already very detailed and that the public could find more information about how members voted because meetings were recorded

Board co-chair suggested that adding names to the minutes for voting could help improve transparency.

Board member stated that if the board wanted to move towards consensus, there should be less emphasis on how individuals voted. They added that the public could find this information in the recordings if they wanted it.

Board co-chair agreed.

There were no additional questions or comments about NSAB bylaws.



Agenda Item 10	<i>Emerging Issues in Nurse Staffing</i>
<p>Board co-chair initiated a round robin with K. Voelker facilitating time and asked the board for emerging issues.</p> <p>Board member stated their hospital was trying to adopt staffing plans by June 2024 and discussed their committee's challenges with CNA staffing. They stated their hospital was trying to hire more CNAs, but was worried the professional/technical and service staffing committees would experience barriers to functioning under the staffing law. They also shared concern about lack of recourse on meal and rest break complaints.</p> <p>Board co-chair asked what would happen if meal and rest break violations were reported to BOLI prior to HB 2697.</p> <p>A. Davis answered that based on their understanding, BOLI would refer the complainant to their union if meals and rest breaks were covered within the hospital's union contract. However, they insisted that OHA could not speak for BOLI.</p> <p>Board member noted that they work at a non-union hospital and that BOLI follows up on complaints for non-union hospitals.</p> <p>Board member requested a meeting with BOLI to discuss their worries about the influx of complaints for BOLI in 2025.</p> <p>A. Davis stated that OHA could invite BOLI to an NSAB meeting, but that it may make sense to invite them later, after BOLI had more time to adjust and prepare for HB 2697 changes.</p> <p>Board co-chair expressed concern about innovative care models and how hospitals may use them to deviate from statutory requirements.</p> <p>Board co-chair commented that they were interested in learning about how other hospitals created their staffing plans and approached innovative care models.</p> <p>A. Davis shared information about the Oregon Nurse Staffing Collaborative (ONSC), which had been a partnership between the Hospital Association of Oregon (HAO) and Oregon Nurses Association (ONA). They noted that when it was operating, the ONSC was a place where hospitals and direct care nurses could share ideas about staffing.</p> <p>D. Selover shared that ONSC had previously hosted nurse staffing conferences before the pandemic.</p> <p>Board member stated that they remembered presenting at one of the first conferences and often still received emails to be a resource.</p>	

A. Davis noted that ONSC also helped connect hospitals and units of similar sizes and types to find staffing solutions.

Board member stated that it would be helpful to have a space to share staffing ideas.

Board co-chair stressed that it would be helpful to have an FAQ related to innovative care models and other HB 2697 requirements.

Board member noted that there was a sense of urgency for resources and guidance and warned that motivation after the pandemic had dwindled. They stated that staffing committees were wanting to hear more from OHA.

K. Voelker asked if there were any types of guidance that would be helpful to receive.

Board member stated that the webinars OHA had presented in 2022 were particularly helpful and that other nurses found that resource very useful. They stated that FAQs and PowerPoints were also helpful.

Board members also raised the idea of OHA holding conference calls with staffing committee co-chairs.

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

Agenda Item 11	<i>Public Comment</i>
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K. Voelker reminded the board and the public that each commenter had two minutes to make a comment to the board.

N. Deyhle (Sacred Heart Riverbend) shared how staffing committees had questions about how to proceed in drafting nurse staffing plans. They stated they were awaiting more information about the new rules for HB 2697. They also agreed that the ONSC was very helpful when it existed.

There were no other members of the public looking to make a comment.

Board co-chair thanked the board and adjourned the NSAB meeting.

Agenda Item 12	<i>Meeting Adjourned</i>
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These draft minutes have not yet been approved by the NSAB

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