OREGON NURSES ASSOCIATION
ACTION REPORT

Concepts of Enhancement: Oregon’s Nurse Staffing Law

Submitted by:
Cabinet on Nursing Practice and Research and Cabinet on Human Rights and Ethics

Type of Action report: Substantive

This action report is presented because of the need to strengthen the Oregon Nurse Staffing law.

Recommended Actions:

A. ONA will seek statutory and regulatory changes related to the Oregon hospital nurse staffing law. The following potential changes fall into the categories of a) expansion of the existing law, b) enhancement of the existing law, and c) other changes which describe strengthening the enforcement of the law.

1. Change to the existing law:
   a. Definitions. Refine/update definitions such as skill mix, competency, “acuteness”, mandatory overtime, voluntary overtime, unit-level and house-wide level nurse staffing plans, and “…safe patient care”.
   b. Expand the nurse staffing law to cover Home Health and Hospice nursing care settings.
   c. Specifics aspects:
      • Existing national standards for particular specialties are the basis of the staffing plan;
      • For medical surgical area and other specialty areas without a national standard, require evidence based nurse staffing ratio standards;
      • Require use of patient acuity ratings, nurses’ workload intensity measures and competency as the basis for the day to day staffing assignments;
      • Unit-level staffing plans must include shift coverage for turnover, e.g., the sum of all patient admissions, transfers in/transfers out, and discharges/shift;
      • Unit level staffing plans must establish policies related to rest periods, rest period alternatives;
   d. Hospital Nurse Staffing Committee (HNSC):
      • Require the HNSC to meet at least 3 times/year; have open meetings with those in attendance (beyond the direct care and administrative nurse members) include legally recognized representatives as well as other stakeholders;
      • Require description of the HNSC policy re: establishment of a quorum to meet and to make decisions on staffing issues by consensus or vote;
      • Basic requirements to serve on the HNSC must be participation in development and implementation of nurse staffing at the unit level;
      • Public disclosure of unit by unit nurse staffing;
      • Public posting of the results of any Health Care Regulation and Quality Improvement (HCRQI) audit;
      • At the unit and facility level, set limits on the amount of mandatory overtime; if limits are exceeded, there are fines or other consequences;
      • When deliberations by the HNSC reach impasse, a vote must be taken and recorded in the meeting minutes; co-chairs of the HNSC contact the HLCQ to provide a mediator whose credentials related to nurse staffing are reviewed by the HNSC before entering mediation;
      • Yearly review of the nurse staffing plan is conducted in collaboration with the CNE
and CFO so that the financial impact (cost) of the staffing plans unit by unit and collectively are used to ensure that there is adequate budget to cover needs for safe patient care for the coming fiscal year. When these deliberations are complete, the plan and the budget for it are adopted and this action is documented in the minutes;

- Each acute care facility will collect quarterly data on three related indicators of sufficient nurse staffing: a) falls with/without injury, b) missed nursing care, and c) medication errors. This data is reviewed by the HNSC on a quarterly basis and submitted to a designated repository. Yearly reporting is reviewed by the state, other entities such as Oregon Nurse Staffing Collaborative, and HNSCs.

B. Proposed enforcement models of the Nurse Staffing Law

1. Compliance with the Oregon Nurse Staffing Law within the profession of nursing in Oregon
   a. In collaboration with ONA, schools of nursing must present information on the Oregon Nurse Staffing Law;
   b. Orientation of new staff members in acute care facilities includes information on the Oregon Nurse Staffing Law and is the responsibility of ONA and its staff, the ONSC, and the HCRQI.

2. Real time, on-going evaluation of the nurse staffing plans in an acute care facility by the HNSC must occur on a recurrent, predictable basis, e.g., quarterly or twice a year.

3. Yearly HNSC evaluation of the staffing plan for the facility and units should consider the cost as well as the related quality measures. This work needs to take place through the HNSC with the CNE and CFO to ensure that the nurse staffing plan is achieved. When agreement is reached, the CFO ensures that the nurse staffing budget request is adopted and filled, based on the authority of the HNSC in this state.

4. The Oversight Committee. This body would advise the Public Health Division, Health Care Regulation and Quality Improvement. This group would have oversight of audits, complaints, requests and when “trigger measures” related to nurse staffing/plans exceed a threshold. For example, this could include instances when dramatic reductions in an acute care facility in numbers of nursing staff budget are enacted without collaboration and approval of the local HNSC. The entity would advise and recommend to the HCRQI.

Background and Rationale:

In 2005, the Oregon State Legislature enacted legislation related to nurse staffing in acute care facilities; subsequently, in 2006 administrative rules were developed and adopted to implement the law. The law has been implemented in varying ways and with varying degrees of success. In this time period, Oregon Nurses Association Professional Services Program Area conducted well over 100 educational sessions regarding the new law; such educational sessions continue to this day.

From 2005 to the present time, ONA has consistently sought feedback from its members on the effectiveness of this law. This feedback has also occurred in the Oregon Nurse Staffing Collaborative, a group outside of ONA, but including ONA members, to maintain a venue in which the weaknesses and strengths of the law could be identified. At the 2010 ONA Convention, and in 5 different sites in the state, open forums were held to accept review and comment from ONA members regarding this law. In 2010, a qualitative research study to determine the perceptions of nurses within, and outside of, ONA regarding the nurse staffing law was conducted (Dr. Jean Seago, PhD, RN, FAAN). Despite the belief that nearly all of the ONA facilities in the state have Hospital Nurse Staffing Committees (HNSCs), consistent themes regarding weaknesses, areas needing change, and reports continue to be received of episodic and long-standing unsafe nurse staffing. This action report summarizes the major areas of the nurse staffing law that could and potentially should be changed through the venues of statutory, regulatory, and other processes.

Meanwhile, since 2005, research related to nurse staffing issues, and interventions has emerged.
Four themes in this literature are a) research about the impact of fatigue related to shift length, b) specific outcome measures that appear to be directly linked to nurse staffing on the shift/unit level, c) greater focus on costs balanced with outcomes of sufficient or excellent nurse staffing models, and finally d) the concept that nurse staffing is “dose-related”. This last approach suggests that if the amount of nursing/nurses is sufficient, outcomes of nurse staffing on a unit/shift are acceptable or better; if there is insufficient nurse “dose” such as too few, the wrong mix of nursing staff, various outcomes including “missed nursing care” have emerged. The measure “missed nursing care” has significance for ONA because over the last 10 years, ONA has – in the Staffing Request and Documentation Form – asked nurses, when filing a report of insufficient or unsafe staffing, to indicate when aspects of core nursing care have been “delayed” or “missed” or both delayed/missed. Given the maturity of the law, belief that the impact of the law and associated administrative rules have reached their limits, it is timely that measures that strengthen (rather than weaken) the Oregon Nurse Staffing Law be taken.

This action report suggests a variety of potential changes to the current law/administrative rules which would have the impact of strengthening the collaboration of direct care nurses and those in administrative roles within nurse staffing committees, but also by extending external oversight and evaluation of nurse staffing in the state. This action report also comes at a time when health care reform is likely to affect the nursing profession and nursing practice in ways that are not yet clear. This action report assures that nurse staffing will not deteriorate.

**Implementation:**

1. A central ad hoc committee comprised of all ONA Cabinets, ONA staff and volunteers will develop a plan for this initiative.
2. Rule and statutory language will be developed and reviewed by all Cabinets.
3. Legislators will be provided with materials and member contacts related to current status of the law in the state.
4. Additional ONA members will be recruited to participate in this initiative.
5. Collaboration will be developed with other groups (Oregon Nurse Staffing Collaborative) and health-related unions.

**Financial Impact:**

Costs will be incurred due to outreach to ONA members in acute care facilities as well as members in home health/hospice facilities. Outreach to legislators on health-related committees by ONA staff and ONA members will be incorporated into the work of ONA program areas. . Budget will include mileage for travel to contact legislators and to attend/present in hearings. Costs will also be incurred for printing of pamphlets, informational packets and for media coverage.

**References:**


