



Ad Hoc Committee on Standards, Practices and Procedures of the Oklahoma State Department of Health Relating to Nurse Aides of the Long Term Care Facility Advisory Board

Executive Summary

June 24, 2015

The Ad Hoc Committee on Standards, Practices and Procedures of the Oklahoma State Department of Health Relating to Nurse Aides held their ninth meeting on June 24, 2015. Long Term Care Facility Advisory Board members present were Linda Brannon, Joyce Clark, William Whited, Pamela Humphreys, Joanna Martin, Jimmy McWhirter, and chair Wendell Short. Others present were Vicki Kirtley, James Joslin, Janine McCullough, Trish Emig, Patricia Shidler, Nancy Atkinson, Don Maisch, Henry Hartsell, Eynade Kila, Esther Houser, Patty Scott, Jonathan Walker, Becky Moore, Mike Cook, Michael Jordan. From the OU Center for Public Management, Ginger Thompson facilitated the meeting and Lisa Hill assisted.

The committee reviewed data on the placement of pending notations of abuse, neglect, exploitation and misappropriation on the nurse aide registry.

- From January 2015 to May 2015, the average time from OSDH receipt of 55 allegations, to posting of notations on the registry, was three days.
- The Nurse Aide Registry will regularly report to the Long Term Care Facility Advisory Board regarding processing times for registry notations and on cases processed through the Oklahoma National Criminal Background Check Program.

The committee reviewed data for 2005 to 2015 on nursing home deficiencies related to abuse, neglect and misappropriation.

- The top cause of neglect is making a one-person transfer when a two-person transfer is needed.
- In 2015, OSDH cited 45 deficiencies for failure to report allegations, investigate, make corrections, and report results (F225).

The committee reviewed data on confirmed findings of abuse, neglect and misappropriation made against nurse aides in 2015.

- Twenty-eight confirmed findings were made as of June 24, 2015.
- The most common findings were misappropriation (9 cases or 32%) and neglect (8 cases, 29%).
- Male nurse aides accounted for 20 findings, or 71% of cases.
- The committee recommended additional reporting on type of facility, type of neglect, and whether or not the aide appeared for the hearing.

The committee identified these areas as the most important opportunities for improvement:

- Nurse aide training;
- Fulfilling the obligation to report incidents; and
- Facility processes and policy development.

The following were determined as the five most important data sets to evaluate:

- Know which residents are most at risk for abuse;
- Factors that result in citations of neglect;
- Common factors in incident reports;



- Factors that result in citations of F225 (failure to report) & F226 (facility policies); and
- The efficacy of enforcement actions on abuse and neglect deficiencies.

At its next meeting, the committee will use quality improvement tools to evaluate these five data sets.

The committee discussed a communication plan to ensure that everyone who needs to know about the work of the committee has access to the information. The ideas generated will be pulled together in a draft communication plan for adoption at the next meeting.

Next steps:

- Add facility types, types of abuse/neglect to the report on confirmed findings of abuse;
- Track whether the nurse aide appeared at the hearing or if there was a default order;
- Review the suggested revisions to the data sets and gather data for the next meeting; and
- Condense suggestions into a draft communication plan.

The meeting convened at 1:00 p.m. and adjourned at 4:00 p.m.

MEETING NOTES

Special Meeting of the Ad Hoc Committee on Standards, Practices, and Procedures of the Oklahoma State Department of Health Relating to Nurse Aides of the Long Term Care Facility Advisory Board

June 24, 2015

1:00pm – 4:00pm

Rm. 806

In Attendance:

LTC Facility Advisory Board Members Present: Linda Brannon, Joyce Clark, William Whited, Pamela Humphreys, Joanna Martin, Jimmy McWhirter, Wendell Short

Others Present: Vicki Kirtley, James Joslin, Janine McCullough, Trish Emig, Patricia Shidler, Nancy Atkinson, Don Maisch, Henry Hartsell, Eynade Kila, Esther Houser, Patty Scott, Jonathan Walker, Becky Moore, Mike Cook, Michael Jordan

Agenda Item 1: Informal Greeting

The Ad Hoc Committee members and participants had an informal greeting starting at 12:45pm.

Agenda Item 2: Call to Order and Roll Call

Wendell Short called the Ad Hoc Meeting to order at 1:00pm and roll call was conducted.

Agenda Item 3: Review of Ground Rules for Ad Hoc Committee Discussions

Ginger Thompson reviewed the ground rules. The following were the established ground rules:

- Remain respectful
- Limit side conversations
- Turn off electronics
- One Speaker at a time
- Knock-knock rule

Agenda Item 4: Review of Meeting Notes from April 8, 2015

Ad Hoc Committee members reviewed the meeting notes from the April 8, 2015 meeting of the Ad Hoc Committee. No changes were made.

Agenda Item 5: Update on Oklahoma State Department of Health Results in Decreasing Times to Place Pending Notations of Abuse

Dr. Hank Hartsell discussed the handout which gave an update on the number of days between the receipt of a complaint by the OSDH and the date the nurse aide is pink screened on the nurse aide registry. Dr. Hartsell added the OSDH building will be undergoing renovation for the next 3 years which may lead to occasional delays while staff is moved within the building.

Dr. Hartsell asked if any changes were made in data collection in January or February 2015. Don Maisch replied the date that complaints are received by OSDH was added to the Office of General Counsel tracking sheet in mid-January which is why there is no data for January on the first chart. The table on the bottom of page 1 of the handout shows the number of nurse aides pink screened from January to May 2015. The table shows 55 nurse aides were pink screened on the registry, with the average being 3 days between receipt of a complaint and the nurse aide being pink screened on the registry.

Dr. Hartsell went over the second page of the handout which addressed data regarding nurse aide allegations of abuse. Figure 2 shows the total confirmed cases of abuse, neglect, or misappropriation from 2010 to 2014.

See “Agenda Items 5 and 6 Update on pending notations and substantiated abuse cases (2).pdf”

James Joslin reviewed the chart entitled “Abuse/Neglect/Misappropriation Findings”. The chart displayed data from the nurse aide registry regarding nurse aides who have been accused of abuse, neglect, or misappropriation. This data covers what has been received in 2015.

Becky Moore asked, on the handout where it shows LTC/HHA, does this indicate the individual has dual certification? Vicki Kirtley responded the numbers on the chart reflect individuals who have both certifications. Becky Moore asked, what is classified as neglect? Don Maisch responded improper transferring of residents, such as using only 1 person instead of 2, is commonly classified as neglect. Wendell Short asked if improper transfers are always classified as neglect or can they be classified as physical abuse? Don Maisch stated if there is no physical injury then it would be classified as neglect and if there is a resulting injury it could be classified as physical abuse.

Esther Houser asked if the staffing levels of a facility are evaluated on a case such as neglect, as a nurse aide should not be held individually accountable for something out of their control. Don Maisch responded this would likely be something looked at during a facility survey, to see if the facility has adequate staff levels. The issue could also be raised during a hearing and evaluated by the administrative law judge.

The question was asked if nurse aides are trained on what is classified as neglect. Vicki Kirtley responded that she gives multiple training classes a year for associations and career-techs, which cover deficiencies and key issues in abuse, neglect, and misappropriation.

Becky Moore asked if the nurse aides represented in the chart had hearings. Don Maisch responded all the nurse aides in these cases were given notice and the opportunity to have a hearing on their case. Also, the question of cost for nurse aides to appear for a court date was raised. Don Maisch responded the hearings can be conducted via video conference, with the nurse aide able to go to their local county health department. Mr. Maisch added there will likely be an increase in default findings starting November 1st, as legislation goes into effect which allows for proof of service on the last known address of a nurse aide.

Dr. Hartsell went over the handout entitled "ASPEN: Tag Summary Report". The chart on this handout shows a breakdown of the different types of violations which were cited from 2005 to 2015 on nursing facilities. Esther Houser asked what types of penalties are levied against facilities that have these violations. Patty Scott responded penalties are based on scope and severity of the violation. Don Maisch stated the OSDH follows the federal guidelines and can add on state administrative penalties. Dr. Hartsell added the OSDH may want to pull data regarding the penalties which have been placed against facilities due to violations. Another question was raised regarding F225 citations asking if facilities are cited if they have no knowledge of a deficiency before a survey is conducted. Patty Scott responded surveyors are trained to cite only if a facility knows or should have known about a deficiency prior to a survey.

See "ASPEN: Tag Summary Report"

Dr. Hartsell went over the handout entitled "Office of the General Counsel Referral Analysis". The first bar chart displays data of total referrals to the Office of the General Counsel and referrals regarding nurse aide complaints from the years 2011 to 2014. The second bar chart shows the breakdown of nurse aide referrals by types of complaints from 2012 to 2014. The third bar chart displays data of the number of nurse aide petitions which were investigated by OSDH and the Attorney General.

See "Agenda Item 6 Report (2).pdf"

James Joslin spoke regarding the National Background Check Program. Based upon a study by the Health and Human Services Office of Inspector General looking at past arrest history on nurse aides, Mr. Joslin is proposing evaluating the arrest history of those nurse aides who have had a finding of abuse, neglect, or misappropriation. With this data, the barrier offenses for nurse aides may need to be reviewed and possibly revised. The Nurse Aide Registry receives "rap backs" which inform the registry of recent arrests which may then disqualify an individual as a nurse aide. Don Maisch added referrals from the National Background Check Program have

been coming to the Office of General Counsel since June of 2014, as individuals who are found disqualified have the right to a hearing. The question of whether the allegations of abuse are down due to the National Background Check Program was asked. James Joslin responded this data is being collected and reviewed in order to determine the impact of the National Background Check Program.

Agenda Item 6: Discussion and Further Review of Opportunities to Reduce the Incidence of Abuse, Neglect, Exploitation, or Misappropriation

Ginger Thompson went over the group discussion for Agenda Item 6. The groups will brainstorm opportunities to make an impact on reducing cases of nurse aide abuse, record the opportunities, and then list possible data or resources which would help. The Ad Hoc Committee participants broke into 4 groups for discussion.

Each group went over their discussion results of opportunities for impact and possible data or resources which could help. The following were decided as the most important opportunities by the groups:

Opportunities for Impact

- Dignity and Self-worth of Staff/Collaborative culture
- Background Check Program
- Better Nurse Aide/Administrative Training
- Facilities Investigate Allegations Thoroughly
- Obligation to Report Incidents
- Facility Process and Policy Development

The Ad Hoc Committee participants then individually voted on the proposed opportunities for impact on which opportunities are most important. The following 3 issues received the most votes:

1. Nurse Aide Training
2. Obligation to Report Incidents
3. Facility Process and Policy Development

The following were determined as the most important data sets to evaluate:

- Know who is Most at Risk for Abuse
- Breakdown Factors in Neglect

- Pull Data from Incident Reports to Identify Common Factors
- Breakdown Factors in F225 & F226
- Enforcement Action Efficacy A & N Tags

The Ad Hoc Committee discussed possible data collection regarding nurse aide training and how to assess this topic. Becky Moore stated she, as a provider, was unaware that a 1 person transfer, when a transfer requires 2 people, is considered neglect. This is an issue which should be addressed in training. James Joslin stated this would be something to evaluate in data collection to determine if changes to training need to be made. Dr. Hartsell suggested the nurse aide training should be addressed at a later step in the process. Specific issues with nurse aide training can be addressed once more data regarding abuse is collected.

The Ad Hoc Committee then discussed looking at repeated failures to report, broken down by facility and by administrator. Ginger Thompson stated the next step would be to use the quality improvement tools and evaluate the 5 data sets which were determined by the Ad Hoc Committee.

Agenda Item 7: Discussion of Communication Plan for Distributing Information to Stakeholders and Others Interested in the Work of the Ad Hoc Committee

Dr. Hartsell went over the potential communication plan to inform anyone who has an interest in the Ad Hoc Committee findings. The Ad Hoc Committee broke back into groups to discuss the medium, the target, the content, frequency, and who would be responsible for the communication.

Communication Plan Ideas:

Medium

- E-Newsletter
- NFPBCP E-mail list
- Website
- Mobile Application

Target Audience

- Licensing Boards
- Associations
- Law Enforcement
- Nurse Aides
- Family of Residents

Content

- Executive Summary

Frequency

- After each meeting and a review by LTCFAB

Who Would be Responsible

- OSDH

Agenda Item 8: Discussion of Status Report for July 8, 2015 Long Term Care Facility Advisory Board Meeting

Wendell Short stated the Ad Hoc Committee status report would be given to the LTCFAB at the next meeting in 2-weeks.

Agenda Item 9: New Barriers and Critical Questions

Critical Question

- Should we track types of neglect? (Helpful to CNA training)

Agenda Item 10: Next Steps

Ginger Thompson went over the next steps determined by the Committee.

Next Steps

- Add breakdown by types of facility and type of abuse to data
- Track whether the nurse aide appeared at the hearing or if there was a default order
- Look at the suggested data sets and work on gathering the data
- Condense suggestions into a draft communication plan

Dr. Hartsell reviewed the Critical Questions from the previous Ad Hoc meeting:

- Can a date field be added to the tracking spreadsheet to reflect how soon a pending notation of abuse is removed from the registry after the decision is made to remove it?

Yes, this field will be built into the new database AMANDA which is currently in development.

- Can pending notations be placed upon termination?

A termination still requires review and cannot be an automatic pending notation.

- What is the decision criteria used to proceed or not to proceed?

The Office of General Counsel is working on a list of criteria to be added into the database so the reason for a particular action on an allegation can be tracked.

Agenda Item 11: Adjourn

The meeting adjourned at 4:00 p.m.