

From: [Sunset Advisory Commission](#)
To: [Cecelia Hartley](#)
Subject: FW: Public Input Form for Agencies Under Review (Public/After Publication)
Date: Tuesday, October 18, 2016 2:41:56 PM

-----Original Message-----

From: sundrupal@capitol.local [<mailto:sundrupal@capitol.local>]
Sent: Tuesday, October 18, 2016 2:06 PM
To: Sunset Advisory Commission
Subject: Public Input Form for Agencies Under Review (Public/After Publication)

Agency: TEXAS BOARD NURSING TBN

First Name: Christina

Last Name: Davis Barnes

Title: Nurse Practitioner

Organization you are affiliated with:

Email:

City: Red Oak

State: Texas

Your Comments About the Staff Report, Including Recommendations Supported or Opposed:

To Whom It May Concern:

The purpose of this letter is to comment on the October, 2016 Sunset Advisory Commission Staff Report regarding the Texas Board of Nursing (the "Board"). As a Texas nurse for almost 20 years, and an Advanced Practice Nurse for the past ten of those years, as well as someone personally familiar with the disciplinary workings of the Board and the Texas Peer Assistance Program for Nurses ("TPAPN"), I felt that I must comment on the recent Report. Specifically, I feel that the Report, in Issues and 2 and 3, very accurately characterizes significant problems within the Board and TPAPN. In my opinion, the Board has lost sight of its mission to discipline nurses for nursing infractions and has improperly extended its disciplinary authority well beyond the scope of these duties. Furthermore, TPAPN as it is currently implemented, is needlessly rigid in its "rehabilitation" program to the point that it is actually impeding the recovery of some nurses.

In reading the Commission's Report, I felt that the points raised in Issues 2 and 3 could have been taken from my own life. On June 30, 2012 I was pulled over for DUI. After numerous delays, I was subsequently convicted of DUI in May of 2014. As a result, I was assessed a fine, was required by the state to complete several alcohol awareness courses, and I was placed on probation for a period of 18 months during which time I was required to attend monthly probation meetings and submit to urine screenings. In addition, while my trial was pending, the state required that I install an alcohol monitoring ignition interlock on my vehicle (essentially a breathalyzer that requires a driver to prove sobriety before the vehicle will start and intermittently while driving). This device remained on my vehicle from July of 2013 to May of 2015. In total, between attorney's fees, the fine, the monthly fees for the urine screenings and the interlock device, and the increase to insurance rates and my driver's license renewal fees, this incident has cost me in easily in excess of \$30,000 out of pocket; and two or three times that much in terms of lost wages over the past several years due to TPAPN's employment restrictions outlined below.

Immediately following my arrest, and prior to my conviction or any contact with the Board, I voluntarily enrolled in The Right Step, an intensive outpatient treatment program which involved two-and-a-half hour meetings four nights a week for two months, during which I submitted to six urine screenings, all of which were negative. Following successful completion of the Right Step program, I continued to attend aftercare meetings with that group for an additional six months. Simultaneously, I also began attending meetings with Alcoholics Anonymous, got a sponsor and completed a 90 meetings in 90 days program common for many new members.

While the above events were unfolding, in August of 2012, my nursing license came up for renewal. At that time, I voluntarily disclosed my arrest (I had yet to be convicted) to the Board. Remarkably, I had no contact from the Board for over a year, during which time I continued to work, completed my Right Step program, attended AA meetings and, most importantly, remained sober. Finally, in November of 2013, a full seventeen months after I had taken my last drink, and without even so much as a hearing or any opportunity for me to present any defense at all, the Board recommended my enrolment in TPAPN. At that time TPAPN sent enrolment papers which outlined my mandatory "rehabilitation" program: immediate enrolment in AA with a sponsor, enrolment in 90-in-90 meetings, restriction of my prescriptive authority, close supervision at work, and engagement with a peer mentor at my job. Most shockingly, as explained below, I was told to resign from my job and I was also informed that I would be enrolled in TPAPN, with all of the above restrictions, for a full five years.

I attempted to reach out to TPAPN to explain that I had been sober for approximately 18 months, had enrolled in AA with a sponsor, had completed a 90-in-90 program, had completed The Right Step program, and at this point had the alcohol interlock device on my car which proved my sobriety each and every time I drove (literally hundreds of negative tests in the approximately five months the device had been on my car at this point). Remarkably, I was told by TPAPN that none of my efforts were relevant, and that the negative urine screenings from the Right Step and from my probation meetings, as well as my negative breathalyzer tests from the interlock were no evidence of my sobriety. Furthermore, I was informed that I had to accept TPAPN's program or risk going before the Board with the overt threat that my license would immediately be revoked.

Despite the above, perhaps the most shocking aspect of TPAPN's program was that they showed almost no understanding, or even a desire to understand, my actual job duties at the time and that my infraction, while serious, was in no way related to the practice of nursing. At the time, I was employed by Parkland Health and Hospital System, working for the Homeless Outreach Medical Services ("HOMES"). As a nurse practitioner, my job involved traveling to homeless shelters and clinics throughout Dallas County seeing and treating homeless individuals. In all but a few locations, our practice was confined to a mobile clinic bus. Significantly, neither the bus, nor any of the clinics we serviced, stocked narcotics of any kind. Furthermore, as a nurse practitioner, my duties do not involve handling medications, nor do I even have access to the medication dispenser. Despite these limitations of my job, and, again, despite the fact that my infraction was alcohol and not narcotic related or even work-related, upon learning that my practice was not confined to a single physical location, TPAPN, without any consideration whatsoever, demanded that I my immediately resign.

Thankfully, prior to hearing from TPAPN, I had just hired a second attorney that mostly deals with the nursing and medical board. He spoke with TPAPN director at the time and I was able to forego the 90-in-90 and retain employment. Had I not had an attorney I would have become unemployed. As it is, to date I still am required to check with TPAPN any time I wish to change jobs, with the threat being that TPAPN could conceivably refuse to allow me to take a different job if that job somehow in its view conflicted with my rehabilitation. Furthermore, TPAPN has refused to allow me to take a second job or even to work overtime or additional shifts – each of which are very common practices in health care. TPAPN's refusal to allow me to do this work has cost me approximately \$40,000/year since I enrolled with TPAPN.

Because of TPAPN, I remain subject to random urine screenings usually three times per month. I have approximately 28 months left in my TPAPN "rehabilitation," which means that I will be subject to somewhere around 84 more urine screenings. At a cost of approximately \$60 each, I face an additional \$5,000 in costs just in urine screenings – not one of which has ever come back positive.

To date, I have been continuously sober since that terrible night in June of 2012. I have over 100 negative urine screenings and literally thousands of negative "blows" from my vehicle's interlock device all attesting to that fact. I

have paid my fine and completed each and every one of the penalties and requirements set forth by the State of Texas, and yet, because of the Board of Nursing, I remain enrolled in TPAPN, all for an infraction that has nothing to do with the practice of nursing, and all for a behavior which stopped once and for all more than four years ago.

In short, the very conduct the Commission has criticized in Issues 2 and 3 of the Report was applied to my case. Specifically, the Board immediately overstepped its bounds by applying harsh sanctions to me for conduct well beyond the scope of my nursing duties (Interestingly my situation is almost exactly parallel to the case of Brandy Dawn Blanchard cited by the Commission in footnote 8. Like Ms. Blanchard, my conduct was unrelated to the practice of nursing, I had completed an alcohol rehabilitation program and had a prolonged period of sobriety demonstrated by numerous negative screening tests prior to receiving any discipline from the Board. Unfortunately, despite these steps and like Ms. Blanchard, I have been subject to further discipline by the Board of Nursing.). In this regard, the Commission's Recommendation 2.2 is well thought out and appropriate. The Texas Board of Nursing should focus on disciplining nurses for nursing infractions. Let the judicial system and local law enforcement handle discipline for driving infractions.

With regard to TPAPN, the rigid "rehabilitation" programs it enforces, as well as its complete inability to consider the facts of a nurse's day to day activities does not enable it to best meet nurses' individual needs. By refusing to consider my participation in the Right Step intensive outpatient program as well as supportive outpatient program thereafter, my successful completion of probation including state-mandated education programs, and numerous negative drug screens, the Board and TPAPN have failed in their mission to "assist" me in any way. In fact, by restricting my ability to practice, attempting to have me quit my job, and refusing to allow me to work extra shifts or take a second job, TPAPN has actively stood in the way of my recovery and has repeatedly impaired my ability to practice as a nurse or remain gainfully employed. Again, the Commission's Recommendation 3.1 is appropriate and indicates the types of changes that TPAPN must undertake if it is to effectively assist Texas nurses. No one recovery method is appropriate for all people and TPAPN's attempt to craft a one-size-fits all recovery is damaging and detracts from the recovery process.

In conclusion, the Commission has accurately identified significant shortcomings in the way that the Texas Board of Nursing handles disciplinary actions against nurses for infractions outside the nursing profession, and in the way that TPAPN attempts to shoehorn all participants into a single program. The Commission's Recommendations, in particular those related to Issues 2 and 3 detailed in the Staff Report are well thought out, appropriate, and will lead to significant improvements within the Board and TPAPN. As such, these recommendations should be implemented as soon as practicable.

Sincerely,
Christina Davis Barnes

Any Alternative or New Recommendations on This Agency: stated above

My Comment Will Be Made Public: I agree