

Sheri Innerarity

Public Hearing, Sunset Advisory Commission
Texas Nurse Practitioners, Sheri Innerarity
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Written Testimony

Good morning/afternoon, Mr. Chairman. My name is Sheri Innerarity, and I represent Texas Nurse Practitioners. I'm also a practicing Family Nurse Practitioner in Bastrop, Texas, a Nurse Practitioner Representative of the Advanced Practice Advisory Committee to the Board of Nursing, and an expert witness for APRN judicial proceedings. In addition, I'm a Professor and Chair of the APRN Division of the UT School of Nursing.

I'm here today as Vice President of Texas Nurse Practitioners (TNP). TNP represents over 15,000 Texas-licensed nurse practitioners (NPs). Throughout Sunset, TNP and the larger APRN Alliance have provided feedback to the Board of Nursing, and the Sunset Commission and staff. We have provided copies of those recommendations for your reference today.

Overall, we support the core recommendations in the Board of Nursing Sunset Staff Report. I will now highlight some of our feedback and recommendations *not* included in the report, namely the need to:

1. Remove dual regulation of APRNs;
2. Adopt the APRN Compact; and
3. Ensure peer review in disciplinary proceedings for APRNs

Recommendation 1: Dual Regulation

APRNs are one of the only healthcare professionals regulated by two boards: The Texas Medical Board and the BON.¹ Outside of the Board of Nursing's APRN license application, APRNs must also register a delegation agreement with the Medical Board in order to prescribe in Texas. I know firsthand that this is an inefficient process and an unnecessary drain on government resources and dollars. Even more, this inefficient process has no proven benefit to patient safety. In fact, the 2005 Board of Medical Examiners Sunset Report recommended eliminating prescriptive delegation registration by saying it "provides no useful information" and "is not necessary to protect the public."² Those statements are as true now as they were when the Sunset Staff first wrote them.

The current dual regulatory regime also sets up a system where one profession's board is regulating another. The Federal Trade Commission has confirmed that they are investigating the Texas Medical Board for antitrust violations. Leaving joint regulatory

¹ While TMB does not regulate NPs in terms of conventional licensure and sanctioning, a Texas licensed APRN is required to register a prescriptive authority agreement (PAA) with an MD/DO through the TMB. The TMB has used this to exert power, whether justifiably or not, over the PAA and how APRNs use their prescriptive authority. This is particularly concerning given TMB regulations have at times been significantly more restrictive than their statutory basis.

²https://www.sunset.texas.gov/public/uploads/files/reports/State%20Board%20of%20Medical%20Examiners_PA_Acup%20RTL%202005%2079th%20Leg%20.pdf

authority over the nursing profession with the Texas Medical Board creates a one-way street where the Medical Board is free to restrain the practice of nursing without nursing having a voice on that board. The North Carolina Dental Board Supreme Court case speaks directly to this issue.³

Recommendation 2: APRN Compact

Adopting the APRN compact could help address this by making it easier for APRNs from other states to move to Texas and practice here. Fifty percent of Texas counties have primary care provider shortages.⁴

If Texas wants to modernize its regulatory environment, we need to make it easier, more affordable, and more convenient to recruit APRNs across state lines. Adopting the APRN Compact will help Texas recruit and retain APRNs needed to fill the growing gap in our healthcare workforce.

Recommendation 3: Disciplinary Process

While the Sunset report touches on issues with the disciplinary process, it does not speak directly to how this may impact APRNs. Currently, there is no formal requirement that disciplinary investigations and proceedings brought against an APRN include APRN consultation or peer review during the investigatory process. To ensure fair and impartial disciplinary proceedings, it is important to require an APRN be involved in the investigation and review for cases that call into question APRN practice issues.

Conclusion

Thank you again for the opportunity to testify. As I said before, I appreciate the hard work of the Commissioners, the Sunset Staff, and the Board of Nursing. I look forward to working together to strengthen the Board Of Nursing and to improve the regulatory framework for nursing in Texas. These changes are absolutely critical in allowing us to modernize licensure and regulation in Texas for the 21st century workforce.

At this point, I welcome your questions.

³ *North Carolina State Board of Dental Examiners v. Federal Trade Commission*, 135 S. Ct. 1101 (2015).

⁴ <http://kff.org/other/state-indicator/primary-care-health-professional-shortage-areas-hpsas/?currentTimeframe=0&sortModel=%7B%22colld%22:%22Location%22,%22sort%22:%22asc%22%7D>



APRN Alliance

BON Sunset Recommendations

1. Streamline Regulation and Place APRNs Under the Regulatory Licensure Authority of the Texas Board of Nursing.

In Texas, Advanced Practice Registered Nurses (APRNs) are regulated both by the Texas Medical Board and The Texas Board of Nursing. This dual regulation causes confusion for healthcare consumers and APRNs, and wastes taxpayer dollars and resources by having two separate entities drafting regulations for the same profession. Medical Doctors (MDs), Physicians Assistants (PAs), Registered Nurses (RNs), Podiatrists (DPMs), Doctors of Osteopathy (DOs), Doctors of Chiropractic (DCs), and other healthcare practitioners are only regulated by a single entity. APRNs are one of the only healthcare practitioners in Texas who are subjected to this duplicative regulation regime. Twenty-one states and the District of Columbia use a single licensing agency and do not require a delegation agreement for APRNs, and more states are moving in that direction.

2. Fully Adopt all Elements of the APRN Consensus Model, Including Granting Full Practice Authority for APRNs.

In 2008, the National Council of State Boards of Nursing (NCSBN) released the APRN Consensus Model to create uniform regulatory standards for the expanding advanced practice nursing profession. Uniform regulations and state-to-state regulatory consistency are essential for consumers as well as for employers. Such uniformity not only facilitates licensure portability, but also allows states like Texas to respond to the increasing demands on the health care system.

The major elements of APRN regulation outlined in the Consensus Model are listed below. While Texas has fully adopted elements 1 through 5, it is one of the most restrictive regulatory environments in the country for APRNs and has yet to enact legislation granting full practice and prescriptive authority to APRNs.¹ Not allowing APRNs to practice to the full extent of their training and education has two consequences: 1) it prevents APRNs from expanding access to quality, cost-effective primary and specialty care in areas of the state that are in dire need of health care providers; and 2) it is an immediate barrier to passage of the APRN Compact, serving as a deterrent to employers and APRNs who are considering practicing in the state.

- 1) Title: Advanced practice registered nurse (APRN)
- 2) Roles of APRNs and recognition of each: CNP, CNS, CRNA, CNM
- 3) Licensure: APRNs hold both an RN and APRN license;
- 4) Education: Graduate education is required for APRNs regardless of role
- 5) Certification: Every APRN is required to meet advanced certification requirements

¹ The 2014 NCSBN Consensus Report on APRN Regulation, Maureen Cahill, Alexander, Maryann Gross, Lindsey et al. Journal of Nursing Regulation, Volume 4, Issue 4, 5 - 12.



- 6) ***Independent practice - yet to be adopted in Texas:*** The APRN shall be granted full authority to practice without physician oversight or a written collaborative agreement, which is currently the licensure standard in 21 states and the District of Columbia.
- 7) ***Full prescriptive authority - yet to be adopted in Texas:*** The APRN shall be granted full prescriptive authority without physician oversight or a written collaborative agreement.

3. Support the Enhanced Nurse Licensure & APRN Compact.

The Delegate Assembly of the NCSBN voted overwhelmingly to approve the enhanced Nurse Licensure Compact (NLC) and the APRN Compact. In recent years, there has been a tremendous growth in telehealth modalities. Without these compacts, nurses and APRNs must be individually licensed in every state where they practice. This not only creates unnecessary red tape and regulatory burden, but also impedes licensure portability and greater access to care within Texas. If passed, the NLC will create uniform licensure requirements, improve reporting of disciplinary action and dispute resolutions, and establish an overarching governing body for the NLC. It will also facilitate telenursing, make practicing across state borders affordable and convenient, and remove burdensome bureaucracy and expenses for organizations that employ nurses across state borders.

4. Ensure Fair and Impartial Disciplinary Proceedings for Texas APRNs.

APRNs have unique scope of practice issues that require a certain level of expertise and firsthand experience in the role to understand. Despite this fact, currently there is no formal process or rule requiring that disciplinary investigations and proceedings against an APRN include an APRN or even APRN consultation at any phase in the investigatory process. For example, under the current disciplinary process, it is possible for an APRN to be assigned to an investigator who is neither an APRN nor a nurse. In order to ensure fair and impartial disciplinary proceedings, it is important to require the involvement of APRNs with similar credentials and prescriptive authority for cases that call into question nuanced and role-specific APRN practice issues.

5. Investigate the Impact of BON Regulations on APRNs Working in the VHA under Federal Jurisdiction.

The Department of Veterans Affairs submitted a draft rulemaking that would grant full practice authority to the 6,000 APRNs working within the Veteran's Health Administration (VHA). If this rulemaking moves forward, it will have an effect on overlapping jurisdictions of nursing regulation within Texas. The Texas Board of Nursing should evaluate the impact of this change on the way it currently regulates Texas-licensed APRNs, as well as the impact of its regulations on Texas APRNs working in VHA settings. Inconsistent regulations and scope of practice requirements between the VHA and the Texas BON are yet another source of confusion among the public and taxpayers, and should be addressed as part of the Sunset process.