

# TEXAS BOARD OF NURSING SELF EVALUATION



*September 2015*



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## Texas Board of Nursing Self-Evaluation Report

### I. Agency Contact Information

A. Please fill in the following chart.

**Texas Board of Nursing  
Exhibit 1: Agency Contacts**

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### II. Key Functions and Performance

Provide the following information about the overall operations of your agency. More detailed information about individual programs will be requested in a later section.

A. Provide an overview of your agency's mission, objectives, and key functions.

The mission of the Texas Board of Nursing (BON or Board) is to protect and promote the welfare of the people of Texas by ensuring that each person holding a nursing license in the State of Texas is competent to practice safely. The Board fulfills its mission through the regulation of the practice of nursing and the approval of nursing education programs. This mission, derived from the Nursing Practice Act (NPA), supersedes the interest of any individual, the nursing profession, or any special interest group. Key functions of the Board include the following:

1. The regulation of the practice of nursing in Texas, which includes the following activities:
  - assuring that individuals who are licensed as vocational or registered nurses have the minimum professional character and basic educational preparation necessary to practice safely;
  - approving qualified registered nurses for advanced nursing practice as clinical nurse specialists, nurse midwives, nurse anesthetists, or nurse practitioners;
  - approving qualified advanced practice nurses to have prescriptive authority;
  - establishing standards for monitoring compliance with the legal requirements within the authorized scope of practice;

- establishing standards for monitoring the continued competency for nurses practicing within their authorized scope of practice;
- facilitating public input regarding the rule making process;
- making information about the practice responsibilities of nurses available in a timely way;
- investigating all written complaints in a timely manner;
- enforcing the laws relating to the practice of nursing and ensuring that individuals who are proven to have violated the NPA receive appropriate discipline;
- providing information regarding public records and agency services including license verification and disciplinary actions regarding licensees;
- reviewing open records request and requesting Attorney General Opinions when appropriate;
- requesting Attorney General Opinions concerning important questions of regulatory law effecting agency practices;
- coordinating with Office of Attorney General when there is an appeal of open records decisions, appeal of final Board disciplinary orders, or other original actions against the agency as prosecuted in State District Courts;
- monitoring changes in Federal and State laws related to due process and implementing compliance with same including necessary rule changes;
- collecting reliable data about licensees; and
- completing criminal background checks on pre-licensure students prior to entering a school of nursing.

2. Approval of schools of nursing, which includes the following activities:

- promulgating standards and rules for nursing education;
- approving new programs and extension sites/campuses;
- assessing nursing education programs on a periodic basis to assure compliance with nursing education standards;
- providing consultation and guidance to nursing faculty and program officials;
- surveying facilities utilized for didactic instruction, skills and simulation laboratories, and the clinical practice of students; and
- collecting and analyzing educational data useful in long range planning for nursing education.

3. Investigating and Adjudicating complaints:

- notifying nurses when the Board receives a complaint about their practice;
- opening complaints when the Board determines a violation may have occurred (includes criminal history information, disciplinary action in other states, etc);
- investigating complaints by obtaining evidence and witness statements;
- conducting on-site investigations where appropriate and necessary;
- conducting informal settlement conferences;
- proposing offers of settlement through Agreed Orders;
- filing Formal Charges;

- docketing and conducting contested cases at the State Office of Administrative Hearings; and
- reviewing Proposals for Decision and Issuing final Board Orders.

4. Participation in the Multistate Nurse Licensure Compact (NLC), which includes the following activities:

- providing licensure verification for facilities utilizing nurses working in Texas under multistate licensure privilege;
- coordinating with NLC coordinated licensure information system to assure reliable licensure and disciplinary data is available regarding Texas licensees;
- participating in NLC compact administrators group to insure proper compact administration and exchange of information;
- enforcing Texas practice laws to assure competent licensure practice by nurses working under multistate licensure privilege; and
- collecting and analyzing data regarding NLC administration and implementation.

**B. Do your key functions continue to serve a clear and ongoing objective? Explain why each of these functions is still needed. What harm would come from no longer performing these functions?**

Each of the agency's key functions continues to be needed. Inherent in the practice of professional or vocational nursing is the complete faith and trust by the patient in the competency of those who lawfully hold themselves out as nurses. Patients under the care of a nurse are generally vulnerable by virtue of illness or injury and the dependent nature of the nurse-patient relationship. Persons who are especially vulnerable include the elderly, children, the mentally ill, sedated and anesthetized patients, patients whose mental or cognitive ability is compromised, and patients who are disabled and immobilized.

The Texas Board of Nursing, in keeping with its mission to protect public health, safety, and welfare must assure that individuals who are licensed as vocational or registered nurses have the minimum professional character and basic educational preparation necessary to practice safely. The Board accomplishes this mission by verifying that those who are licensed are qualified by virtue of their competency and professional character. The Board must continually monitor compliance with legal requirements to assure continued competency and to take action to limit, restrict, or revoke the authority to practice nursing if the practitioner poses a danger to the public. The Board investigates complaints in a timely manner, enforces the laws relating to the practice of nursing, and ensures that individuals who are proven to have violated the NPA receive appropriate discipline.

As the foundation for safe nursing practice, the Board's regulation of nursing education ensures the establishment and oversight of educational preparation needed for RN and LVN entry into practice. The Board accomplishes this function through the development and monitoring of standards for pre-licensure programs and the review and approval of new nursing programs/extension sites/campuses. With the large numbers of new nursing programs competing for a limited number of qualified faculty and eligible clinical sites necessary for

appropriate learning experiences, the Board must continue to assess nursing education programs to assure compliance with nursing education standards; provide consultation and guidance to program directors, faculty, and administration; and collect and analyze educational data useful in long range planning for nursing education.

As directed by the last Sunset Review, the Board has helped to promote innovations in nursing education, including concept-based instruction, new teaching strategies for active learning, use of high-fidelity simulation, and alternate clinical sites to improve the education and to increase the number of graduates.

In 1999, Texas adopted the Nurse Licensure Compact (NLC) (Chapter 304, Texas Occupations Code) which became effective in 2000. The expanded mobility of nurses and the use of advanced communication technologies as part of the nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensing and regulation. New practice modalities and technology make compliance with each state nurse licensing laws difficult and complex; and the former system of the duplicate licensing of nurses practicing in multiple states is cumbersome and redundant to both nurses and the states. Nevertheless, the health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensing laws, and violations of nurse licensing and other laws related to regulating the practice of nursing may result in injury or harm to the public. The NLC has served to facilitate the states' responsibilities to protect the public's health and safety and to facilitate the exchange of information between party states in the areas of nurse regulation, investigation, and adverse action. Participation in the NLC has served to promote compliance with the laws governing the practice of nursing in each jurisdiction.

If the agency were no longer able to perform all of these functions, there would not be safeguards in place to ensure that nurse licensees are providing safe, competent nursing care to the citizens of Texas.

**C. What evidence can your agency provide to show your overall effectiveness and efficiency in meeting your objectives?**

The Board finds it to be a model of an effective and efficient regulatory body. The Texas Board is responsible for licensing, regulating, and monitoring the status of approximately 280,000 licensed registered nurses and 100,000 licensed vocational nurses. BON-approved nursing education programs include 117 nursing education programs for registered nurses and 92 programs for licensed vocational nurses. The Board investigates over 10,000 complaints on nurses a year and received 200,000 telephone calls in FY 2014 alone. In FY 2014, the Board accomplished this function with approximately 109 full time employees and a budget of approximately 10 million dollars. Staff turnover for FY 2014 was 16.4 percent.

The Enforcement program has continued to successfully implement strategies designed to address the threat of growing workload and backlog. Beginning in FY 2010 and 2011, the percentage of investigations more than 12 months old began to grow from approximately 30%

to 40%. To address this growing backlog without effecting overall disciplinary policies, Enforcement was able to add several investigative staff and implement incentives for overtime of investigators to address the increase workload. With Enforcement's focus on reducing the backlog, the percentage of cases more than 12 months old had drop to approximately 28% to 30% percent from FYS 2013-2015.

Additionally, in the summer of 2014 the Board completed the 2004 legislative mandate to obtain FBI fingerprint criminal background checks (CBC) for all of its licensees. This program required the staggered submission of approximately 250,000 licensees over a ten year. With the inclusion of the required CBC's for applicants for initial licensure, over 400,000 CBCs have been reviewed by the Board since 2004.

Nurses renew their licenses biennially and in FY 2014 the Board renewed over 126,000 RNs' and 46,800 LVNs' licenses. Ninety three percent of the RNs renewed Online, while 90% of LVNs renewed online. Almost 12,000 new RN licenses and over 4,700 LVN licenses were issued by examination to new graduates. Almost 9,000 new licenses were issued to RNs/LVNs through endorsement.

Over 15,800 jurisdictional complaints regarding nurse practice were received in FY 2014 with 19,086 complaints resolved. Over 227 settlement conferences were conducted with 324 contested case hearings set before the State Office of Administrative Hearings. Over 2,235 licenses were sanctioned. The sanctions ranged from 148 remedial education orders to a total of 495 licenses being revoked or voluntarily surrendered.

The Board has historically solicited information about the quality of services it performs. Survey questionnaires designed to obtain feedback and to evaluate Board Staff's performance for such activities include on-site survey visits by Board Education Consultants; Board-conducted workshops on nursing education or nursing regulatory issues; Board-conducted new Deans' and Directors' orientation workshops; and the effectiveness of the agency's newsletter. The results of these surveys are available.

Most recently the evaluations from program representatives attending a new Deans' and Directors' orientation workshop in June, 2015 indicated that the event was a positive experience for the twenty-eight (28) participants with appreciation expressed for information provided and for support from Board Staff.

An online questionnaire to thirty-five (35) Program Directors of programs surveyed by Education Consultants from September 2013 through June 2015 provided the following data:

- 92% of programs were very satisfied or satisfied with the guidance prior to the survey visit;
- 100% of programs were very satisfied or satisfied with the preparation of the Education Consultants;
- 96% indicated satisfaction with suggestions and recommendations during the survey visit;
- 96% indicated that requirements and recommendations issued by the Board were accurate, fair, and helpful to the program; and

- 96% stated that the survey visit was a positive experience for the program and for the administration.

The Board sought stakeholder feedback about communication and interaction with the Board through an online Customer Service Survey available from April 1 to May 30, 2015. Three hundred and eighty four people completed the survey, which was linked from the Board website. Additionally, a direct link to the survey was provided on the cover of the April 2015 issue of the *Board of Nursing Bulletin*. The survey questions covered five areas: the *Texas Board of Nursing Bulletin*; the BON website; the BON Facebook page; Webmaster Inquiries; and interactions with the Customer Service Group. The survey results are included in Attachment 20.

The CORE (Commitment to Ongoing Regulatory Excellence) is a comparative performance measurement and benchmarking process for state boards of nursing. Development of the CORE process was initiated in 1998 by the National Council of State Boards of Nursing and the process incorporated surveys of boards of nursing, as well as three external stakeholder groups including nurses, employers of nurses and nursing educational programs. Information concerning the 2012 CORE report and its implications for Texas was presented at the April 2014 Board meeting. See Attachment 7.

**D. Does your agency's enabling law continue to correctly reflect your mission, objectives, and approach to performing your functions? Have you recommended changes to the Legislature in the past to improve your agency's operations? If so, explain. Were the changes adopted?**

Yes, the agency's enabling law continues to correctly reflect the mission, objectives and approach to performing the Board's function. The Board has recommended amendments to the Legislature in the past to improve the agency's operations. The latest amendments to Chapter 301 are outlined below in Section III, History and Major Events. The outline indicates those changes recommended by the Board.

The agency has primarily requested changes in its enabling legislation in order to improve its enforcement of nursing standards. The Legislature has been responsive with amendments which have facilitated the Board's authority to obtain criminal history records for license holders and applicants for licensure. No significant recommendations requested by the Board have been made that have not been adopted.

**E. Do any of your agency's functions overlap or duplicate those of another state or federal agency? Explain if, and why, each of your key functions is most appropriately placed within your agency. How do you ensure against duplication with other related agencies?**

During the Sunset Commission's last review of the Board's regulation of nursing education programs, the Board was cited as having overlapping functions with national nursing

accrediting bodies and other state agencies. The Board has worked with the Commission on Collegiate Nursing Education (CCNE) and the Accreditation Commission for Education in Nursing (ACEN) to review and revise the Board's regulation related to nursing accreditation. Likewise, the Board has also worked with the Texas Workforce Commission (TWC) and the Texas Higher Education Coordinating Board (THECB) to ensure there is no duplication with these state agencies. Please refer to Section VII. D, H, & I Education Department which reviews all the activities implemented thus far.

**F. In general, how do other states carry out similar functions?**

All states license nurses and have a licensing agency similar to Texas. All states have minimum competency requirements and standards applicable to the various levels of nursing licensure. All states investigate complaints against licensees, but differences exist in the number of investigations undertaken as well as enforcement priorities. The scope of practice permitted for the particular level of nurse licensure also varies from state to state.

**G. What key obstacles impair your agency's ability to achieve its objectives?**

The Board has not identified any major obstacles that impair its ability to achieve its objectives. The Board believes that its efficiency and effectiveness would likely increase with additional funding. The agency regulates approximately 380,000 licensees and 209 programs of nursing. The Board is expected to perform its functions with approximately 124.7 full time employees (FTEs) and a \$12 million budget for FY 2016.

**H. Discuss any changes that could impact your agency's key functions in the near future (e.g., changes in federal law or outstanding court cases).**

In 2014, the United States Supreme Court decided *North Carolina Dental Board v. Federal Trade Commission*. In response to complaints from dentists regarding teeth-whitening services being provided by non-dentists, the North Carolina Dental Board issued cease and desist letters to non-dentist teeth whitening service providers and distributors of teeth whitening products and equipment. The Federal Trade Commission (FTC) brought suit against the Board under federal antitrust laws asserting that the Board's actions were anticompetitive. The legal issue for consideration was whether the Board could use the State-Action-Immunity doctrine as a shield from federal antitrust law.

To invoke state-action immunity, an agency must show that the state, as a sovereign, clearly articulated authority for the agency to engage in anti-competitive conduct and active supervision by the state as a sovereign. The United States Supreme Court found that the state didn't show active supervision of the Board's activities and found that the attempted regulation of non-dentists providing teeth whitening services in North Carolina was a violation of federal antitrust laws.

Many consumer groups and non-licensed competitors have cited the decision in support of their position that occupational licensing agencies should not be governed by market participants. Legal debate, however, currently exists regarding the significance of this case. It

could be argued that the case will have no bearing on agency actions undertaken pursuant to a legislatively mandated framework that provides for appellate review (e.g., rulemaking pursuant to the Texas Administrative Procedure Act).

**I. What are your agency's biggest opportunities for improvement in the future?**

The adoption of the new NLC, as discussed in Section X Major Issues, will promote uniformity in regulation across the nation. Not adopting this legislation would diminish the current existing Compact and would result in an increasing demand on Board resources by creating unnecessary regulation of nurses who travel across state lines. In a market where the demand for nurses is high (See 2015 – 2019 Strategic Plan, Nursing Shortage, p. 58), it would also impact employers who could experience delays in licensing nurses who are needed to deliver vital patient care services.

As nursing education programs experience an increasing shortage and turnover of qualified nursing faculty, the Board is seeing a growing need for faculty education in the Board's rules regarding curriculum development and evaluation to ensure that nursing programs produce safe, competent graduates. Board staff can promote this education by ensuring that programs are complying with the *Differentiated Essential Competencies of Graduates of Texas Nursing Education Programs* (See Attachment 26). Staff can support education programs in compliance with these competencies by providing consultation, workshops, webinars, and ongoing evaluation of program compliance.

Other opportunities that may impact the Board's regulation of nursing education programs involve participation on advisory committees following the progress of three state-funded nursing research studies that will provide evidence and may have implications for Board rules: one studying clinical hours; one studying students' knowledge of service excellence and quality core measures; and one studying the effectiveness of an intensive focus on geriatric care in nursing education.

As the Board comes to rely more heavily on information technology, the BON will continue to move in the direction of paperless systems. This will be by design and by policy. The agency history shows that the Board has made incremental moves in this direction with the elimination of issuing paper licenses and moving the majority of the applications to Texas Online. This has saved agency staff resources, postage, paper, and increased customer satisfaction. In the next biennium, the agency will have the technology and expertise in place to put all applications and documents online for customer access. By the end of the next legislative biennium, the agency anticipates that once all necessary hardware and software are in place, the BON will require by policy that all applications for licensure be accessed via the website and that staff will use online methods to process, approve and store agency documents. This will eliminate the need for handling volumes of paper applications and preparing them for electronic storage. Moving those saved resources to the areas will allow the Board to decrease the number of days to issue a license and allow students to take the nursing examination.

The Board has attempted to incorporate the concepts of "*Just Culture*" into its regulation more often. *Just Culture* recognizes that systems issues often contribute to practice breakdown and

seeks to correct the cause of such systems issues instead of assigning blame to individuals who commit practice violations. Pursuant to new statutory authority in 2009, the Board implemented the use of corrective actions, a non-disciplinary alternative to traditional methods of regulatory discipline, for minor violations of the Nursing Practice Act (NPA) and Board rules. Corrective actions are confidential under state law, unless a subsequent violation of the NPA or Board rules occurs. The Board successfully piloted the implementation of deferred disciplinary actions, which the Legislature made a permanent part of the NPA in 2013. Although a deferred disciplinary action is initially considered public discipline, it may become confidential under state law after a period of time. This provides the nurse the opportunity to remediate his/her practice errors without being subject to the stigma of disciplinary action for the remainder of his/her career.

In January 2013, the Board also implemented the Knowledge, Skills, Training, Assessment and Research (KSTAR) pilot program, in partnership with the Texas A&M College of Nursing and Texas A & M Health Science Center Rural and Community Health Institute. The pilot program requires nurses who have violated the NPA or Board rules to undergo an individualized assessment and remediation process. Although an order requiring participation in KSTAR is considered public discipline, nurses are not required to comply with the standard supervisory requirements that are generally included in traditional disciplinary orders. For many nurses, this provides them with an opportunity to demonstrate their nursing competency in a shorter period of time without jeopardizing their current employment status. Finally, following the passage of new legislation in 2013, the Board began issuing confidential agreed orders to individuals qualifying for participation in a peer assistance program, either due to a substance use disorder or the abuse/misuse of drugs or alcohol or a mental health disorder. The Board has also explored utilizing more lenient supervisory stipulations in agreed orders where fraudulent or deceptive conduct is not present.

Due to the early success of these alternative methods of discipline, the Board continues to explore less punitive methods of remediation and discipline. For example, the Board may consider lessening the period of time that a deferred disciplinary order is public. The Board may also consider issuing corrective actions in situations that involve more than one violation of the NPA or Board rules.

The Board remains committed to protecting the health and safety of patients and the public. To the extent that “Just Culture” concepts can be safely incorporated into regulation, the Board remains open minded regarding additional possibilities for the future.

- J. In the following chart, provide information regarding your agency's key performance measures included in your appropriations bill pattern, including outcome, input, efficiency, and explanatory measures.

**Texas Board of Nursing**  
**Exhibit 2: Key Performance Measures — Fiscal Year 2014**

	FY 2014 Target	FY 2014 Actual	FY 2014 % of Target
<b>Outcome Measures</b>			
Percentage of Licensees with No Recent Violations (RN)	98.25%	98.44%	100.18%
Percent of Licensees Who Renew Online (RN)	91%	94.16%	103.47%
Percent of New Individual Licenses Issued Online (RN)	75%	81.59%	108.79%
Percentage of Licensees with No Recent Violations (LVN)	98%	96.04%	98.00%
Percent of Licensees Who Renew Online (LVN)	87%	91.90%	105.63%
Percent of New Individual Licenses Issued Online (LVN)	60%	68.90%	114.83%
Percent of Complaints Resulting in Disciplinary Action (RN)	23%	19.82%	86.17%
Percent of Complaints Resulting in Disciplinary Action (LVN)	25%	23.37%	93.48%
<b>Output Measures</b>			
Number of New License Issued to Individuals (RN)	16,650	19,880	119.40%
Number of Individual Licenses Renewed (RN)	114,250	126,631	110.84%
Number of New Licenses Issued to Individuals (LVN)	6,600	5,883	89.14%
Number of Individual Licenses Renewed (LVN)	44,150	46,796	105.99%
Number of Complaints Resolved (RN)	7,250	11,003	151.77%
Number of Complaints Resolved (LVN)	5,150	8,083	156.95%
Number of Licensed Individuals Participating in a Peer Assistance Program (RN)	600	625	104.17%
Number of Licensed Individuals Participating in a Peer Assistance Program (LVN)	175	175	92.57%
<b>Efficiency Measures</b>			
Average Time for Complaint Resolution (Days) (RN)	190	164	86.42%
<b>Explanatory/Input Measures</b>			
Number of Jurisdictional Complaints Received (RN)	7,500	9,411	125.48%
Number of Jurisdictional Complaints Received (LVN)	5,250	6,413	122.15%

### III. History and Major Events

- 1909 Recognition of professional nursing with the passage of the first Nursing Practice Act (NPA).
- 1951 Recognition of licensed vocational nursing with passage of House Bill 47 authorizing the issuance of licenses to licensed vocational nurses.
- 1981 The composition of the nine member Board was changed to include 33% representation by consumers, increasing the board to nine members.
- 1987 Mandatory reporting and peer review by RNs was authorized.
- 1989 Mandatory continuing education for all RNs and limited prescriptive authority for advanced practice nurses (APNs) were included in the NPA.
- 1991 Authorization to investigate and grant Declaratory Orders of Eligibility to individuals prior to entering or graduating from professional nursing education programs. Mandatory continuing education became a requirement for all Texas licensed vocational nurses.
- 1993 Clarification of the Board's regulatory procedures, authorized funding for a quarterly newsletter, and permitted the Board to receive grants and other funds.
- 1995 Incorporation of the role of advanced practice nurses (APNs) into the definition of nursing; identified qualifications for RN members of the Board; provided employment protection for the RN who refuses to engage in violations of nursing practice; and expanded limited prescriptive authority for APN practice in concert with changes in the Medical Practice and Pharmacy acts.
- 1997 Expansion of RN Peer Review to evaluate a RN's refusal to perform acts in violation of NPA. Required notification to students enrolled in professional nursing programs of licensure eligibility requirements. Permitted the Board to establish pilot programs to study mechanisms for assuring knowledge of jurisprudence and competency of RNs.  
  
Also, in 1997, amendments to the Medical Practice Act expanded limited prescriptive authority for APNs in school-based settings, and changed supervisory requirements in medically underserved areas.
- 1999 Recodification of the Nursing Practice Act into the Texas Occupations Code. Enacted the Nurse Licensure Compact (HB 1342) which enables Texas Licensed Nurses to

practice in other compact states under their Texas license. Required adoption of rules regulating the provision of nurse anesthesia services in specific outpatient surgical settings.

2001 Recodification of all language relating to the Nursing Practice Act (NPA) into the Texas Occupations Code. Nurse Licensure Compact to Chapter 304 of the Texas Occupations Code. House Bill 803 authorized the Board to establish education and certification of Registered Nurse First Assistants.

2003 Creation of combined Texas Board of Nursing to regulate RNs and LVNs. HB 1483 abolished the Board of Vocational Nurse Examiners (BVNE) and moved its functions to the BNE. The number of board members increased from nine to thirteen members (with 4 of 13 members representing public interest) and the Nursing Practice Act was amended to apply safe harbor, declaratory order process and practice protection for licensed vocational nurses. The consolidation occurred on February 1, 2004, and staff from the BVNE were transferred to the BNE with concomitant elimination of duplicate funding and FTEs. House Bill 1483 also added requirements for two hours of continuing education relating to response to bioterrorism by license holders.

House Bill 2208 and 660 added requirements that applicants for licensure submit to FBI criminal background check prior to issuance of a license (funding for RN applicants only).

The Workforce Data Center, authorized by Senate Bill 572 (enacted in the 77<sup>th</sup> Texas Legislature but not funded) was moved to the Statewide Health Coordinating Council under the Texas Department of Health.

Senate Bill 718 authorized the Texas Board of Nursing to conduct pilot studies relating to nursing competency and reporting of errors.

2005 Provision of funding for Board to conduct FBI criminal background checks on all nurse applicants. Additionally, provided funding to conduct FBI criminal background checks on all licensees over a ten year period. Amended eligibility law provisions of NPA to require license denial or revocation for certain felony crimes and criminal sex offenses.

2007 The Texas Board of Nursing was re-authorized by HB 2426, a Sunset Bill authored by Sen. Deuell. This bill included the agency name change from the Texas Board of Nurse Examiners to the Texas Board of Nursing and the passage of the Advanced Practice Nurse Licensure Compact, with the requirement that the compact be implemented no later than 2011 or expire. Passage of HB 2426 required a number of changes to the Board's oversight of nursing educational programs including: streamlining the Board's process for approving nursing educational programs to remove unnecessary complexity, eliminate duplication, and accommodate changes

in the delivery of nursing education; changing the law pertaining to diploma nursing education programs completed on or after December 31, 2014 to say that completion of these programs must entitle a student to receive a degree upon successful completion of a program of a public or private institution of higher education recognized by the Texas Higher Education Coordinating Board (THECB); requiring that the Board encourage innovation in nursing education to increase production of nurses and address the nursing shortage; and requiring the governing institution of a professional nursing school be accredited by an agency recognized by the THECB, or be in the process of gaining accreditation. The bill allowed the Board to approve nursing education programs by other state boards of nursing, which would allow Texas nursing students enrolled in an out-of-state or online program to complete clinicals in Texas without being considered by the board to be practicing nursing without a license. Further, the bill would put these types of programs on notice regarding the regulations and standards that applied to out-of-state or online programs.

- 2009 Express disciplinary authority was added by HB 3961 to require physical and psychological evaluations related to fitness to practice; and authorized temporary suspension of licenses for PROHIBITED drug and alcohol use during board disciplinary monitoring.

HB 3961 also authorized Board approval for accredited nursing or educational programs from other states, provided they met requirements substantially similar to those of the Board. The bill also required the review of these provisions as part of the first review of the Sunset Commission after September 1, 2009.

SB 1415 authorized the Board to study the feasibility of implementing a pilot program regarding the deferral of final disciplinary action. The pilot program permitted the Board to impose disciplinary action that could become confidential under state law if successfully completed and to study the feasibility of such action. The action would be for violations subject to disciplinary action of a level of Warning or below.

SB 1415 also authorized the Board, for the first time, to issue corrective actions, a non-disciplinary alternative to traditional discipline, to resolve violations of the NPA and Board rules. A corrective action is comprised of remedial education, a fine, or a combination of remedial education and a fine. Due to their non-disciplinary nature, a corrective action is confidential, unless an individual commits a subsequent violation of the NPA or Board rules or fails to comply with the terms of the corrective action.

The Winkler County Nurse Whistleblower case was a series of legal proceedings in West Texas centered on the retaliation upon two nurses who submitted an anonymous state medical board complaint against a physician in 2009. The case attracted national attention for its implications on whistle blowing by nurses. After

witnessing what they believed to be unsafe medical care, nurses Anne Mitchell and Vicki Galle submitted an anonymous complaint against Dr. Rolando Arafiles to the Texas Medical Board (TMB). When he learned of the complaint, Arafiles spoke with the sheriff of Winkler County, who was his friend and one of his patients. Arafiles alleged that the nurses' reports to the medical board constituted harassment. The sheriff investigated and obtained the TMB complaint, which provided enough information about Mitchell and Galle to make them identifiable. Galle and Mitchell were terminated from the hospital and faced criminal charges of misuse of official information. Galle's charges were dropped before trial and Mitchell was acquitted by a jury. In the aftermath of Mitchell's trial, Arafiles, several county officials, and a hospital administrator all faced jail time for their roles in the retaliation against the nurses. This case highlighted the need for increased protection for good faith reporting, an issue addressed by SB 192 in 2011.

- 2011 The Advanced Practice Nurse Licensure Compact expired because it could not be implemented. There were an insufficient number of States to enact it. Although there was no initial threshold in the compact for a set number of States, the 3 States (including Texas) who passed the compact recognized the need to have uniform licensure requirements for APRN licensure before it could be effectively implemented. Approval of the uniform APRN licensure requirements was not accomplished until 2007 and a new draft compact including these requirements has been developed for future consideration.

The NPA was amended (SB 192) to provide immunity for persons who, in good faith, make reports required or authorized by the NPA related to patient safety concerns; and extended non-retaliatory protections for nurses refusing an assignment, making a good faith report related to patient care, or requesting a Safe Harbor Peer Review Committee determination. SB 193 extended protection of confidentiality to certain information included in a Petition for Declaratory Order, renewal application, or initial application for licensure; allowed nurses under 65 years of age to apply for retired status and use the appropriate title signifying this status, permitted the disclosure of the results of a physical or psychological exam to a peer assistance program approved by the Board; and allowed the BON to develop a standardized error classification system for use by Nursing Peer Review Committees.

- 2013 The NPA was amended (HB 581) to waive sovereign immunity of the state or local governmental entity from suit and from liability for the limited purpose of allowing the nurse to maintain a lawsuit in state court related to discriminatory and/or retaliatory practices to obtain such relief.

Legislation was passed (HB 1675) to permit the Sunset Advisory Committee to conduct a study addressing the criteria and process to be used in determining whether a state agency should be given self-directed semi-independent status to be completed by December 14, 2014 to each member of the Legislature, the Governor, and Lieutenant Governor.

SB 406 amended the Medical Practice Act and the requirement for on-site physician supervision and increased the number of Advanced Practice Registered Nurses a physician can supervise from four to seven and allowed physicians to delegate authority to prescribe Schedule II controlled substances in hospitals and hospice settings. The bill requires periodic face-to-face meetings between APRNs and the delegating physician. SB 406 also added requirements for a delegating physician and an APRN to enter into a prescriptive authority agreement in a non- facility based practice.

SB 1058 added new continuing education requirements related to nursing jurisprudence and ethics, made criminal background checks mandatory for nursing students; made permanent the Board's current pilot authority to impose deferred disciplinary action; and provided for limited non-disclosure of disciplinary orders requiring the nurse to participate in a Board-approved peer assistance program.

Under the authority of Occupations Code §301.1605(a) and §301.453, the Board implemented an innovative alternative to traditional discipline, known as the Knowledge, Skills, Training, Assessment and Research (KSTAR) Pilot Program, in partnership with the Texas A&M Health Science Center Rural and Community Health Institute. Under the KSTAR program, licensees who have violated the NPA or Board rules undergo an individualized assessment and remediation process. The process permits the individuals to forego compliance with more traditional supervisory employment requirements in return for demonstrating competency relative to documented deficiencies.

2014 The U.S. Supreme Court decided the North Carolina Dental Board v. Federal Trade Commission (FTC). The North Carolina dental board took certain actions to keep non-dentists from offering teeth-whitening services. FTC sued them under the federal antitrust laws noting the dental board's activities were anti-competitive. The issue was whether the North Carolina State Board of Dental Examiners can use what is called the State Action Immunity Doctrine as a shield from federal antitrust law.

To invoke state-action immunity an agency must show (1) the state as a sovereign clearly articulated authority for the entity to engage in anti-competitive conduct; and (2) active supervision by the state as sovereign. The U.S. Supreme Court found that the state didn't show active supervision of the dental board's activities and found that the attempted regulation of non-dentists providing teeth whitening services in N.C. was a violation of the federal antitrust laws. The decision has been cited by many consumer groups and non-licensed competitors for the proposition that occupational licensing agencies should not be governed by market participants.

## IV. Policymaking Structure

### A. Complete the following chart providing information on your policymaking body members.

**Texas Board of Nursing  
Exhibit 3: Policymaking Body**

<b>Member Name</b>	<b>Term / Appointment Dates / Appointed by (e.g., Governor, Lt. Governor, Speaker)</b>	<b>Qualification (e.g., public member, industry representative)</b>	<b>City</b>
Verna Kathleen Shipp, MSN, RN, FNP Board President	03/16/2011 – 01/31/2017	Advanced Practice Nurse	Lubbock
Deborah Hughes Bell, CLU, ChFC Board Vice-President	03/24/2004 – 01/31/2017	Public Member	Tuscola
Nina Almasy, MSN, RN	12/21/2012 – 01/31/2019	Nurse Faculty - Vocational Nursing Program	Austin
Patricia Clapp, BA	05/06/2008 – 01/31/2019	Public Member	Dallas
Laura A. Disque, MN, RN	07/09/2015 – 01/31/2019	Registered Nurse	Edinburg
Allison Porter-Edwards, DrPH, MS	07/09/2015 – 01/31/2021	Nurse Faculty – Bachelor Degree Nursing Program	Bellaire
Diana Rodriguez Flores, MN, RN	07/09/2015 – 01/31/2021	Registered Nurse	Helotes
Monica Lynn Hamby, LVN	09/26/2013 – 01/31/2019	Licensed Vocational Nurse	Amarillo
Doris Jean Jackson, DHA, (ABD), MSN, RN	07/09/2015 – 01/31/2017	Nurse Faculty – Associate Degree Nursing Program	Pearland
Kathy Leader-Horn, LVN	05/01/2009 – 01/31/2021	Licensed Vocational Nurse	Granbury
Beverley Jean Nutall, LVN	03/22/2004 – 01/31/2017	Licensed Vocational Nurse	Bryan
David Edward Saucedo, II	07/09/2015 – 01/31/2021	Public Member	El Paso
Francis D. Stokes	07/09/2015 – 01/31/2021	Public Member	Port Aransas

### B. The primary role and responsibilities of the policy-making body include the following:

- Employs the Executive Director and ensures that the Executive Director carries out the management and administration of agency functions;
- Sets agency policy for the agency;
- Passes rules to implement the Nursing Practice Act, establishes standards of nursing practice and regulates the practice of professional and vocational nursing;
- Exercises decision making authority on disciplinary actions;
- Approves or denies educational programs of nursing and reviews requests for waiver or approval from various educational rules;
- Reviews other key documents such as Performance Reports, Risk Assessments and various audits of Board operations;

- Approves various agency reports including the Strategic Plan, Annual Financial Report and the Legislative Appropriations Request;
- Reviews reports of the Internal Auditor and the Internal Audits, Audit Plan and Internal Audit Charter;
- Monitors representation by the Office of Attorney General in agency litigation;
- Decides matters of eligibility for licensure and discipline of licenses, including temporary suspension of a license, and administrative and civil penalties;
- Recommends to the legislature appropriate changes in the Nursing Practice Act to ensure that the act is current and applicable to changing needs and practices; and
- Selected members may serve and participate in designated standing or ad hoc committees of the Board as deemed necessary.

**C. How is the chair selected?**

The Governor designates the presiding officer from the eligible Board members to serve in that capacity at the pleasure of the Governor.

**D. List any special circumstances or unique features about your policymaking body or its responsibilities.**

The Texas Board of Nursing consists of 13 members appointed by the Governor with the advice and consent of the Senate. Six nurse members are appointed: an advanced practice nurse; two registered nurses who are not advanced practice nurses or members of a nurse faculty; and three vocational nurses who are not members of a nurse faculty. Three members who are nurse faculty members of nursing education programs are appointed: a nurse faculty member of a nursing education program offering a baccalaureate degree program in preparing registered nurses; a nurse faculty member of a nursing education program offering an associate degree program in preparing registered nurses; and a nurse faculty member of a nursing education program at an institution of higher education preparing vocational nurses. The remaining four members represent the public and are known as consumer members.

The Eligibility and Disciplinary Committee members are appointed by the president and consist of one consumer member and two nurse members. The President has the authority to substitute committee members when necessary to establish a quorum due to absence of standing members. The chair is named by the president. This committee has the authority to determine matters of eligibility for licensure and discipline of licensees, including temporary suspension of a license, and administrative and civil penalties. Two eligible voting members shall establish a quorum of the Committee of which at least one member must be a nurse.

The Education Liaison Committee consists of the three board members representing nursing education programs who serve as advisors to the staff on matters pertaining to requested waivers, and other issues that may arise between regularly scheduled full board meetings.

**E. In general, how often does your policymaking body meet? How many times did it meet in FY 2014? In FY 2015?**

The Board meets on a quarterly basis and met four times during FY 2014 and is scheduled to meet four times during FY 2015. The Eligibility and Disciplinary Committee meets each month when there is not a full Board meeting scheduled. It met 8 times during FY 2014 and is scheduled to meet at least 8 times during FY 2015 (not including temporary suspension hearings).

**F. What type of training do members of your agency's policymaking body receive?**

After each appointment of a new Board member, that Board member undergoes a day and a half of intensive Board orientation and training session with Board Staff conducted by the Executive Director and key program Staff. These orientation sessions are designed to give the new Board members an overall explanation of the Board's jurisdiction, powers, functions, and duties. The Executive Director provides an overview of Board organization, information regarding issues facing the Board and the statutory responsibility of the Board and its members. Division Directors review agency programs and operations, including state accounting procedures, insurance, and provide instruction on preparation of travel vouchers. The agency's legal department reviews specific laws affecting the Board's activities which include an explanation of the Administrative Procedures Act, Public Information Act, and Open Meetings Act. Agency attorneys also provide an explanation and written material concerning ethics laws, the Texas Ethics Commission as well as the ethical responsibilities of Board members.

New Board members are encouraged to attend an orientation program conducted by the Governor's Office and similar programs presented by the Office of Attorney General. All members are provided the Member Training Manual developed by the Health Professions Council. This manual is augmented with specific agency information.

Every other year the Executive Director schedules a Board development training session retreat. These retreats, which are posted pursuant to the Open Meetings Act, are designed for member training regarding various laws and issues relevant to the Board's activities. No formal action is taken at these meetings. These sessions facilitate the information exchange between Board members, the Executive Director, and key program Staff.

During regularly scheduled full Board meetings, the members are provided training on various topics related to the Board's activities. In the past, these Board development sessions have included such topics as:

- Feb. 2007 Forensic Psychological Evaluations by John Lehman, PhD
- April 2007 Nurses and Addiction, Presentation by Mike Van Doren, MSN, RN, CARN, Program Director, Texas Peer Assistance Program for Nurses
- July 2007 Review of Board Authority over State Office of Administrative Hearings Proposals for Decision

Oct. 2007	Dissertation of Mary Beth Thomas, PhD, RN, Director of Nursing on Perceptions of Registered Nurses Sanctioned by a Board of Nursing: Individual, Health Care Team, Patient, and System Contributions to Error
Jan. 2008	Studio 361, Paperless Training
April 2008	Eligibility and Disciplinary Committee Process
July 2008	SOAH Power Point Presentation
Oct. 2008	Forensic Psychological Evaluations with Sexual Predator Component - Dr. Matthew Ferrera Studio 361 Training - Doug Harriman
Jan. 2009	Mock Eligibility and Disciplinary Committee Presentation
April 2009	NCLEX Exam Item Review at Learning Center Presentation on Board Education Rules 214 and 215
July 2009	Just Culture Presentation by Scott Griffith, Chief Operating Officer, Outcome Engineering
Oct. 2009	Presentation on the Board Investigatory and Disciplinary Process
Jan. 2010	Seton Clinical Education Center Clinical Simulation Demonstration
April 2010	State Office of Administrative Hearings
July 2010	Managing Generational and Cultural Differences: Geronimo Rodriguez, JD and Vice President of Diversity and Community Outreach at Seton Family of Hospitals
Oct. 2010	Current Research and Information Survey Conducted by Board Staff
Jan. 2011	Parliamentary Procedure by John Kirk Overbey
April 2011	National Accreditation of Nursing Programs
July 2011	Anatomy of a Disciplinary Investigation and Contested Case Proceeding at SOAH
Oct. 2011	Staff Presentation of Doctorate of Nursing Practice Capstone Project: Data Analysis of Texas RNs with Multiple Disciplinary Actions
Jan. 2012	Drug Testing for Board Disciplinary Orders and the Texas Peer Assistance Program for Nurses
April 2012	Information on NCSBN Webinars from 2012 Mid-year Meeting
July 2012	Information on Nursing Education Program Approval Processes of Other State Agencies - The Texas Higher Education Coordinating Board and the Texas Workforce Commission
Oct. 2012	Texas Peer Assistance Program Overview - MSN, RN, CARN, Program Director, Texas Peer Assistance Program for Nurses
Jan. 2013	Update on Nursing Legislative Agenda
April 2013	None
July 2013	Robert Wood Johnson Foundation: Academic Progression in Nursing Initiative
Oct. 2013	None
Jan. 2014	None
April 2014	Presentation on Healthcare's Expansion into the Community: How will Nursing Meet the Challenge?
July 2014	Nursing Education Program Information Survey Presentation by Pam Lauer, MPH, Program Director, Texas Center for Nursing Workforce Studies
Oct. 2014	Criminal Background Check Rap Back
Jan. 2015	Telenursing - Consider the Possibilities: Presentation by Linda Young, RN, MS, FRE, BC, Nursing Program Specialist, South Dakota Board of Nursing

April 2015 DSM V, Presentation by John M. Lehman, PhD

**G. Does your agency have policies that describe the respective roles of the policymaking body and agency staff in running the agency? If so, describe these policies.**

The Board maintains policies regarding the role of the policymaking bodies and staff in carrying out agency functions. A copy of these policies is in Attachment 22.

For enforcement matters, formally adopted Rules and Regulations and Disciplinary Sanction Policies delineate responsibility of Staff and the Board.

**H. What information is regularly presented to your policymaking body to keep them informed of your agency's performance?**

Information is presented to the Board at each regularly scheduled meeting to keep them informed of the agency's performance. Each agenda contains the quarterly financial statement of the Board with cumulative data for the fiscal year. The financial report is broken down to display the agency's ongoing expenditures in each program area as authorized in its appropriations. Likewise, the Board is provided with a Compliance Report that shows the quarterly and cumulative statistics for outcomes in each performance measure required by the LBB. Other relevant measures of interest are reported to the Board based on member request or staff recommendation. An example of the quarterly status report is in Attachment 23.

The Board is presented with all available annual or periodic audit reports conducted concerning the agency and its activities as required by law. The results of any internal or external audit are presented to the Board at the Board meeting following the audit. Status reports of ongoing audits are presented during each Board meeting. Internal Audit reports conducted in the past two years are included in Attachments 16 through 18.

At each regularly scheduled meeting of the Board, the Executive Director provides a written report along with an oral presentation concerning any relevant or ongoing activities of the Board on matters of interest to the Board.

**I. How does your policymaking body obtain input from the public regarding issues under the jurisdiction of the agency? How is this input incorporated into the operations of your agency?**

The Board provides a public forum at each quarterly Board meeting. The public is invited to speak or provide written comments on any issue relevant to the Board's jurisdiction except for pending disciplinary actions. However, the Board will not take action on comments received during open forum due to notice requirements in the Open Meetings Act.

The Board requests written comments on any proposed rule in the *Texas Register*. The public may submit written comments. The public may legally request a public hearing on any proposed rule under the Texas Administrative Procedures Act and verbal comments will be

received at that time. The Board is obligated to respond to these comments with reasoned justification if it disagrees. The public may also petition the Board for adoption of a rule.

The Board and staff receive input through letters, telephone calls, and e-mails to agency staff. These comments are answered by the Executive Director or staff. If comments present an unusual issue, an issue raised frequently, or an issue of first impression, it may be placed on the Board's agenda for consideration.

The Board has established the Nursing Practice Advisory Committee (NPAC). The NPAC includes representatives of nursing practice and education, nursing organizations, and state agencies heavily involved with nursing. Ex officio members are invited on an ad hoc basis as needed to address pertinent issues. The Board President appoints the Board member representing Nursing Practice to serve as the Board liaison. The Board liaison has no voting privileges.

The purpose of the BON Nursing Practice Advisory Committee is to identify, study, and analyze those major practice issues that significantly impact or will potentially impact the practice of nursing. The committee is advisory to the Board and provides reports to the Board as indicated along with committee recommendations. The committee's objectives include: identifying the major practice issues that significantly impact the regulation of nursing practice; providing periodic reports to the Board regarding the committee's analysis of the major practice issues; providing recommendations for regulatory actions; and responding to questions from the Board regarding specific scope of practice inquiries.

The Board has established the Advisory Committee for Education (ACE) whose purpose is to identify, review, and analyze issues in the education and practice arenas that have or may have a significant impact upon the regulation of nursing education in Texas.

The ACE committee is comprised of nurses who are nurse educators from all levels of nursing education including LVN programs, Associate Degree nursing programs, Diploma nursing programs, Baccalaureate and Graduate nursing programs. It also includes members from various organizations and associations representing the programs and providing stakeholder input. The Board president appoints an educational Board member to serve as a liaison to the committee. The Board liaison has no voting privileges.

The committee's role is advisory, providing reports and recommendations for Board consideration. The committee is charged with identifying issues in nursing education and practice which impact the regulation of vocational and professional nursing education programs and the licensure of graduates from nursing education programs in Texas. The committee will provide periodic reports to the Board which include recommendations, as appropriate, and respond to questions from the Board regarding educational and initial licensure issues.

The Board has also established the Advanced Practice Nursing Advisory Committee (APNAC). APNAC includes representatives of nursing practice and education, nursing organizations, and state agencies heavily involved with advanced practice nursing. A Board member with

advanced practice authority is appointed by the president to serve as a liaison to the committee. The Board liaison has no voting privileges.

The purpose of the APNAC is to identify, study, and analyze those major practice issues that significantly impact or will potentially impact advanced practice nursing. The committee is advisory to the Board and provides reports to the Board as indicated along with committee recommendations. The committee objectives include identifying the major practice issues that significantly impact regulation of advanced nursing practice; providing periodic reports to the Board regarding the committee's analysis of the major practice issues; providing recommendations for regulatory actions; and responding to questions from the Board regarding specific scope of practice inquiries. The Board president appoints the Board member representing Advanced Practice to serve as a liaison to the committee. The Board liaison has no voting privileges.

The Board has established the Eligibility and Disciplinary Advisory Committee (EDAC), whose purpose is to provide analysis and advice to the Board regarding regulatory matters. In particular, the EDAC reviews and provides recommendations to the Board regarding its disciplinary rules, policies, and guidelines. The EDAC is a standing committee of the Board and is comprised of members from various stakeholder organizations, including licensed vocational nurses, registered nurses, advanced practice registered nurses, associate degree nursing, baccalaureate and graduate nurse educators, vocational nurse educators, and nurse executives. If appropriate, the Board may also appoint members with specialized expertise to participate in the EDAC for a period of time in order to advise on a particular topic.

The Board also appoints Task Forces for ad hoc issues that arise. For example the Task Force to Study Growth of Nursing Education Programs in Texas was appointed October, 2011.

Board Staff also serve on outside committees:

- Academic Progression in Nursing (APIN) Grant Advisory Committee;
- Texas Team;
- TNA Practice/Education Committees;
- NCSBN NCLEX Examination Committee;
- NCSBN NCLEX Item Review Subcommittee; and
- Advisory Committees for THECB Education Grants.

The Board monitors staff participation in outside advisory committees on matters relevant to the Board's operations and may entertain input from the following outside agency advisory committees:

- Texas Peer Assistance Program for Nurses Advisory Committee;
- Texas Nurses Association;
- Texas Higher Education Coordinating Board;
- National Council of State Boards of Nursing - Taxonomy of Error Root Cause Analysis of Practice (TERCAP);
- Texas Team Report - Robert Wood Johnson Initiative;

- Statewide Health Coordinating Council (SHCC) Nursing Workforce Data Advisory Committee; and
- Department of State Health Services Hospital Rules Workgroup.

**J. If your policymaking body uses subcommittees or advisory committees to carry out its duties, fill in the following chart.**

**Texas Board of Nursing  
Exhibit 4: Subcommittees and Advisory Committees**

<b>Name of Subcommittee or Advisory Committee</b>	<b>Size / Composition / How are members appointed?</b>	<b>Purpose / Duties</b>	<b>Legal Basis for Committee</b>
Eligibility and Disciplinary Committee	3 Board Members (one consumer member and two nurses)	Temporary Suspension Decisions, Advisory Determinations on Eligibility and Discipline, Default Proceedings.	Texas Occupations Code, Sec. 301.455; 22 Tex. Admin. Code, Sec. 211.6(b)
Advisory Committee on Licensure, Eligibility and Discipline	Stakeholder organizations, as set out in 22 Tex. Admin. Code §211.6(F)(1)(D), nominate members to serve as their representatives on the EDAC. The Board then considers the nominees and appoints them to serve on the EDAC.	See Subsection I, above	Tex. Occ. Code §301.1595. 22 Tex. Admin. Code §211.6(F).
Nurse Licensure Compact Administrators or NLCA	Executive Director serves as Board President's Designee. Currently there are 25 compact states and NLC administrators.	NCLA members facilitate the exchange of information between the states relating to compact nurse licensure and regulation.	Texas Occupations Code, Chapter 304
Nursing Practice Advisory Committee (NPAC).	See Subsection I, above	See Subsection I, above	22 Tex. Admin. Code Sec. 211.6(c)
Advisory Committee for Education (ACE)	See Subsection I, above	See Subsection I, above	22 Tex. Admin. Code Sec. 211.6(c)
Advanced Practice Nursing Advisory Committee (APNAC)	See Subsection I, above	See Subsection I, above	22 Tex. Admin. Code Sec. 211.6(c)

## V. Funding

### A. Provide a brief description of your agency's funding.

The Board of Nursing is required by contingency revenue rider and by Article VIII, Section 2 to assess fees, fines and other miscellaneous revenues that cover, at a minimum, the costs of appropriations made in the General Appropriations Act and any other costs as designated in an agency rider or other legislation. The method of finance is general revenue and appropriated receipts.

**B. List all riders that significantly impact your agency's budget.**

General Appropriations Act for the 2014-2015 Biennium, 83<sup>rd</sup> Legislature, Regular Session, 2013

Article VIII – Regulatory

Page VIII - 39

Rider 2 – Texas Center for Nursing Workforce Studies Funding

Rider 3 – Contingent Revenue

Page VIII – 69, 70, 71 and 72

Section 2 – Appropriations Limited to Revenue Collections

Section 3 – Funding for Health Professions Council

Section 4 – Texas.gov Appropriations

Section 5 – Peer Assistance Program Funding Requirements

Article IX – General Provisions

Page IX – 1 through 17, 19, 21-22, 28,

Section 2.01 – Position Classification Plan

Section 3.04 – Schedule of Exempt Positions

Section 3.07 – Equity Adjustments

Section 6.10 (a)(2)(A) – Limitations on State Employment Levels

Section 8.08 Appropriations of Collection for Seminars and Conferences

**C. Show your agency's expenditures by strategy.**

**Texas Board of Nursing**  
**Exhibit 5: Expenditures by Strategy — 2014 (Actual)**

<u>Goal/Strategy</u>	<u>Amount Spent</u>	<u>% of Total</u>	<u>Contract Expenditures</u>
Licensing:			
Licensing	\$5,272,398	48.7%	\$648,164.65
Texas.Gov	647,933	6.0%	
Accreditation	560,453	5.2%	9,677.50
Protect Public (Enforcement)			
Adjudicate Violations	2,607,216	24.1%	74,718.87
Peer Assistance	873,558	8.1%	
Indirect Administration – Licensing	522,557	4.8%	
Indirect Administration - Enforcement	<u>338,775</u>	<u>3.1%</u>	<u>                    </u>
Grand Total:	\$10,822,890	100%	\$732,561.02

**D. Show your agency's sources of revenue. Include all local, state, and federal appropriations, all professional and operating fees, and all other sources of revenue collected by the agency, including taxes and fines.**

**Texas Board of Nursing**  
**Exhibit 6: Sources of Revenue — Fiscal Year 2014 (Actual)**

<u>Source</u>	<u>Amount</u>
3560 Medical Registration and Examination/Texas Online	\$14,627,860
3570 Peer Assistance	930,024
3752 Sales of Publications/Newsletter	1,569,989
3719 Copies/Sales of Lists/Filing of Records	1,346,337
3722 Workshops/Webinars	424,484
3770 Administrative Penalties	<u>404,073</u>
Total:	\$19,302,767

**E. If you receive funds from multiple federal programs, show the types of federal funding sources.**

**Texas Board of Nursing  
Exhibit 7: Federal Funds – Fiscal Year 2014 (Actual)**

Not Applicable

**F. If applicable, provide detailed information on fees collected by your agency.**

**Texas Board of Nursing  
Exhibit 8: Fee Revenue — Fiscal Year 2014**

Fee Description/ Program/ Statutory Citation*	Current Fee/ Statutory Maximum**	Number of Persons/entities Paying fee	Fee Revenue	Where Fee is Deposited GR or AR
Licensure Renewal	\$36/\$51	173,427	\$10,204,902	GR
Late Fees	\$60/\$120	6,000	564,147	GR
Reactivation Fees	\$10/\$20	750	11,163	GR
Examination Fees	\$90	22,235	2,001,305	GR
Endorsement Fees	\$151	11,355	1,714,527	GR
Verification Fees	\$25	790	19,768	GR
Duplicate License Fees	\$25	43	1,095	GR
Student Eligibility Fees	\$150	1,090	163,395	GR
APRN Application Fees	\$100	2,235	223,679	GR
APRN Renewal Fees	\$50	10,035	501,748	GR
Prescriptive Authority	\$50	2,000	100,000	GR
6 Month Limited Permit	\$25	320	8,035	GR
Retired Fee	\$10	750	7,500	GR
Other Revenue	Varies	Varies	4,820	GR
Program Accreditation	\$500	63	31,800	GR
Workshops/Webinars	\$109/\$25	21	424,484	AR
Newsletter/Publications	\$9/Varies	Varies	1,569,989	AR
Lists/Copies/Filing of Records	Varies	Varies	1,346,337	AR
Administrative Penalties	Varies	256	<u>404,073</u>	GR
		Total:	\$19,302,767	

## VI. Organization

- A. Provide an organizational chart that includes major programs and divisions, and shows the number of FTEs in each program or division. Detail should include, if possible, Department Heads with subordinates, and actual FTEs with budgeted FTEs in parenthesis.**

Please see Attachment 21.

- B. If applicable, fill in the chart below listing field or regional offices.**

**Texas Board of Nursing  
Exhibit 9: FTEs by Location — Fiscal Year 2014**

Headquarters, Region, or Field Office	Location	Co-Location? Yes / No	Number of Budgeted FTEs FY 2014	Number of Actual FTEs as of June 1, 2014
Not Applicable				

- C. What are your agency's FTE caps for fiscal years 2014–2017?**

Agency FTE Caps – Fiscal Years 2014 through 2017

FY 2014 – 109.7

FY 2015 – 109.7

FY 2016 – 124.7

FY 2017 – 124.7

- D. How many temporary or contract employees did your agency have as of August 31, 2014?**

The agency had 5 temporary/contract employees as of August 31, 2014.

- E. List each of your agency's key programs or functions, along with expenditures and FTEs by program.**

**Texas Board of Nursing  
Exhibit 10: List of Program FTEs and Expenditures — Fiscal Year 2014**

<u>Program/Function</u>	<u>budgeted FTEs</u>	<u>Actual FTEs</u>	<u>Actual Expenditures</u>
Licensing	57.7	63.7	\$6,442,888
Accreditation	6.0	6.0	560,453
Enforcement	46.0	45.0	3,819,549
Total:	109.7	114.7*	\$10,822,890

\*The Texas BON invoked Article IX, Section 6.10(a)(2)(A) rider.

## VII. Guide to Agency Programs

### A. Administration/Legal

Name of Program or Function:	Administration/Legal
Location/Division:	Administration
Contact Name:	Katherine A. Thomas, MN, RN, FAAN
Actual Expenditures, FY 2014:	\$1,027,491
Number of Actual FTEs as of June 1, 2015:	14
Statutory Citation for Program:	Texas Occupations Code, Secs. 301.101, 301.162 and Subchapters I, J, K, L and N.

### B. What is the objective of this program or function? Describe the major activities performed under this program.

The Administration/Legal group provides support for the Board (including the Eligibility and Disciplinary Committee) and Board staff in assuring adherence to the statutory obligations of the Nurse Practice, the various requirements of state administrative laws and other state and federal laws that may affect the Board's governmental functions. The Administrative/Legal group provides guidance and legal support to Board staff assigned to the advisory committees in order ensure compliance with the Administrative Procedures Act and other administrative law requirements. The Administrative/Legal group provides legal representation for the Board in its enforcement activities. The Administration/Legal provides support for the following activities:

- drafts rules and regulations and applicable disciplinary policies for submission to the Texas Register;
- posts notice of meetings with the Texas Register;
- prepares the Board meeting agendas and minutes;
- prepares and distributes meeting materials;
- facilitates meeting arrangements;
- responds to legislative inquiries;
- responds to all public information requests and subpoenas for information;
- drafts agency policies and procedures;
- reviews and advises all aspects of agency operations for regulatory compliance with all state and federal statutory restrictions and obligations;
- assists the Enforcement Division in the resolution of cases;
- represents the agency in the formal contested cases before the State Office of Administrative Hearings (SOAH) and in informal settlement proceedings and alternative dispute resolution proceedings;
- communicates with licensees, applicants, and/or their attorneys regarding proposed Agreed Orders;
- advises the agency staff on legal matters regarding the Nurse Practice Act and rules and regulation;
- responds to inquiries regarding interpretation of statutes and rules;

- responds to and drafts discovery and motions;
- files exceptions to Proposal for Decisions for cases before SOAH;
- presents the cases to the Board for ratification and prepares corresponding orders; and
- assists the Attorney General's office as needed on relevant cases.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and outcome performance measures that best convey the effectiveness and efficiency of this function or program.**

	Fiscal Year 2013	Fiscal Year 2014	Fiscal Year 2015 (as of 8-12-15)
Number of Cases Assigned to Legal	Not available	357	417
Number of Cases Negotiated/Settled	200	195	165
Number of Cases Docketed at SOAH*	322	372	422
Number of Proposals for Decision Issued & Considered by Board	39	38	21
Number of Temporary Suspension Cases	88	81	73
Number of Probable Cause Hearings at SOAH	58	73	55
Number of Other Hearings held at SOAH (including default hearings/excluding probable cause hearings)**	90	95	106
Time of Resolution (from assignment of case to final Board Order)	Not available	147 days	148 days
Total Number of Orders/Charges Reviewed & Approved by Legal	Not available	4,279	4,136
Average Time of Review/ Approval of Orders/Charges by Legal	Not available	8 days	10 days
Number of Open Records Requests Received	869	718	682

\*One docket number may include two hearings (probable cause and final hearing)

\*\*May include prior FY cases continued into the new FY

See also Section C, Enforcement Guide to Program.

- D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.**

The function of Administration/Legal is consistent with its original purpose.

- E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.**

This area affects the Board, staff, licensees, nursing education programs, applicants for licensure, applicants who want to open a nursing education program, and the public.

- F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

Legal is supervised by the General Counsel, who reports to the Executive Director, who reports to the Board. The General Counsel is supported by one assistant general counsel, five staff attorneys, one legal assistant supervisor, and four legal assistants. The Executive Director has one executive assistant.

- G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

This area is funded by General Revenue.

- H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.**

None.

- I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

Not applicable.

**J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.**

The Admin/Legal department will often work with state or federal law enforcement agencies to coordinate investigations between those agencies and the Board. The Board investigates complaint concerning violations of the Nursing Practice Act, but often this same conduct may violate other laws as well. For example, conduct involving abuse of the elderly and children will be investigated by the Department of Family and Protective Services, but the underlying conduct may also constitute a violation of the Nursing Practice Act. Similarly, the Federal Drug Enforcement Administration may also be investigating violations of federal drug laws that directly involve nursing practice. These relationships primarily involve the sharing of information and cooperation in attempts to efficiently and effectively pursue each agency’s primary missions.

**K. If contracted expenditures are made through this program please provide:**

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2014;
- the number of contracts accounting for those expenditures;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

This area’s primary service contracts are for litigation costs and expenses. The agency must contract for court reporter services and expert witnesses. The amount of those expenditures in fiscal year 2014 was \$115,929.26. The Board currently has one court reporter services contract and seventeen expert witness contracts. The top five contracts by dollar amount are:

Pain Management Litigation Expert no. 1	\$46,156.17
Nursing Consultant	\$33,326.99
Pain Management Litigation Expert no. 2	\$16,260.00
Court Reporter Services (SOAH and Depos)	\$11,493.40
Consulting Psychologist Expert	\$3,812.50

The court reporter services are selected from the State approved vendors list. The litigation experts are selected based on expertise and agency needs. The contracts are individually negotiated based on fee for hourly rate that is generally below private market rates. The contract services invoices are approved after review of General Counsel and Executive Director prior to payment. Additionally, staff accounting compares invoices to contract rates and terms for verification. There are no current contract problems.

**L. Provide information on any grants awarded by the program.**

Not Applicable.

**M. What statutory changes could be made to assist this program in performing its functions? Explain.**

Please refer to Section IX concerning major issues related to enforcement including those issues regarding Non-therapeutic Prescribing, Alternatives Models to Traditional Discipline/Just Culture and Mental Health Issues and Traditional Discipline. Staff is monitoring its functions for potential statutory changes, but has not identified any statutory changes other than those discussed in the Section IX.

**N. Provide any additional information needed to gain a preliminary understanding of the program or function.**

See also Section VII, N, Enforcement Guide to Program.

**O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

Not Applicable.

**P. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.**

Not Applicable.

**A. Nursing Education Department**

Name of Program or Function:	Nursing Education Department
Location/Division:	Nursing
Contact Name:	Kristin Benton, MSN, RN
Actual Expenditures, FY 2014:	\$560,453
Number of Actual FTEs as of June 1, 2015:	6
Statutory Citation for Program:	Texas Occupations Code §301.157

**B. What is the objective of this program or function? Describe the major activities performed under this program.**

The Education Department approves programs of nursing education that prepare RNs and LVNs for initial entry into nursing practice. The BON also provides an approval process for new advanced nursing programs that do not hold national nursing accreditation but are designed to prepare graduates for authorization to practice as advanced practice nurses in Texas. At the present time, 117 professional nursing programs are approved by the BON at the Diploma, Associate Degree, Baccalaureate Degree, and Master’s Degree levels, and 92 vocational nursing education programs are approved. The functions of the department include:

- reviewing ongoing approval status of all nursing education programs on a biennial basis;
- conducting on-site survey visits for all approved programs, except for those programs holding national nursing accreditation in good standing. Additionally, program factors that may trigger survey visits include repeated National Candidate Licensure Exam (NCLEX) examination pass rates below the 80% benchmark, complaints from consumers, and issues of noncompliance;
- establishing standards for nursing education based upon current evidence and workforce needs;
- provide support to the Task Force to Study the Implications of Growth of Nursing Education Programs in Texas and the Advisory Committee on Education;
- approving proposals for the establishment of new nursing education programs and extension sites/campuses;
- providing consultation and guidance to program directors, faculty, and school administrators as needed;
- communicating rules and regulations related to the approval process to consumers and constituents;
- reviewing, validating, and summarizing annual NCLEX examination pass rates;
- collecting and analyzing educational data useful in long range planning for nursing education and workforce needs; and
- recommending Board action for programs demonstrating noncompliance with Board rules.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and outcome performance measures that best convey the effectiveness and efficiency of this function or program.**

	FY 13	FY 14	FY 15 (through Q4)
<u>Outcome Measures</u>			
% RN nursing programs in compliance*	95.65%	95.63%	83.76%
% VN nursing programs in compliance*	94.90%	94.04%	93.48%
<u>Outcome Measures</u>			
Total # of nursing programs approved	213	213	209
Total # of nursing programs sanctioned	10	11	25
<u>Efficiency Measures</u>			
Average costs of program survey	\$677.01	\$503.03	\$625.47
<u>Explanatory Measures</u>			
Total # of programs surveyed	77	19	22
Average length of survey visit (days)	1	0.84	0.93

\*Nursing programs are considered in compliance if their approval status does not reflect a Warning or Conditional Approval. The percentage does not reflect the number of programs requiring special monitoring because of requirements to submit a Self-Study Report or follow-through after a survey visit or program complaints. Programs are required to develop a Self-Study Report when they have an NCLEX examination pass rate below 80% for the first time to determine factors that may have impacted the pass rate and corrective measures to improve the pass rate.

Findings from the National Council of State Boards of Nursing (NCSBN) 2012 Commitment to Ongoing Regulatory Excellence (CORE) Report provided data from a survey of Texas nursing programs. Key areas that exceeded national averages included BON performance in promoting quality education and BON response to innovation in education. Other findings of Texas nursing programs that exceeded the national average included:

- conducting program review or approval processes;
- consultation for rules, regulations, policies;
- notification of BON visit;
- communication with BON staff;
- timeliness of feedback;

- usefulness of feedback;
- fairness/objectivity of BON findings; and
- due process for disagreement.

In their responses, nine education programs that were undergoing discipline indicated areas for possible improvement:

- Fairness of BON process during investigation and resolution of the problem;
- Acting in a timely manner; and
- Timeliness of information provided during the disciplinary process.

Since 2012, education consultants have significantly increased the level of communication and guidance provided to programs experiencing problems, the number of consultation visits, and orientation offerings for new program deans/directors/coordinators.

**D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.**

Since 2006, the Board has approved fifty-nine (59) new nursing programs, each undergoing a consistent review process to ensure the education program and resources were adequate to produce safe, competent graduates educated to perform the *Differentiated Essential Competencies for Graduates of Texas Nursing Education Programs*. At the same time, 23 nursing programs have closed related to Board action or voluntary closure, usually due to poor performance or changes in program goals. The number of new programs and closed programs accounts for significant action in 39% of the total number of nursing programs. Such a large percentage of problematic programs has necessitated a significant amount of Board resources to ensure standards are being met.

Corresponding with the growth in nursing programs, there has also been an increase in the number of students enrolled in vocational and professional nursing programs resulting in an increase in licensed nurses in the state. The chart below reflects the annual growth in the number of nursing students. Clearly, the Board has demonstrated its effectiveness in helping increase nursing enrollments into Texas nursing education programs.

**Annual Enrollment in Nursing Education Programs**

Type of Program	2006	2007	2008	2009	2010	2011	2012	2013	2014
VN	6,295	6,488	7,156	7,414	7,860	8,612	7,825	9,961	9,454
% Growth		3%	10%	4%	6%	10%	-9%	27%	-5%
RN	16,711	17,841	18,732	19,721	22,095	22,866	23,515	24,178	23,109
% Growth		7%	5%	5%	12%	3%	3%	3%	-4%

Not surprisingly, the growth in this number of students and programs has presented new challenges and issues in the nursing education environment.

These include:

- shortages of clinical sites as demands for clinical placements for students increase;
- shortages of qualified nursing faculty;
- an increase in the turnover of program directors and faculty who report high levels of job stress;
- strained physical educational resources in accommodating more students;
- relaxed admission standards to reach enrollment goals resulting in less qualified students needing more support services ;
- reports from students about ineffective or absent student policies; and
- a lack of expertise in faculty in the use of technology and simulation needed for the expansion of services.

The education consultants have initiated new interventions to guide nursing programs to address environmental changes, such as new education guidelines, rule revisions that allow flexibility while maintaining quality, faculty workshops, and consultation services.

Growth and educational challenges have also resulted in an increasing number of programs with sanctions (approval status of Full with Warning or Conditional) due to poor performance on the NCLEX examination and other areas of noncompliance with the rules. There are many issues perpetuating these sanctions including; new providers starting a nursing program without adequate nursing education expertise; lack of leadership in key administrative positions due to turnover or incompetency; hiring unqualified faculty and accepting students who are not qualified into the program. These and other factors impact the program's NCLEX pass rates and other areas of compliance to the Board's rules for ensuring quality nursing education.

The education consultants have responded to program needs have by implementing new approaches and strategies to assist programs in their efforts to improve their outcomes. The following are some examples:

- conducting conference calls between program Director and faculty and the consultants to discuss perceptions of factors that may have impacted the pass rate;
- assisting programs to plan and develop a Self-Study Report with data that may identify areas for correction;
- conducting additional conference calls that included the administration of the governing entity that housed the nursing program to garner their support;
- reviewing and providing feedback to the Self-Study Reports;
- conducting survey visits if programs experienced a second year with a pass rate below 80% to monitor program progress and identify further areas for improvement; and
- consulting with programs in their evaluation of the effectiveness of corrective measures.

In addition, the education consultants developed summary reports for both RN and VN Self-Study Reports identifying common areas for correction and planned interventions. These reports were posted for use by all programs

As another method to respond to Sunset recommendations regarding streamlining nursing education, a process for the BON to approve out-of-state nursing programs desiring to conduct clinical learning experiences in Texas was developed in 2007. Out-of-state programs seek initial approval from TWC or THECB prior to submitting an abbreviated application to the BON. The Board's review primarily ensures that the out-of-state program conducts the clinical experience using the same standards that Texas-approved programs use, supporting the Board's mission to protect the public.

Nursing accreditation is valued by the BON and is accepted as a criterion for ongoing program approval. Following the Sunset recommendation to streamline nursing approval processes in 2007, the BON, with feedback from the two national nursing accreditation organizations, completed a crosswalk that compared accreditation criteria with Board standards for ongoing program approval. Updated crosswalks (2010 and 2014) are completed on a regular basis as accreditation standards and Board rules undergo change.

As a component in the assurance of Texas nursing education program's adherence to sound educational principles, nursing accreditation is valued by the Board. Eighty-two (82) of the professional and four (4) of the vocational nursing programs currently hold national nursing accreditation. Following Sunset Recommendations to streamline nursing approval processes the BON, with feedback from the two national nursing accreditation organizations, CCNE and the ACEN, completed a crosswalk that compared accreditation criteria with Board standards for ongoing program approval. Though many similarities were noted, significant differences were identified. Consequently, Board-approved programs holding national nursing accreditation are exempt from Board regulations that are considered equivalent to the accreditation standards. This integrated model was the subject of a 2011 research project in conjunction with the National Council for State Boards of Nursing Institute for Regulatory Excellence in which survey findings indicated that Texas nursing education programs found the model to be effective as an approach to incorporate nursing accreditation as a criteria in ongoing program approval.

Recent developments in nursing accreditation have reinforced the importance of the role of BONs in nursing education regulation. In June 2015 the Department of Education has found ACEN to be out of compliance due to not meeting the separate and independent requirements. A three (3) month period of time has been allowed for new evidence to be submitted by ACEN or the National League for Nursing (NLN). An absence of this accreditation body would impact the Associate Degree and Vocational Nursing programs' ability to hold national nursing accreditation. This stresses the importance of program reliance on BON approval.

**E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.**

Individuals and entities served by the programs include students, faculty and nursing education programs in Texas, health care agencies, professional associations, and consumers of health care. BON regulation has a direct impact upon nursing students, faculty, and program directors with approximate numbers indicated in the table:

**Direct Impact of BON Regulation (2014 data)**

Categories	Vocational Programs	Professional Programs	Total
Nursing Directors	93	118	211
Nursing Faculty	2,571	761	3,332
Nursing Students	9,454	23,109	32,563

**F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

This department is administered by the Director of Nursing for the agency. The lead consultant in this area reports to the Director of Nursing. Staff includes the lead consultant and four additional nursing consultants for education, one located remotely. In addition, a contract program evaluator is available to conduct survey visits in south Texas. (See Attachment 21 for the Organizational Chart)

This department is also supported by an administrative assistant to the Director and an administrative assistant who serves both the education and practice departments.

**G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

General Revenue.

**H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.**

The Board, TWC, and THECB work in close collaboration to promote quality education in Texas. BON approval focuses specifically on nursing education, whereas TWC approval considers the stability and educational resources of the governing entity, and THECB approval considers all aspects of the governing entity in state institutions of higher education and out-of-state programs.

These agencies rely upon their co-regulatory processes to ensure that nursing education programs have the appropriate oversight by the:

- TWC ensuring the adequacy of educational facilities, effective school management and administrative structure, financial stability, qualified faculty (based upon state requirements), and program outcomes evidenced by graduation and employment rates;
- BON ensuring verification of the attainment of the core competencies needed for licensure of every graduate, and by monitoring nursing programs to ensure a sound nursing curriculum based upon Board Rule 214/215.
- THECB fulfilling their mission to promote access, affordability, quality, success, and cost efficiency in the state's institutions of higher education, through *Closing the Gaps*; and through its successor plan, resulting in a globally competent workforce that positions Texas as an international leader in an increasingly complex world economy.

**I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

BON Staff regularly meet with representatives from TWC and THECB to discuss current approval issues and processes in order to avoid duplication as well as to coordinate regulation. Annual reviews and updates are made by the agencies where changes to processes have occurred. In addition, frequent communication between BON Staff and representatives of the other agencies provides answers to specific questions that may arise when working with particular programs. The agencies conduct joint survey visits as needed.

Representatives from the agencies have collaborated to produce a 2013 comparative crosswalk between approval processes. The crosswalk and a schematic outline of the agencies' areas of purview are reviewed together regularly and provide valuable tools demonstrating the coordinated regulation of nursing education programs in Texas. As interagency collaboration has evolved during the past few years, more frequent contacts between agencies with discussion of new program issues have assisted in joint policy development. TWC and THECB representatives have voiced reliance upon BON approval of the nursing curricula and nursing program processes for their final approvals of new programs.

**J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.**

None.

**K. If contracted expenditures are made through this program please provide:**

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2014;
- the number of contracts accounting for those expenditures;

- **top five contracts by dollar amount, including contractor and purpose;**
- **the methods used to ensure accountability for funding and performance; and**
- **a short description of any current contracting problems.**

The program's service contract is for assistance with surveying nursing education programs.

Nursing Education Consultant \$9,677.50

**L. Provide information on any grants awarded by the program.**

None.

**M. What statutory changes could be made to assist this program in performing its functions? Explain.**

NPA 301.157(d)(8-11) will expire on December 31, 2017. See Section IX, Major Issues.

**N. Provide any additional information needed to gain a preliminary understanding of the program or function.**

None.

**O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**

- **why the regulation is needed;** to ensure that nursing education programs produce graduates who will be competent nurses prepared to safely enter into the practice arena.
- **the scope of, and procedures for, inspections or audits of regulated entities;** Programs are evaluated biennially related to their compliance with Board rules through the Compliance Audit for Nursing Education Programs (CANEP). Non-accredited programs are surveyed every six years. Programs are also evaluated by inspection when there is evidence of a major infraction of the rules.
- **follow-up activities conducted when non-compliance is identified;** Education Consultants provide consultation and guidance to programs that are not demonstrating compliance with Board rules; Education Consultants initiate consultation and guidance for programs experiencing problems or noncompliance issues; consultants may conduct a survey visit when there are reports or concerns about non-compliance with Board rules.
- **sanctions available to the agency to ensure compliance;** The BON has the authority to impose sanctions in the way of requirements or conditions to correct deficiencies. If non-compliance issues are serious or continue, the Board may make restrictions in the program's operation or withdraw approval from the program.
- **procedures for handling consumer/public complaints against regulated entities.** The education department has a written policy for handling complaints received about

nursing programs. The education consultants review the complaint to determine if a clear violation of the education rules has occurred. The Program Director is notified about the nature of the complaint and requested to provide a response. The complaints are often related to policy issues, over which the Board has no purview. Students are encouraged to follow the grievance policies in the school. An education log is being maintained electronically.

- P. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.**

Not applicable.

**A. Nursing Practice/APRN Licensing**

Name of Program or Function:	Nursing Practice/APRN Licensing
Location/Division:	Nursing
Contact Name:	Kristin Benton, MSN, RN
Actual Expenditures, FY 2014:	\$760,250.00
Number of Actual FTEs as of June 1, 2015:	11
Statutory Citation for Program:	Texas Occupations Code Sec. 301.152. Rules Regarding Specialized Training; Sec. 301.151. General Rulemaking Authority; Agency Mission; Sec. 301.1581. Information Provided to License Holders; Sec. 301.168. Duties Regarding Prescriptive Authority Agreements.

**B. What is the objective of this program or function? Describe the major activities performed under this program.**

The Nursing Practice division provides updates related to standards of practice, laws, rules and BON policy through a quarterly newsletter, an agency Facebook page, online courses, webinars, and workshops conducted at rotating sites regionally throughout the state. The Division evaluates advanced practice registered nurse (APRN) applications for licensure qualifications and requirements. The staff of the nursing practice division accomplishes its functions by:

- responding to constituent emails and phone calls on a continuous basis;
- drafting position statements for the BON website;
- working with advisory committees as a method for ongoing stakeholder input;
- providing pertinent information related to the practice of nursing stakeholders and the public;
- disseminating information using social media;
- updating the BON website with current practice frequently asked questions and policy related practice resources;
- collaborating with other state agencies and professional organizations on nursing practice policy;
- testifying as nursing practice experts at disciplinary hearings;
- consulting and assisting other agency divisions as needed on practice issues;
- overseeing implementation and evaluation of pilot studies pursuant to *Texas Occupations Code Subchapter D Sec. 301.160. Pilot Programs*
- responding to requests from stakeholders for presentations on practice issues;
- publishing updates on rules, rule changes and legislative enactments;
- updating rule and statutes handbooks;
- responding to inquiries and coordinating media contact with senior staff and board members; and
- gathering information, writing, editing, doing layout, design for agency publications and coordinating with printers to ensure quality presentation of material.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and outcome performance measures that best convey the effectiveness and efficiency of this function or program.**

Measure	FY'14	FY'15 (through Q3)
# of current APRNs	19,509	21,035
# of APRN Licenses issued	2086	1908
# of APRNs granted prescriptive authority	1790	1658
# of Nurses completing online courses	4130	4211
# of Participants attending workshops	1348	2032
# of Participants attending webinars	990	333

The Board obtained survey data from BON stakeholders through independent surveys issued by the National Council of State Boards of Nursing (NCSBN). These surveys of nurses, employers and educators were used to inform the NCSBN project titled, "CORE- Commitment to Ongoing Regulatory Excellence". The purpose of the Commitment to Ongoing Regulatory Excellence (CORE) project is to provide an ongoing performance measurement and benchmarking system for nursing regulators. CORE provides and compares data that can be used for performance measurement and organizational enhancements by boards of nursing (BONs). By providing evidenced-based data nursing regulators are better able to meet their legislative mandate to protect the public. The most recent CORE report was published in 2012. The 2012 CORE report reflected the Texas BON's practice division exceeded the national benchmark for the following measures:

CORE Measure	Respondent	National	Texas
BON performance in addressing emerging issues	Employers	60%	100%
	Nurses	70%	81%
	Educators	75%	90%
BON performance in assurance of practicing nurse competency	Employers	69%	89%
	Nurses	74%	84%

CORE Measure	Respondent	National	Texas
Understand scope/legal limits of nursing practice	Educators	75%	90%
	Employers	73%	86%
	Nurses	57%	60%
	Educators	84%	94%
Statutes/rules are readily available	Employers	87%	92%
	Nurses	73%	83%
	Educators	96%	100%
Usefulness of BON presentations	Employers	98%	100%
	Nurses	92%	100%
	Educators	96%	100%
Nursing Practice Act is state of the art for practice	Employers	78%	92%
	Nurses	77%	90%
	Educators	82%	94%

In 2015 the BON sought stakeholder feedback regarding customer service via an online survey April 1 through May 21, 2015. Although the results reflect the customer service functions of the entire agency, they also reflect the email and phone consultation functions of the practice division, the quarterly bulletin and the website practice resources. Results include:

2015 BON Customer Service Stakeholder Survey Topic	Stakeholder Responses
Satisfaction with response received by BON staff	70% extremely satisfied or very satisfied; n=256
Timeliness of response received by BON staff	64% extremely satisfied or very satisfied; n=255
Satisfaction with Patient Safety Features of the quarterly bulletin	75% extremely satisfied or very satisfied; n=308
Practice Questions & Answer feature of quarterly bulletin	73% extremely satisfied or very satisfied; n=304
Usefulness of Continuing Education articles	74% extremely satisfied or very satisfied; n=306
Website: clear and easy to understand	65% extremely satisfied or very satisfied; n=302
Usefulness of information on website	75% extremely satisfied or very satisfied; n=301

**D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.**

The Nursing Practice division provides information and updates related to standards of practice, laws, rules and BON policy aimed to achieve the Board's mission of public protection. The Nursing APRN licensing area reviews and processes all initial applications for APRN licensure.

For the practice division in general, these functions are ongoing and remain consistent with the original purpose for this division; however, the number of APRNs licensed in Texas has increased over 22% from 17,177 in FY'13 to 21,035 as of the third quarter of FY'15. The majority of APRNs in Texas continue to be Nurse Practitioners (70%) followed by Nurse Anesthetists (20%), Clinical Nurse Specialists (7%) and Nurse Midwives (2%).

**E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.**

Individuals and entities served by the practice division includes nurses, the public (citizens of Texas), school districts, legislature, respondents, health care agencies, professional associations, consumer groups and nursing students. Pertinent statistical information is presented in the Licensing/Examinations/Customer Service Program Section.

**F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The department is administered by the Director of Nursing. The lead nurse consultant for practice and the APRN Licensing Supervisor report to the Director of Nursing. Staff also include two administrative assistants, an information specialist, a nurse consultant for advanced practice, and four nurse consultants for practice, one of whom works remotely. (See Attachment 20 for Organizational Chart.)

**G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

General Revenue

**H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.**

None.

**I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

Not applicable.

**J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.**

Not applicable.

**K. If contracted expenditures are made through this program please provide:**

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2014;
- the number of contracts accounting for those expenditures;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

Two contracts were in place during FY '14 to assist BON staff with statistical analysis of the Texas TERCAP Pilot. One contract was with a nurse researcher/informaticist and another with a statistician. All deliverables were executed as assigned and verified by the Director of Nursing. Invoices were approved by the Director of Nursing and Director of Operations prior to payments to contractees.

Nurse Researcher/Informaticist      \$5,638.82

Statistician      \$400.00

**L. Provide information on any grants awarded by the program.**

None.

**M. What statutory changes could be made to assist this program in performing its functions? Explain.**

None.

**N. Provide any additional information needed to gain a preliminary understanding of the program or function.**

Functions are self-explanatory.

**O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

Self-Evaluation Report

See Enforcement Department report.

**P. For each regulatory program, if applicable, provide the following complaint information.  
The chart headings may be changed if needed to better reflect your agency's practices.**

See Enforcement Department report.

**A. Licensing/Examination/Customer Service**

Name of Program or Function:	Licensing/Examination/Customer Service
Location/Division:	Operations
Contact Name:	Mark Majek
Actual Expenditures, FY 2014:	\$4,140,707
Number of Actual FTEs as of June 1, 2015:	33.7
Statutory Citation for Program:	Chapter 301 – Texas Occupations Code

**B. What is the objective of this program or function? Describe the major activities performed under this program.**

- Issue initial licenses to qualified applicants by examination and endorsement
  - Receive initial applications by examination, verify completion of board requirements, deem the student eligible to take the appropriate National Council of Licensure Examination. If passed, the student is issued a license. If not successful, the student is notified.
  - Receive initial applications by endorsement, issue a 120 day temporary license, verify completion of board requirements, and if all requirements are met, issue a license.
- Renew and Reactivate licensure
  - 60 days prior to license expiring, licensee is sent a renewal reminder and must go online or use a paper application and pay the appropriate renewal fee by the last day of their renewal cycle.
  - If a licensee allows their license to lapse or go inactive, they must file a paper reactivation form, pay a fee and provide 20 hours continuing education. If the license is lapsed for four or more years, they must also complete a refresher course.
- Audit continuing education
  - All licensees after their first renewal must complete 20 hours of acceptable continuing education.
  - 90 days prior to a renewal, the Board of Nursing audits a certain percentage of licensees who must file their proof of continuing education prior to renewal.
- Conduct criminal background checks
  - The Board of Nursing completed conducting criminal background checks on most licensees in fiscal year 2014. But, the Board did not require a criminal background check on those who were reactivating thus the Board is completing

this group by August, 2016. The Board is also requiring those who completed a criminal background check prior to March, 2006 to also undergo another Criminal Background Check since the Texas Department of Public Safety had not implemented the system called “rap-back”.

- The Board of Nursing requires all potential nursing students to submit a criminal background check prior to entering a school of nursing.
- The Board of Nursing requires all out-of-state and international students to complete a criminal background check.
- The Board of Nursing requires all applicants by endorsement to complete a criminal background check.
- Prepare and place files into electronic format
  - The Board of Nursing has implemented an electronic file system called Laserfiche by which staff prepare all public files to be placed into the electronic system and placed on microfiche as required by the approved State of Texas Records Retention schedule
- Update nurse licensure files
  - The Board of Nursing receives requests to update addresses, names, licensure status and statistics by mail, email and from renewals. Staff update records daily.
- Answer customer electronic and phone inquiries
  - The Board of Nursing receives an average of 200,000 phone calls per year as well as webmaster inquiries.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and outcome performance measures that best convey the effectiveness and efficiency of this function or program.**

		<u>Fiscal Year 2014</u>	<u>Required Targets</u>
<b><u>Outcome Measures</u></b>			
% in compliance with Continuing Education:	RN	92.51%	N/A
	LVN	81.47%	N/A
% of licensees who renew online:	RN	93.19%	91%
	LVN	90.11%	87%
% of new individual licenses issued online:	RN	77.87%	75%
	LVN	68.18%	60%
<b><u>Output Measures</u></b>			
# of current licenses:	RN	272,128	N/A
	LVN	99,347	N/A
# of licenses renewed:	RN	126,631	114,250
	LVN	46,796	44,150
# of licenses issued by endorsement:	RN	7,894	N/A
	LVN	1,163	N/A
# of licenses issued by examination:	RN	11,986	N/A
	LVN	4,720	N/A
# of new licenses issued to individuals:	RN	19,880	16,650
	LVN	5,883	6,600
# of declaratory order petitions processed:	RN/LVN	3,669	N/A
# of telephone calls received:		199,594	N/A
# of webmasters received:		62,570	N/A
<b><u>Efficiency Measures</u></b>			
Average cost of issuing a license :	RN/LVN	\$1.82	N/A
Average time in days for issuing a new license	RN	103	N/A
	LVN	126	N/A
Average time in days to renew a license	RN/LVN	2.55	N/A

**D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.**

The majority of functions have been ongoing and continue to be consistent with the original purpose for this division. The exception would be criminal background checks for students prior to entering a school of nursing. An amendment to the Nurse Practice Act Amendments (SB 1058) in the 83<sup>rd</sup> regular session, made it mandatory to begin the criminal background check process prior to entering a school of nursing instead of prior to taking the nursing examination.

**E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.**

Individuals and entities served by the programs include current licensees, applicants for licensure, potential applicants, other state nursing boards, employers and the general public. To receive an initial license by examination or endorsement, the licensee must graduate from an approved school of nursing, pass a jurisprudence examination, complete a criminal background check, pass the appropriate US nursing examination and verify any previous nursing licensing. If an international applicant, they must have their credentials reviewed by an approved credential review organization.

**F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

This division is administered by the Operations Department within the agency. Please find Attachment 27 which shows the business process of issuing licenses by examination, endorsement, renewal and declaratory order petitions (this attachment is confidential and cannot be released to the public). There is only one office and this department does not have any staff who work remotely.

**G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

This division is funded by general revenue and appropriated receipts. The entire agency is supported by fees charged to applicants for licensure.

**H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.**

None.

- I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

None.

- J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.**

None.

- K. If contracted expenditures are made through this program, please provide:**

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2014;
- the number of contracts accounting for those expenditures;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

eStrategy Solutions, Inc. (\$446,198) Through a DIR Contract, eStrategy Solutions hosts, maintains and provides customer service for the agency jurisprudence examination and continuing education requirements. One contract which is funded by both general revenue and appropriated receipts. The Board has not experienced contract problems.

Texas Center for Nursing Workforce Studies (\$411,550) As required by the General Appropriations Act, 83rd Legislature, Regular Session, Article VII, rider 2 of the Texas Board of Nursing, the agency collects a fee and passes the funds to the Department of State Health Services for the purpose of collecting and reporting nursing workforce studies for the Board of Nursing and the Legislature. No contracting problems other than the Board collecting more than is allowed to transfer for this rider.

Cooper Consulting (\$60,000) Through a DIR Deliverables Based IT Service contract, the BON engaged Cooper Consulting to map the agency business processes in preparation for the new licensing system to be adopted in fiscal year 2016. The Board did not experience any contracting issues.

TCS Consulting (\$37,437.50) The Board of Nursing contracted with TCS Consulting to assist the IT department in programming the current licensing system and for special IT projects during fiscal year 2014.

Rupert & Associates (\$25,001.25) Rupert & Associates provided internal auditing services, as required by law, since the Board surpassed over \$10,000,000 in revenue and over 100 FTEs. There were no contracting issues.

**L. Provide information on any grants awarded by the program.**

None.

**M. What statutory changes could be made to assist this program in performing its functions? Explain.**

Revise the following statute:

**Sec. 301.261. Inactive Status.**

(a) The Board may place on inactive status the license of a person under this chapter who is not actively engaged in the practice of professional nursing or vocational nursing ~~if the person submits a written request to the Board in the form and manner determined by the board.~~ The inactive status begins on the expiration date of the person's license.

The reason for this change is that the Board has two categories for those who do not renew their licenses: 1) inactive meaning that the licensee notifies the BON in a timely manner and requests to be placed inactive; and, 2) delinquent which means that a license lapsed and without hearing from the licensee. Other than a higher penalty for going delinquent, this status serves no purpose and confuses licensees upon attempting to reactivate their licenses.

**N. Provide any additional information needed to gain a preliminary understanding of the program or function.**

None.

**O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

To the extent that the licensing team receives applications for initial licensure and renewal, once a violation of the Nurse Practice Act or the agency rules are recorded, the files are transferred to the enforcement department for alleged non-compliance and sanction recommendations.

**P. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.**

Not applicable to the Licensing department. See response in Section "O" above.

**A. Accounting**

Name of Program or Function: Accounting  
 Location/Division: Operations  
 Contact Name: Mark Majek  
 Actual Expenditures, FY 2014: \$306,631  
 Number of Actual FTEs as of June 1, 2015: 6  
 Statutory Citation for Program: Chapter 301 – Texas Occupations Code

**B. What is the objective of this program or function? Describe the major activities performed under this program.**

The Accounting Division provides the following support functions:

- accounts payable
- purchasing
- facility management
- cash posting
- annual financial report
- updating, budgeting and planning
- general accounting
- mail room operations
- payroll
- human resources
- benefits
- historically underutilized business program and
- financial reporting

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and outcome performance measures that best convey the effectiveness and efficiency of this function or program.**

	<u>FY 2014</u>
<b><u>Outcome Measures</u></b>	
% of total dollar value of purchasing and contracts awarded to HUBs	8.57%
<b><u>Output Measures</u></b>	
# of contracts awarded to HUBs	0
# of HUBS from which agency made purchases	34
Dollar Value of purchases and contracts made to HUBs	\$207,032
-----	
Annual Financial Report completed by Staff by due date.	

Performance Measure	Performance Target	Fiscal Year 2014
Met deadline for preparation and approval of payroll	Minimum acceptable: 3 business days prior to payday deadline Optimum: 6 business days ahead of deadline	5 days ahead of deadline
# of business days to prepare, enter and finalize payment to vendors/staff/board members	Minimum acceptable: 30 days Optimum: 21 days	Monthly average: 23.0 days
# of business days to prepare purchase orders after receipt of request for products/services	Minimum acceptable: 5 days Optimum: 3 days	Monthly average: 1.67 days
Meet daily deadline to receive, open, record and deliver agency mail	Minimum acceptable: 6 hours from receipt of mail Optimum: 4 hours from receipt of mail	Monthly average: 3.34 hours
# of business day upon receipt of time sheets to final document sent to staff	Minimum acceptable: 7 days Optimum: 5 days	5 days
# of business days to produce revenue and expenditure documents after close of each month	Minimum acceptable: 5 days Optimum: 3 days	1.5 days revenue      5 days expenditures

**D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.**

The functions are ongoing and continue to be consistent with the original intent. The BON accounting department has provided accounting services to the Texas Board of Podiatric Medical Examiners and the Low-Level Radioactive Waste Disposal Compact Commission.

**E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.**

The Accounting Division supports all Board members, agency employees, oversight agencies, the Texas Board of Podiatric Medical Examiners and the Low-Level Radioactive Waste Disposal Compact Commission on the applicable functions listed above.

- F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

This division is administered within the Operations Department. The accounting manager reports directly to the Operations Director and has five staff to perform their specific duties. They include two accountants, a purchaser, and two mail clerks.

- G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

This division is funded by general revenue.

- H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.**

None.

- I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

N/A

- J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.**

N/A

- K. If contracted expenditures are made through this program please provide:**

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2014;
- the number of contracts accounting for those expenditures;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

As mentioned above, the Texas Board of Nursing provides accounting services to the Texas Board of Podiatric Medical Examiners and the Low-Level Radioactive Waste Disposal Compact Commission. The Board has established an interagency contract to allow this to happen but no funds are exchanged.

**L. Provide information on any grants awarded by the program.**

None.

**M. What statutory changes could be made to assist this program in performing its functions? Explain.**

An article IX rider to allow agencies to enter into an interagency contract for like services and those funds are then appropriated to the agency.

**N. Provide any additional information needed to gain a preliminary understanding of the program or function.**

None.

**O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

None.

**P. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.**

N/A

**A. Information Technology (IT)**

Name of Program or Function:	Information Technology (IT)
Location/Division:	Operations
Contact Name:	Mark Majek
Actual Expenditures, FY 2014:	\$201,809
Number of Actual FTEs as of June 1, 2015:	2
Statutory Citation for Program:	Chapter 301 – Texas Occupations Code

**B. What is the objective of this program or function? Describe the major activities performed under this program.**

The Information Technology division provides computer hardware and software support to the entire agency which includes:

- computer programming;
- IT training and technical support services;
- support for the agency web site;
- licensing software program;
- hardware and software planning;
- support of the disaster recovery site in San Antonio, Texas;
- support to agency webinars; and
- replacement of agency PCs and servers.

**C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and outcome performance measures that best convey the effectiveness and efficiency of this function or program.**

The agency began a public-private partnership with e-Strategy Solutions, Inc. (ESS) who took over the online Nursing Jurisprudence Examination, the Nursing Jurisprudence prep course, the registration and fees for the Board workshops, and the Continuing Education audit. The Nurse database has been recoded to allow for real time inter-connectivity between ESS and BON. All Nursing Jurisprudence Examination applicants test online and results are reported to the BON system in real time. This partnership also allowed the BON to implement a new wall of security because the agency did not have the in-house resources to accomplish.

Began working with the Texas Department of Information Resources (DIR) to implement the Voice over Internet Protocol (VoIP) system and continued work with DIR to find solutions to the bandwidth issue in the Hobby Building. The BON was experiencing slow response time in board meetings and access to other sites due to the traffic on available bandwidth within the Hobby Building thus the BON engaged DIR directly to provide dedicated bandwidth to the agency.

A new wall kiosk was installed to allow visitors to sign in easily and to observe updates, workshop schedules, videos, and the agency website while they wait for assistance or appointment.

A disaster recovery site was created and launched at the University of Texas Health Science Center in San Antonio. The IT Staff implemented new processes and procedures so that in the event the Hobby Building goes down, the backup can be immediately available for continuity of business. The Board is working on a solution that would not require the agency to have an office in San Antonio but instead to be able to work remotely from anywhere with a good internet connection.

The mobile apps for verification of Licensure and status of applications were completed. The apps are available for Android and Apple based phones and tablets. This will allow for anyone with a device to look up and verify the license of any individual with their phone or tablet. This will be a service to the public, allowing greater accessibility to the information.

For fiscal year 2014, the IT staff opened 1,640 internal requests for services and responded to and closed out 1,628 of those requests satisfactorily. The average time to close a low priority request was 25.80 days, to close a medium priority request it took an average of 6 hours and 40 minutes and to close high priority requests, it took an average of less than one hour.

**D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.**

This division originated in 1982 when the BON moved from all paper to electronic files. It began with two clerks maintaining data records stored at the Water Development Board. The Agency's increased technology needs, coupled with the need to control costs have resulted in the agency purchasing its own system in 1987. As technology advanced, staff wrote the agency licensing software in PowerBuilder which exists today. Currently the Board has only two dedicated IT staff for this purpose but has been approved for one additional IT staff member in fiscal year 2016.

**E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.**

The IT division supports the entire agency including the board members since the board meetings are paperless and they use the agency computers to access documents. The agency will soon adopt a new licensing system in fiscal year 2016 which will require additional technology and a paperless environment.

**F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The division is administered by the Operations Department and consists of a Systems Analyst and Network Administrator. The Systems Analyst is the manager and reports directly to the Operations Director.

- G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

This division is funded by general revenue and appropriated receipts.

- H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.**

Not within the State of Texas but the Board has a backup system at the University of Texas Health Science Center in San Antonio and the licensing data base is also duplicated with the Nursys database housed within the National Council of State Boards of Nursing which is used for verification to other state boards of nursing and regulatory research.

- I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

The Board has an MOU with University of Texas Health Science Center in San Antonio to maintain the disaster recovery site hardware and also a MOU with the National Council of State Boards of Nursing to receive the licensure data for licensure verification and research.

- J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.**

Through the agreement with the National Council of State Boards of Nursing, they serve as the agent to provide disciplinary data to Health Integrity Practitioner Data Bank which is with the US Department of Health and Human Services.

- K. If contracted expenditures are made through this program please provide:**

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2014;
- the number of contracts accounting for those expenditures;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

Teqsys, Inc. (\$9,600) Information Technology service contract to provide consulting services on the agency Exchange 2010 and Enterprise Vault System. No contractual issues.

Big Hit Productions (\$9,184.50) Information Technology service contract to assist the BON to re-design the agency web site. No contractual issues.

Nsync Services (\$8,800) Information Technology service contract to assist with email system. No contractual issues.

**L. Provide information on any grants awarded by the program.**

None.

**M. What statutory changes could be made to assist this program in performing its functions? Explain.**

None.

**N. Provide any additional information needed to gain a preliminary understanding of the program or function.**

As the agency moves towards a completely paperless environment, the Board is more dependent on internal IT services. The Board will migrate to new licensing software in fiscal year 2016 which makes this division indispensable to the success of the migration.

**O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

None.

**P. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.**

N/A

**A. Enforcement**

Name of Program or Function:	Enforcement
Location/Division:	Enforcement
Contact Name:	Anthony Diggs
Actual Expenditures, FY 2014:	\$3,851.079
Number of Actual FTEs as of June 1, 2015	48
Statutory Citation for Program:	Texas Occupations Code Secs. 301.101, 301.162 and Subchapters I, J, K, L and N.

**B. What is the objective of this program or function? Describe the major activities performed under this program.**

The objective of the Enforcement Department is to collect and evaluate information and evidence regarding nurses (Texas licensees and nurses practicing in Texas from another party state in the Nurse Licensure Compact (NLC)) and applicants for licensure to ensure that each person issued or holding a license or privilege to practice as a nurse in the State of Texas is competent to practice safely.

- **Administrative staff** provide support functions to all of Enforcement. They maintain the enforcement case data base, process and open new cases, close cases, update licensure status, report discipline information to the National Practitioner Data Bank in accordance with federal requirements, and are responsible for case file retention. Administrative staff also answer public inquiries regarding the disciplinary history of licensees. When complaints from third parties are received, whether via USPS mail, e-mail, facsimile, or the Health Professions Council’s (HPC) toll free line, administrative staff match the complaints to licensee records so that the complaints can be reviewed for jurisdictional conduct, prioritized in accordance with Board Rules, and assigned to an investigator. Complaints which do not fall within jurisdiction of the Board are referred to the appropriate jurisdiction when applicable. Eligibility cases are typically referred to Enforcement from the Licensing Department, and these cases involve initial licensure by examination or through endorsement, renewal of licensure in which information is submitted that warrants consideration, as well as audits of criminal background checks. When eligibility cases are received, they are reviewed and assigned to eligibility staff based on the type of eligibility issue.
- **Eligibility staff** compile information so that an appropriate determination can be made regarding eligibility for initial and retention of licensure. Eligibility staff collect relevant documents and evidence for assigned cases, correspond with petitioners, and draft reports which enable the Board to make appropriate eligibility decisions. When applicable, eligibility staff draft proposed eligibility agreed orders and denial letters, and maintain the integrity of case files until cases are closed.
- **Investigative staff** conduct investigations of licensees, NLC nurses, and imposters based on information and/or complaints received from third parties. Investigators review

assigned cases and provide notice of the investigation to the licensee, collect relevant evidence and witness information, correspond with licensees and facilities, respond to inquiries from complainants, and draft investigative reports which enable the Board to make appropriate resolution decisions about each complaint. When applicable, investigators draft proposed agreed orders and formal charges, present cases during informal conferences, prepare cases for and testify at contested case hearings at the State Office of Administrative Hearings, and maintain the integrity of case files until cases are closed.

- **Compliance staff** monitor compliance with requirements of orders and actions and are responsible for petitions for exceptions and petitions for licensure reinstatement. Compliance staff create and maintain monitoring records for every order/action that must be monitored. When non-compliance is detected, non-compliance cases are opened and assigned to investigative staff. When licensees want to change the requirements of their orders, they submit petitions for exception to the compliance staff, who then present the petition to the Eligibility & Disciplinary Committee and draft the correspondence and revised orders necessary to implement any exceptions that were granted. When licensees successfully complete all requirements of orders/actions, compliance staff update the licensure and monitoring records and notify licensees. When former licensees petition to reinstate licensure after revocation or surrender, compliance staff draft reinstatement agreed orders or denial of reinstatement letters, as applicable, on a case by case basis.

The Texas Peer Assistance Program for Nurses (TPAPN) is a contracted program authorized by Chapter 467 of the Texas Health and Safety Code. TPAPN is a nonprofit organization administered by the Texas Nurses Foundation, a nonprofit arm of the Texas Nurses Association. The Board has contracted with TPAPN based on an award pursuant to a Request for Proposal process to provide peer assistance services to nurses whose practice may be affected due to substance use disorder or mental illness.

The Board's peer assistance program services are authorized by 301.466(d) and 301.4106 of the Texas Occupations Code as an alternative to discipline or as a form of discipline. Therefore, if there are no practice errors and the nurse voluntarily participates and successfully completes the peer assistance program, the nurse may not be considered for a formal disciplinary action. If there is a practice error or other related violation, the Board, after receiving a complaint may determine that it would be in the best interest of the public to have the individual participate in the program. In these instances, the individual receives a formal Board order to participate and successfully complete the program. These decisions are based on a case by case evaluation of the facts. Nurses with substance related or alcohol related disorders that receive treatment and establish recovery, decrease their risk of relapse with longer intervals of time in recovery. In September 2013, TPAPN extended the length of time for nurses to participate to align with evidence based recommendations.

Additionally, the Extended Evaluation Program (EEP) is administered by TPAPN for nurses who do not meet the criteria for substance use disorder, but whose reported activities

involve alcohol or misuse of prescribed medications. This TPAPN program provides monitoring, without disciplinary action and is primarily for nurses with a one-time positive drug test in the absence of any practice issues or substance use disorder diagnosis.

- C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and outcome performance measures that best convey the effectiveness and efficiency of this function or program.**

**Texas Board of Nursing  
Exhibit 10: Information on Outcome Measures,  
Efficiency Measures and Age of Cases  
Fiscal Years 2013 and 2014**

	Fiscal Year 2013 RN / LVN	Fiscal Year 2014 RN / LVN
Total number of regulated persons	258,208 / 96,724	272,129 / 99,347
<b>Outcome Measures</b>		
Ratio of complaints filed per 100 licensee population	1.09 / 2.24	0.90 / 1.65
Percent of complaints resolved resulting in discipline	20.23% / 24.80%	19.82% / 23.37%
Recidivism rate for those receiving discipline	12.72% / 10.19%	14.09% / 13.17%
Recidivism rate for those enrolled in TPAPN	7.0% / 5.0%	11.0% / 0%
Percent of complaints resolved in 6 months	67.49% / 62.08%	69.78% / 65.80%
<b>Output Measures</b>		
Number of Informal Settlement Conferences conducted	125 / 80	134 / 93
Number of licenses sanctioned	1871 / 1703	1766 / 469
Number of licensees participating in TPAPN	582 / 162	625 / 162
<b>Efficiency Measures</b>		
Average days for complaint resolution	112.63 / 132.83	93.74 / 106.59
<b>Age of Cases</b>		
More than 12 months	28.0% / 29.0%	31.76% / 30.43%
Between 6 and 12 months	29.0% / 26.0%	26.03% / 28.11%
Less than 6 months	43.0% / 45.0%	42.21% / 41.46%

**Texas Peer Assistance Program (TPAPN)**

TPAPN Participation	FY 2014	FY 2015
<u>Output Measures</u>		
# RN participants	625	600
# LVN participants	162	175

**D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.**

Although the functions of this department remain consistent with its initial purpose for creation, Just Culture has become a prominent theme in nursing regulation over the last few years. Just Culture recognizes that systems issues often contribute to practice breakdown and seeks to correct the cause of such systems issues instead of solely assigning blame to individuals who commit practice violations. Just Culture, however, does not tolerate risky or conscious disregard for risks to patients or gross misconduct. Instead, the goal of Just Culture is to promote patient safety by addressing, and possibly, preventing, the sources of human error. Recognizing that not all situations involve reckless or at-risk behavior, the Board has implemented several alternative models to traditional discipline that seek to balance the morays of Just Culture and public interest.

**Deferred Discipline**

Senate Bill (SB) 1415, enacted by the 81st Texas Legislature, Regular Session, effective September 1, 2009, authorized the Board to conduct a pilot program to evaluate the efficacy and effect of deferring disciplinary actions against individuals. Under the Board's deferred discipline, an individual who receives a deferred disciplinary action must complete certain remediation, such as remedial education courses or supervised practice for a specified period of time. Once the individual completes the required remediation, the individual's nursing license is returned to unencumbered status. Once the period of deferment has elapsed, the deferred disciplinary Order becomes confidential under state law. The Board adopted rules establishing the pilot program on July 12, 2010, and the pilot program began on February 1, 2011.

Due to the success of the pilot program, The 83rd Texas Legislature amended the Nursing Practice Act in 2013, making deferred discipline a permanent alternative to traditional discipline in Texas.

**Corrective Actions**

Senate Bill (SB) 1415, enacted by the 81st Texas Legislature, Regular Session, effective September 1, 2009, also authorized the Board to offer a corrective actions. A corrective action is a confidential, non-disciplinary action that may consist of a fine, remedial education, or a combination of a fine and remedial education. In November, 2009, the Board adopted rules to specify the types of violations that would be eligible for resolution through a corrective action and due to the success of this alternative to discipline, the Board amended its rules in July 2014 to permit lower level practice violations (those not involving a serious risk of harm to the public or patients) to be resolved through a corrective action. More serious conduct that poses a higher risk of harm to patients or the public continues to be evaluated and sanctioned pursuant to the Board's traditional disciplinary policies, procedures, and requirements at this time.

However, the Board continues to monitor disciplinary trends that would support the expansion of corrective actions in the future.

### **The Knowledge, Skills, Training, Assessment and Research (KSTAR) Pilot Program**

Early in 2013, the Board began discussions with the Texas A&M Health Science Center Rural and Community Health Institute (RCHI) to offer an alternative to traditional nursing discipline through an innovative customized training and educational program. In October 2013, the Board approved a two year pilot program to implement the KSTAR (Knowledge, Skills, Training, Assessment, and Research) program for nurses. The program was intended to evaluate the use of individualized competency assessments and targeted remediation plans for nurses with demonstrated practice deficiencies. The KSTAR pilot program permits a nurse to complete individualized remediation without the on-going monitoring and supervision typically associated with a traditional disciplinary model. Twenty-two nurses have participated in the pilot program to date, with an expected additional three enrolling prior to the end of FY2015. The Board continues to monitor the success of the individuals in the pilot program, which may prove to be a worthwhile long-term alternative to traditional discipline.

Beginning September 1, 2013, the Board was authorized under 301.466(d) to order qualified nurses to participate in a peer assistance program under a confidential Board order.

**E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.**

The enforcement function affects the citizens of the State of Texas and potentially every licensee of this Board. The purpose of this department is to identify those licensees that present a danger to the public and provide the necessary evidence and information to allow for the appropriate actions to be taken with regard to these licensees. Every citizen, including licensees, could be a complainant or a witness. Additionally, any licensee could be the subject of a complaint brought before the Board.

**F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

This department is supervised by the Director of Enforcement. Four supervising investigators, a compliance supervisor, an eligibility program supervisor, and a nurse investigator program specialist comprise the enforcement management team and all report to the Director of Enforcement. Ten registered nurse investigators, ten criminal justice investigators, two registered nurse lead investigators, and two criminal justice lead investigators are divided into four teams, each of which reports to one of the supervising investigators. In addition, one enforcement management team administrative technician reports to one of the supervising investigators. Three compliance technicians report to the compliance supervisor. Five eligibility investigators, one eligibility program specialist, six administrative technicians, and one

administrative technician program supervisor all report to the eligibility program supervisor. (See Section VI A. Organization for an Organizational Chart)

Complainants receive letters on the status of their complaints every 180 days, and if a case is unresolved after 1 year, a letter of explanation is sent to the complainant.

- G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

This department is funded by general revenue.

- H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.**

None.

- I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

N/A

- J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.**

For licensees that commit a crime, other law enforcement agencies may also be investigating a licensee. While this Board is investigating possible violations of the Nursing Practice Act, other investigative bodies are pursuing the criminal element of the alleged activity.

- K. If contracted expenditures are made through this program please provide:**
- a short summary of the general purpose of those contracts overall;
  - the amount of those expenditures in fiscal year 2014;
  - the number of contracts accounting for those expenditures;
  - top five contracts by dollar amount, including contractor and purpose;
  - the methods used to ensure accountability for funding and performance; and
  - a short description of any current contracting problems.

(See Report Section VII (K) Administration/Legal Program)

Texas Peer Assistance Program For Nurses (TPAPN) Contract	\$873, 558
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The Board has utilized the Texas Peer Assistance Program for Nurses (TPAPN) to provide peer assistance services to individuals since 1987. TPAPN offers services to individuals with substance use disorders, mental health disorders, or a history of drug or alcohol abuse/misuse. TPAPN provides a three year monitoring program for registered nurses and licensed vocational nurses and a five year monitoring program for advanced practice registered nurses. Participation in TPAPN may be voluntarily or through a Board Order, depending upon the circumstances of the individual.

The Board's current contract with TPAPN was originally entered into in September, 2009, and has been extended twice, comprehensively covering fiscal years 2012-2015. In the last legislative session, \$873,558 per year was appropriated to the Board to fund TPAPN. The current contract with TPAPN will expire under its own terms on September 1, 2015. In order to prevent a disruption in peer assistance services, the Board approved a continuation of the current contract with TPAPN for a period of 120 days at its July 2015 meeting. The Board also approved the issuance of a new Request for Proposal (RFP) for peer assistance services. It is anticipated that an evaluation of the submitted bids and an award of a new contract for peer assistance services may be completed by the end of October 2015.

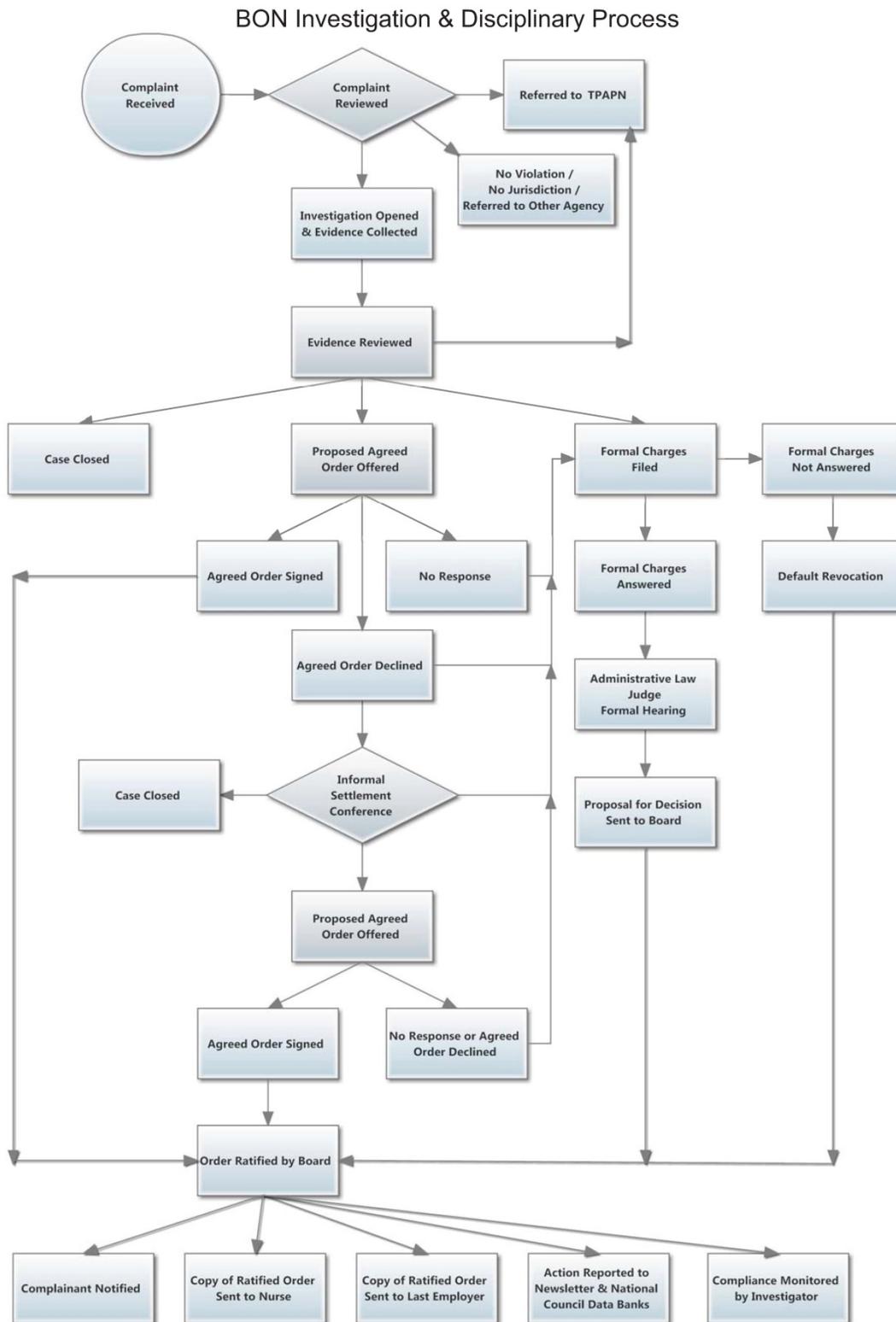
**L. Provide information on any grants awarded by the program.**

N/A

**M. What statutory changes could be made to assist this program in performing its functions? Explain.**

(See Major Issues Section IX)

N. Provide any additional information needed to gain a preliminary understanding of the program or function.



- O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**
- **why the regulation is needed;**
  - **the scope of, and procedures for, inspections or audits of regulated entities;**
  - **follow-up activities conducted when non-compliance is identified;**
  - **sanctions available to the agency to ensure compliance; and**
  - **procedures for handling consumer/public complaints against regulated entities.**

The enforcement regulatory program helps to ensure that each person issued or holding a license or privilege to practice as a nurse in the State of Texas is competent to practice safely. See Diagram in Section N for procedural information. Non-compliance by licensees with the Nursing Practice Act and/or Board Rules may be reported in the form of consumer complaints from patients or pursuant to the provisions of the Nursing Practice Act which requires mandatory reporting of violations. Consumer complaints, when received, are processed, investigated, and resolved like all other complaints that are received.

In addition, enforcement monitors licensee compliance with Board orders and seeks additional sanctions for non-compliance with Board orders. See information in Section B regarding functions of the compliance staff.

- P. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.

**Texas Board of Nursing  
Enforcement  
Exhibit 11: Information on Complaints Against Regulated Persons or Entities  
Fiscal Years 2013 and 2014**

	Fiscal Year 2013 RN / LVN	Fiscal Year 2014 RN / LVN
Total number of regulated persons	258,208 / 96,724	272,129 / 99,347
Total number of regulated entities	NA	NA
Total number of entities inspected	NA	NA
Total number of complaints received from the public & initiated by agency	11,211 / 8,325	9,442 / 5,397
Number of complaints pending from prior years	1,196 / 921	943 / 790
Number of complaints found to be non-jurisdictional	117 / 56	67 / 19
Number of jurisdictional complaints found to be without merit	8,408 / 5,427	8,645 / 4,933
Number of complaints resolved	11,265 / 8,167	10,726 / 6,350
Average number of days for complaint resolution	112.63 / 132.83	93.74 / 106.59
Complaints resulting in disciplinary action:	2,557 / 2,220	2,193 / 1,325
Administrative penalty (only) [administrative penalties (fines) included with other sanctions/actions are not included]	0 / 0	1 / 0
Reprimand [includes Reprimands w Stipulations]	92 / 77	124 / 65
Probation [Probated Suspensions]	105 / 78	130 / 58
Suspension [Enforced Suspensions]	66 / 51	102 / 61
Revocation	209 / 262	348 / 361
Other: RE, FR, ST, WS, VS, LL, TPO (ALL)	970 / 844	887 / 594

**A. Provide the following information at the beginning of each program description.**

Name of Program or Function:	Nurse Licensure Compact
Location/Division:	Administration
Contact Name:	Katherine A. Thomas, MN, RN, FAAN
Actual Expenditures, FY 2014:	\$6,000
Number of Actual FTEs as of June 1, 2015:	0
Statutory Citation for Program:	Tx Occ Code, Section 304

**B. What is the objective of this program or function? Describe the major activities performed under this program.**

Texas is a member of the Nurse Licensure Compact (NLC). Adopted by the Texas Legislature in 1999 (House Bill 1342), the NLC is codified in Chapter 304 of the Texas Occupations Code. As of July 2015, the Compact has been adopted by 25 states: Arizona, Arkansas, Colorado, Delaware, Idaho, Iowa, Kentucky, Maine, Maryland, Mississippi, Missouri, Nebraska, New Mexico, New Hampshire, North Carolina, North Dakota, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia and Wisconsin. Montana has adopted the Compact but it will not be implemented until October 1, 2015.

The Nurse Licensure Compact (NLC), implemented in Texas in January 2000, has been an innovative and effective mechanism to address the emerging changes in the delivery of nursing care that have challenged the traditional state-based model of nursing regulation. For nearly 100 years, the state-based model served the citizens of each state well because nurses lived in and were licensed within the borders of the state where they practiced. The Compact was the mechanism selected to facilitate interstate practice and regulation by binding each participating jurisdiction to the terms of the Compact. It makes it unnecessary for a nurse to seek licensure in every jurisdiction and gives the Board of Nursing expanded jurisdictional powers to investigate and take action against a Texas license or a compact privilege to practice in Texas when necessary.

- **Issuance of Licenses.** The NLC allows a nurse to have one license (in his or her state of residency) and to practice in other Compact states (remote states) both physically and electronically. Every nurse holding a Compact license is subject to each state's practice laws and regulations. Under the compact, a nurse may practice across state lines unless otherwise restricted. In order to enact the NLC, each state must pass legislation authorizing the compact.
- **Discipline of Compact Licenses.** The home state and remote state where a violation occurs have jurisdiction to take licensure action. Licensees whose licenses are stipulated are required to complete their stipulations in their home state and will not have a multistate privilege until the license is unencumbered. However, the nurse under disciplinary action may seek authorization from the home and remote state to work off conditions of their order in a remote state. These mechanisms protect the public by monitoring the practice of the nurse until conditions of the order are

satisfactorily completed while permitting the nurse to seek authorization to practice in another Compact state if appropriate.

- **Information Exchange.** The Compact requires sharing of licensure and disciplinary information through a data base called *Nursys*. The Board uploads updates daily.
- **Rules and Regulations.** States entering the compact also adopt administrative rules and regulations for implementation of the compact.
- **Administration.** Once the compact is enacted, each compact state designates a Nurse Licensure Compact Administrator to facilitate the exchange of information between the states relating to compact nurse licensure and regulation. On January 10, 2000, the Nurse Licensure Compact Administrators (NLCA) were organized to protect the public's health and safety by promoting compliance with the laws governing the practice of nursing in each party state through the mutual recognition of party state licenses. The executive director of the BON is the Compact Administrator for Texas.

The interstate recognition of a license increases nurse mobility and facilitates delivery of health care by allowing for innovative communication practices such as telenursing. Telenursing is defined as the practice of nursing over distance using telecommunications technology. The nurse practices nursing virtually by interacting with a client at a remote site and electronically receiving data and information regarding the client's health status data; initiating and transmitting therapeutic interventions and regimens; and monitoring and recording the client's response and nursing care outcomes. Additionally, the Compact promotes the public health and safety by encouraging cooperative efforts among the party states in nurse licensing and regulation. As more state legislatures enact the Nurse Licensure Compact, the nation will move closer to allowing a nurse to have one home state license that confers a privilege to practice nationwide.

- C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and outcome performance measures that best convey the effectiveness and efficiency of this function or program.**

### Survey

In a 2014 survey of Compact states conducted by NCSBN, 100% of Boards of Nursing indicated there were advantages of being a member of the NLC, 68% indicated there were not any disadvantages of being a member of the NLC, while 32% indicated there were some disadvantages. In the same survey, of nurses who indicated they were aware of the NLC, and indicated they held a Compact license, 52% indicated the Compact license had been beneficial, 28% indicated it had not been beneficial, and 20% had no opinion. Nurse respondents who indicated they were aware of the NLC, and indicated they held a Compact license, were asked if they had practiced in another state/jurisdiction under their Compact license in the past 24 months; 17% indicated they had. Among Texas respondents with a Compact license, 24% indicated that they had spent time communicating with a patient located outside of their state

of residence/licensure within the past 24 months. Of employer respondents, 45% indicated there have been advantages of the NLC for their organization, 34% indicated no advantages.

## **Administration**

No lawsuits have been filed against the Nurse Licensure Compact in its 15 year history. The Nurse Licensure Compact Administrators (NLCA) consists of Board of Nursing representatives of each party state. The NLCA meets face to face twice a year and by conference calls every quarter. Policies and procedures regarding administration, implementation, licensure, national licensure database, discipline, and compliance have been developed by the NLCA.

## **Discipline**

Disciplinary matters involving more than one jurisdiction are routinely handled cooperatively between involved states. Priority is given to these cases since interstate mobility is permitted. The effect of a disciplinary action on a Compact license affects all Compact states. According to Tx. Admin. Code §220.3:

*(a) All home state Board disciplinary orders, agreed or otherwise, which limit the scope of licensee's practice or require monitoring of the licensee as a condition of the order shall include the requirement that the licensee will limit his or her practice to the home state during the pendency of the order. This requirement may allow the licensee to practice in other party states with prior written authorization from both the home state and party state Boards.*

*(b) An individual who had a license which was surrendered, revoked, suspended, or an application denied for cause in a prior state of primary residence, may be issued a single state license in a new primary state of residence until such time as the individual would be eligible for an unrestricted license by the prior state(s) of adverse action. Once eligible for licensure in the prior state(s), a multistate license may be issued.*

The license is placed into single state status during the pendency of the order.

### **D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.**

The Nurse Licensure Compact continues to function as it was originally intended. Rules and policies have evolved to address situations as they have arisen. However, the NLC has slowed in adoption by new states. In response, the National Council of State Boards of Nursing convened a group of representatives of all states in 2013 to discuss barriers to adoption and to develop a new Compact which addresses these barriers. (See Section IX Major Issues, Section 5).

In 2015, alternative models of healthcare are rapidly evolving with a goal of reducing costs and improving outcomes. These changes involve the use of technology to reach patients in remote or rural areas, underserved areas, or in areas where specialty care is not available. Such tele-practice advances have encountered state based licensure barriers and caused Congress and

special interest groups to examine a national licensure solution. The NLC continues to be a relevant solution to improving mobility of nurses and access to care for patients. Its adoption by all states is key to making the Compact a viable solution to the evolving healthcare environment.

Nine national nursing organizations and 17 national organizations representing telehealth, poison control centers, case management, consumers, and military families, as well as the National Governor's Association and the US Department of Commerce have officially indicated support of the NLC. The Council on State Governments has endorsed the NLC and the US Department of the Treasury Office of Economic Policy and the Council of Economic Advisors have identified interstate compacts as a licensing best practice to increase mobility of skilled workers.

Other professions are likewise examining cooperative solutions to reduce cost and improve access to care. The following organizations have developed or are developing interstate compacts:

The Federation of State Medical Boards developed the Interstate Compact for Physician Licensure that has been adopted by 11 states including Alabama, Idaho, Illinois, Iowa, Minnesota, Montana, Nevada, South Dakota, Utah, West Virginia, and Wyoming  
<http://www.licenseportability.org/>

The National Association of State EMS Officials has developed an interstate Compact "to solve the problem associated with day-to-day emergency deployment of EMS personnel across state boundaries." This Compact was finalized in August 2014. For key talking points, see  
<https://www.nasemso.org/Projects/InterstateCompacts/>

The Federation of State Board of Physical Therapy (FSBPT) has drafted an Interstate Compact and is seeking public comment.  
<https://www.fsbpt.org/FreeResources/PhysicalTherapyLicensureCompact.aspx>

The Association of State and Provincial Psychology Boards has introduced an Inter-jurisdictional Telepsychology Compact.  
<http://www.asppb.net/news/news.asp?id=217917&hhSearchTerms=%22interstate+and+compact%22>

**E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.**

This program potentially affects all nurse licensees of states who are members of the compact, the public, and employers of nurses in compact states. It permits greater mobility of practitioners and therefore, greater access to care for the public. It permits a nurse in one state to practice physically, electronically or telephonically across state lines. Patients can be distant

from the nurse and yet receive care where they are located. It allows expert nursing care to be delivered in rural and underserved areas. Nurses who reside in a Compact state may qualify for an interstate or Compact license unless otherwise restricted. Restrictions affect nurses who are participating in a peer assistance program or who are under a board disciplinary order revoking, suspending or limiting the ability to practice nursing. Privileges can be restored following successful completion of the terms of the agreement or order. Nurses who reside in non-Compact states but work in Texas are not eligible for a Compact license but may be issued a single state license.

This program also affects employers by permitting them to hire nurses on a temporary basis if a health care need arises. It allow employers in rural areas to arrange expert nursing care by telecommunications to address such issues as mental health therapeutic services, intensive care monitoring of patients, and remote monitoring of patients after discharge from an urban hospital. Employers can employ nurses with multistate licenses in other Compact states without the need to apply for a new license in Texas resulting in expedited priority services that might not otherwise be available.

**F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.**

The executive director of the Texas Board of Nursing is the Compact Administrator (NLCA) for the State of Texas (Tx. Occ. Code §304.002). Twenty-five Compact Administrators are currently members of the NLCA. The Nurse Licensure Compact Administrators oversee the Compact and ensure its enforcement.

The licensing department issues Compact licenses in accordance with the NLC policies and agency policies and procedures. The agency database, *Nurse*, contains a field that indicates Compact or Single State licensure status.

When investigation of a complaint against a nurse results in the filing of formal charges, a non-public flag in *Nursys*, the national nurse licensure database of the National Council of State Boards of Nursing, alerts other Compact states of significant investigative information.

Following disciplinary action, the enforcement department updates *Nurse* to change the licensure status to single state status. Daily updates are made to *Nursys*, to facilitate the sharing of information with other state boards of nursing.

**G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).**

Funding is provided by General Revenue. Each Compact state contributes \$6,000 to the NLCA annually for operations of the Compact.

**H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.**

None.

**I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.**

None.

**J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.**

None.

**K. If contracted expenditures are made through this program please provide:**

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2014;
- the number of contracts accounting for those expenditures;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

Not Applicable.

**L. Provide information on any grants awarded by the program.**

None.

**M. What statutory changes could be made to assist this program in performing its functions? Explain.**

States will begin adopting the new Nurse Licensure Compact in 2016 (see Section IX, Major Issues, Section 5). The new Compact shall become effective and binding on the earlier of the date of legislative enactment by no less than 26 states or by December 31, 2018. The prior Compact will expire within 6 months after the effective date of the Compact. States party to the prior Compact shall continue to recognize a nurse's Compact licensure privilege until that party state has withdrawn from the prior Compact.

**N. Provide any additional information needed to gain a preliminary understanding of the program or function.**

The Texas Board of Nursing website contains information regarding the Nurse Licensure Compact at: [http://www.bon.texas.gov/licensure\\_nurse\\_licensure\\_compact.asp](http://www.bon.texas.gov/licensure_nurse_licensure_compact.asp)

The National Council of State Boards of Nursing website contains additional information at: <https://www.ncsbn.org/compacts.htm>

The Texas NLC Statute can be found at:

<http://www.bon.state.tx.us/nursinglaw/npa2.html#4-001>[http://www.bon.texas.gov/laws\\_and\\_rules\\_nursing\\_practice\\_act\\_2013.asp#Sec.304.001](http://www.bon.texas.gov/laws_and_rules_nursing_practice_act_2013.asp#Sec.304.001)

The Texas Administrative Rules for the Compact can be found at this page by clicking on BON Rules and Regulations and navigating to Chapter 220.

<http://www.bon.state.tx.us/nursinglaw/rr.html>[http://www.bon.texas.gov/pdfs/law\\_rules\\_pdfs/rulesregulations\\_pdfs/bon\\_rr\\_Feb2015.pdf](http://www.bon.texas.gov/pdfs/law_rules_pdfs/rulesregulations_pdfs/bon_rr_Feb2015.pdf)

**O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:**

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

See Enforcement Department Report.

**P. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency's practices.**

See Enforcement Department Report.

## VIII. Statutory Authority and Recent Legislation

- A. Fill in the following charts, listing citations for all state and federal statutes that grant authority to or otherwise significantly impact your agency. Do not include general state statutes that apply to all agencies, such as the Public Information Act, the Open Meetings Act, or the Administrative Procedure Act. Provide information on Attorney General opinions from FY 2011–2015, or earlier significant Attorney General opinions, that affect your agency's operations.

### Texas Board of Nursing Exhibit 12: Statutes / Attorney General Opinions

#### *Statutes*

Citation / Title	Authority / Impact on Agency <i>(e.g., "provides authority to license and regulate nursing home administrators")</i>
Chapter 301, Texas Occupations Code	Agency's enabling legislation that creates agency; outlines its general and specific authority; outlines public interest information and complaint procedure; nurse license and renewal of license requirements; outlines general disciplinary authority and procedure, including penalties and sanctions.
Chapter 303, Texas Occupations Code	Provides for creation of nurse peer review committees within certain facilities to review issues of reportable nursing practice and authorizes Board to adopt rules concerning peer review processes.
Chapter 304, Texas Occupations Code	Authorizes Texas to join the Nurse Licensure Compact to allow creation of shared information system on nurse practice and provide multistate licensure practice.
Section 105.002, Health and Safety Code	Establishes a comprehensive health professions resource center for the collection and analysis of educational and employment trends for health professions in this state.

Citation / Title	Authority / Impact on Agency <i>(e.g., "provides authority to license and regulate nursing home administrators")</i>
Chapter 101, Texas Occupations Code	Creates the Texas Health Professions Council, which is to provide a means for the regulatory agencies represented on the council to coordinate administrative and regulatory efforts. Creates a toll-free telephone complaint system to provide assistance and referral services for persons making a complaint relating to a health profession regulated by the state and establishes a training program for the governing bodies of state agencies that regulate health professions.
Sections 157.051-.060, Texas Occupations Code	Sections of the Medical Practice Act provide the parameters for delegation by licensed physicians of prescriptive authority for duly authorized APRNs and CRNAs.
Section 411.125, Texas Government Code	Authorizes the Board to obtain criminal history record information for an applicant for a license from the Board; has requested a determination of eligibility; or is subject to investigation by the Board.
Sections 162.101-.107, Texas Occupations Code	Requires coordination with the Medical Board in development of rules applicable to certain outpatient anesthesia practices.
Chapter 2001, Texas Government Code	Sets forth the requirements for contested case proceedings, agency rulemaking, and judicial review of state agency action.
Chapter 551, Texas Government Code	Sets forth the requirements regarding open meetings.
Chapter 552, Texas Government Code	Sets forth the requirements for public information requests and responses.
Chapter 53, Texas Occupations Code	Sets forth requirements related to agency review of an individual's criminal history.

Citation / Title	Authority / Impact on Agency (e.g., "provides authority to license and regulate nursing home administrators")
Chapter 467, Texas Health and Safety Code	Authorizing the establishment of peer assistance program for licensed professionals by a licensing or disciplinary agency that is funded by licensing fees.

### Attorney General Opinions

Attorney General Opinion No.	Impact on Agency
GA-0919 (April 23, 2012)	A court non-disclosure order issued under the Government Code §411.081 does not require the Board of Nursing to adjust its public disciplinary orders (by sealing or redacting) to avoid disclosure of the criminal history record information that is the subject of the non-disclosure order.

- B. Provide a summary of recent legislation regarding your agency by filling in the charts below or attaching information already available in an agency-developed format. Briefly summarize the key provisions. For bills that did not pass, briefly explain the key provisions and issues that resulted in failure of the bill to pass (e.g., opposition to a new fee, or high cost of implementation). Place an asterisk next to bills that could have a major impact on the agency.**

### Texas Board of Nursing Exhibit 13: 84th Legislative Session

#### Legislation Enacted

Bill Number	Author	Summary of Key Provisions
HB 1	Otto	The Texas BON was authorized the base budget plus the following: Expert Witness Costs; 15 FTEs; Merit Salary Funding; Health Profession Council Costs; Funding to Expand in Hobby Building
HB 1890	Elkins	Relating to the development and implementation of a statewide strategy for legacy system modernization. The BON has already moving forward with a plan to modernize legacy system ahead of DIR. The BON will likely have additional reporting required to DIR.
HB 2154	Dutton	Relating to functions and operations of the State Office of Administrative Hearings and authorized process of Board taking informal action on default dismissal from SOAH.
HB 3078	Darby	Creates an advisory committee to recommend a uniform pre-nursing curriculum for undergraduate professional nursing programs in public schools.
SB 20	Nelson	Provides for transparency in State agency contracting. Requires publication of all no bid contracts on agency website. The agency routinely contracts with expert witnesses or consultants for prosecution of its contested case proceedings. Legislation may hinder cooperation of the expert witnesses whose names are posted on website.

Self-Evaluation Report

Bill Number	Author	Summary of Key Provisions
SB 1267	Estes/Watson	Amends the Administrative Procedures Act, especially with regard to motions for rehearing and suits for judicial review. Requires agencies give notice of "the particular sections of the statutes and rules involved" before the contested case is tried. It amends the APA to make its deadlines align more closely with the Texas Rules of Civil Procedure.
SB 1902	Perry	Many deferred adjudications are now subject to automatic orders of non-disclosure. The BON's criminal history policy will have to be amended to reflect the legislature's intent to have some minor criminal history remain confidential.

**Legislation Not Passed**

Bill Number	Author	Summary of Key Provisions / Reason Bill Did Not Pass
HB 179	Zedler	Would have made complaints to Texas Medical Board non confidential. Moved from Public Health Committee to Local and Consent Calendar on May 1, 2015, but no other action noted. Nursing community opposed bill based on perceived chilling effect on good faith reporting by nurses of physicians as well as fear that nurses who report physician would be subject to retaliation.
HB 3974	Darby	Would make minor infractions, such as an administrative violation, committed by a health care professional licensed by the state subject to expunction. Moved out of Committee for Public Health and placed on General State Calendar on May 12, 2015. No subsequent action.
HB 3981	Darby	Would provide that for any contested case before a state agency that concerns an occupational license, if the matter is not disposed of by stipulation, agreed settlement, or consent order, the license holder may elect to have the administrative law judge render the final decision in the contested case. Referred to House Committee on Licensing and Administrative Procedures on March 23, 2015 but did not move.

## **IX. Major Issues**

### **Issue #1: Expiration of 301.157(d)(8-11)**

#### **A. Brief Description of Issue**

The 2009 Legislative statute, HB 3961 included amendments to the Nursing Practice Act adding sections 301.157(d)(8) – (d-11) and section 105.008 of the Health and Safety Code to address questions about graduates of professional nursing programs that do not include supervised clinical learning experiences as part of the program of study. These amendments allowed for approval for graduates of a clinical competency assessment program operated in another state and approved by a state board of nursing in another state to be eligible to apply for initial licensure in Texas provided: (1) that the Texas Board had previously allowed such graduates to apply for licensure during the previous 10 years, (2) the program remained in good standing with the board of approval, (3) the program did not make any substantial changes to length or content of its clinical competency assessment; and (4) the program participated in a research study under Section 105.008 of the Texas Health and Safety Code designed to determine if the graduates of a clinical competency assessment program are substantially equivalent to the graduates of supervised clinical learning experiences programs in terms of clinical judgments and behaviors. The research study was set to be completed by June 30, 2014. Sections 301.157(d-8) – (d-11) will expire December 31, 2015. There was and continues to be only one program in the United States that offers such a program- Excelsior College in New York and no research study was completed by the deadline..

#### **B. Discussion**

A plan to conduct the research study required in by HB 3961 was implemented shortly after enactment when a committee appointed by Texas Center for Nursing Workforce met and developed a Request for Proposals (RFP) for the study. The Texas Board of Nursing provided the funding for this phase of the research with the intention of seeking grant from the National Council of State Boards of Nursing (NCSBN) for \$300,000. An RFP was released with only 3 submissions received. None were acceptable. Several barriers to a successful award were identified including language in HB 3961 that precluded schools of nursing in Texas from conducting the research and the lack of sufficient grant funding to conduct the study. Following the RFP process, NCSBN proposed a research design to study the competence of nurse graduates of Excelsior College at a meeting with the committee on August 25, 2011. At that meeting and in subsequent discussions, representatives from Excelsior College could not agree to support the study, therefore, without the support of Excelsior College, NCSBN could not move forward with funding a study on the competence of their nurse graduates.

The Board has examined the passing rate for first time NCLEX-RN test takers who have graduated from Excelsior and who took the exam between October 1, 2013 and September 30, 2014. These dates represent the normal examination year used in Texas for evaluation of its RN

nursing programs. The NCLEX pass rate for the 972 candidates is 74%. This pass rate for Excelsior graduates would fall short of the required 80% for Texas programs. If Texas were involved in the regulation of Excelsior it would ensure that the program underwent extensive review of the curricula and other applicable strategies that Texas programs implement to ensure the program is producing competent graduates.

### **Possible Solutions and Impact**

This is an issue that must be decided by the Texas Legislature. Continuation of the statute after December 31, 2017 would allow graduates of clinical competency assessment program operated in another state and approved by a state board of nursing in another state to apply for Texas licensure without required clinical practice during the nursing education program.

### **Issue #2: Lack of Monitoring of RN-to-BSN Programs**

#### **A. Brief Description of Issue**

The imperative to increase the number of registered nurses with Baccalaureate Degrees in Nursing (BSN) to 80% by 2020 has resulted in the rapid establishment of new RN-to-BSN programs with little or no oversight of educational quality or consistent standards.

#### **B. Discussion**

Texas nursing leaders are promoting the Institute of Medicine goal to increase the number of registered nurses with BSNs to 80%. The growth in the number of registered nurses enrolled in RN-to-BSN programs has increased in recent years and the percentage of BSN-prepared licensed registered nurses is over 50%, an increase from 48.5% in 2010 to 52.1% in 2013. There is less regulation of these mobility programs than other nursing programs. The Academic Progression in Nursing grant project has many initiatives to meet the 80/20 goal, but there is no assurance that all RN-to-BSN programs provide the same quality education. If the RN-to-BSN program is within a nursing school holding accreditation, the program will be built on accreditation standards. However, the same gaps identified between nursing accreditation standards and Board rules do not ensure that graduates from RN-to-BSN programs will be educated to meet the DECs. In addition, there are no controls over an educational institution establishing an RN-to-BSN degree program in private or independent schools not holding accreditation credentials for nursing education. Stakeholders have expressed concern about the lack of consistent standards for RN-to-BSN programs.

#### **C. Possible Solutions and Impact**

BON purview would provide consistent standards and ensure quality education for BSN-prepared nurses.

### Issue #3: Self Directed Semi-Independent Status

#### A. Brief Description of Issue

In December, 2014, the Sunset Commission published their report on Self-Directed Semi-Independent Status (SDSI) of State Agencies. Overall, the Sunset study determined that the State has an undefined and inconsistent approach to managing the SDSI process, which exposes the State to unnecessary risk. Two bills were filed in the 84th Legislative Session in response to this report, House Bill 2024 and Senate Bill 217. Neither bill passed.

The Texas Board of Nursing has requested SDSI status in 81st, 82nd and 83rd legislative sessions. The BON did not pursue SDSI status in the 84th legislative session due to the study being conducted referenced above. The Board's budget is self-funded through the assessment of licensure fees. Additionally, the Board is required each biennium to fund any additional new program with new fees rather than the use of any of the current funds it deposits in the treasury.

The Board recognizes that SDSI status may truly be a misnomer and such legislatively granted authority is well balanced by accountability through reporting and significant auditing processes. Furthermore, the current level of revenue deposited into the treasury in excess of the Board's operating budget will remain unaffected. The current fees charged by the Board remain relatively low compared to the national average of Boards of nursing. Therefore, it is realistic to assume that the Board has the ability to support current treasury deposits and successfully implement the SDSI model with minimal increase in fees, if needed.

The advantages of self-directed, semi-independent Agency move would be:

- Board direction over agency funds.
- Board direction over agency programs.
- Agency would have more flexibility in staff compensation.
- A decrease in the number of reports to oversight agencies.
- Most reports would be on an annual basis.
- Agency would have a budget set by the Board and not the legislature.
- The Strategic Plan and the Biennial Operating Plan would be directed by the Board.
- Would not be subject to the State mandated FTE and Travel caps.
- The Board is held to a higher accountability to their constituents.

- The agency budget is held to a higher level of scrutiny.
- Reduces administrative burden to state for constant oversight.

The move to self-directed, semi-dependent is a major change to how the agency finances are managed. This shift from direct state oversight to an agency driven process is a significant change but has been tested by nine state agencies and has proven to be successful and effective. By virtue of past State Auditor, Comptroller and State Office of Risk Management audits, the Texas Board of Nursing has proven to be an effective, efficient and well-managed state agency. With changes in the health care environment, this move allows the Texas Board of Nursing flexibility to adapt quickly to nursing practice and education changes, nurse license compact issues and effective enforcement and licensing challenges. This flexibility would have been advantageous to the Texas BON after 82nd legislative session when the Texas BON had to wait up to six months to expend approved additional legislative funds waiting for certification of the agency revenue from the State Comptroller. In this case, if the Board had the self-directed, semi-independent status, the BON would not have had to delay hiring additional staff to investigate cases and process licensure applications in a timely manner.

From a financial point of view, the Texas Board of Nursing has consistently paid encumbrances in a timely manner, contracted within state parameters, collected fees to support agency appropriations and provided significant additional funding to the State Treasury. The Texas BON understands the importance of these additional funds and will continue to provide this source each fiscal year as agreed upon by the Texas BON and the Legislature. The Texas BON revenues have been consistent and there would be seamless transfer to self-directed, semi-independent status.

#### **Issue #4: Certified Nurse Aides/Unlicensed Assistive Personnel**

##### **A. Brief Description of Issue**

Nursing is a dynamic discipline and its practice is continually evolving to include more complex patient care activities. The shortage of licensed nurses has necessitated the expansion of direct healthcare providers across the spectrum of practice settings, with particular need in those areas that will be most impacted by the aging population.

The Omnibus Budget Reconciliation Act of 1987 (OBRA 87) mandated that each state establish state-approved nurse aide training programs, and implement minimum competency requirements for all nursing assistants employed in long-term care facilities. In compliance with this Federal law, Texas state requirements for nurse aide training are listed in 40 Tex. Admin. Code §§94.1 - 94.11.

Nursing practice occurs along a continuum from tasks performed by unlicensed personnel under the delegation and supervision of nurses through vocational nursing, registered nursing and advanced practice registered nursing. Registered nurses delegate to and supervise unlicensed assistive personnel, including nurse aides. There are 21 boards of nursing, excluding Texas, that are responsible for the competency evaluation of nurse aides, establishment of

registries, and/or investigation and adjudication of complaints against these types of personnel. Some boards of nursing also regulate medication assistants. In the 2004 Model Nursing Practice Act and Model Administrative Rules, article XVIII, Chapter 18, the National Council of State Boards of Nursing (NCSBN) took the position that boards of nursing should regulate medication aides in settings utilizing these personnel. Though nurse aides and medication aides are “certified” rather than “licensed,” many of the functions for regulation of both nurse aides and medication aides are similar to those processes already in place for licensed nurses. The Department of Aging and Disability Services currently regulates both Certified Nurse Aides and Medication Aides which tends to be highly mobile and with a current absence of criminal background checks and low rate of disciplinary action.

In comparison with two state boards of nursing who regulate CNA’s, the discipline rate is much higher than that of Texas:

	Certified Nurse Aides	Disciplined
Texas (Sept. 1, 2013–August 31, 2014)	127,709	44 (.034%)
Arizona (July 1, 2013 – June 30, 2014)	27,267	212 (.8%)
Oregon (July 1, 2014 – June 30, 2015)	18,821	117 (.6%)

Nurse aide training, competency evaluation, registry, and the complaint registry are currently regulated by the Texas Department of Aging and Disability Services. Responsibility for conducting the skills tests and written (oral) test for nurse aide candidates in Texas is through the Nurse Aide Competency Evaluation Service (NACES Plus Foundation) [an affiliated corporation with the Texas Nurses Association (TNA)]. The Texas BON has a strong and ongoing working relationship with Texas Nurses Association (TNA), which is corporately affiliated with the Nurse Aide Competency Evaluation Service (NACES). NACES has been the subcontracted entity for nurse aide exams in Texas for several years, in conjunction with Pearson Vue.

In January, 2009, the Legislative Budget Board (LBB) published the Texas State Government Effectiveness and Efficiency Report, specifically studying the regulation of CNAs. In the article titled “Improve Regulation of Certified Nurse Aides”, the LBB made five recommendations which included transferring the regulation of CNAs to the Texas Board of Nursing. During the 81st legislative session, Senator Jane Nelson introduced Senate Bill 791 which would transfer the regulation of CNAs to the Texas Board of Nursing. Senate Bill 791 would have created a consistent regulation and training program for CNAs within the Texas Board of Nursing to regulate CNAs and nurse aide training and competency programs. The bill would have required the BON to establish an advisory committee to advise BON on training CNAs and increases the number of training hours required for a CNA program and enter into an interagency contract with the Health and Human Services Commission and DADS for purposes of a nurse aide registry. This bill passed the Senate and was left pending in the House Public Health Committee.

The transfer of this program would have tremendous implications on BON resources. The BON's interpretation of funding for this program is that it is limited to federal dollars and the Board would not have the legal authority to assess additional fees to CNAs to cover actual costs that are beyond the federal funding threshold. If this remains the situation, the Texas BON would consider raising additional revenue from other BON licensees to cover the costs to run this program effectively.

## **Issue #5: Adoption of Nurse Licensure Compact**

### Brief Description of Issue

Should the new Nurse Licensure Compact be adopted?

#### **A. Discussion**

What specific problems or concerns are involved in this issue?

In 2015, 25 states have joined the original Nurse Licensure Compact (NLC) passed by Texas in 1999. Noting the slowing rate of adoption of the Compact in 2013, the Compact Administrators initiated discussions with non-compact states to identify barriers. These discussions identified concerns that uniform licensure requirements were not included in the NLC. In addition, a number of drivers of change at the national level have impacted the ongoing need for national recognition of licensure including the need for affordable healthcare; the need to improve access to care for the growing geriatric population and those in rural or underserved areas; the need to reduce medical errors and prevent chronic illness; and the availability of improved telehealth technology to make specialty and more convenient care readily available.

Formal meetings with all states over a period of a year resulted in agreement on a set of uniform licensure requirements and a recommendation to incorporate such requirements in a new NLC. The new Compact contains uniform licensure requirements under Article III (c). (See attachment 24, New Nurse Licensure Compact.)

In addition, other improvements to the NLC were added as recommended by the Compact Administrators including strengthened enforcement and oversight of the compact and rulemaking. These provisions were added to facilitate better administration of the Compact. With respect to rulemaking authority, the adoption of rules on a state by state basis results in a very lengthy adoption process, sometimes resulting in years of delay. The rulemaking provision is similar to provisions of other modern day Interstate Compacts such as the Interstate Compact for Adult Supervision, the Interstate Compact for Juveniles, and the Interstate Compact on Educational Opportunity for Military Children.

The new Compact was adopted by the National Council of State Boards of Nursing Delegate Assembly on May 4, 2015. The current member states of the NLC as well non-compact states will be introducing the new compact in future legislative sessions. With respect to the implementation of the new NLC, Article X of the new compact states,

a. This Compact shall become effective and binding on the earlier of the date of legislative enactment of this Compact into law by no less than twenty-six (26) states or December 31, 2018. All party states to this Compact, that also were parties to the prior Nurse Licensure Compact, superseded by this Compact, ("Prior Compact"), shall be deemed to have withdrawn from said Prior Compact within six (6) months after the effective date of this Compact.

b. Each party state to this Compact shall continue to recognize a nurse's multistate licensure privilege to practice in that party state issued under the Prior Compact until such party state has withdrawn from the Prior Compact.

- Who does this issue affect?

Should Texas not adopt the new Compact, the benefits of the current Compact would diminish and more than likely eventually become non-existent. Nurses would lose a benefit that Texas nurses have had for 15 years. It would result in limited mobility of nurses coming to Texas; more costly licensure; and potentially reduce the supply of nurses. Employers would experience delays in licensure of nurses to meet immediate patient care needs.

- What is the agency's role related to the issue?

The agency administers the Nurse Licensure Compact for the State and takes disciplinary action against nurses practicing on a Compact license if appropriate. The agency works with other Compact states to facilitate implementation of this interstate agreement and ensure compliance with its provisions.

- Any previous legislative action related to the issue?

Adopted by the Texas Legislature in 1999 (House Bill 1342), the NLC is codified in Chapter 304 of the Texas Occupations Code.

#### **A. Possible Solutions and Impact**

Provide potential recommendations to solve the problem. Feel free to add a more detailed discussion of each proposed solution, including:

- How will the proposed solution fix the problem or issue?

Allow a well-tested and successful model of licensure to continue and evolve to meet the health care supply needs of the state and the nation.

- How will the proposed change impact any entities or interest groups?

The new compact uniform licensure requirements are not new requirements for licensure as a Registered Nurse or Licensed Vocational Nurse in Texas, with the exception of Article III (c) (7) which would result in non-eligibility for a multistate license for an applicant or licensee who “has been convicted or found guilty, or has entered into an agreed disposition of a felony offense under applicable state or federal criminal law”. These are currently evaluated on a case by case basis. Under the new law, the applicant or nurse with a felony conviction would not be eligible for a multistate license but could be granted a single state license by the Board of Nursing according to the rules of the Board.

The new Compact also contains a Grandfathering provision providing that any licensee who has a current multistate license may retain that license but if the licensee changes primary state of residence after the Compact’s effective date, they must meet the Article III (c) requirements to obtain a new multistate license, and a nurse who fails to satisfy the Article III (c) requirements due to a disqualifying event that occurs after the effective date of the Compact, shall be ineligible to retain or renew a multistate license.

The new Compact provides for rulemaking by the Compact Administrators consistent with the Model Administrative Procedures Acts. Please see Attachment 25, Key Provisions of the Nurse Licensure Compact. This change may be perceived by external stakeholders as limiting their ability to have input into rulemaking. The Compact Administrators (Interstate Commission of Nurse Compact Administrators) will be considering the formation of an advisory committee to address such concerns.

- How will your agency’s performance be impacted by the proposed change?

Because the changes are minimal for the Texas Board of Nursing, the Board does not anticipate any significant change in performance.

- What are the benefits of the recommended change?

The new Compact would result in uniformity among states, potential adoption of the Compact by the majority of states, better oversight and enforcement of the Compact, and ability to timely adopt rules to respond to the changing environment.

- What are the possible drawbacks of the recommended change?

A small number of applicants with felony convictions and nurses will not be eligible for a multistate license but may still be eligible for a single state license.

- What is the fiscal impact of the proposed change?

None anticipated.

## **Issue #6: Non Therapeutic Prescribing**

### **A. Brief Description of Issue**

Over the last biennium, the Board has received an increasing number of complaints regarding advanced practice registered nurses (APRNs) who practice in pain clinic settings that are best described as "pill mills". In these cases, APRNs prescribed dangerous combinations of controlled substances to patients in quantities that pose a higher risk of harm to the patients than any therapeutic benefit. Further, the APRNs failed to perform any meaningful assessment of the patients or evaluate the patients for potential aberrant behavior. These increased numbers provide a significant strain on agency resources to prosecute effectively. Does the Board have all the reasonable regulatory authority and tools to effectively address the increase in practice violations?

### **B. Discussion**

As the number of complaints in this area has increased, an additional burden has been placed on the Board's resources. Non therapeutic prescribing cases are fairly complex and usually require cooperation with investigators and attorneys from other agencies, such as the Texas Medical Board and the Department of Public Safety. Further, the Board must retain experts to evaluate whether the standard of care has been breached with regard to the patient's assessment and diagnosis and whether the prescribed medications and treatment regimen, if any, meet standards. Obtaining records can also be an additional challenge. Many times a facility's medical records have already been seized by a federal agency such as the Drug Enforcement Administration. While reliance on information from the Texas Department of Public Safety is often helpful during the Board's investigatory process, reliance on such information alone may create additional burdens for the Board during the adjudicative process.

In fiscal years 2014 and 2015, the Board received an influx of complaints related to non-therapeutic prescribing.

Although relatively few were closed due to lack of evidence, at least (44) were transferred to the agency's legal department for resolution. Of the forty four (44) cases received by the legal department, sixteen (16) have been resolved through settlement, (9) nine have been set for hearing, and nineteen (19) are awaiting docketing. Twenty one (21) cases currently remain in the investigative stage, and seventeen (17) cases have yet to be assigned to an investigator. If these trends continue, additional resources will be required for the ongoing investigation and litigation of these complex cases. External experts with knowledge of the standard of care in this area will need to be retained and will significantly increase the cost of resolving these cases. Further, sustained increases in the number of these cases will require additional staff; specifically, investigators and attorneys to ensure that these cases are investigated expeditiously and litigated appropriately.

In February 2014, the Board adopted rules specifically related to pain management in an effort to provide additional guidance to APRNs practicing in this area. However, additional changes may be needed to assist the Board in resolving these cases. In 2009, the Board was granted new temporary suspension authority under HB 3961 to address nurses who tested positive for alcohol/drugs; refused to comply with a Board Order to submit to a drug/alcohol test; or failed to satisfactorily complete a peer assistance program. HB 3961 created a statutory framework that permitted the Board to immediately suspend a nurse's license and remove the nurse from practice, provided the nurse received a hearing at the State Office of Administrative Hearings to review the suspension. Originally, the hearing was required to be scheduled within fourteen (14) days of the Board's suspension; however, in 2011, the statute was amended to permit the hearing to be held within seventeen (17) days of the Board's suspension.

### **C. Possible Solutions and Impact**

In 2015, the Legislature authorized in HB 1 additional funds to address the growing and anticipated increases in expert witness costs. The magnitude time and resources need to prosecute case load at SOAH will require other strategies than merely the cost of experts, however.

For example, the Board's ability to temporarily suspend a nurse's license is currently limited to the statutory scheme set forth in the Occupations Code §301.455 and §301.4551. Although an individual's non therapeutic prescribing practices often pose a continuing and imminent threat to the public, it is difficult for the Board to garner and produce evidence sufficient to sustain a Board suspension under §301.455 within the very abbreviated time frame for trial prescribed in the statute. As a result, the Board is sometimes prevented from temporarily suspending a nurse's license under §301.455 in a timely manner, even though the nurse's continued practice is dangerous for patients and the public. The Board believes that amendments to the Nursing Practice Act may be necessary to address this ongoing issue. The Board believes that more flexibility in the deadlines similar to §301.4551 would allow the Board to better address a portion of the nontherapeutic prescribing complaints it receives. If the Nursing Practice Act provided specific criteria that would justify the temporary suspension of an APRN's license(s) and prescriptive authority in pain management settings, the Board would be able to initiate temporary suspension proceedings in a timelier manner, and on a larger scale to address what appears to be a growing public health issue. This type of statutory amendment would continue to ensure APRNs an appropriate level of due process while protecting patients and the public from dangerous prescribing practices.

## **Issue #7: Alternative Models to Traditional Discipline/Just Culture**

### **A. Brief Description of Issue**

The Board has been encouraged by the Nursing Community to explore solutions in disciplinary regulation of the practice of nursing that is less punitive to the individual practitioner yet can verify competency and public safety. Are there better ways to encourage compliance, verify competency and practice just culture principles in nurse regulation?

## B. Discussion

Over the last few years, *Just Culture* has become a prominent theme in nursing regulation. *Just Culture* recognizes that systems issues often contribute to practice breakdown and seeks to correct the cause of such systems issues instead of assigning blame to individuals who commit practice violations. *Just Culture*, however, does not tolerate risky or conscious disregard for risks to patients or gross misconduct. Instead, the goal of *Just Culture* is to promote patient safety by addressing, and possibly, preventing, the sources of human error. The Board incorporated the use of a tool developed by the National Council of State Boards of Nursing (NCSBN) to track elements of nursing practice breakdown with a goal of learning from the experience of nurses who have been involved in practice breakdown. The Taxonomy of Error Root Cause Analysis and Practice-responsibility (TERCAP) tool is used during the Board's investigative process and de-identified data is shared with NCSBN to study the elements of practice breakdown. The Board shares systems issues identified through this tool to inform Chief Nursing Officers so that they may consider changes in the practice setting to prevent similar future incidents and improve safety (Tex. Occ. Code 301.457 (g)). In addition, recognizing that not all situations involve reckless or at-risk behavior, the Board has implemented several alternatives to traditional discipline that are consistent with the morays of *Just Culture*.

## C. Possible Solutions and Impact

### Deferred Discipline

Senate Bill (SB) 1415, enacted by the 81st Texas Legislature, Regular Session, effective September 1, 2009, authorized the Board to conduct a pilot program to evaluate the efficacy and effect of deferring disciplinary actions against individuals. The Board adopted rules establishing the parameters of the pilot program and creating a deferred disciplinary action pilot program advisory committee (committee) to assist the Board in overseeing and evaluating the pilot program on July 12, 2010, and the pilot program began on February 1, 2011.

Due to the success of the pilot program, in October 2012, the Board filed a report with the Legislature, summarizing the results of the pilot program and recommending that deferred discipline become a permanent part of the Nursing Practice Act. The 83rd Texas Legislature amended the Nursing Practice Act in 2013, making deferred discipline a permanent alternative to traditional discipline in Texas.

Prior to the enactment of SB 1415, any discipline taken against an individual's nursing license would remain a public Order of discipline for the duration of the individual's career. SB 1415 created a vehicle for a disciplinary Order to become confidential, under certain conditions, after a specified period of time. Under the Board's deferred discipline, an individual who receives a deferred disciplinary action must complete certain remediation, such as remedial education courses or supervised practice for a specified period of time. Once the individual completes the required remediation, the individual's nursing license is returned to an unencumbered status. When the period of deferment has elapsed, the deferred disciplinary Order becomes confidential under state law. Currently, the period of deferment is five years from the effective

date of the deferred disciplinary Order. The Board remains cognizant, however, that a lesser period of deferment may need to be considered in the future. Because the parameters of deferred discipline are largely set out in Board rule, the Board will be able to monitor and accommodate such changes to this alternative disciplinary model if supported by the data and experience in real time.

### **Corrective Actions**

Senate Bill (SB) 1415, enacted by the 81st Texas Legislature, Regular Session, effective September 1, 2009, also authorized the Board to offer a corrective action as a resolution to certain violations of the Nursing Practice Act and Board rules and/or policies. Another alternative to traditional discipline, a corrective action is a confidential, non-disciplinary action that may consist of a fine, remedial education, or a combination of a fine and remedial education. In November, 2009, the Board adopted rules to specify the types of violations that would be eligible for resolution through a corrective action. Due to the success of this alternative to discipline, the Board amended its rules in July 2014 to permit low level practice violations (those not involving a serious risk of harm to the public or patients) to be resolved through a corrective action. More serious conduct that poses a higher risk of harm to patients or the public continues to be evaluated and sanctioned pursuant to the Board's traditional disciplinary policies, procedures, and requirements at this time. However, the Board continues to monitor disciplinary trends that would support the expansion of corrective actions in the future.

### **The Knowledge, Skills, Training, Assessment and Research (KSTAR) Pilot Program**

Early in 2013, the Board began discussions with the Texas A&M Health Science Center Rural and Community Health Institute (RCHI) to offer an alternative to traditional nursing discipline through an innovative customized training and educational program. In 2007, RCHI developed a successful assessment program for physicians needing to demonstrate clinical skills and a knowledge base. The program was named KSTAR (Knowledge, Skills, Training, Assessment, and Research). Based upon the success of the physician KSTAR program, the Board partnered with RCHI to offer a similar program to nurses who committed practice violations of the Nursing Practice Act or Board rules. In October 2013, the Board approved a two year pilot program to implement the KSTAR program for nurses. The program was intended to evaluate the use of individualized competency assessments and targeted remediation plans for nurses with demonstrated practice deficiencies. The KSTAR pilot program permits a nurse to complete individualized remediation without the on-going monitoring and supervision typically associated with a traditional disciplinary model. Twenty two nurses have participated in the pilot program to date, with an expected additional 3 enrolling prior to the end of 2015. The Board continues to monitor the success of the individuals in the pilot program, which may prove to be a worthwhile long-term alternative to traditional discipline.

## **Issue #8: Mental Health Issues and Traditional Discipline**

### **A. Brief Description of Issue**

When mental health issues or diminished mental capacity rise to the level of concern, is the traditional disciplinary authority of the Board sufficient?

### **B. Discussion**

Individuals holding a nursing license in Texas must be fit to practice nursing with reasonable skill and safety. Sometimes, an individual's mental health status may affect his/her fitness to practice. In such situations, it may become necessary for the Board to intervene to ensure safe and competent nursing practice but the Agency must be able to narrowly tailor such regulation or run the risk of violating individual rights under the Americans with Disabilities Act.

### **C. Possible Solutions and Impact**

In 2013, SB 1058 granted confidential status to Board orders requiring an individual to participate in an approved peer assistance program. Currently, the Texas Peer Assistance Program for Nurses (TPAPN) provides assistance to nurses with substance use disorders, issues with alcohol or drug abuse or misuse, and mental health issues. Prior to 2013, however, these types of orders were not permitted to be confidential.

Participation in the peer assistance program is voluntary. There are times when a nurse may not wish to participate in the program or when participation in board approved program is not the most appropriate option for the nurse. In these situations, no confidential alternative is available for the resolution of the matter. For nurses with mental health issues, this often means that the nurse's mental health history may be disclosed in a public disciplinary order. While mental health issues must be reviewed and may be monitored by the Board to ensure ongoing safe and competent nursing practice, the Board believes that an alternative statutory mechanism may be necessary to protect nurses' mental health history from public disclosure.

The Legislature has already approved an alternative to traditional public disciplinary order within the last few years that could apply to individuals with mental health issues. Utilizing the framework similar to section 301.466(d) of the NPA, the Board might be provided authority to enter into an order (not just those requiring participation in a peer assistance program) addressing an individual's mental health status and that order would remain confidential unless there is a subsequent violation. This would allow the Board to monitor the individual's conduct to ensure safe nursing practice, while protecting the individual's private medical information.

## **Issue #9: Military Support**

### **A. Brief Description of Issue**

Over the past few years, new issues have emerged affecting veterans and military personnel seeking occupational licensure. Veterans seek credit toward licensing requirements based upon the medical training they received in their service branch, military personnel and their

spouses seek expedited licensure in Texas when they must quickly transfer to the state, and military nurses seek expedited licensure when they are sent to Texas for training that includes the direct care of civilian patients. Further, potential inconsistencies among Department of Defense and state nursing regulations may affect the ability of the Board to appropriately regulate nursing practice in this state. Even with these complexities, the Board has implemented several initiatives to address these issues for veteran and military communities and will continue to do so.

## **B. Discussion**

The first issue of significance resulted from the Base Realignment and Closure (BRAC) Act of 1990 (amended 2005). This Act required the Department of Defense (DOD) to close certain military installations and facilities, including hospitals and other medical facilities. As a result, the DOD planned on entering into agreements with civilian hospitals to conduct initial and ongoing training of military personnel. San Antonio became a primary site for military branches to consolidate training for nursing personnel.

In Fiscal Year 2010, the Board was contacted by representatives of the Air Force Reserves and the Navy to begin the process of deploying active duty and reserve military nurses for training in civilian facilities. However, some of these nurses did not hold a Texas nursing license or a privilege to practice nursing in Texas based upon the Nurse Licensure Compact. If one of these nurses committed a violation of the Nursing Practice Act or Board rules while practicing in Texas, the Board would be without jurisdiction to investigate the incident and take appropriate disciplinary action. This raised concerns about the Board's ability to protect the welfare of its citizens.

A second issue resulted from an increased concentration of military operations moving to Texas. Military personnel, including servicemen's families and spouses, were relocated to Texas, often with little advanced notice. Some of these spouses were nurses holding licenses to practice nursing in other states. Upon relocating to Texas, these individuals needed to obtain licensure in Texas. The need to receive an expedited license became a concern for these individuals.

A third issue resulted from the wind down of the wars in Iraq and Afghanistan, after which, the DOD experienced drastic budget cuts, resulting in the discharge of thousands of active duty personnel. These individuals were suddenly without employment, and in some cases, without the skills needed to transition to the civilian job market and support their families. Although, some of these affected personnel had limited mission-related training as medics or corpsmen, they did not meet the requirements to hold a nursing license in Texas. This raised questions regarding the Board's ability to credit licensing requirements for these individuals, based upon the training they received in their respective service branches.

The final issue of significance involves the employment of military nurses and civilian nurses in military hospitals. Military hospitals in Texas employ and utilize military nurses licensed in other states, as well as civilian nurses licensed in Texas. However, nursing laws related to nursing delegation and scope of practice are not uniform nationwide. As a result, the policies of the

DOD and Department of Veterans Affairs may be inconsistent with Texas' regulations. Texas civilian residents receive care in these facilities, and Texas civilian nurses are subject to Texas regulations. As such, there is a potential inconsistency between the state's regulations and the regulations of the DOD in this regard.

### **C. Solutions and Impact**

The Board has attempted to respond to the needs of the veteran and military community through rulemaking and agency policy.

First, the Board has created a licensure exception process, by which the nurse files an endorsement application with the Board and provides his/her military clearance document. The Board's Licensing team then verifies the individual's out of state nursing license(s) and issues a 120 day temporary license to the individual without a fee. If the nurse remains in Texas beyond 120 days, the nurse is then required to take a jurisprudence exam (available from the Board's website) and is issued a permanent Texas license. Second, in an attempt to expedite the licensure process, the Board adopted Rules 217.6(h) and (j), which provides licensure renewal exceptions for actively deployed nurses and their spouses. Furthermore, the Board has designated one point of contact to address military issues in an expedited manner and created a web page specifically for military personnel and their spouses. The webpage addresses educational mobility, the Board's licensure process, licensure exceptions, continuing education, and provides information regarding other resources.

The Board has also attempted to develop ways to support the military's efforts to train nursing personnel in Texas. The Board met with military nursing leadership from the Army, Navy, and Air Force, as well as Texas nursing education programs to discuss the gaps in the training received by a military medic/corpsman and that received by a nursing student. The National Council of State Boards of Nursing has published a report regarding these gaps, and Texas nursing education programs have responded by establishing programs designed specifically for this population. These programs may lead to certificates or degrees in vocational or professional nursing. The Board also researched available options for educational mobility in the civilian sector.

Further, the Army, Navy, and Air Force have each approached the Board in the past year to discuss an expansion in the scope of practice for nurses providing care to military personnel and their dependents. Staffing shortages have resulted in the need to consider expanding the registered nurse (RN) scope of practice, as well as expanding the concept of nurse delegation for activities not currently authorized for delegation under state law. There are concerns regarding the legal authorization to permit such expansion, however. As a result, discussions regarding these issues remain ongoing at this time.

Finally, the Veterans Health Administration (VHA) has contacted the Board to discuss its policy change to allow advanced practice registered nurses (APRNs) to work independently in the civilian community while caring for veterans in their homes. The VHA is proposing to allow its APRNs to work independently, even in states whose laws require physician oversight of these clinicians. APRNs include nurse practitioners (NPs), certified registered nurse anesthetists

(CRNAs), certified nurse-midwives, and clinical nurse specialists. Texas law does not permit the independent practice of APRNs. As such, these discussions remain ongoing.

## X. Other Contacts

- A. Fill in the following charts with updated information on people with an interest in your agency, and be sure to include the most recent email address.

### Texas Board of Nursing Exhibit 14: Contacts

#### Interest Groups

*(groups affected by agency actions or that represent others served by or affected by agency actions)*

Group or Association Name/ Contact Person	Address	Telephone	Email Address
Texas Organization of Nurse Executives (TONE)/Cole Edmonson-President	PO Box 26496 Austin, TX 78755-6496	(512) 220-4292	<a href="mailto:ColeEdmonson@texashealth.org">ColeEdmonson@texashealth.org</a>
Patricia Yoder-Wise/Nursing Education Task Force Chair	Texas Tech Health Science Center School of Nursing 3601 4th St Stop 6264 Lubbock, TX 79430-6264	(806) 743-2730	<a href="mailto:psywrn@aol.com">psywrn@aol.com</a>
Texas Organization of Nurse Executives (TONE)/Cynthia Plonien-ACE member	PO Box 26496 Austin, TX 78755-6496	(817)938-6808	<a href="mailto:cplonien@gmail.com">cplonien@gmail.com</a>
TONE/Jane McCurley-President Elect	PO Box 26496 Austin, TX 78755-6496	(512) 220-4292	<a href="mailto:Jane.McCurley@stdavids.com">Jane.McCurley@stdavids.com</a>
Texas Nurse Practitioners / Emily Eastin-Executive Director	4425 S. Mopac, Bldg III Suite 405 Austin, TX 78735	(512) 291-6224	<a href="mailto:admin@texasnp.org">admin@texasnp.org</a>
Texas Nurse Practitioners/Michael Hazel-President	4425 S. Mopac, Bldg III Suite 405 Austin, TX 78735	(512) 291-6224	<a href="mailto:Mikefnp@gmail.com">Mikefnp@gmail.com</a>
Texas Nurse Practitioners/Jan Zdanuk-President Elect	4425 S. Mopac, Bldg III Suite 405 Austin, TX 78735	(512) 291-6224	<a href="mailto:admin@texasnp.org">admin@texasnp.org</a>

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Group or Association Name/ Contact Person	Address	Telephone	Email Address
Texas Nurse Practitioners/Lara Boyett-APNAC member	4425 S. Mopac, Bldg III Suite 405 Austin, TX 78735	(512) 291-6224	<a href="mailto:Larab40@gmail.com">Larab40@gmail.com</a>
Coalition for Nurses in Advanced Practice (CNAP)/Lynne Hudson-APNAC member	8501 N. Mopac Expressway, Suite 400 Austin, TX 78759	(512)217-3352	<a href="mailto:l.hudson@sbcglobal.net">l.hudson@sbcglobal.net</a>
Coalition for Nurses in Advance Practice (CNAP)/Kathy Hutto	8501 N. Mopac Expressway, Suite 400 Austin, TX 78759	(512)236-2018	<a href="mailto:khutto@jw.com">khutto@jw.com</a>
University of Houston-Victoria/Kathryn Tart	3007 N. Ben Wilson, Victoria, TX 77901	361-570-4295 / 832-842-8218	<a href="mailto:tartk@uhv.edu">tartk@uhv.edu</a>
Texas Team Education Committee, Trinity Valley Community College/Helen Reid	Trinity Valley Community College 800 Ed Hall Dr. Kaufman, TX 75142	972-932-5720	<a href="mailto:hreid@tvcc.edu">hreid@tvcc.edu</a>
Covenant School of Nursing/Alicia Anger-ACE member	Covenant School of Nursing 2002 West Loop 289, Ste 120 Lubbock, TX 79407	(806) 787-9157 (806) 797-0955	<a href="mailto:aanger@covhs.org">aanger@covhs.org</a>
Texas Organization of Associate Degree Nursing (TOADN)/Joan Becker-ACE member & E&D Committee member	El Centro College 801 Main St Dallas, TX 75202	972-860-5098	<a href="mailto:jbecker@dccd.edu">jbecker@dccd.edu</a>
Texas Organization of Baccalaureate and Graduate Nursing Education (TOBGNE)/Sharon Wilkerson-President-ACE member	Texas A&M Health Science Center College of Nursing 8447 State Hwy 47 College Station, TX 77807	(979) 436-0111	<a href="mailto:wilkerson@tamhsc.edu">wilkerson@tamhsc.edu</a>

Group or Association Name/ Contact Person	Address	Telephone	Email Address
TOBGNE/Michael Evans- President-elect	Texas Tech Health Science Center School of Nursing 3601 4th St Stop 6264 Lubbock, TX 79430-6264	(806) 743-2738	<a href="mailto:michael.evans@ttuhsc.edu">michael.evans@ttuhsc.edu</a>
Texas League for Nursing/Sharon Wilkerson- President	Texas A&M Health Science Center College of Nursing 8447 State Hwy 47 College Station, TX 77807	(979) 436-0111	<a href="mailto:wilkerson@tamhsc.edu">wilkerson@tamhsc.edu</a>
Texas School Nurse Organization (TSNO)/Frances Luna-President	TSNO 819 W. Arapaho Rd Suite 24-B #345 Richardson, TX 75080	<a href="mailto:francisluna.tsno@gmail.com">francisluna.tsno@gmail.com</a> <a href="mailto:fgluna@garlandisd.net">fgluna@garlandisd.net</a>	
Texas School Nurse Organization (TSNO)/Julie Lindley-Delegation TF member	TSNO 819 W. Arapaho Rd Suite 24-B #345 Richardson, TX 75080	(817) 251-5564	<a href="mailto:Vandygrad83@yahoo.com">Vandygrad83@yahoo.com</a>
Consortium of Texas Certified Nurse-Midwives/Carla Morrow- President	201 Walls Dr #502, Cleburne, TX 76033	(817) 556-7777	<a href="mailto:Midwivesoftexas@gmail.com">Midwivesoftexas@gmail.com</a>
TONE/Paula Webb-Treasurer	PO Box 26496 Austin, TX 78755- 6496	(806)743-2730 (512) 220-4292	<a href="mailto:paula.j.webb@ttuhsc.edu">paula.j.webb@ttuhsc.edu</a>
Texas Clinical Nurse Specialists/Alyce Ashcraft- President	PO Box 30436 Austin, TX 78755	(806)743-9202	<a href="mailto:Alyce.Ashcraft@ttuhsc.edu">Alyce.Ashcraft@ttuhsc.edu</a>
Greater Texas Chapter of the National Association of Pediatric Nurse Practitioners /Kim McHard-President	1935 Medical District Drive Dallas, TX 75235	(214) 456-8122	<a href="mailto:info@texasnapnap.com">info@texasnapnap.com</a>
Texas League of Vocational Nurses/Pamela Brashears-ACE member & E&D Advisory Committee member	306 East Adams Avenue, Temple, Texas 76501	(254) 853-2702	<a href="mailto:Pamela.brashears@va.gov">Pamela.brashears@va.gov</a> <a href="mailto:pblbn@hotmail.com">pblbn@hotmail.com</a>
Texas Association of Vocational Nurse Educators/Betty Sims – President, ACE, Eligibility & Discipline Committee & Education Task Force member	TAVNE PO Box 337 Luling, TX 78648	(361) 550-5351	<a href="mailto:bejsims@yahoo.com">bejsims@yahoo.com</a>

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Group or Association Name/ Contact Person	Address	Telephone	Email Address
TAVNE hospital based programs/April Ernst-President-elect and ACE member	204 Grooms Road Cibolo, TX 78108	(210) 391-0772	<a href="mailto:aprilernst.consulting@yahoo.com">aprilernst.consulting@yahoo.com</a>
TAVNE Career School Programs, Nancy Maebius-ACE member	200 Belvidere Drive San Antonio, TX 78212	(210) 822-3651	<a href="mailto:nanmaebius@aol.com">nanmaebius@aol.com</a>
Texas Nurses Association (TNA), Stephanie Woods-ACE member	The Houston J. and Florence A. Doswell College of Nursing, Texas Woman's University, 5500 Southwestern Medical Avenue, Dallas, TX 75235- 7299	(214) 689-6512	<a href="mailto:SWoods2@mail.twu.edu">SWoods2@mail.twu.edu</a>
TNA, Donna Richardson-NPAC member	Parkland Health and Hospital System,  5201 Harry Hines Blvd,  Dallas, TX 75235	(214) 590-3595	<a href="mailto:donna.richardson@phhs.org">donna.richardson@phhs.org</a>
Consortium of Texas Certified Nurse-Midwives, Annette Elsworth Jones-APNAC member	230 Stoney Hill Road Center Point, Texas 78010	(830) 634-7248  (830) 258-6237	<a href="mailto:ajones@petersonrhc.com">ajones@petersonrhc.com</a>

Group or Association Name/ Contact Person	Address	Telephone	Email Address
Texas Organization of Baccalaureate and Graduate Nursing Education (TOBGNE), Betty Adams-Nursing Education Task Force Member	6436 Fannin Street Suite 1202 Houston, TX 77030	(713) 797-7088	<a href="mailto:bnadams@pvamu.edu">bnadams@pvamu.edu</a>
Debora Simmons/Nursing Error & Just Culture Expert/E&D Advisory Committee member	St. Luke's Health System 6624 Fannin St. Houston, TX 77030	(281) 610-7028	<a href="mailto:deboratx@aol.com">deboratx@aol.com</a> <a href="mailto:Dsimmons1@sleh.com">Dsimmons1@sleh.com</a>
Texas Hospital Association/Elizabeth Sjoberg-NPAC & Delegation TF member	P. O. Box 679010 Austin, TX 78767	(512) 465-1000	<a href="mailto:esjoberg@tha.org">esjoberg@tha.org</a>
Texas Association of Deans and Directors Professional Nursing Programs (TADDPNP)/Marla Erbin-Roesmann-President, ACE Chair & NPAC member	Texas State University St. Davids School of Nursing 1555 University Blvd Round Rock, TX 78665	(512) 716-2900	<a href="mailto:Me16@txstate.edu">Me16@txstate.edu</a>
Texas Association of Homes and Services for the Aging (TAHSA), Vicky Ragsdale- NPAC Member	8809 Jodhpur Dr, Fair Oaks Ranch, TX 78015	(210) 380-5818	<a href="mailto:vragdale@satx.rr.com">vragdale@satx.rr.com</a>
Terrell State Hospital, Kathryn Griffin-NPAC member	1200 East Brin, P. O. Box 70, Terrell, TX 75160	(972) 551-8548	<a href="mailto:kathryn.griffin@dshs.state.tx.us">kathryn.griffin@dshs.state.tx.us</a>
Department of Aging and Disability Services, Michelle Dionne-Vahalik-NPAC Member	701 W. 51 <sup>st</sup> St., Mail Code W580, Austin, Texas 78751	(512) 438-5261	<a href="mailto:Michelle.Dionne-Vahalik@dads.state.tx.us">Michelle.Dionne-Vahalik@dads.state.tx.us</a>
Lakeway Regional Medical Center, Laura Miller-NPAC Chair	100 Medical Parkway, Lakeway, TX 78734	(512) 571-5130	<a href="mailto:laura.miller@lakewayregional.com">laura.miller@lakewayregional.com</a>

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Licensed Vocational Nurses Association of Texas (LVNAT)/ Peggy Roberts-ACE, NPAC and E&D Committee member	PO Box 143415, Austin, Texas 78714	(210) 833-2768	<a href="mailto:admin@lvnat.org">admin@lvnat.org</a> <a href="mailto:peggy@2368@att.net">peggy@2368@att.net</a>
Texas Department of Aging and Disability Services/Irma Elizondo-NPAC member	701 W. 51 <sup>st</sup> St., Mail Code W580, Austin, Texas 78751	(210) 431-5106	<a href="mailto:irma.elizondo@dads.state.tx.us">irma.elizondo@dads.state.tx.us</a>
Correctional Health, TTUHSC/Michael Jones-NPAC member	7120 I 40 West Building A – Suite 300 Amarillo, Texas 79106	(806) 356-5368	<a href="mailto:michael.w.jones@ttuhsc.edu">michael.w.jones@ttuhsc.edu</a>
UTMB Correctional Managed Care/Gary Eubanks-NPAC member	301 University Blvd. Galveston, TX 77555-1006	(936) 232-3685	<a href="mailto:gjeubank@utmb.edu">gjeubank@utmb.edu</a>
Consultant/Diane Moy, MSN, RN, PMHCNS-BC-NPAC Member	5657 Fairfax Dr., Frisco, TX 75034	(512) 659-7515	<a href="mailto:df78759@gmail.com">df78759@gmail.com</a>
Hospice Austin/Cynthia Morgan-Delegation TF member	4107 Spicewood Springs, Ste. 100 Austin, TX 78759	(512) 342-4700	<a href="mailto:cmorgan@hospiceaustin.org">cmorgan@hospiceaustin.org</a>
Developmental Disabilities Nurses Association/Diane Moore-DTF Chair	1501 South Loop 288 Ste. 104-381 Denton, TX 76205	(800) 888-6733	<a href="mailto:diane@ddna.org">diane@ddna.org</a>
Texas Council for Developmental Disabilities/Jessica Ramos-DTF member	6201 E. Oltorf, Ste. 600 Austin, TX 78741	(512) 437-5432	<a href="mailto:Jessica.ramos@tcdd.texas.gov">mailto:Jessica.ramos@tcdd.texas.gov</a>
ADAPT of Texas/Ron Cranston-DTF member	1640-A E. 2 <sup>nd</sup> St., Ste 100 Austin, TX 78702	(512) 442-0252	<a href="mailto:ronniebonners@aol.com">ronniebonners@aol.com</a>
ADAPT of Texas/Bob Kafka-DTF member	1640-A E. 2 <sup>nd</sup> St., Ste. 100 Austin, TX 78702	(512) 442-0252	<a href="mailto:Bob.adapt@sbcglobal.net">Bob.adapt@sbcglobal.net</a>

<b>Group or Association Name/ Contact Person</b>	<b>Address</b>	<b>Telephone</b>	<b>Email Address</b>
Advocacy, Inc./Susan Murphree-DTF member	7800 Shoal Creek Blvd, Ste. 171-E Austin, TX 78757	(800) 252-9108	<a href="mailto:smurphree@disabilityrightstx.org">smurphree@disabilityrightstx.org</a>
Texas Department of Aging and Disability Services/Sylvia Trevino-DTF member	5155 Flynn Pkwy Corpus Christi, TX 78411	(361) 878-3419	<a href="mailto:Sylvia.trevino@dads.state.tx.us">Sylvia.trevino@dads.state.tx.us</a>
BSN Education/Mary E. Mancini-Nursing Education TF member	UT-Arlington College of Nursing Box 19407 411 S. Nedderman Drive Arlington, TX 76-19-0407	(817) 272-2776	<a href="mailto:mancini@uta.edu">mancini@uta.edu</a>
Associate Degree Education/Dayna Davidson-Nursing Education TF member	Kilgore College 1100 Broadway Kilgore, TX 75662	(903) 988-3751	<a href="mailto:ddavidson@kilgore.edu">ddavidson@kilgore.edu</a>
Associate Degree Education/Cheryl Livengood-Nursing Education TF member	Weatherford College 1124 S. Rusk St Weatherford, TX 76086	(817) 598-6309	<a href="mailto:clivengood@wc.edu">clivengood@wc.edu</a>
Associate Degree Education/Evangeline DeLeon-Nursing Ed TF member	Del Mar College Dept of Nursing Ed 101 Baldwin Corpus Christi, TX 78404	(361) 698-2861	<a href="mailto:vdeleon@delmar.edu">vdeleon@delmar.edu</a>
Nursing Workforce/Employers/Sally Harper Williams-Nursing Ed TF member	Workforce Center Director DFWHC Foundation 250 Decker Dr. Irving, TX 75062	(972) 719-4900	<a href="mailto:sallyw@dfwhcfoundation.org">sallyw@dfwhcfoundation.org</a>
Nursing Workforce/Employers/Gail Acuna-Nursing Ed TF member	St. David's Institute for Learning 7800 Shoal Creek Blvd, Ste 124-S Austin, TX 78757	(512) 544-0100	<a href="mailto:Gail.acuna@stdavids.com">Gail.acuna@stdavids.com</a>
Nursing Workforce/Employers/Maureen Polivka-Nursing Ed TF Member	Hill Country Memorial Hospital 1020 Hwy 16S Fredericksburg, TX 78624	(830) 997-4353	<a href="mailto:mpolivka@hillcountrymemorial.org">mpolivka@hillcountrymemorial.org</a>

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Group or Association Name/ Contact Person	Address	Telephone	Email Address
Nursing Workforce/Employers/Jessica Ruiz-Nuring Ed. TF member	27 Marganita Crescent Austin, TX 78703	(512) 707-2300	<a href="mailto:Jessica.lynn.ruiz@gmail.com">Jessica.lynn.ruiz@gmail.com</a>
Vocational Nursing Education/Shellie Withrow- Nursing Education TF member	Austin Community College 3401 Webberville Rd Austin, TX 78702	(512) 223-5773	<a href="mailto:awithrow@austincc.edu">awithrow@austincc.edu</a>
TNA/Stan Harmon-APNAC member	8501 N. MoPac Expy., Ste 400 Austin, TX 78759-8396	(800) 862-2022	<a href="mailto:Sharmon413@aol.com">Sharmon413@aol.com</a>
Texas Clinical Nurse Specialists/Kathleen Baldwin- APNAC member	TCU TCU Box 298620 Ft Worth, TX 76129	(817) 257-6758	<a href="mailto:k.baldwin@tcu.edu">k.baldwin@tcu.edu</a>
Nurse Practitioner Education/Sherri Innerarity- APNAC member	1300 FM 2571 Smithville, TX 78957		<a href="mailto:sinnerarity@earthlink.net">sinnerarity@earthlink.net</a>
CNS Education/Kathy Baker- APNAC member	4707 Wood Springs Ct Arlington, TX 76017		<a href="mailto:Kathy.baker@tcu.edu">Kathy.baker@tcu.edu</a>
Nurse Midwifery Education/Barbara Camune- APNAC member	139 Stoneleigh Dr. Heath, TX 75032		<a href="mailto:Barbara_Camune@baylor.edu">Barbara_Camune@baylor.edu</a>
Glenn Alexander-APNAC member	<a href="mailto:acservices@yahoo.com">acservices@yahoo.com</a>		
Susan Willis-APNAC member	<a href="mailto:Swillis33@tx.rr.com">Swillis33@tx.rr.com</a>		
CNS Practice/Deborah Antai- Otong-APNAC member	<a href="mailto:Deborah-antai-ontong@va.gov">Deborah-antai-ontong@va.gov</a>		
Carolyn Sutton-APNAC member	<a href="mailto:Carolyn.sutton@utsouthwestern.edu">Carolyn.sutton@utsouthwestern.edu</a>		

Group or Association Name/ Contact Person	Address	Telephone	Email Address
LVNAT/Thelma Davis/E&D Advisory Committee member			<a href="mailto:thelmd@verizon.net">thelmd@verizon.net</a>
TOBGNE/Lena Ripstein/E&D Advisory Committee member			<a href="mailto:LRippstein@schreiner.edu">LRippstein@schreiner.edu</a> ; <a href="mailto:lenaripp@omniglobal.net">lenaripp@omniglobal.net</a>
TNA/Lolly Lockhart/E&D Advisory Committee member			<a href="mailto:ptschirc@utmb.edu">ptschirc@utmb.edu</a> <a href="mailto:lollylock@gmail.com">lollylock@gmail.com</a>
TONE/Deanna McKinney/E&D Advisory Committee member			<a href="mailto:dsm_pdm@hotmail.com">dsm_pdm@hotmail.com</a>
CNAP/Lynda Woolbert/E&D Advisory Committee member			<a href="mailto:Lynda.Woolbert@gmail.com">Lynda.Woolbert@gmail.com</a>

***Interagency, State, or National Associations***

*(that serve as an information clearinghouse or regularly interact with your agency)*

Group or Association Name/ Contact Person	Address	Telephone	Email Address
Texas Association for Home Care & Hospice/Rachel Hammon-Executive Director	TAHC, 3737 Executive Center Drive, Ste. 268, Austin, Texas 78731	(512) 338-9293	<a href="mailto:Rachel@tahc.org">Rachel@tahc.org</a>
Texas Nurses Association (TNA)/Margie Dorman O'Donnell-President	8501 N. MoPac Expy., Suite 400, Austin, TX 78759-8396	(800) 862-2022	<a href="mailto:tna@texasnurses.org">tna@texasnurses.org</a>
National Association of Clinical Nurse Specialists/Kathy Baldwin- APNAC member	2090 Linglestown Rd., Ste 107, Harrisburg, PA 17110	(717) 234-6799	<a href="mailto:k.baldwin@tcu.edu">k.baldwin@tcu.edu</a>
TNA/Cindy Zolnierrek- Executive Director	8501 N. MoPac Expy., Suite 400, Austin, TX 78759-8396	See above	<a href="mailto:CZolnierrek@texasnurses.org">CZolnierrek@texasnurses.org</a>
TNA/Sandra Kay Oliver	See above	See above	<a href="mailto:SKOLIVER@swmail.sw.org">SKOLIVER@swmail.sw.org</a>
TNA/Andrew Cates- Government Affairs	See above	See above	<a href="mailto:ACates@texasnurses.org">ACates@texasnurses.org</a>
Texas Association of Nurse Anesthetists (TANA)/Jim Walker-APNAC Chair	888 Banister Ln Austin, Texas 78704	(512) 495-9004	<a href="mailto:Jimwalker@houston.rr.com">Jimwalker@houston.rr.com</a>

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<b>Group or Association Name/ Contact Person</b>	<b>Address</b>	<b>Telephone</b>	<b>Email Address</b>
TANA/Sam Carlson- Executive Director	888 Banister Ln Austin, TX 78704	See above	<a href="mailto:sam@txana.org">sam@txana.org</a>

***Liaisons at Other State Agencies***

*(with which your agency maintains an ongoing relationship, e.g., the agency's assigned analyst at the Legislative Budget Board, or attorney at the Attorney General's office)*

<b>Agency Name/ Relationship/Contact Person</b>	<b>Address</b>	<b>Telephone</b>	<b>Email Address</b>
Texas Medical Board /Health Occupation Licensing Agency/Mari Robinson, Executive Director	333 Guadalupe St., Ste.3-610 Austin, TX 78701	(512) 305-7010	<a href="mailto:Mari.Robinson@tmb.state.tx.us">Mari.Robinson@tmb.state.tx.us</a>
Texas Board of Chiropractic Examiners/Health Occupation Licensing Agency/, Yvette Yarbrough Executive Director	333 Guadalupe St., Ste.3-825 Austin, TX 78701	(512) 305-6700	<a href="mailto:yvette.yarbrough@tbce.state.tx.us">yvette.yarbrough@tbce.state.tx.us</a>
Texas State Board of Dental Examiners/Health Occupation Licensing Agency/Julie Hildebrand, Interim Executive Director	333 Guadalupe St., Ste.3-800 Austin, TX 78701	(512) 463-6400	<a href="mailto:Julie.hildebrand@tsbde.state.tx.us">Julie.hildebrand@tsbde.state.tx.us</a>
Texas Optometry Board/Health Occupation Licensing Agency/Chris Kloeris, Executive Director	333 Guadalupe, Suite 2-420 Austin, TX 78701-3942	(512) 305-8500	<a href="mailto:Chris.kloeris@mail.capnet.state.tx.us">Chris.kloeris@mail.capnet.state.tx.us</a>
Texas State Board of Pharmacy /Health Occupation Licensing/Gay Dodson, Executive Director	333 Guadalupe, Suite 3-600 Austin, TX 78701	(512) 305-8000	<a href="mailto:Gay.dodson@tsbp.state.tx.us">Gay.dodson@tsbp.state.tx.us</a>
Executive Council of Physical Therapy and Occupational Therapy Examiners/Health Occupation Licensing/John Maline, Executive Director	333 Guadalupe, Suite 2-510 Austin, TX 78701	(512) 305-6900	<a href="mailto:john.maline@mail.capnet.state.tx.us">john.maline@mail.capnet.state.tx.us</a>
Texas Center for Nursing Workforce Studies, Center for Health Statistics, Department of State Health Services/Pam Lauer, Program Director	PO Box 149347 – MC 1898 Austin, Texas 78714- 9347	512-776-6723 (Office) 512-517-6902 (Mobile) 512-776-7344 (Fax)	<a href="mailto:Pamela.Lauer@dshs.state.tx.us">Pamela.Lauer@dshs.state.tx.us</a>

Agency Name/ Relationship/Contact Person	Address	Telephone	Email Address
Texas Department of Aging and Disability Services/Regulatory Agency – Nursing Home Abuse and Neglect/Lisa Glenn, Clinical Innovation Medical Director	701 W. 51 <sup>st</sup> St., Mail Code W580, Austin, Texas 78751	(512) 438-3530	<a href="mailto:Lisa.Glenn@dads.state.tx.us">Lisa.Glenn@dads.state.tx.us</a>
Texas Higher Education Coordinating Board-Donna Carlin-Assistant Director Workforce	1200 E. Anderson Lane, Austin, TX 78752  P.O. Box 12788, Austin, TX 78711-2788	(512) 427-6241	<a href="mailto:donna.carlin@thehb.state.tx.us">donna.carlin@thehb.state.tx.us</a>
Texas Workforce Commission-Sтивен Rye- Director of Career Schools and Colleges	101 E 15th St Austin, TX 78778-0001	512-463-6831	<a href="mailto:steve.rye@twc.state.tx.us">steve.rye@twc.state.tx.us</a>

**XI. Additional Information**

- A. Texas Government Code, Sec. 325.0075 requires agencies under review to submit a report about their reporting requirements to Sunset with the same due date as the SER. Include a list of each agency-specific report that the agency is required by statute to prepare and an evaluation of the need for each report based on whether factors or conditions have changed since the statutory requirement was put in place. Please do not include general reporting requirements applicable to all agencies, reports that have an expiration date, routine notifications or notices, posting requirements, federally mandated reports, or reports required by G.A.A. rider. If the list is longer than one page, please include it as an attachment.**

**Texas Board of Nursing  
Exhibit 15: Evaluation of Agency Reporting Requirements**

Report Title	Legal Authority	Due Date and Frequency	Recipient	Description	Is the Report Still Needed? Why?
Equal Employment Opportunity Report	Tex. Occ. Code §301.108	Annually	Office of the Governor	The Board is required to report its written policy ensuring implementation of an equal employment opportunity program under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin.	Statutorily required.

Report Title	Legal Authority	Due Date and Frequency	Recipient	Description	Is the Report Still Needed? Why?
Pilot Program Report	Tex. Occ. Code §301.160	Annually	Unspecified	The Board is required to issue a report regarding approved pilot programs designed to evaluate the maintenance of a nurse's clinical competence and comprehension of the laws and regulations governing the practice of nursing, including the program's effectiveness.	Yes. Data collection is ongoing.
Proceedings Under Chapter 301	Tex. Occ. Code §301.163	Annually	Office of the Governor	The Board is required to submit a report regarding its annual proceedings under Chapter 301.	No. "Annual proceeding" is undefined. Staff is unsure of what "proceedings" is not otherwise captured with other reporting requirements.
Report Regarding Dismissed Complaints	Tex. Occ. Code §301.204	Quarterly	Board of Nursing	The Executive Director is required to report dismissed complaints (dismissed due to lack of jurisdiction or for no violation).	Yes. The Board provides oversight and an additional check over complaints that are dismissed.
Report Regarding Deferred and Corrective Actions	Tex. Occ. Code §301.656	Periodically	Board of Nursing	The Executive Director is required to report the number of deferred and corrective actions imposed and the types of violations for which they were imposed.	Yes. The Board provides oversight and an additional check over how complaints are being resolved.

**B. Has the agency implemented statutory requirements to ensure the use of "first person respectful language"? Please explain and include any statutory provisions that prohibits these changes.**

Texas Gov't Code Chapter 392, which was enacted in 2011 by HB 1481, requires the legislature and the Texas Legislative Council to utilize preferred language in statutes and resolutions regarding persons with disabilities. The Board has implemented similar changes in its rules and policies for consistency with this legislative mandate. For example, the Board recently approved changes to its disciplinary sanction policies related to substance use disorders and other alcohol and drug related conduct; lying and falsification; and fraud, theft, and deception. A portion of the approved changes included preferred language consistent with HB 1481. The Board also recently approved changes to Board rules 213.28 and 213.29, which also included preferred language consistent with HB 1481. The Board has also compiled a listing of its other rules, position statements, and resource material that may need to be amended to include preferred language consistent with HB 1481. The Board will be making these changes in the future in an effort to remain consistent with the provisions of HB 1481.

**C. Fill in the following chart detailing information on complaints regarding your agency. Do not include complaints received against people or entities you regulate. The chart headings may be changed if needed to better reflect your agency's practices.**

**Texas Board of Nursing  
Exhibit 16: Complaints Against the Agency — Fiscal Years 2013 and 2014**

	Fiscal Year 2013	Fiscal Year 2014
Number of complaints received	N/A	N/A
Number of complaints resolved	N/A	N/A
Number of complaints dropped / found to be without merit	N/A	N/A
Number of complaints pending from prior years	N/A	N/A
Average time period for resolution of a complaint	N/A	N/A

The following cases are pending against the Board in District Court:

- (A) Cause No. D-1-EX-09-000516  
*Ex Parte Brian Zalesky, in the 427th Judicial District Court, Travis County, Texas*
- (B) Cause No. C-2541-10-B  
*Bernardino Pedraza, Jr. vs. Texas State Board of Nursing, in the 93rd Judicial District, Hidalgo County, Texas*
- (C) Cause No. D-1-GN-12-003118  
*Rodney Wayne Hicks vs. Texas Board of Nursing, and in their official capacities only, Katherine Thomas, Executive Director, and Kristin K. Benton, President of the Board, in the 353rd Judicial District Court, Travis County, Texas*
- (D) Cause No. D-1-GN-12-003072  
*Stanley Payne, Plaintiff, vs. Texas Board of Nurse Examiners a/k/a Texas Board of Nursing, Defendant, in the 126th Judicial District Court, Travis County, Texas*

- (E) Cause No. D-1-GN-13-002487  
*Jane Otieno vs. Texas Board of Nursing, in the 201st District Court, Travis County, Texas*
- (F) Cause No. D-1-GN-14-002410  
*Darlene Moriarity vs. Texas Board of Nursing, in the 53rd District Court, Travis County, Texas*
- (G) Cause No. D-1-GN-14-002109  
*Davina Danielle Moore vs. Texas Board of Nursing, in the 126th District Court, Travis County, Texas*
- (H) Cause No. 429-01709-2015  
*Rosemary Hall vs. Texas Board of Nursing, in the District Court, Collin County, Texas*

**D. Fill in the following charts detailing your agency's Historically Underutilized Business (HUB) purchases.**

**Texas Board of Nursing  
Exhibit 17: Purchases from HUBS**

**Fiscal Year 2013**

Category	Total \$ Spent	Total HUB \$ Spent	Percent	Agency Specific Goal	Statewide Goal
Heavy Construction	\$0.00	\$0.00	0.00%	NA	11.20%
Building Construction	\$0.00	\$0.00	0.00%	NA	21.10%
Special Trade	\$0.00	\$0.00	0.00%	NA	32.70%
Professional Services	\$32,844.00	\$31,352.00	95.46%	20%	23.60%
Other Services	\$1,331,901.00	\$57,803.00	4.34%	20%	24.60%
Commodities	\$354,033.00	\$105,206.00	29.72%	20%	21.00%
<b>TOTAL</b>	<b>\$1,718,778.00</b>	<b>\$194,361.00</b>	<b>11.31%</b>	<b>20%</b>	

**Fiscal Year 2014**

<b>Category</b>	<b>Total \$ Spent</b>	<b>Total HUB \$ Spent</b>	<b>Percent</b>	<b>Agency Specific Goal</b>	<b>Statewide Goal</b>
Heavy Construction	\$0.00	\$0.00	0.00%	NA	11.20%
Building Construction	\$0.00	\$0.00	0.00%	NA	21.10%
Special Trade	\$0.00	\$0.00	0.00%	NA	32.70%
Professional Services	\$27,628.00	\$0.00	0.00%	20%	23.60%
Other Services	\$2,012,809.00	\$116,030.00	5.76%	20%	24.60%
Commodities	\$374,021.00	\$91,001.00	24.33%	20%	21.00%
<b>TOTAL</b>	<b>\$2,414,458.00</b>	<b>\$207,031.00</b>	<b>8.57%</b>	<b>20%</b>	

**Fiscal Year 2015**

<b>Category</b>	<b>Total \$ Spent</b>	<b>Total HUB \$ Spent</b>	<b>Percent</b>	<b>Agency Specific Goal</b>	<b>Statewide Goal</b>
Heavy Construction	\$0.00	\$0.00	0.00%	NA	11.20%
Building Construction	\$0.00	\$0.00	0.00%	NA	21.10%
Special Trade	\$0.00	\$0.00	0.00%	NA	32.70%
Professional Services	\$0.00	\$0.00	0.00%	20%	23.60%
Other Services	\$0.00	\$0.00	0.00%	20%	24.60%
Commodities	\$0.00	\$0.00	0.00%	20%	21.00%
<b>TOTAL</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>0.00%</b>	<b>20%</b>	

**E. Does your agency have a HUB policy? How does your agency address performance shortfalls related to the policy? (Texas Government Code, Sec. 2161.003; TAC Title 34, Part 1, rule 20.15b)**

The agency does not have an agency specific HUB policy. The Board follows the Comptroller HUB policies and procedures.

**F. For agencies with contracts valued at \$100,000 or more: Does your agency follow a HUB subcontracting plan to solicit bids, proposals, offers, or other applicable expressions of**

**interest for subcontracting opportunities available for contracts of \$100,000 or more?  
(Texas Government Code, Sec. 2161.252; TAC Title 34, Part 1, rule 20.14)**

The Board has only one contract valued over \$100,000 and this contract is not with a HUB vendor.

**G. For agencies with biennial appropriations exceeding \$10 million, answer the following HUB questions.**

**1. Do you have a HUB coordinator? If yes, provide name and contact information.  
(Texas Government Code, Sec. 2161.062; TAC Title 34, Part 1, rule 20.26)**

Yes the Board has a HUB Coordinator: Keith LaSalle, Purchaser IV, 512 305-6857, 333 Guadalupe #3-460, Austin, Texas 78701, keith.lasalle@bon.texas.gov.

**2. Has your agency designed a program of HUB forums in which businesses are invited to deliver presentations that demonstrate their capability to do business with your agency? (Texas Government Code, Sec. 2161.066; TAC Title 34, Part 1, rule 20.27)**

No, the Board does not have a program of HUB forums. The Board's HUB coordinator does attend other HUB forums that are hosted by other agencies in order to find vendors/contacts.

**3. Has your agency developed a mentor-protégé program to foster long-term relationships between prime contractors and HUBs and to increase the ability of HUBs to contract with the state or to receive subcontracts under a state contract?  
(Texas Government Code, Sec. 2161.065; TAC Title 34, Part 1, rule 20.28)**

No the Board does not have a mentor-protégé program. The HUB coordinator has been a purchaser for over ten years with the State and on his own, has developed long-term relationships with HUB vendors.

**H. Fill in the charts below detailing your agency’s Equal Employment Opportunity (EEO) statistics.**

**Texas Board of Nursing  
Exhibit 18: Equal Employment Opportunity Statistics**

**1. Officials / Administration**

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2013	4	25.00%	8.99%	0.00%	19.51%	50.00%	39.34%
2014	4	25.00%	8.99%	0.00%	19.51%	50.00%	39.34%
2015			8.99%		19.51%		39.34%

**2. Professional**

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2013	27	0.00%	11.33%	7.41%	17.40%	70.37%	59.14%
2014	31	3.23%	11.33%	9.68%	17.40%	70.97%	59.14%
2015			11.33%		17.40%		59.14%

**3. Technical**

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2013	2	0.00%	14.16%	0.00%	21.36%	0.00%	41.47%
2014	2	0.00%	14.16%	0.00%	21.36%	0.00%	41.47%
2015			14.16%		21.36%		41.47%

**4. Administrative Support**

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2013	45	20.00%	13.57%	37.78%	30.53%	84.44%	65.62%
2014	54	14.81%	13.57%	35.19%	30.53%	88.89%	65.62%
2015			13.57%		30.53%		65.62%

**5. Service / Maintenance**

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2013	38	15.79%	14.68%	28.95%	48.18%	78.95%	40.79%
2014	42	14.29%	14.68%	33.33%	48.18%	78.57%	40.79%
2015			14.68%		48.18%		40.79%

**6. Skilled Craft**

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
2013	0	0.00%	6.35%	0.00%	47.44%	0.00%	4.19%
2014	0	0.00%	6.35%	0.00%	47.44%	0.00%	4.19%
2015			6.35%		47.44%		4.19%

**I. Does your agency have an equal employment opportunity policy? How does your agency address performance shortfalls related to the policy?**

The Texas Board of Nursing has an equal employment opportunity policy that is included in the human resource manual. It is as follows:

**EQUAL EMPLOYMENT OPPORTUNITY**

It is the policy of the BON to promote Equal Employment Opportunity in the workplace. The BON wants to promote a culture that allows employees to enjoy a work environment free from unlawful discrimination and harassment. Discrimination and harassment because of age, armed

forces service, disability, pay, genetic information, national origin, pregnancy, race/color, religion, or sex are inconsistent with the BON's philosophy and will not be tolerated. Harassment, other than sexual, is defined as follows:

- remarks of a racial, ethnic, religious or national nature considered rude, threatening or insulting;
- bullying or teasing;
- anonymously or otherwise communicating with another person in a manner that harasses;
- following another person in or about a public place for no legitimate purpose after being asked to desist;
- surveillance or causing another person to watch a person for no legitimate purpose; or
- making false reports to a law enforcement, credit or social services agency.

It is the policy of the BON that such acts of harassment by any of its employees toward any other of its employees or other persons is forbidden, and appropriate disciplinary action will be taken for any violations to this policy, up to and including termination. BON also will not retaliate against an employee for filing a charge of discrimination or complaining about discrimination. Any employee who believes they have been discriminate against should immediately report this complaint to their supervisor or the Operations Director.

Any complaint emanating from this policy is provided to the Executive Director for her review and comments. Any systemic issues are brought before the agency directors for opportunities for awareness or agency wide training to eliminate any perception of discrimination or harassment.

## **XII. Agency Comments**

Provide any additional information needed to gain a preliminary understanding of your agency.

None.