

# **Board of Nurse Examiners Self-Evaluation Report**



---

**June 14, 2006**

**333 Guadalupe , Ste. 3-460  
Austin, Texas 78701  
(512) 305-7400/(512) 305-7401(FAX)**

# TABLE OF CONTENTS

---

---

I.	Agency Contact Information.....	2
II.	Key Functions and Performance.....	2
III.	History and Major Events.....	7
IV.	Policymaking Structure.....	9
V.	Funding.....	15
VI.	Organization.....	17
VII.	Guide to Agency Programs.....	18
	VII.1.1 - Administration/Legal.....	18
	VII.1.2 - Administration/Nurse Licensure Compact.....	20
	VII.2.1 - Operations/Licensing.....	27
	VII.2.2 - Operations/Accounting.....	30
	VII.2.3 - Operations/Information Technology (IT).....	32
	VII.3 - Enforcement.....	35
	VII.4.1 - Nursing/Nursing Education.....	41
	VII.4.2 - Nursing/Nursing Practice.....	48
VIII.	Statutory Authority and Recent Legislation.....	54
IX.	Policy Issues.....	62
	IX.1 - Name Change.....	62
	IX.2 - Jurisdiction Over Unlicensed Assistive Personnel.....	62
	IX.3 - Self-Directed Semi-Independent (SDSI) Status.....	63
	IX.4 - Amendments to Nursing Practice Act.....	64
	IX.5 - Collection of Administrative Costs.....	66
	IX.6 - Advanced Practice Registered Nurse Multistate Compact.....	66
	IX.7 - Continuing Education.....	68
	IX.8 - Criminal Background Checks.....	69
	IX.9 -Non-traditional Nurse Education Programs.....	70
X.	Other Contacts.....	71
XI.	Additional Information.....	75
	Complaint Data.....	75
	HUB Data.....	76
	EEO Data.....	78
XII.	Agency Comments.....	79

# Board of Nurse Examiners

## Self-Evaluation Report

### I. Agency Contact Information

A. Please fill in the following chart.

Board of Nurse Examiners Exhibit 1: Agency Contacts				
	Name	Address	Telephone & Fax Numbers	E-mail Address
Agency Head	Katherine A. Thomas, MN, RN	333 Guadalupe, Suite 3-460 Austin, Texas 78701-3942	(ph) 512-305-6811 (fax) 512-305-8101	Kathy.Thomas@ bne.state.tx.us
Agency's Sunset Liaison	James W. "Dusty" Johnston, General Counsel	Same as above	Same as above	Dusty.Johnston@ bne.state.tx.us

### 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 Board of Nurse Examiners for the State of Texas 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, 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; and

- collecting reliable data about licensees.
2. Approval of schools of nursing, which includes the following activities:
    - establishing standards for nursing education;
    - approving the development of new schools and extended campuses;
    - assessing nurse education programs on a periodic basis to assure compliance with nurse education standards;
    - providing consultation and guidance to school officials;
    - surveying facilities utilized for clinical practice of students; and
    - collecting and analyzing educational data useful in long range planning for nurse education.
  3. Participation in 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's compact administrators group to insure proper compact administration and exchange of information;
    - enforcing Texas practice laws to assure competent licensure practice by nurse's working under multistate licensure privilege; and
    - collecting and analyzing data regarding NLC administration and implementation.

**B. Do each of 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 Nurse Examiners (Board), 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 the 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.

In order to ensure those seeking licensure in nursing are competent to practice the Board continues to establish standards for nursing education and to approve the development of new schools and extended campuses. There continues to be innovative educational programs promoted in this State to address the nursing shortage crisis. However, nursing programs compete for a limited number of competent faculty and eligible sites for clinical training. It remains a highly important function of the Board to continue to assess nurse education programs on a periodic basis to assure compliance with nurse education standards; provide consultation and guidance to school officials; and collect and analyze educational data useful in long range planning for nurse education.

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 our 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.

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

The Board believes it is a model of an effective and efficient regulatory body. The Texas Board is responsible for licensing, regulating, and monitoring the status of approximately 188,000 licensed registered nurses and 79,000 licensed vocational nurses. The Board investigates over 5,500 complaints on nurses a year and received over 235,000 telephone calls in FY 2005 alone. In FY 2005, the Board accomplished this function with approximately 68.5 full time employees and a budget of approximately 4.3 million dollars. Staff turnover for FY 2005 was 10.6 percent.

Nurses renew their licenses biannually and in FY 2005 the Board renewed approximately 88,000 RNs' and 36,000 LVNs' licenses. Eighty-nine and nine-tenths percent of the RNs renewed online, while seventy-eight percent of LVNs renewed online. In FY 2005, Board statistics showed an increase in the number of nurses who renew online. Approximately 6,800 new RN licenses and 4,200 LVN licenses were issued by examination to new graduates. Approximately 5,100 new licenses were issued to RNs and LVNs through reciprocity.

Over 3,800 jurisdictional complaints regarding registered nurse practice were received in FY 2005 with 3,398 complaints resolved. Over 2,400 jurisdictional complaints regarding licensed vocational nurse practice were received in FY 2005 with 1,941 complaints resolved. 163 settlement conferences (115 RN conferences and 48 LVN conferences) were conducted with 20 contested case hearings before the State Office of Administrative Hearings. Over 1,570 licenses were sanctioned. The sanctions ranged from 69 remedial education orders to a total of 303 licenses being revoked or voluntarily surrendered.

Over 2,400 jurisdictional complaints regarding vocational nurse practice were received in FY 2005 with the resolution of over 1900 cases. 48 settlement conferences were conducted. Five hundred and eighty-one licenses were sanctioned, with three hundred and eight of those cases resolved by suspension, revocation or voluntary surrender.

Statistics for the Board's regulation of nurse education show that in FY 2005 the Board had 95 approved professional nursing programs and 118 vocational nursing education programs in Texas. Ninety-eight and thirty-five percent of professional nursing education programs were in compliance and ninety-seven and thirty percent of vocational nursing education program were in compliance. Twelve programs were under Board sanction (2 professional and 10 vocational).

The Board has historically solicited information about the quality of services it performs. The Board has solicited and reviewed survey questionnaires that are designed to evaluate the staff's performance during Board-conducted workshops on nursing regulatory issues, on-site survey visits by BNE nursing consultants; the Board staff conducted New Dean's, Director's and Coordinator's Orientation meetings; and the agency's newsletter. The results of these surveys are available.

The Board has obtained survey data on its performance from Board stakeholders through several independent studies conducted by the National Council of State Boards of Nursing (NCSBN). The first study which gathered data relating to stakeholder perceptions of the agency was titled "CORE - Commitment to Ongoing Regulatory Excellence" (The CORE Study). The second study concerned stakeholder perceptions of implementation of the Multi-state Licensure Compact and its impact after several years subsequent to implementation. The CORE Study was released on March 15, 2004, and provided measurement of BNE stakeholder perceptions related to practice, education, licensure and governance for the Texas Board of Nurse Examiners as well as 32 other participating boards of nursing in the United States. Study data relating to practice, education, licensure and governance was collected by the NCSBN in FY 2003.

**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 our 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?**

The Board's functions do not overlap or duplicate those of another state or federal agency.

**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 license 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 264,450 licensees and 213 programs of nursing. The Board is expected to perform its functions with approximately 81 full time employees (FTEs) and a \$6.5 million budget for FY 2006 and 2007. By comparison, the Texas Department of Licensing and Regulation in FY 2006 regulates approximately 136,000 licensees and 113,000 licensed business facilities with a 13.7 million

dollar budget and 237 appropriated FTEs. In FY 2006, the Board of Medical Examiners will regulate an estimated 43,000 licensees with a budget of 7.8 million dollars and authorization for 133 FTEs.

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

There are currently no federal laws or outstanding court cases which would significantly impact the Board's functions. Recent concern over the purported confidentiality restrictions of the 1996 Health Insurance Portability and Accountability Act (HIPAA) and its impact on disciplinary investigations has not come to fruition.

In 2003, Senate Bill 718 authorized the Board of Nurse Examiners to conduct pilot studies relating to nursing competency and reporting of errors. In January 2004, the BNE solicited proposals for the Patient Safety Pilot Programs. One institution responded to the call. The University of Texas M.D. Anderson Cancer Center submitted the proposal Adapting the Aviation Safety Action Program to Healthcare: The Healthcare Alliance Safety Partnership. The Board approved this proposal in April 2004.

The M.D. Anderson proposal promotes the value of reporting programs that encourage reporting, elicit information about contributing systems, and human performance factors, and then uses this information to make breakthrough improvements in patient safety. The model establishes the Healthcare Alliance Safety Partnership (HASP) adapted from the Aviation Safety Action Program (ASAP), the airline industry model for event reporting system.

The results of these studies may lead to recommended changes in the regulation of nursing and error reporting which improve patient safety.

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

The Board's focus has historically promoted public safety through oversight and discipline of incompetent or unsafe practitioners. The Board maintains a vigilant watch over the dynamic and changing landscape of health care delivery and is aware that recent reports suggest that other approaches may be more effective. The Institute of Medicine (IOM) Report, Crossing the Quality Chasm (2000), indicates that medical error is one of the leading causes of death in this country. The Agency for Healthcare Quality and Research (AHQR) estimates that medical errors cost the nation \$37.6 billion per year and about \$17 million of these costs are related to preventable error. Since 1993, an estimated \$30 billion per year has been spent for the development of technology in healthcare, yet the current health care system cannot ensure that these new technologies are delivered effectively and safely to the consumers who purchase them.

In 1999, the Institute of Medicine (IOM) published a report entitled To Err is Human: Building A Safer Health System. The report focused on patient safety and medical errors and suggests that the majority of medical errors do not result from individual recklessness but from basic flaws in the way the health care delivery system is organized. A major premise in the report is the promotion of non-punitive approaches to error reduction. Further, the report recognizes that multiple factors contribute to these errors and, therefore, recommends an interdisciplinary systems approach to reducing them. Additionally, the report formulated specific recommendations that focus on improving safety systems in health care organizations. The establishment of a national center for patient safety, development and implementation of a nationwide mandatory reporting system, encouragement of voluntary reporting, utilization of peer review mechanisms, and disclosure of adverse events to the public where confidentiality is not compromised were among those recommendations.

The above cited report has generated numerous highly funded studies nationwide on recognizing innovative approaches to increase patient safety. When and if new approaches suggest patient safety will be improved through regulatory changes, the Board will consider and implement appropriate regulatory suggestions if authorized by its enabling statute. Currently, there is nothing to suggest that the existing enabling statute is an obstacle.

**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.**

See below.

### III. History and Major Events

**Provide a timeline of your agency's history, and key events, including:**

- the date your agency was established;
- the original purpose and responsibilities of your agency;
- major changes in responsibilities or statutory authority;
- changes to your policymaking body's name or composition;
- significant changes in state/federal legislation, mandates, or funding;
- significant state/federal litigation that specifically affects your agency's operations; and
- key changes in your agency's organization (e.g., a major reorganization of the agency's divisions or program areas).

- 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 authorizing the Board to establish education and certification of Registered Nurse First Assistants.
- 2003 Creation of combined Texas Board of Nurse Examiners 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.
- Authorized the Board of Nurse Examiners 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 denial or revocation for certain felony crimes and criminal sex offenses.

#### IV. Policymaking Structure

<b>A. Complete the following chart providing information on your policymaking body members.</b>			
<b>Board of Nurse Examiners Exhibit 3: Policymaking Body</b>			
<b>Member Name</b>	<b>Term/ Appointment Dates/ Appointed by Governor Rick Perry</b>	<b>Qualification (e.g., public member, industry representative)</b>	<b>City</b>
Linda R. Rounds, PhD, RN, FNP	Term: 02-17-2005 to 01-31-2011	Advanced Practice Nurse	Galveston
Joyce Adams, PhD, RN	Term: 04-12-2004 to 01-31-2007	Nurse Faculty of Vocational Nursing	Houston
Deborah H. Bell, CLU, ChFC	Term: 02-17-2005 to 01-31-2011	Consumer	Abilene
George H. Buchenau, Jr., BSN, RN, MBA	Term: 11-22-2004 to 01-31-2007	Registered Nurse	Amarillo
Virginia M. Campbell, BSN, RN, CNOR	Term: 01-01-2001 to 01-31-2007	Registered Nurse	Mesquite
Blanca Rosa Garcia, PhD, RN	Term: 02-17-2005 to 01-31-2011	Nurse Faculty of Associate Degree Nursing	Corpus Christi
Richard R. Gibbs, LVN	Term: 04-01-2004 to 01-31-2007	Licensed Vocational Nurse	Mesquite
Rachel Gomez, LVN	Term: 04-12-2004 to 01-31-2009	Licensed Vocational Nurse	Harlingen
Brenda Jackson, PhD, MSN, RN	Term: 05-13-2003 to 01-31-2009	Nurse Faculty of Baccalaureate Nursing Program	San Antonio
Beverley Jean Nutall, LVN	Term: 02-17-2005 to 01-31-2011	Licensed Vocational Nurse	Bryan
Anita S. Palmer, ME, MA	Term: 04-01-2004 to 01-31-2009	Consumer	Olney
Phyllis Caves Rawley, CPC	Term: 04-01-2004 to 01-31-2009	Consumer	El Paso
Frank Sandoval, Jr., JD	Term: 04-01-2004 to 01-31-2007	Consumer	San Antonio

**B. Describe the primary role and responsibilities of your policymaking body.**

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 Annual Financial Report and Legislative Appropriations Request;
- 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; and
- Recommends to legislature appropriate changes in the Nursing Practice Act to ensure that the act is current and applicable to changing needs and practices.
- Selected individual members serve on Eligibility and Disciplinary Committee and may decide matters of eligibility for licensure and discipline, including temporary suspensions of license.
- Selected members of the Board may serve on the Education Liaison Advisory Committee on matters pertaining to faculty waivers, proposed curriculum revisions and other issues that may arise between regular board meetings.
- Selected members may serve on Advanced Practice Liaison Advisory Committee on matters pertaining to advanced practitioner waivers and other issues that may arise between regular board meetings.
- Selected members may serve and participate in other designated standing or ad hoc committees 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 Board of Nurse Examiners 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.

Eligibility and Disciplinary Committee members are appointed by the president and consist of one consumer member and two nurse members. The President has 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 consists of the three board members representing nursing educational programs who serve as advisors to the staff on matters pertaining to faculty waivers, proposed curriculum revisions and other issues that may arise between regularly scheduled full board meetings.

The Advanced Practice Liaison consists of members designated by the president to serve as advisors to the staff on matters pertaining to advanced practitioner waivers and other issues that may arise between regular board meetings.

**E. In general, how often does your policymaking body meet? How many times did it meet in FY 2004? in FY 2005?**

The Board meets on a quarterly basis and met four times during FY 2004 and met four times during FY 2005. The Eligibility and Disciplinary Committee meets every month there is not a full Board meeting scheduled. It met 8 times during FY 2004 and met 8 times during FY 2005 (not including two emergency 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 one-day 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 overall explanation of the Board's jurisdiction, powers, functions and duties of the Board member. The Executive Director provides an overview of the 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 presented by legal staff have included such topics as the Texas Open Meetings Act, the State Office of Administrative Hearings, Informal Settlement Conference procedures and various laws and rules that affect Board functions.

**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 running the agency. A copy of these policies is attached hereto as an addendum.

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 attached hereto as an addendum.

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.

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. A Board member is appointed by the president to serve as chair of the advisory committee with staff members who will provide support to the chair and the committee.

The purpose of the BNE's 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 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, including approval and evaluation of graduates for licensure.

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 that represent these programs. The Board president appoints an educational Board member to chair the committee.

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 chair of the advisory committee with staff members who will provide support to the chair and the committee.

The purpose of the APNAC is to identify, study, and analyze those major practice issues that significantly impact or will potentially impact the 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.

At the January 2006 Board Meeting, the Board approved the creation of the Advisory Committee on Licensure, Eligibility and Discipline. The committee will look at the Board's processes for eligibility and discipline for consistency in regulation. The Board believes that an advisory committee specifically for this purpose would improve the Board's rules by allowing interested parties to participate in development of recommendations to the Board. The Board believes that experts in areas relevant to licensure can provide evidence-based recommendations that would improve the Board's disciplinary process.

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 Nurse Association Task Force on Nursing Practice and Nursing Education Redesign;
- Texas Higher Education Coordinating Board Professional Nursing Advisory Committee;
- SHCC Nursing Workforce Data Advisory Committee; and
- Department of State Health Services Hospital Rules Workgroup.

<b>J. If your policymaking body uses subcommittees or advisory committees to carry out its duties, fill in the following chart.</b>			
<b>Board of Nurse Examiners Exhibit 4: Subcommittees and Advisory Committees</b>			
<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)
Nurse Licensure Compact Administrators or NLCA	Executive Director serves as Board President's Designee. Currently there are 18 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(e)
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(e)
Advisory Committee on Licensure, Eligibility and Discipline	12 members including 2 Board Member co-chairpersons.	Committee charged with review of agency rules evaluating consistency in the Board's processes for eligibility and discipline.	22 Tex. Admin. Code Sec. 211.6(e)

## V. Funding

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

Method of Finance is General Revenue and Appropriated Receipts.

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

HBI, Criminal History Record Information, GAA '04-'05 [IX-91, §11.59(b)]

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

<b>Board of Nurse Examiners</b>	
<b>Exhibit 5: Expenditures by Strategy — Fiscal Year 2005 (Actual)</b>	
Goal/Strategy	Amount
13001 Licensing	2,673,746
13002 Accreditation	431,825
13003 Enforcement	1,637,966
<b>GRAND TOTAL:</b>	<b>4,743,537</b>

### D. Show your agency's objects of expense for each category of expense listed for your agency in the General Appropriations Act FY 2005-2006.

<b>Board of Nurse Examiners</b>			
<b>Exhibit 6: Objects of Expense by Program or Function — Fiscal Year 2006</b>			
Object-of-Expense	Licensing	Accreditation	Enforcement
Salaries and Wages	1,729,911	288,318	1,185,310
Other Personnel Costs	30,648	5,108	21,000
Professional Fees and Services	31,328	5,221	21,466
Consumables and Supplies	18,464	3,077	12,653
Utilities	2,160	360	1,480
Travel	45,066	7,512	30,878
Other Operating Expenses	493,864	36,528	2,462,967
Capital Expense	30,000	0	0
<b>Total</b>	<b>2,381,441</b>	<b>346,124</b>	<b>3,735,754</b>

NOTE: Data compiled May 5, 2006.

**E. 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.**

<b>Board of Nurse Examiners Exhibit 7: Sources of Revenue — Fiscal Year 2005 (Actual)</b>	
<b>Source</b>	<b>Amount</b>
3560 Medical Registration and Examination/TX Online	8,596,424
3570 Peer Assistance	625,275
3752 Sales of Publication/Newsletter	470,368
3719 Copies/Filing of Records/Criminal History	633,646
3722 Workshops/Seminars	159,873
3717 Civil Penalties	132,765
3103 State Tax	271
3709 City/MTA Tax	135
<b>TOTAL</b>	<b>10,585,273</b>

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

<b>Board of Nurse Examiners Exhibit 8: Federal Funds — Fiscal Year 2005 (Actual)</b>				
<b>Type of Fund</b>	<b>State/Federal Match Ratio</b>	<b>State Share</b>	<b>Federal Share</b>	<b>Total Funding</b>
N/A				
<b>TOTAL</b>				

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

<b>Board of Nurse Examiners Exhibit 9: Fee Revenue — Fiscal Year 2005</b>				
<b>Fee Description/ Program/ Statutory Citation</b>	<b>Current Fee/ Statutory maximum</b>	<b>Number of persons or entities paying fee</b>	<b>Fee Revenue</b>	<b>Where Fee Revenue is Deposited General Revenue (GR) Appropriated Receipts (AR)</b>
Licensure Renewal	10/53/180	124,874	5,577,684	GR
Initial Examination	74/113	12,732	874,845	GR
Endorsements	135/174	5,153	731,200	GR
Verifications	20	1,245	23,261	GR

Duplicates (reprint)	20	3,765	75,317	GR
Limited Permit	15	427	6,412	GR
Declaratory Order	150	1,873	281,052	GR
Prescriptive Authority	25	695	17,395	GR
Workshops	90/105	2,500	239,351	GR/AR
Civil Penalties/Fines	100/5000	Varies	132,765	GR
Copies/Transcripts	Varies	Varies	5,714	GR/AR
Publication/Sale of List/NL	7.50/400	Varies	852,283	GR/AR
Peer Assistance	5.00	125,055	625,275	GR
Criminal Record Checks	39.00	13,243	516,508	GR

## VI. Organization

**A. Provide an organizational chart that includes major programs and divisions, and shows the number of FTEs in each program or division.**

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

Board of Nurse Examiners Exhibit 10: FTEs by Location — Fiscal Year 2005			
Headquarters, Region, or Field Office	Location	Number of Budgeted FTEs, FY 2005	Number of Actual FTEs as of August 31, 2005
Licensing	Austin	47	39.5
Accreditation	Austin	7	7
Enforcement	Austin	25	22
<b>TOTAL</b>		79	68.5

**C. What are your agency's FTE caps for fiscal years 2004 - 2007?**

FY 2004 = 79  
FY 2005 = 79  
FY 2006 = 81.7  
FY 2007 = 81.7

**D. How many temporary or contract employees did your agency have as of August 31, 2005?**

Zero.

<b>E. List each of your agency's key programs or functions, along with expenditures and FTEs by program.</b>		
<b>Board of Nurse Examiners Exhibit 11: List of Program FTEs and Expenditures — Fiscal Year 2005</b>		
<b>Program</b>	<b>FTEs as of August 31, 2005</b>	<b>Actual Expenditures</b>
Licensing	39.5	2,673,746
Accreditation	7	431,825
Enforcement	22	1,637,966
<b>TOTAL</b>	68.5	4,743,537

## **VII. Guide to Agency Programs**

Complete this section for **each** agency program (or each agency function, activity, or service if more appropriate). Copy and paste the questions as many times as needed to discuss each program, activity, or function. Contact Sunset staff with any questions about applying this section to your agency.

### **VII.1.1 – ADMINISTRATION/LEGAL**

<b>A. Provide the following information at the beginning of each program description.</b>	
<b>Name of Program or Function</b>	Administration/Legal
<b>Location/Division</b>	Administration
<b>Contact Name</b>	Katherine Thomas
<b>Actual Expenditures, FY 2005</b>	\$370,019 (includes Board members' expenses)
<b>Number of FTEs as of August 31, 2005</b>	6

#### **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 all of the advisory committees as needed. It also prepares agendas and minutes, posts notice of meetings with the *Texas Register*, prepares and distributes meeting materials, and facilitates meeting arrangements. This area also responds to all public information requests and subpoenas for information. In addition, it responds to legislative inquiries and drafts agency policies and procedures.

Legal also represents the agency in the formal hearing process at SOAH and in informal settlement proceedings. Legal assists enforcement in the resolution of cases, 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, and responds to inquiries regarding interpretation of statutes and rules. Legal responds to and drafts discovery and motions, and files

exceptions to Proposal for Decisions for cases before SOAH. Legal presents the cases to the Board for ratification and prepares corresponding orders. Legal assists the Attorney General's office as needed on relevant cases and also drafts rules and regulations for submission to the *Texas Register* and applicable disciplinary policies.

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

See Enforcement report.

**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, applicants for licensure, 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. List any field or regional services.**

Legal is supervised by the General Counsel, who reports to the Executive Director, who reports to the Board. Two assistant general counsels and one legal assistant report to the General Counsel, and one executive assistant reports to the Executive 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).**

The Board funds the agency appropriation by assessing fees to licensees and examination candidates sufficient to cover direct and indirect costs.

**H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. 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.**

None.

**K. If this program or function is contracted out, provide a description of how you ensure**

**accountability for funding and performance.**

N/A

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

See IX.4 - Amendments to Nursing Practice Act.

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

Functions are self-explanatory.

**N. 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.

**O. 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.

## VII.1.2 – ADMINISTRATION/NURSE LICENSURE COMPACT

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

<b>Name of Program or Function</b>	Nurse Licensure Compact
<b>Location/Division</b>	Administration
<b>Contact Name</b>	Katherine Thomas
<b>Actual Expenditures, FY 2005</b>	\$3000.00
<b>Number of FTEs as of August 31, 2005</b>	0

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

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.

Adopted by the Texas Legislature in 1999 (House Bill 1342), the NLC is codified in Chapter 304 of the Texas Occupations Code. As of May 2006, the Compact has been adopted and implemented by 20 states: Arizona, Arkansas, Delaware, Idaho, Iowa, Maine, Maryland, Mississippi, Nebraska, New Hampshire, New Mexico, North Carolina, North Dakota, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia and Wisconsin. Two additional states have passed compact legislation but have not yet implemented the compact. Those states are Kentucky and New Jersey.

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” 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.

(The BNE’s web site also contains consumer links to the National Council of State Boards of Nursing [NCSBN] where consumer-oriented information is available, including contact information for other state boards of nursing, multi state regulations, and states within the compact.)

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

At the present, no state-by-state analysis has been conducted on the effectiveness of the NLC, but members of the Nurse Licensure Compact (NLC) who were in their second (or more) year of implementation were surveyed to analyze the impact of the compact. Randomly selected licensees and employers were also surveyed. The data obtained from these three sources of data is as follows:

**Multi-state Licensure**

In the seven NLC boards reporting numbers of licenses, the percentage of nurses holding multi-state licenses averaged 86%. The most common reason for a nurse to hold a single-state license in these states was residency (96.7%). Other reasons for single-state licensure included discipline (2.8%) and participation in alternative programs (0.5%).

**Feedback from Boards Implementing Compact**

**Active Licenses**

Boards were asked for numbers of active licenses before and after implementation of the Compact (table 1). Of the 11 boards responding, all but two experienced an overall increase. Except for two boards, all boards with an initial decrease in numbers of active licenses gained them back in subsequent years.

Table 1  
Numbers of Nurses with Active Licenses

Time Period	# of boards with increase	% average increase	# of boards with decrease	% average decrease
From 1 year prior to implementation to 1 year following (n=11)	7	5.1	4	<b>2.2</b>
From 1 year prior to implementation to 2 years following (n=8)	7	5.5	1	<b>6.4</b>
<b>From 1 year prior to implementation to 3 years following (n=4)</b>	<b>4</b>	<b>9.4</b>	<b>0</b>	<b>n/a</b>

### Expenses

In general, expenses related to enactment and implementation of the Compact have been minimal. Only three boards had expenses (ranging from \$5,400 to \$11,150) associated with preparation for the passage of Compact legislation. Average expenses during the period from enactment to implementation was \$9,597 (n=9), which included three boards reporting no expenses. One board reported expenses related to development of new forms, but did not specify an amount.

Most expenses incurred before implementation included technology changes (3 boards), rule promulgation (3 boards), communications (4 boards), and staff training (3 boards). All boards incurred the annual Secretariat fees of \$3000.

Since implementation, ongoing expenses for two boards have included \$300 and \$360 for communication and an average of \$25,000 for additional staff (2 boards). Other ongoing expenses included ongoing staff training (1 board), ongoing technological changes (1 board), and ongoing expenses related to their phone system (1 board).

### Complaints/Discipline

The survey revealed that implementation of the Nursing Licensure Compact (NLC) has neither affected the disciplinary process with regard to the types, sources, outcomes; numbers of complaints; the timeliness in resolving complaints; or the cost of processing complaints. One board reported that dealing with complaints that involved two jurisdictions was the only change noted. An average of 3.6 nurses, ranging from 0 to fewer than 10, working within the ten jurisdictions on practice privileges has been the subject of complaints. Methods ranging from witness interviews, site visits, and face-to-face interviews have been used to investigate these complaints. Telephone interviews (7 boards), document review (8 boards), and nurses' previous employment (6 boards) are frequently utilized to obtain information on complaints. All types of board actions, with the exception of conditional privilege, were taken for these discipline cases, including cease and desist orders, limitation or revocation of compact privilege, and referral of license to home state for action.

### Changes in Workload

Five boards have seen an increased workload since implementation of the compact. The increase for two boards has been a slight one only, and the increase for another consisted of periodic surges which coincided with additional states entering the compact. Staff members of the two boards experiencing an increase have spent much more time explaining and educating licensees and employers and assisting

nurses in declaring a home state.

Two boards report a decrease in workload, one due to Nursys<sup>®</sup> (national databank) that resulted in redirecting a staff position to another area. It was difficult for the other to determine if the decrease is due to implementation of the compact or other issues. Two boards have not seen a significant change in workload.

### **Employers Feedback**

Employers in NLC states were surveyed to discover if the NLC had made an impact on the hiring and retention of nurses in their employ. One hundred fifty-six employers from 13 states responded. When asked if their facility was an employer of nurses in an NLC state, 123 (78.8%) answered yes, 18 (11.5%) answered no, and 15 (9.6%) did not know.

### **Hiring**

Of the 123 employers who understood that their facility was located in a NLC state and completed the entire survey, 44 (35.8%) have experienced a difference (increase in ease) in the ability to hire nurses since implementation of NLC.

### **Retention**

Of the 123 employers who understood that their facility was located in a NLC state, 119 (96.7%) have experienced no difference in the retention of nurses since implementation of NLC (1 employer was not sure). Neither of the two employers who reported experiencing a difference provided comment.

### **Nurse Competence**

Only one (0.8%) employer reported a difference in the competency of the nurses hired by that facility who were licensed in another NLC state.

### **Verification Process**

Only 10 of the 123 employers reported difficulties with the verification process. Their difficulties included:

- confusion with the process
- no access for out-of-state verification on web
- don't like to have to pay \$5 for verification
- verifying licensure in their own state
- paperwork - states talking to each other
- tracking expirations
- phone verification difficult, takes several days
- some states are not on-line for easier verification (3 employers)

### **Discipline Process**

Employers were asked how well they understood the discipline process for nurses practicing on a multi-state privilege. On a scale of 3 (understand very well) to 1 (do not understand at all), the employers rated their understanding as 1.77. Most (43.1%) reported understanding the discipline process "fairly well," while others (39.8%) reported not understanding it at all. Only three employers had been involved with a nurse who had been the subject of a complaint while licensed in another NLC state. All three reported having no difficulties because of the NLC, and all rated the efficiency with which the boards involved handled the complaint as "very efficient."

### **Nurse Feedback**

Random samples of nurses in states that had implemented the NLC more than one year previously were

surveyed to discover the impact of NLC on their practice. Six hundred and five nurses from 13 states responded. When asked if they were licensed in an NLC state, 346 (54.0%) replied “yes.”

- Thirteen were licensed in a NLC state, held multi-state licenses, had previously practiced on multi-state privileges, but were not working in a NLC state at the time of the survey.
- Five were licensed in a NLC state and held multi-state licenses, but had never worked in a NLC state other than their state of residence (they responded to the survey from a non-NLC state).
- One was licensed in a NLC state but did not hold a multi-state license.
- One was licensed in a NLC state but wasn’t sure if she held a multi-state license (and when asked which NLC states she had practiced in, she reported a non-NLC state).

Of the 346 nurses who reported being licensed in a NLC state, 84 (24.3%) reported a difference in fees associated with licensure or license renewal. Most indicated an increase in fees due to increases imposed by their boards, while others reported less expense due to elimination of the need to hold multiple licenses. One hundred seventy-eight of the 346 respondents held multi-state practice privileges. Twenty-eight (8.1%) reported that the NLC created changes in their practice.

Ninety-nine (55.6%) of those with multi-state privileges have practiced in a NLC state other than their state of residence, but when asked to specify the NLC state, three named non-Compact states.

Nurses with multi-state privileges accessed practice-related information in the remote state through:

- board of nursing in remote state (26.3%)
- Internet (20.2%)
- self-knowledge through previous licensure (12.1%)
- employer in remote state (11.1%)
- travel agency (3.0%)
- word of mouth (1.0%)
- other nurses (1.0%)
- other source (1.0%).

Sixteen (16.1%) of the 99 nurses who have practiced in remote states made a decision to move to a state after practicing there under the multi-state privilege. Fifty- seven (16.5%) of all 346 nurses had been traveling nurses. Thirty-five (10.1%) reported that the NLC influenced their decisions to be a traveling nurse in the past or caused them to consider traveling in the future.

**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 purpose for the compact.

**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 can potentially affect all licensees of states who are members of the compact, the public, and health care providers in compact states.

**F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.**

The executive director of the BNE is the administrator for the Compact for the State of Texas per Texas Occupations Code § 304.002.

**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).**

The Board funds the agency appropriation by assessing fees to licensees and examination candidates sufficient to cover direct and indirect costs.

**H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. 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 this program or function is contracted out, provide a description of how you ensure accountability for funding and performance.**

N/A

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

Much like the need to facilitate interstate practice and regulation for RNs and LVNs, a growing need exists to expand such licensure options to advanced practice nurses (APNs). Currently in Texas, there are 11,117 currently licensed RNs recognized as advanced practice nurses. There are four major categories of APNs. Nurse practitioners are the largest group of APNs and make up more than 57 percent of the APN population (N=6,372), followed by nurse anesthetists comprising 26 percent of APNs (N=2,938), followed by clinical nurse specialists, who make up 12 percent of the advanced practice nurse population in Texas (N=1,437). Nurse midwives are the smallest group of APNs in Texas, comprising only 3 percent of the APN population (N=370). Advanced practice nurses recognized in other states may be accepting locum tenens assignments to provide access to health care in areas of Texas that would otherwise not have access to such services for a short or an extended period of time (e.g., anesthesia services). Others may live in areas that border another state and provide services to patients in both states. Under the current system, these advanced practice nurses must hold advanced practice licensure/authorization in each state in which they intend to practice and meet all requirements for maintenance of the license/authorization in each state.

In 2000, the Delegate Assembly of the National Council of State Boards of Nursing endorsed minimum criteria for nurses to obtain legal authority to practice in an advanced practice role and specialty. These criteria include: an unencumbered RN license; completion of an appropriately accredited graduate level

advanced educational program; and current certification by a national certifying body in the advanced role and specialty appropriate to the advanced educational preparation (includes maintenance requirements). The uniform licensure requirements assure consistent minimum licensure standards essential to protection of the public's health and welfare while facilitating interstate practice for advanced practice nurses.

In 2002, a model Advanced Practice Registered Nurse Compact was developed for the purpose of mutual recognition of advanced practice nursing licenses by states who are party to that compact. The Advanced Practice Registered Nurse Compact is modeled after the existing Nurse Licensure Compact for RNs and LVNs and allows advanced practice nurses to practice in any state that is a member of the compact based on his/her "home" state advanced practice nursing license. Advanced practice nurses practicing under the compact privilege, however, must comply with the practice laws of the state in which they are practicing (e.g., laws relating to prescriptive authority, collaborative agreements). At this time, Utah is the only state that has passed legislation to adopt the Advanced Practice Registered Nurse Compact.

As a party to the Nurse Licensure Compact for RNs and LVNs since January 1, 2000, the Texas Board of Nurse Examiners already has significant experience with this type of regulation. Expanding the compact to include advanced practice nurses would likely be a smooth transition within the agency. To date, in excess of 265 individuals have been authorized as advanced practice nurses in Texas based on an RN license from another state that is party to the Nurse Licensure Compact. It is anticipated that even more advanced practice nurses may be willing to accept temporary assignments in Texas should they have the ability to do so without meeting additional licensure requirements, thereby increasing the public's access to advanced practice nursing services. Entry into such a compact would also help alleviate confusion expressed by stakeholders, such as advanced practice nurses, third party payers, and employers, regarding the application of an interstate compact to the RN practice privilege but not the advanced practice privilege.

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

The NLC establishes communication between states through representatives from each Compact state called the Nurse Licensure Compact Administrators (NLCA). The NLCA consists of the head of the nurse licensing authority in each party state. The NLCA is responsible for writing uniform rules to implement the Compact which are subject to the rule making laws and regulations of each compact state. The Compact Administrators assure appropriate cooperation of each party state. The NLC rules were adopted and put into effect by the Texas Board of Nurse Examiners under Chapter 220 of the Board's Rules and Regulations on January 1, 2000. The NLCA meets via conference call every 2 weeks to discuss the status of rules, policies and procedures and to cooperate on licensure and disciplinary issues. The NLCA has face-to-face meetings twice a year, in August and in March.

In order to enjoy the multistate licensing privilege, the Compact requires that the nurse be licensed in the compact state in which he/she permanently resides. This license is known as a *home state license*. The nurse must meet the criteria of their home state law to obtain and retain the home state license. With the home state license, the nurse may practice in any other compact state without obtaining any additional licenses. A nurse practicing in another compact state pursuant to the multistate privilege must comply with the state practice laws of the state in which the patient is located at the time care is given. Compact states where a nurse practices using a multistate privilege are known as *remote states*. A nurse can hold a home state license in only one compact state at a time. A license in a non-compact state is not affected. If a nurse changes permanent residence from one party state to another party state, then the nurse must relinquish licensure in the previous state of residence and apply for and meet the requirements for

licensure in the new home state. When a nurse moves to a state which has not enacted or does not recognize the Compact, the previous home state license converts to a license valid in only the former home state and does not entitle the nurse to a multistate privilege in other party states.

The Compact contains provisions which promote the sharing of information through the national coordinated licensure information system called *NURSYS*<sup>®</sup> which includes information on the licensing and disciplinary history of each nurse. Each compact state must timely report any adverse disciplinary action against a home state license or multistate privilege. The party states must also submit information on any current significant investigation and any denials of applications for licensure. State confidentiality laws will still control the release and use of such information, but the database is an invaluable tool to the compact states in tracking and monitoring ongoing investigations and disciplinary actions of nurses.

**N. 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.

**O. 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.

## VII.2.1 – OPERATIONS/LICENSING

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

<b>Name of Program or Function</b>	Licensing/Examination/Customer Support
<b>Location/Division</b>	Operations
<b>Contact Name</b>	Mark Majek
<b>Actual Expenditures, FY 2005</b>	\$1,729,178
<b>Number of FTEs as of August 31, 2005</b>	15

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

The Licensing/Examination/Customer Support division functions as the initial contact for the agency and then disseminates inquiries or concerns to the appropriate departments to be handled appropriately. This division is utilized to respond and handle the many inquiries received by telephone, mail, and facsimile. This department performs its functions by:

- Preparing and mailing out the various kinds of application packets upon receipt of written request.
- Issuing licenses to qualified applicants.
- Establishing new electronic and paper files for applicants for licensure. Data entry of information.

- Processing applications in batches and all fees received regarding licensing and examinations.  
Entails entering the amount received into the database per applicants with resulting status changes.
- Communicating by phone and in writing with licensees, applicants, and prospective applicants.
- Reviewing and analyzing applications.
- Monitoring and auditing compliance with the continuing education requirements for nurses.
- Renewing licenses, issuing Licenses through endorsement and examination.
- Issuing temporary permits to eligible applicants.
- Verifying nurse licensure to other states and employers.
- Maintaining electronic and paper files of applicants and licensees and preparing such files for imaging or microfiche on a regular basis.
- Identifying licensees who fail to obtain required continuing education and working with Enforcement staff to ensure that complaints are filed.
- Reviewing and approving continuing education for biannual renewal for all licensees.
- Reviewing and approving biannual renewal applications for all licensees.
- Reviewing online renewal application.
- Identify licensees and applicants who may have eligibility issues and submitting those files to Enforcement.
- Handling Texas Online submissions.
- Processing criminal background checks on new applicants.

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

	FY '03 (RN only)	FY '04 (RN/LVN)	FY '05 (RN/LVN)
<b><u>Outcome Measures</u></b>			
<b>% in compliance with CE</b>	UA	87.2/81.3	85.6/72.0
<b># of licensees audited for CE compliance (2.5% of renewed RN/LVN licenses)</b>	UA	1913/443	1987/583
<b>% of licensees with no recent violations</b>	98.1%	97.7/96.0	97.6/95.4
<b>% of licensees who renew online</b>	N/A	88.9/67.3	89.9/78.0
<b>% of new individual licenses issued online</b>	N/A	0/0	1.3/1.7
<b><u>Output Measures</u></b>			
<b># of current licensees</b>	176,756	180,511/ 76,082	186,192/ 78,258
<b># of individuals examined</b>	6,259	7,169/2,539	8,028/4,704
<b># of licenses renewed</b>	82,950	83,350/ 38,104	88,155/ 36,719
<b># of licenses issued by endorsement</b>	4,215	3,362/722	4,127/1,026
<b># of licenses issued by examination</b>	5,719	5,954/3,814	6,839/4,215
<b># of temporary licenses issued</b>	3,814	3,718/660	4,537/920
<b># of licenses verified</b>	701	896/181	1,202/43
<b>Eligibility Orders: # of petitions/applications processed</b>	525	907	1,891
<b><u>Efficiency Measures</u></b>			
<b>Average cost for issuing license</b>	\$1.79	\$1.71	\$1.67
<b>Average time for issuing initial license (in days)</b>	45	59.08/59.79	64.87/81.49
<b>Average time for license renewals (in days)</b>	2.77	3.3	2.98
<b><u>Explanatory Measures</u></b>			

# of licenses placed inactive <b>Output Measures</b>	2,217	843/288	876/498
# of telephone calls received	160,027	232,947	235,386

**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.**

These functions are ongoing and continue to be consistent with the original purpose for this division.

**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. No specific requirements exist for persons or entities affected. No statistical data on affected persons is kept.

**F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.**

This division is administered by the Operations department of the agency. The supervisor of this area reports to the Director of Operations. Staff includes the director, the supervisor, six customer support personnel, and six licensing/examination personnel.

**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).**

The Board funds the agency appropriation by assessing fees to licensees and examination candidates sufficient to cover direct and indirect costs.

**H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. 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 this program or function is contracted out, provide a description of how you ensure accountability for funding and performance.**

N/A

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

**Explain.**

The duties and responsibilities of the personnel in this area have expanded considerably since the merger of the two agencies. This division has Staff retention issues due to reduction in state benefits, low pay, and the increased demands placed on the various positions.

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

Functions are self-explanatory.

**N. 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.

**O. 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.

**VII.2.2 OPERATIONS/ACCOUNTING****A. Provide the following information at the beginning of each program description.**

<b>Name of Program or Function</b>	Finance & Personnel Accounting
<b>Location/Division</b>	Operations
<b>Contact Name</b>	Mark Majek
<b>Actual Expenditures, FY 2005</b>	\$271,352
<b>Number of FTEs as of August 31, 2005</b>	7 (including director)

**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, facilities' management, cash posting and updating, budgeting and planning, general accounting, mail room operations (incoming and outgoing mail), payroll, human resources, and 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 performance measures that best convey the effectiveness and efficiency of this function or program.**

	FY '03 (RN only)	FY '04 (RN/LVN)	FY '05 (RN/LVN)
Outcome Measures			

<b>% of total dollar value of purchasing and contracts awarded to HUBs</b>	22.2%	26.8%	27.7%
<u>Output Measures</u>			
<b># of contracts awarded to HUBs</b>	109	4	1
<b># of HUBs from which agency made purchases</b>	80	61	40
<b>Dollar value of purchases and contracts made to HUBs</b>	\$146,384	\$169,544	\$265,302

**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 purpose for the compact.

**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 and agency employees 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. List any field or regional services.**

This division is administered by the Operations department of the agency. The supervisor of this area reports to the Director of Operations. Staff includes the supervisor, two support accountants, a purchaser, and two mail room 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).**

The Board funds the agency appropriation by assessing fees to licensees and examination candidates sufficient to cover direct and indirect costs.

**H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. 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.**

None.

**K. If this program or function is contracted out, provide a description of how you ensure accountability for funding and performance.**

N/A

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

Removal of references to fees in the Nursing Practice Act (Section 301.155). Fee language is redundant.

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

Functions are self-explanatory.

**N. 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.

**O. 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.

### VII.2.3 – OPERATIONS/INFORMATION TECHNOLOGY (IT)

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

<b>Name of Program or Function</b>	Information Technology (IT)
<b>Location/Division</b>	Operations
<b>Contact Name</b>	Mark Majek
<b>Actual Expenditures, FY 2005</b>	\$190,555
<b>Number of FTEs as of August 31, 2005</b>	6 (not including director)

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

The Information Technology division provides the computer support functions of the agency to include computer programming and technical support services. An automated information system designed in-house tracks all facets of the agency's services, including cash receipting, and licensure and enforcement data. This division also provides network administration, PC support, and technical programming services for the agency's web site. Additional services provided in this division are data processing and the sale of the agency's various publications.

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

05/2000 - the agency's IT staff released a graphical user interface (GUI) licensing system that was developed and written by our IT staff. An agency of similar size spent \$850,000.00 for an off-the-shelf licensing program and required customization.

12/2001 - the agency's IT staff installed a 3Com Firewall. The Board of Vocational Nurse Examiners (BVNE) paid \$10,000.00 to outside consultants to have the same type of firewall installed.

03/2002 - the agency's IT staff enhanced the licensing system to accept TxOnline Renewals. Other occupational licensing agencies were required to pay outside consultants for their current licensing application vendor to perform this function.

09/2003 - the agency's IT staff released a GUI licensing system developed and written by our IT staff for the BVNE. Prior to 09/2003 the BVNE used a antiquated licensing system maintained by Northrop Grumman at a cost of \$80,000.00 per year. The BVNE did not pay programming costs or data conversion fees to either Northrop Grumman or the Board of Nurse Examiners (BNE).

02/2004 - the agency's IT staff merged the BNE and BVNE IT systems and services. This process included, Web servers, Exchange Servers, Network and PC Configurations, Licensing Programs, Data Entry Services and License Production Services.

01/2005 - the agency's IT Staff converted and upgraded its Exchange Server. Other agencies of similar size spent \$5,000.00 - \$8,000.00 to outside consultants to upgrade their Exchange Servers.

06/2005 - the agency's IT staff upgraded the licensing system to the newer programming developmental software which allows the agency to import XML data files, required by TxOnline vendor BearingPoint. Conversion and upgrade functions were performed by our IT Staff. Other agencies of similar size are hiring outside consultants to perform this type of upgrade. Approximate costs are \$20,000.00.

11/05 - the agency's IT staff developed and implemented software code and maintenance module to randomly select nurse licensees for criminal background checks. The maintenance module allows for monitoring progress and production of a variety of reports for notice of the selection, calculation of statistical information and transfer of non-compliant licensees to the enforcement division.

01/2006 - IT staff steered implementation of paperless board meetings and paperless eligibility and disciplinary meetings. Electronic materials are transmitted to board members using a jump drive. IT staff developed and disseminated instructions on these procedures to the board members and agency staff. IT staff continue to assist staff in preparation of electronic materials used in meetings.

02/2006 - IT staff replaced the agency's existing web server with new hardware and upgraded software. Web services, functionality and content remained unchanged. The new server has provided an increase in operational performance and an increase in the number of constituents being served with uninterrupted communications.

**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 FY '82 when the Agency moved from paper to electronic files. It began with two (2) clerks maintaining data records stored at the Water Development Board. The Agency's increased

technology needs, coupled with the need to control technology costs and projects, have resulted in ever-increasing demand on this department, resulting in its current configuration.

**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 all agency employees on the applicable functions listed above. The public is able to utilize the agency's web site and obtain desired information.

**F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.**

This division is administered by the Operations department of the agency. The IT supervisor of this area reports to the Director of Operations. Staff includes the IT supervisor, a data processing supervisor who reports to the IT supervisor, one system support specialist, and three data processing administrative assistants.

**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).**

The Board funds the agency appropriation by assessing fees to licensees and examination candidates sufficient to cover direct and indirect costs.

**H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. 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.**

None.

**K. If this program or function is contracted out, provide a description of how you ensure accountability for funding and performance.**

N/A

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

N/A

**M. Provide any additional information needed to gain a preliminary understanding of the program**

**or function.**

Functions are self-explanatory.

**N. 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.

**O. 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.

### VII.3 – ENFORCEMENT

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

<b>Name of Program or Function</b>	Enforcement
<b>Location/Division</b>	Enforcement
<b>Contact Name</b>	Tony Diggs
<b>Actual Expenditures, FY 2005</b>	\$1,637, 966
<b>Number of FTEs as of August 31, 2005</b>	24 (including director)

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

The Enforcement Department receives, processes, files, and investigates complaints against licensees and applicants for licensure. The major activities involved in carrying out these functions are:

- Receiving the complaints via the mail, e-mail, and the Health Professions Council's (HPC) toll-free line and then ranking the complaints by perceived priority;
- determining which complaints fall within the jurisdiction of the board;
- gathering all evidence and information pertinent to jurisdictional complaints to allow the board to make an appropriate resolution for each complaint;
- maintaining all files and records related to the complaints;
- answering inquiries into current complaints and the history of licensees;
- corresponding with licensees and complainants;
- drafting reports related to investigations of jurisdictional complaints;
- preparing files for informal conferences and giving testimony in formal hearings at the State Office of Administrative Hearings.

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

	<b>FY '03 (RN only)</b>	<b>FY '04 (RN/LVN)</b>	<b>FY '05 (RN/LVN)</b>
<u>Outcome Measures</u>			
Ratio of complaints filed per 100 licensee population	1.364	1.55	2.122
% of complaints resolved resulting in discipline	41.97%	37.99%	30.91%
Recidivism rate for those receiving discipline	18.66%	14.79%	11.18%
Recidivism rate for those enrolled in TPAPN	4.5%	8.0%/1.63%	10.2%/11.8%
% of complaints resolved in 6 months	71.75%	66.98%	66.48%
<u>Output Measures</u>			
# of jurisdictional complaints received	2,378	2,894	3,889
# of non-jurisdictional complaints received	106	67	96
# of investigations conducted (cases open-cumulative)	3,602	4,011	5,521
# of complaints resolved	2,411	2,332	3,398
# of informal conferences	243	165	115
# of ALJ hearings conducted/# of ALJ hearings set	18/na	13/48	20/71
# of licenses sanctioned	940	803	996
- Limited licenses	8	6	2
- Remedial education	105	61	69
- Reprimand	0	0	0
- Reprimand with stipulations	58	49	39
- Reprimand with remedial education	0	0	0
- Revocation	150	84	75
- Stipulation only	0	7	0
- Suspension	5	41	30
- Suspend/Probate	16	16	24
- Voluntary surrender	130	99	105
- Warning	0	0	0
- Warning with remedial education	0	0	0
- Warning with stipulation	114	95	71
- Warning with fine	0	0	0
- License reinstated – clear	0	0	0
- License reinstated with stipulations	39	30	28
- Fine	58	68	106
- Reinstatement denied	12	24	25
- Limited license with fine	0	0	0
- Probation	0	0	0
- Reprimand with fine	0	0	0
- Suspension with fine	0	0	0
- Fine with remedial education-CE/Delinquent	99	72	89
- TPAPN Order	67	19	68
- # of licensed individuals participating in Peer Assistance Program	583	367	722
<u>Efficiency Measures</u>			
Average time for investigations (days)	91.36	124.55	99.84
Average cost per investigation	\$324.44	\$228.70	\$309.43
Average cost of Informal Conference	\$95.17	\$124.18	\$126.03
Average cost of complaint resolution	\$332.94	\$297.88	\$199.78
Average time for final disposition (open to ratification)	170	166	150

Average time from completion of investigation to hearing with ALJ (days)	228	205.44	239.48
Average time from hearing date to Proposal for Decision (days)	17	46.58	64.19
Average time from Proposal for Decision to ratification by Board/E&D (days)	36	43.88	47.27
Average time for disciplinary action – ALJ only	343	402.92	567.38
Age of cases:			
More than 12 months	22%	20%	28%
Between 6 and 12 months	22%	27%	27%
Less than 6 months	56%	53%	45%
<u>Explanatory Measures</u>			
Average case load per Investigator	197	309	327
<u>Criminal Background Checks Conducted</u>			
LVN Declaratory Order/Positive Criminal Conviction Uncovered	n/a	16/10 (62%)	437/293 (67%)
LVN Endorsement	n/a	n/a	54/27 (50%)
LVN Exam Candidate	n/a	202/131 (65%)	99/62 (62%)
RN Declaratory Order	n/a	43/5 (12%)	611/407 (67%)
RN Endorsement	n/a	2305/81 (4%)	4373/215 (5%)
RN Exam Candidate	n/a	3764/288 (8%)	7160/552 (8%)
LVN Renewal Audit	9/1/2005-5/31/2006 only	1335/206 (15%)	
RN Renewal Audit	9/1/2005-5/31/2006 only	3095/226 (7%)	

**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 of this department remain consistent with its initial purpose for creation.

**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.**

Enforcement 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. List any field or regional services.**

This department is supervised by the Enforcement director. Two supervising investigators report to the director, with seven additional criminal justice investigators (includes two monitoring investigators), and seven nurse investigators who report to the supervising investigators. Support staff includes five administrative technicians and a supervising administrative technician who reports to the director.

Complainants receive letters on the status of their complaints every 90 days, and if a case is unresolved after one 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).**

The Board funds the agency appropriation by assessing fees to licensees and examination candidates sufficient to cover direct and indirect costs.

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

The Texas Peer Assistance Program for Nurses (TPAPN) was created for nurses who's practice may be affected due to chemical dependency or mental illness. These nurses are referred to TPAPN (usually by the employer) in lieu of being reported to the Board. If the nurse refuses to participate in TPAPN or relapses while in the program, TPAPN refers the nurse to the Board for investigation and possible discipline. The only exception to this would be if the nurse self referred himself/herself to TPAPN on his/her own initiative and had no practice related issues.

The conditions of the TPAPN contract are very similar to Board stipulations placed in chemical dependency disciplinary Orders. The Participant/Respondent is required to go into inpatient or outpatient treatment; employers are notified and must provide supervision; the Participant/Respondent is not allowed to administer narcotics for a period of time; the Participant/Respondent cannot work in critical care settings for a period of time; the Participant/Respondent must work a minimal number of hours per month on one specified unit (no floating); the Participant/Respondent must abstain from alcohol and drugs (unless legally prescribe) and must submit to random drug screens; and the Participant/Respondent must attend Alcoholic Anonymous/Narcotic Anonymous meeting.

The difference between the TPAPN contract and Board Ordered Stipulations primarily relate to time. TPAPN is a two (2) year program whereas Board monitoring can fluctuate between two (2) and four (4) years. TPAPN's prohibitions pertaining to narcotic administration is six (6) months whereas the Board's prohibition is one year. Another difference is that TPAPN is an advocacy program. A TPAPN participant is given guidance through a TPAPN advocate and sponsor. The Board provides no such guidance.

**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 Texas Peer Assistance Program for Nurses (TPAPN) is a nonprofit program administered by the Texas Nurses Foundation (TNF), a nonprofit arm of the Texas Nurses Associations (TNA). The Board of Nurse Examiners (BNE) contracts with TPAPN to provide peer assistance services to nurses whose practice may be affected due to chemical dependency or mental illness. TPAPN was created as an alternative to discipline. Therefore, if the nurse voluntarily participates and successfully completes TPAPN, the Board is not notified. An exception to this would be when the BNE, after receiving and investigating a complaint, determines that it would be in the best interest of the public to have the individual participate in TPAPN. In these instances, the individual receives a formal Board Order to participate and successfully complete TPAPN. These decisions are based on a case-by-case evaluation of the facts. The Board may determine that monitoring by the Board is preferable, particularly for nurses who have a longer history of chemical dependency or criminal history.

**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 this program or function is contracted out, provide a description of how you ensure accountability for funding and performance.**

The primary source of funding for TPAPN is supplied by a portion of licensure/relicensure fees of LVN's and RN's. The funding cap from the BNE to TPAPN FY 2006 and 2007 is \$625,000 per fiscal year. TPAPN does receive some additional funds since participants must pay certain administrative costs.

The Program Director for TPAPN reports as each quarterly Board meeting. He supplies financial and performance data at these times. Request for funding increases from TPAPN are also considered by the Board periodically. The Board conducts legal compliance audits of TPAPN annually and periodically financial audits are conducted.

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

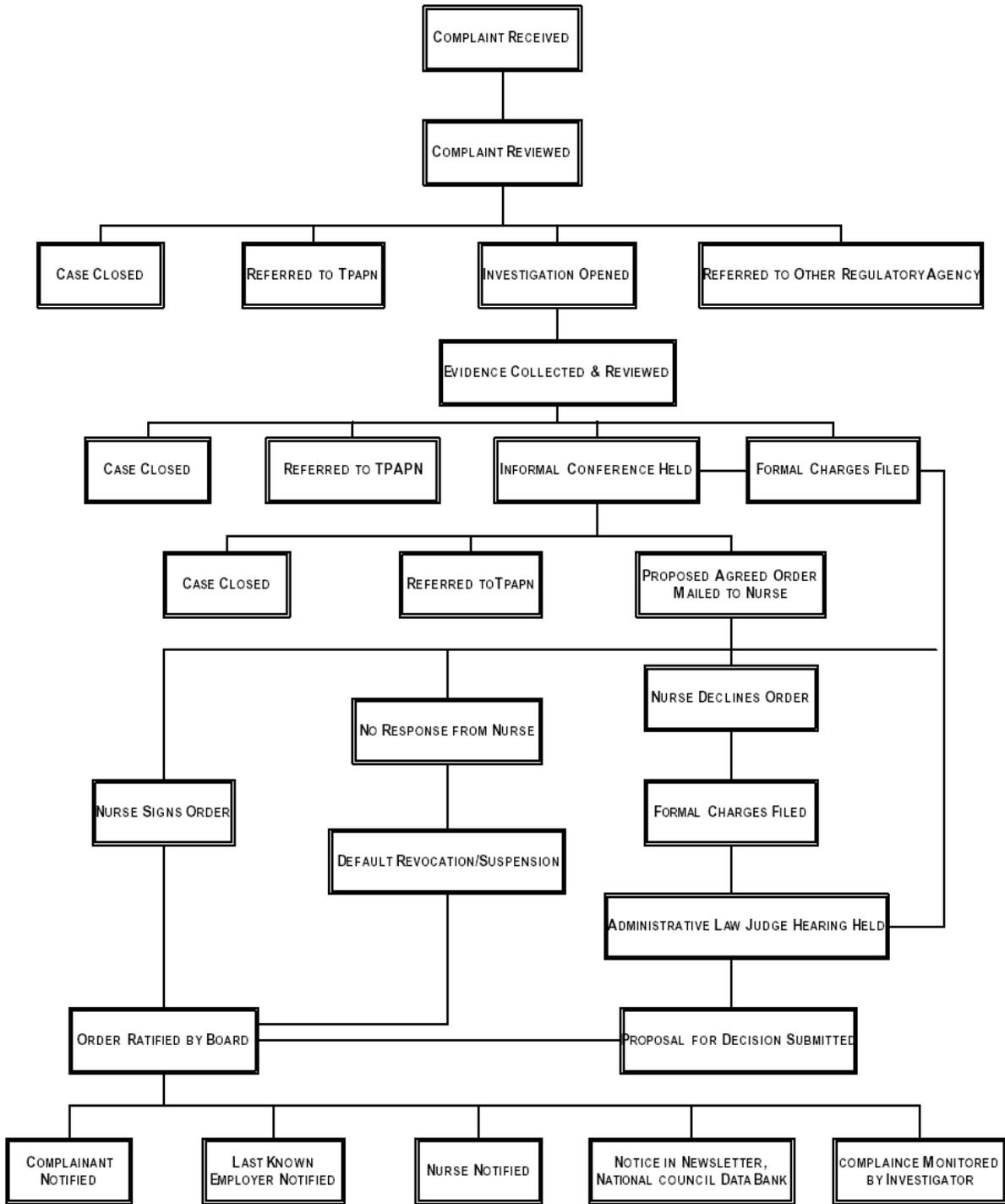
If criminal background checks are extended to nursing students, additional agency staff/funding would probably be required in order to process the additional workload generated by increased numbers of background checks conducted.

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

Functions are self-explanatory.

THE REMAINDER OF THIS PAGE HAS INTENTIONALLY BEEN LEFT BLANK.

# INVESTIGATORY & DISCIPLINARY PROCESS



**N. 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 charts above.

**O. 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 chart in Section C above.

### VII.4.1 – NURSING/NURSING EDUCATION

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

<b>Name of Program or Function</b>	Nursing Education
<b>Location/Division</b>	Nursing
<b>Contact Name</b>	Mary Beth Thomas
<b>Actual Expenditures, FY 2005</b>	\$431,825
<b>Number of FTEs as of August 31, 2005</b>	7 (not including director)

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

The Education division approves programs of nursing education which prepare RNs and LVNs for initial entry into nursing practice. The BNE also has an optional approval process for programs preparing RN to BSN and APNs. At the time of this report (5/1/06), 96 professional nursing education programs are approved by the BNE at the Diploma, Associate Degree, Baccalaureate Degree, and Master's Degree levels and 117 vocational nursing education programs are approved. The functions of this division include, but are not limited to the following:

- Responding to emails and telephone calls on a continuous basis;
- Reviewing approval status of all nursing education programs on an annual basis;
- Visiting non-nationally accredited programs for survey at least every 6 years. Other criteria, including a drop in the pass rate of graduates on the national licensure examination or complaints from consumers, may result in more frequent on-site surveys of programs.
- Establishing standards for nursing education.
- Working with advisory committees to secure stakeholder input.
- Approving the development of new nursing education programs and extended campuses. In FY 2004 and FY 2005, 17 new programs were in different stages of review by the BNE. The average time to approve a new educational program from first draft of proposal to initial approval is approximately nine months.
- Assessing nursing education programs on a periodic basis.
- Providing consultation and guidance to school officials.
- Collaboration with other state agencies and professional organizations on nursing education policy.

- Conducting orientation workshops for new deans, directors, coordinators.
- Communicating rules and regulations related to the approval process.
- Collecting and analyzing educational data useful in long range planning for nursing education.

<b>C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and performance measures that best convey the effectiveness and efficiency of this function or program.</b>			
	FY '03 (RN only)	FY '04 (RN/LVN)	FY '05 (RN/LVN)
<b><u>Outcome Measures</u></b>			
<b>% nursing programs in compliance</b>	96.6	97.8/95.1	98.35/97.30
<b><u>Output Measures</u></b>			
<b># of nursing programs approved</b>	89	91/123	95/118
<b># of nursing programs sanctioned</b>	2	1/6	2/10
<b># of nursing programs closed</b>	UA	5	2
<b><u>Efficiency Measures</u></b>			
<b>Average cost of program survey</b>	\$387.81	\$415.46	\$582.61
<b><u>Explanatory Measures</u></b>			
<b># of programs surveyed</b>	13	11	20
<b>Average length of survey visit (days)</b>	1.5	1.3	1.14

The Board obtained survey data from BNE stakeholders through several independent studies conducted by the National Council of State Boards of Nursing (NCSBN). The first study which gathered data relating to BNE stakeholder perceptions of the agency was titled “**CORE - Commitment to Ongoing Regulatory Excellence**” (The CORE Study). The CORE Study was released on March 15, 2004, and provided measurement of BNE stakeholder perceptions related to practice, education, licensure and governance for the Texas Board of Nurse Examiners as well as 32 other participating boards of nursing in the United States. Study data relating to practice, education, licensure and governance was collected by the NCSBN in FY 2003. Additional data for the CORE Study was drawn from BNE participation in a previous pilot data study on registered nurses during FY 2000 and FY 2002. The data relative to the Nursing Education division was as follows: Nursing Education Programs were asked to rate the adequacy of their experiences related to the approval process on a scale of 1 (always adequate) to 3 (inadequate). The following table provides responses by element of the approval process.

	FY '03 (RN only)	FY '04 (RN/LVN)
<b>APPROVAL PROCESS</b>	<b>BNE Rating</b>	<b>Aggregate</b>
Interval between Board visits	1.34	1.40
Preparation time for Board visits	1.55	1.38
Communication with Board staff	2.00	1.43
Time spent on site during visit	1.41	1.31
Feedback/evaluation provided by Board	1.84	1.37
Timeliness of providing feedback	1.97	1.40
Comprehensiveness of feedback provided	1.86	1.38
Fairness/objectivity of Board findings	1.97	1.42
Time given to correct deficiencies	1.66	1.37
Fairness in monitoring compliance	1.76	1.32
Overall benefit of approval process	1.70	1.39
Due process for disagreements regarding findings & plan of corrections	1.78	1.42

A sample of 11 programs in Texas that made any inquiries of the BNE regarding educational issues,

regarded the Board as helpful (1.14) on a scale of 1(very helpful) to 4 (very unhelpful). The 417 programs across the country that made any inquiries of the boards of nursing in their states regarded the board as very helpful (1.29). Nursing education programs perceived that the BNE has been consistently helpful [1.37 on a scale of 1 (consistently helpful) to 4 (not helpful at all)], compared to the programs nationwide (1.11).

**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.**

These functions are ongoing and continue to be consistent with the original purpose for this division; however, subsequent to the passage of House Bill 1483 (2003), the Board of Nurse Examiners assumed regulation of vocational nursing education programs on February 1, 2004. The number of approved vocational nursing education programs on that date was 122. This number represents an increase of 15 approved programs since 1993.

**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 nursing education programs, health care agencies, professional organizations, faculty of nursing education programs within and outside of Texas, and consumers of nursing education programs and health care.

FACULTY IN VOCATIONAL NURSING EDUCATION PROGRAMS 2005		FACULTY IN PROFESSIONAL NURSING EDUCATION PROGRAMS 2005	
Full Time	621	Full Time	1491
Part Time	272	Part Time	600
Substitute	39	NA	0
Total (includes 114 LVNs)	932	Total	2091

**F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.**

This division 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 five additional nurse consultants.

This division is also supported by an administrative assistant to the Director and an administrative assistant to the lead consultant who also supports the lead consultant in the Nursing Practice division.

**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).**

The Board funds the agency appropriation by assessing fees to licensees and examination candidates sufficient to cover direct and indirect costs.

**H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions. 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.**

The education nursing consultants for the Board of Nurse Examiners (BNE) received many inquiries regarding the issue of student access to automated medical supply systems. In reviewing the Texas State Board of Pharmacy (TSBP) rules, it was found that Texas Pharmacy Rules limit access to automated medication supply systems in Class C pharmacies for stocking and retrieval of medications to licensed healthcare professionals or pharmacy technicians.

The Nursing Practice Act (NPA) requires that nurses, including nursing faculty, know and conform to the Texas NPA, BNE rules and regulations, as well as all federal, state, or local laws, rules and regulations affecting the nurses current area of nursing practice. The NPA is not applicable to students when performing nursing duties incident to the program of study. To resolve the conflict, the BNE staff worked with the TSBP staff on creation of a Memorandum of Understanding (MOU) to allow nursing student access to automated medical supply systems. The MOU was presented to and approved by the BNE on July 22, 2004 and approved by the TSBP on August 3, 2004.

The MOU specifies that automated medication supply systems (such as Pyxis, Sure Med, etc.) shall be available to nursing students acting under the supervision of a faculty/instructor and/or preceptor. The nursing program and the faculty should work with the healthcare facility and the pharmacists to develop a process that will facilitate providing access to nursing students. The MOU is applicable only to programs of study for the preparation of vocational nurses and registered nurses approved by the Board of Nurse Examiners and Class C pharmacies administering automated medication supply systems for retrieval of medications.

**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.**

**Texas Higher Education Coordinating Board** - The Texas Higher Education Coordinating Board (THECB) was created by the Texas Legislature in 1965 to provide leadership and coordination for the Texas higher education system to achieve excellence for the college education of Texas students. Overall responsibilities of THECB include assessment of the state of higher education in Texas; development of recommendations to the Governor, Legislature, and institutions for its enhancement; implementation of legislative mandates; and establishment of policies for the efficient and effective use of the state's higher education resources. In order to meet these broad obligations to the people of Texas, THECB reviews and recommends changes in formulas for allocation of state funds to public institutions. In addition, THECB approves certificate and degree programs and helps eliminate costly duplication in academic programs and unnecessary construction projects. State funded colleges and universities are required to have THECB approval.

**Texas Workforce Commission** - The mission of the Texas Workforce Commission (TWC) is to promote and support a workforce system that offers employers, individuals and communities the opportunity to achieve and sustain economic prosperity. The TWC meets its charge through the oversight and provision of workforce development services to employers and job seekers. Services offered include career development, job search resources, unemployment benefits, and training programs. The primary funding (87% FY 2003) for TWC activities is derived from federal sources. The activities occur through a “partnership with regional public/private workforce development boards that operate 270 one stop workforce centers.” (<http://www.twc.state.tx.us/twcinfo/workforce101.html>). Seven vocational nursing education programs and one diploma nursing education program are classified as either a Career School or College and are approved by TWC.

**Interdependence Between Approval Bodies** - The BNE and these two approval agencies, THECB and TWC, depend upon the information from the other agencies in decision-making regarding approval status of nursing education programs.

**Comparison between BNE, THECB, and TWC**

The following table compares differences among these agencies when approving nursing education programs.

<b>Comparison</b>	<b>BNE Approval *</b>	<b>THECB Approval *</b>	<b>TWC Approval *</b>
Focus of Mission	Competent, safe practicing nurses.	Excellence in post-secondary higher education of Texas students.	Workforce systems to achieve and sustain economic prosperity.
Basis for Approval	Approval based upon compliance with the Texas NPA, rules and regulations, including requirement for a curriculum designed to prepare students to demonstrate Differentiated Entry Level Competencies of Texas Nursing Programs (DELIC).	Approval based upon the institution meeting criteria for review of each program within the institution; nursing program approval is a reciprocal process between the BNE and THECB.	Approval based on adequate curriculum, fiscal and physical resources.
Goal of Approval	Assures educational requirements that meet minimum standards for graduates' eligibility for licensure and prepare students to demonstrate DELIC.	Assures program delivery has met and maintains a level of quality, need, efficiency, and cost effectiveness.	Assures that school or college is financially sound and capable of fulfilling commitments for training.

Basis for Continued Approval Status	Greater than 80% pass rate on NCLEX examination, compliance with rules and regulations as evidenced in Annual Report or other required documents, survey visit conducted by BNE education consultants or by voluntary accreditation body.	Varies with level of program; programs receiving Perkins funds are subject to institution-wide compliance in meeting minimum established institutional effectiveness standards including graduation and placement rates, and licensure pass rates, as appropriate; approval may in part be reflective of Southern Association of Colleges and Schools accreditation findings.	Adequate fiscal and physical resources, continued workforce need.
Consumer Protection and Advocacy	Educational rules and regulations derived from the Texas Legislature (NPA).	Promotes free transfer of course credits, responds to development of programs needed in communities; assures compliance with institutional effectiveness standards, Board rules and guidelines, and state law; serves as steward of the state's resources; provides scholarship and grant funds to students.	Protection of the workforce and workforce needs of Texas.
Frequency of Approval	Protects consumers from programs otherwise unregulated, that do not prepare graduates for minimum standards for eligibility for licensure exam and that do not prepare students to demonstrate DELC.	Varies with level of program; institutions receiving Perkins funds have 4 year approval cycle based upon desk audit of institution-wide reported data; visits may be scheduled when institutions do not meet minimum established standards or at institution's request; and all institutions are subject to 2 year cycle of compliance with accountability system.	Annual approval with examination of premises.

\* Synopsis of regulations

**Collaboration between BNE, THECB and TWC** - The THECB provides rules and regulations for certificates and degrees to ensure that colleges and universities offer instructional programs that meet the generally accepted standards of higher education.

Consequently, the BNE and THECB work in tandem with each other since final approval for establishing a new nursing education program is contingent upon approval from the other. Additionally, the program

must receive both BNE and THECB approval prior to implementing a major curriculum change.

The BNE and TWC interface occurs due to the TWC's responsibility for regulation of Career Schools and Colleges. The BNE currently approves seven vocational nursing education programs and one diploma nursing education program classified as either a Career School or College.

All BNE approved nursing education programs must hold approval status from THECB and/or TWC. Additionally, the BNE notifies THECB and TWC when a nursing program has a change in approval status.

**K. If this program or function is contracted out, provide a description of how you ensure accountability for funding and performance.**

N/A

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

N/A

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

The approval of Texas nursing education programs by the BNE is based upon a number of criteria which are outlined in its rules and regulations, 22 Texas Administrative Code Chs. 214 (Vocational Nursing Education), 215 (Professional Nursing Education), and 219 (Advanced Practice Nursing Education). Factors which are reviewed when considering the approval status are as follows: (1) the Annual Report which provides requested data as well as generalized information regarding whether or not the program is meeting designated sections of the education rule; (2) the NCLEX<sup>®</sup> pass rate for first time candidates; (3) Self-Study Reports submitted by programs with NCLEX<sup>®</sup> pass rates below the required standard (80%); (4) Progress Reports submitted by programs that have been identified as not having successfully met specific requirements issued by the Board; (5) survey visits to programs experiencing significant problems; (6) curriculum based on sound educational principles and evidencing incorporation of Differentiated Entry Level Competencies of Graduates of Texas Nursing Programs: Vocational (VN), Diploma/Associate Degree (DIP/ADN), Baccalaureate Degree (BSN), 2002, referred to as, DELC [sets forth simple, core competencies that all health clinicians should possess, regardless of their discipline: provide patient-centered care; work in interdisciplinary teams; employ evidence-based practice; apply quality improvement; and utilize informatics]; and (7) other information from the programs documenting compliance with rules and regulations. The accepted NCLEX<sup>®</sup> pass rate is 80%. The national average pass rate for the NCLEX for RNs for 2005 was 87.29 and 89.06 for LVNs. The Texas average scores for the NCLEX for FY 05 were 89.69 for RNs and 88.74 for LVNs.

The BNE approves all new pre-licensure programs that are developed in the state, as well as approving post-licensure programs upon request. The major purpose of the approval process is to assist the BNE in fulfilling its mission of protecting the welfare of the citizens of this state.

The accreditation of nursing education programs by specialized voluntary accreditation agencies is acknowledged and valued by the BNE when considering the approval status of nursing programs. The missions of the national accreditation agencies, the National League for Nursing Accreditation Commission (NLNAC) and the Commission on Collegiate Nursing Education (CCNE), differ from the mission of the BNE in that they are not related to the protection of the public. Both voluntary accreditation agencies evaluate and accredit nursing programs based upon each program's own set of standards and criteria as they evaluate the program's success in meeting their mission, goals, and

outcomes. The voluntary accreditation agencies rely upon state board approval status as a factor in their deliberation regarding accreditation. The safety of the public is not a major focus for these agencies when conducting program review as they consider this function to be under the auspices of the individual state boards. Changes made by the BNE in approval status of programs are forwarded to the voluntary accreditation agencies to inform them of deficiencies, or correction of deficiencies.

**N. 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.

**O. 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.

## VII.4.2 – NURSING/NURSING PRACTICE

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

<b>Name of Program or Function</b>	Nursing Practice
<b>Location/Division</b>	Nursing
<b>Contact Name</b>	Mary Beth Thomas
<b>Actual Expenditures, FY 2005</b>	\$205,013
<b>Number of FTEs as of August 31, 2004</b>	4 (including director)

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

The Nursing Practice division provides information regarding the standards, laws, rule changes and BNE policy through a quarterly newsletter and 10 workshops per year conducted at rotating sites throughout the state. This division also includes the Advanced Practice Nursing Staff which handles all issues related to Advanced Practice Nurses. The staff of this division performs its tasks by:

- responding to emails, telephone calls, faxes and other written correspondence on a continuous basis;
- drafting position statements, guidelines and frequently asked questions for the BNE's web site;
- writing articles addressing practice issues in the BNE's newsletter;
- working with internal and external advisory committees as a method for ongoing stakeholder input;
- collaboration with other state agencies and professional organizations on nursing practice policy;
- publishing updates on rules, rules changes, and legislative enactments;
- updating rule and statutes handbooks;
- testifying as nursing practice experts for disciplinary hearings;
- advising and assisting other divisions as needed on practice issues;

- evaluating advanced practice qualifications (education and certification) for applicants seeking recognition by BNE;
- responding to inquiries and coordinating media contact with senior staff and board members; and
- preparing publications by gathering information, writing, editing, doing layout, design for agency publications and by working with printers to ensure satisfactory performance on 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 performance measures that best convey the effectiveness and efficiency of this function or program.**

	FY '03	FY '04	FY '05
# of current APNs	9,588	10,074	10,650
# of authorizations issued to new graduate APNs	446	414	481
# of authorizations issued to fully qualified APNs	773	583	944
# of APN authorizations renewed	4,421	4,562	4,842
# of APNs granted Prescriptive Authorization	452	517	708
# of workshops conducted	10	9	10
# of nurses attending workshops	1,862	1,833	2,390
# attending workshop for first time	679	722	811
# of attendees at open forums	16	8	8
Average cost of conducting workshop per registrant	\$78.59	\$70.10	\$82.44

The Board obtained survey data from BNE stakeholders through several independent studies conducted by the National Council of State Boards of Nursing (NCSBN). The first study which gathered data relating to BNE stakeholder perceptions of the agency was titled “**CORE - Commitment to Ongoing Regulatory Excellence**” (The CORE Study). The CORE Study was released on March 15, 2004, and provided measurement of BNE stakeholder perceptions related to practice, education, licensure and governance for the Texas Board of Nurse Examiners as well as 32 other participating boards of nursing in the United States. Study data relating to practice, education, licensure and governance was collected by the NCSBN in FY 2003. Additional data for the CORE Study was drawn from BNE participation in a previous pilot data study on registered nurses during FY 2000 and FY 2002. The data relative to the Nursing Practice division was as follows:

A sample of twenty-seven (70.4%) employers and 10.5% of nurses who had made inquiries related to practice issues to the BNE during the previous 12 months. Employers perceived the responses they received from the BNE as 1.56 on a scale of 1 (very helpful) to 4 (very unhelpful) while nurses rated the responses they received as 1.69. By comparison, 54 % of employers and 11% of nurses across all U.S. jurisdictions had made inquiries related to practice issues during the previous 12 months. In this sample, employers perceived the responses they received as 1.53 on a scale of 1 (very helpful) to 4 (very unhelpful) while nurses rated the responses they received as 1.63. The following table describes methods used by nurses and employers to find out about scope of practice or practice decisions.

	% of Nurses		% of Employers	
	BNE (n=154)	Aggregate	BNE (n=28)	Aggregate
Nursing practice law and rules	77.0	73.5	82.1	83.9
Board newsletter	78.9	62.6	89.3	60.4
Board web site	27.6	21.1	75.0	43.6

Personal communication with board staff or member	19.1	24.9	67.9	59.0
Public meetings/educational workshops	32.9	23.4	50.0	25.9
Public hearings	1.0	2.1	3.6	3.5
Public notice	4.6	6.3	3.6	7.0
Other association newsletter	18.4	12.1	32.1	18.4
Other association web site	3.9	3.3	10.7	8.4

Nurses and employers were asked whom they would most likely contact first for assistance with a practice question. In Texas, most employers (65.4%) replied they would contact the BNE. Most nurses (42.8%) replied they would contact the BNE. Others answered their risk management department (20.0% of nurses and 11.5% of employers), nursing practice laws and rules (24.8% of nurses), and their schools of nursing (0.7% of nurses).

**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.**

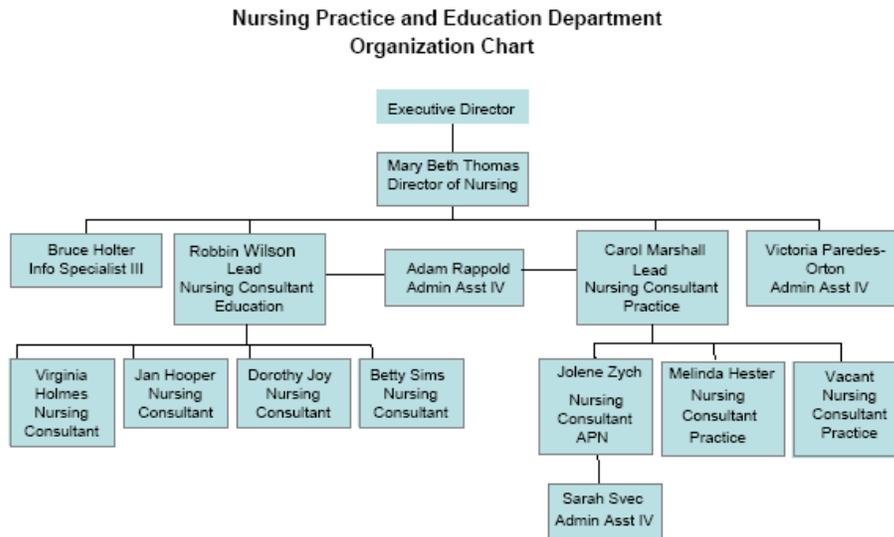
For the division in general, these functions are ongoing and continue to be consistent with the original purpose for this division; however, the number of RNs with APN approval in Texas has increased from 7,131 in 1998 to 10,404 in 2005. Currently, Nurse Practitioners and Nurse Anesthetists comprise the largest groups of APNs, 58% and 26%, respectively; Clinical Nurse Specialists make up 13% of the APN population while Nurse Midwives make up only 3% of the total APNs authorized to practice in Texas. The Board adopted more stringent APN approval criteria in 1996 which now require applicants to complete an accredited APN program and pass an APN certification examination prior to recognition as an APN in Texas.

**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 program includes nurses, the public (citizens of Texas), the school districts, legislature, respondents, health care organizations, professional associations, consumer groups, and nursing students. No specific requirements exist for persons or entities affected. No statistical data on affected persons is kept.

THE REMAINDER OF THIS PAGE HAS INTENTIONALLY BEEN LEFT BLANK.

**F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. List any field or regional services.**



This division is administered by the Nursing department of the agency. The lead consultant of this area reports to the Director of Nursing. Staff includes the lead consultant and two additional nurse practice consultants. The advanced practice area consists of an advanced practice nurse consultant who reports to the lead consultant and is supported by an advanced practice administrative assistant. The information specialist is responsible for the newsletter/press inquiries and reports to the Director 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).**

The Board funds the agency appropriation by assessing fees to licensees and examination candidates sufficient to cover direct and indirect costs.

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

There are CE providers who offer Jurisprudence and Ethics continuing education courses that meet Board requirements for either stipulated courses (disciplined nurse requirement) or for Type I CE for licensure renewal purposes.

**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.**

Workshops: Nurses can choose whether they prefer to attend a Board-sponsored/presented

course or one provided by a private, external source. Completion of either or both Jurisprudence and Ethics courses is typically a requirement for nurses receiving any level of Board sanction from remedial education to suspension/probation. It might be viewed as a conflict of interest if the Board mandated a nurse complete only the courses sponsored by the BNE, as the nurse has to pay for any course(s) she/he takes, regardless of whether it is to meet a Board stipulation or to apply to licensure renewal CE requirements.

The goal of the agency in offering the Jurisprudence/Ethics workshop has always been to provide an educational offering at the lowest possible price to nurses on the key points of the NPA and Rules, and to demonstrate how to apply the NPA and Rules in any practice setting. Workshop fees are structured to cover the costs of printing/ mailing brochures to the target geographic population, printing of written workshop materials (including copies of NPA), fees associated with room/audiovisual rental, food/beverage costs for attendees (continental breakfast and afternoon break), staff travel expenses, and supplies/mail-out costs for sending continuing education certificates to attendees. Price is based on average projected attendance.

MOU:

Section 142.001(2) of the Health and Safety Code (1998) requires the Board (BNE) and the Texas Dept. Of Health to establish and adopt a memorandum of understanding between the agencies to permit respite care by unlicensed care givers in independent living environments, with provision that this NOT be considered the practice of professional nursing in relation to Home and Community Support Service Agencies (HCSSA). The MOU is on the BNE web page at <ftp://www.bne.state.tx.us/MOU-TDH-BNE.pdf>.

Several changes have occurred both nursing and HCSSA-related regulations since 1998. This includes the adoption of new RN Delegation Rules 224 and 225, as well as reorganization of other state agencies with TDH now called the Dept of State Health Services(DSHS), and HCSSA programs being placed under the regulatory authority of the Dept of Aging and Disability Services (DADS). BNE Rule 225 (RN Delegation in Independent Living Environments) permits not only the delegation of various tasks in the independent living environment, but further provides that the RN may determine tasks defined as activities of daily living (ADL) or health maintenance tasks (HMA) to be exempt from RN delegation provided certain rule criteria are met.

Because many aspects of care, formerly considered “nursing tasks” at the time of the MOU, are now considered to be either ADLs or HMAs under Rule 225, the continued value or need for the MOU is being evaluated by stakeholders across applicable state agencies ( DSHS , DADS/HHSC) and professional organizations (TAHC, TNA). This issue will go before the Board’s Nursing Practice Advisory Committee, and then to the Board once new understandings and agreements are reached among Board staff and stakeholders.

Interagency  
Agreements:

Position Statement 15.17 Board of Nurse Examiners/Board of Pharmacy  
Joint Position Statement on Medication Errors. The Board of Nurse Examiners collaborated with the Board of Pharmacy to create a joint position statement addressing medication errors. Both Boards acknowledged the nature of medication errors and agree that health care

interdisciplinary

entities must remain focused on public safety. This position statement was created in response to the 1999 Institute of Medicine's report regarding patient safety and medical errors.

on public safety. This position statement was created in response to the 1999 Institute of Medicine's report regarding patient safety and medical errors.

**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.**

- NPA section 301.407 Duty of a State Agency to Report  
  
BNE does have reciprocal reporting requirements with other state agencies regarding possible violations; nurses are reported to Enforcement Division.
- Informal relationships with other agencies—promote collaboration on related issues for rule interpretations, joint continuing education presentations, etc:
  - OAG/SANE Nurses
  - DSHS/School Health Nurse, Immunization Nurse, Hospital Licensing and Compliance
  - DADS/LTC Regulatory staff, Alberto N. Stakeholder group, HHSC
- Formal: NPAC Members and Notification Group—includes professional organizations as stakeholders
- Task Forces: AFD Task Force (Assistance with Functional Disabilities)—larger than NPAC—1.5 years to revised delegation rules

**K. If this program or function is contracted out, provide a description of how you ensure accountability for funding and performance.**

N/A

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

N/A

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

Functions are self-explanatory.

**N. 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.

**O. 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

<b>A. Fill in the following chart, 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 2001 - 2005, or earlier significant Attorney General opinions, that affect your agency's operations.</b>	
<b>Board of Nurse Examiners Exhibit 13: Statutes/Attorney General Opinions</b>	
<b>Statutes</b>	
<b>Citation/Title</b>	<b>Authority/Impact on Agency</b> (e.g., "provides authority to license and regulate nursing home administrators")
Chapter 301, Texas Occupations Code	<p>Agency's enabling legislation that creates agency, outlines its general and specific authority, outlines public interest information and complaint procedures; nurse license and renewal of license requirements; outlines general disciplinary authority and procedure including penalties and sanctions.</p> <p>Section 301.002(5) amended by SB 1000 to define directed scope of practice for licensed vocational nurses (79R).</p> <p>Section 301.353 amended to clarify role of nurses acting as first assistants (79R).</p> <p>Section 301.1605-301.1606 authorized the BNE to initiate pilot programs for safety initiatives (79R).</p> <p>Section 301.4535 added by SB 1000 provided for required suspension, revocation, or refusal of license for certain offenses (79R).</p>
Chapter 303, Texas Occupations Code	<p>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.</p> <p>Sections 303.002, 303.003, 303.005 and 303.008 amended by SB 1000 to include peer review protection for licensed vocational nurses .</p>
Chapter 304, Texas Occupations Code	<p>Authorizes Texas to join the Nurse Licensure Compact to allow creation of shared information system on nurse practice and provide multistate licensure practice.</p>
Section 105.002, Health and Safety Code	<p>Establishes a comprehensive health professions resource</p>

	center for the collection and analysis of educational and employment trends for health professions in this state.
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 establish 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 physician of prescriptive authority for duly authorized APNs and CRNAs.
Section 411.125, Texas Government Code	Authorizes Board of Nurse Examiners 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 Board of Medicine in development rules applicable to certain outpatient anesthesia practices.
<b>Attorney General Opinions</b>	
<b>Attorney General Opinion No.</b>	<b>Impact on Agency</b>
GA-0236 (August 19, 2004)	The Nurse Practice Act does not allow registered nurses to administer a dangerous drug on the order of a therapeutic optometrist.
JC-0117 (September 28, 1999)	The Board of Nurse Examiners may regulate the selection and administration of anesthesia and the maintenance of anesthetized patients by certified registered nurse anesthetists where anesthesia related tasks have been delegated by a physician under section 157.058 of the Occupations Code. Section 157.058 does not require that a physician directly supervise the CRNA's selection and administration of the anesthesia. Rather, the extent of physician involvement is left to the physician's professional judgment in light of other federal and state laws, facility policies, medical staff bylaws, and ethical standards
JM-1096 (September 19, 1989)	Nursing students and medication aide trainees are subject to the requirement of chapter 242, subchapter F, section 242.151 that a person must hold a license authorizing the person to administer medication, or a permit issued by the Department of Health under subchapter F, in order to administer medications to residents of convalescent and nursing homes and related institutions subject to chapter 242, Health and Safety Code.
<b>B. Provide a summary of recent legislation regarding your agency by filling in the chart 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).</b>	
<b>Board of Nurse Examiners Exhibit 14: 79th Legislative Session Chart</b>	

<b>Legislation Enacted - 79th Legislative Regular Session</b>		
<b>Bill Number</b>	<b>Author</b>	<b>Summary of Key Provisions</b>
HB 1716	Zedler	Repealed Sections 301.1525 - 301.1527 of the NPA. Moved first assisting language to new Section 301.353. New provisions allow APNs with appropriate education to first assist without obtaining certification in perioperative nursing. Also created provisions for nurses not qualified as RNFAs to assist at surgery.
HB 1366	Allen, Ray	Made a number of amendments to NPA that strengthened the BNE's enforcement authority to permit BNE to take action based on deferred adjudication; authorized automatic revocation of license for a variety of criminal offenses including many serious felonies committed against person and , any assault other than a Class C misdemeanor, felony violations of drug laws, etc.; and permitted BNE to impose emergency restrictions on license.
HB 2018	Swinford	Made non substantive corrections to NPA.
SB 1000	Madla	This legislation made corrective amendments to the NPA addressing these issues: 1) amended definition of “vocational nursing” to add more detail and parallel format of definition of “professional nursing”; 2) clarified that nurse’s conduct is reportable to BNE only when the conduct creates an unnecessary risk of harm to patient; 3) clarified relationship between employer reporting and conducting of nursing peer review when a terminated nurse elects not to participate in peer review; and 4) made Nurse Licensure Compact permanent.
SB 39	Zaffirini	SB 39, amended the NPA and requires forensic collection training for nurses working in emergency room settings. Required changes in agency licensing procedures to identify nurses who are required to obtain coursework; added monitoring of completion of courses. New forensic collection requirements (216.3) must be met by September 1, 2008 or by second anniversary of initial license for nurses working in emergency room settings.
HB 2680	Branch	Reduced fees and continuing education requirements for a retired health care practitioner whose only practice is voluntary charity care. Allows “retired” nurses to work for organized charities. Board adopted rules to reduce fees (223.1) and implement CE requirements [216.3, 217.9(d)].

THE REMAINDER OF THIS PAGE HAS INTENTIONALLY BEEN LEFT BLANK.

**Legislation Not Passed – 79<sup>th</sup> Legislative Session**

Bill Number	Author	Summary of Key Provisions	Concerns
HB 212	Galen	<p>Chapter 254 Health and Safety Code:</p> <p>Would have required a licensing agency(including BNE) to release information within 30 days of request from an employing facility. BNE would have to release information regarding not only nurses already sanctioned (agreed order) or on whom formal charges had been filed, but also pending cases to include <i>“any complaint or report from a facility indicating the nurse’s continued practice is an immediate or substantial threat to the public.”</i></p> <p>BNE would also have to provide the nurse notice and opportunity to be heard regarding the allegations.</p>	<p>Would have been redundant, and potentially conflicting with existing statute. Texas Occupations Code §301.455 <i>Temporary License Suspension or Restriction</i> already gives the Board authority to emergently suspend a nurse’s license without notice or hearing by either a majority or 3-member panel of the Board if they determine that evidence presented indicates the nurse’s continued practice <i>“would constitute a continuing and imminent threat to the public welfare.”</i> The existing statute further provides the nurse due process through a preliminary hearing at SOAH within 14 days, and a final determination within 61 days.</p> <p>HB212 included a provision for immunity from civil liability for facilities and past employers, but <u>not</u> for regulatory agencies!</p>
HB 660	Chavez	<p>Ch. 11 Tex. Occ. Code</p> <p>Would have placed mandatory targeted CE requirement on RNs (and other named health care practitioners) who care for elderly patients and “provide therapy or counseling services.”</p>	<p>Targeted CE bill. See Discussion of targeted CE under <i>IX.8 Continuing Education</i>.</p> <p>In addition, “providing therapy or counseling services” is beyond the scope of practice for RNs, unless the RN is also authorized by the BNE as an advanced practice nurse (either clinical specialist or nurse practitioner) in the psych-mental health role and specialty.</p>

HB 2706	Delishi	<p>Ch. 113 Tex Occ. Code: Creation of Health Professions Scope of Practice Review Commission</p> <p>Would have required any health profession licensing agency to submit requests for change in scope of practice, along with analysis, to this commission</p> <p>Neither bill or analysis explained how “members” of the commission who already have full-time jobs would accomplish review of potentially every rule change by every health professions licensing board.</p> <p>Would have been under the Office of Patient Protection, which was never funded and no longer exists.</p> <p>The commission’s review of any/every scope issue would have to include review of similar scope laws in other states, fiscal implications, training requirements, and evidence-based legislative analysis of changes. Reports to the Legislature due <u>annually</u> by 12/31.</p>	<p>No nurses would have been members of the commission under the proposed bill. Thus, non-nurses would have been charged with the responsibility of analyzing and interpreting information to determine scope of practice for LVNs, RNs, and RNs with Advanced Practice authorization.</p> <p>Nearly every rule for nurse’s has the potential scope of practice implications. Thus, potentially no rule could have been changed, regardless of input from Board Advisory Committees, without approval from this non-nursing commission.</p> <p>Potential for substantial negative impact on the Board’s ability to carry out it’s mission of protecting the public: Non-nurses deciding scope of practice issues for nurses has greater potential to endanger the public than to protect them.</p> <p>Rules are changed on an ongoing basis as nursing practice evolves. On occasion, a rule change may even be made emergently in order to satisfy an emerging need for public protection through regulation. HB2706 would have prevented the Board taking necessary action to protect the public by sending the process to an outside non-nursing entity who might delay as long as 12/31 of each current year before rendering a determination.</p>
---------	---------	---	--

HB 3178	Truitt	<p>Ch. 1604 Tex. Occ. Code.</p> <p>Would have provided “health professionals licensed under another law” to perform non-ablative laser procedures without a certificate <i>“if the performance of laser hair removal is within the scope of professional practice as determined by the particular professional’s licensing board.”</i></p> <p><i>Mandated that “qualifications for eligibility for a licensed health professional to be designated as a “senior laser hair removal professional” be established by the “entity that licenses that profession.”</i></p>	<p>Prescriptive rules for specific practices are not necessary; current Board rules provide adequate guidance that is broad enough to encompass any practice setting while maintaining client safety as a foundation for any task/any setting.</p> <p>It is neither possible nor prudent to provide “lists” of tasks nurses (LVN, RN, or RN w/APN authorization) can or cannot perform. What is within the scope of practice for one nurse may not be within the scope of practice for another. Guidance on scope of practice is provided in Rule 217.11, and through position statements, including position statements 15.11 <i>Delegated Medical Acts</i> and 15.9 <i>Performance of Laser Therapy by RNs or LVNs</i>.</p> <p>With over 200,000 licensed nurses practicing in all variety of practice settings, board staff have neither the expertise nor time to develop qualifications for laser or any other specialty area of practice. The Board refers nurses to national professional organizations for evidence-based standards of care and current practices for a given specialty area of practice. The individual nurse is accountable to follow accepted practice procedures for the setting; unprofessional conduct may result if the nurse <i>carelessly or repeatedly fails to conform with generally accepted nursing standards in applicable practice settings</i> [§217.12(1)(B)].</p>
---------	--------	--	--

HB 3170	Geren	<p>Ch. 2001 Government Code.</p> <p>Would have permitted the chair of any standing legislative committee of either House or Senate to initiate the independent review of a rule proposed or adopted by a state agency, including an emergency rule, unless the rule has already been in effect more than 180 days.</p> <p>Committee could request the Governor issue an order to suspend a proposed or adopted rule.</p> <p>Would forbid a state agency to propose or adopt another rule with the same or similar language before the second anniversary of the date the suspension took effect.</p>	<p>Potential for substantial negative impact on the Board's ability to carry out its mission of protecting the public. The Board's mission supersedes the interests of any individual, the nursing profession, or any special interest group. This bill would have permitted the chair of any standing legislative committee to block a rule (including an emergency rule) proposed or adopted by the Board, possibly for purely political or self-serving reasons.</p> <p>Even if the Board believed a rule was necessary to protect the public, under HB3170, the Board would have been prohibited from passing a same or similar rule for 2 years if an individual or special interest group succeeded in getting a rule suspended.</p>
HB 1298	Rodriquez	<p>Ch. 204 Tex. Occ. Code</p> <p>Targeted CE Bill: Would have amended the NPA (§301.304 Hepatitis C Continuing Education) to require ALL nurses to complete at least 2 hours <i>every biennium</i> (no end date).</p>	<p><i>Current</i> §301.304 already required all licensed nurses in Texas, regardless of practice setting, to obtain 2 hours of CE relating to Hepatitis C between 6/1/02 and 6/1/04.</p> <p>No rationale for why Hepatitis C should be a priority for every nurse over other global health issues such as AIDS, Diabetes, Heart Disease, Stroke.....the list could be endless.</p> <p>Rule 217.11 Standards of Nursing Practice, Section (1), standards (G), (H), and (R) already requires all nurses to maintain competency in their area(s) of practice.</p> <p>Revising rules, communicating new CE changes to nurses, and staff monitoring for compliance on the back end all take up valuable time and money that could be better spent. Fail to see how targeted CE promotes the mission to protect the public when broader rule language would already require appropriate CE for the nurse's practice setting.</p>

HB992	Martinez	<p>Ch. 51 Education Code</p> <p>➤Proposed to require Associate Degree Nursing Programs to automatically accept for admission and give priority to persons who are licensed paramedics and also hold an associate, baccalaureate, or graduate degree in a science field.</p> <p>➤Proposed to require the ADN programs allow a student meeting the above criteria to be awarded a nursing degree for completion of only core nursing courses/core-course pre-requisites.</p>	<p>➤Conflicted with educational requirements set forth in Rule 215. Would have permitted paramedic students to be awarded same degree (ADN) with less education. Potential risk of harm to the public permitting a lower level of educational preparation prior to sitting for the NCLEX exam.</p>
-------	----------	--	--

THE REMAINDER OF THIS PAGE HAS INTENTIONALLY BEEN LEFT BLANK.

## IX. Policy Issues

### IX.1 – Name Change

#### A. Brief Description of Issue

Should the Board of Nurse Examiners change its name?

#### B. Discussion

The statutory name of the agency does not accurately reflect its functions and powers. The name creates confusion for the public and even elected officials. The Board’s jurisdiction includes the oversight of nurse education programs as well as the enforcement of nurse practice standards. Furthermore, the powers and functions of the agency are much broader than the name implies. “Board of Nursing” would be a more appropriate name for the agency.

#### C. Possible Solutions and Impact

Amend the Nursing Practice Act, Section 301.002 to rename the agency “Board of Nursing.” Impacts would be minor to board publications.

### IX.2 – Jurisdiction Over Unlicensed Assistive Personnel

#### A. Brief Description of Issue

Should the Board of Nurse Examiners be given jurisdiction over unlicensed, although regulated, assistive personnel working under the delegation and supervision of nurses and thus be responsible for the competency evaluation, establishment of registries, and investigation of disciplinary complaints?

#### B. Discussion

HB1483 [78<sup>th</sup> Leg Session, 2003] mandated the creation of a single Board of Nursing to regulate both LVN and RN practice and education in the State of Texas. With this consolidation, the practice of all licensed nursing was brought under the regulation of a single board. The consolidation was an effective cost-saving measure which eliminated duplicated functions of LVN and RN licensure. The combined board has been better able to address changes in the continually evolving nursing practice without having two separate boards convene and cooperate to address shared issues.

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 nursing. Texas, like other states, must continue to search for ways to improve services while achieving greater cost-savings. In some states, boards of nursing are responsible for the competency evaluation of nurse aides and other regulated assistive personnel with the establishment of registries, and/or investigation and adjudication of complaints against these personnel. Though nurse aides are “certified” rather than “licensed,” many of the functions for regulation of nurse aides are similar to those processes already in place for licensed nurses. Processes essential to regulation of certified nurse aides include, but are not limited to, development and maintenance of a registry; processing applications for certification by exam and subsequent recording/reporting of results; processing of endorsement applications; and investigation of complaints, with sanctions taken on individual CNAs being reported to a database.

According to the latest available information from the Texas Department of Aging & Disability Services, there are currently 116,186 certified nurse aides on the Texas registry (4/30/2006). In April 2006, 1,412

additional CNAs were added to the registry (1,412 by exam and 241 by endorsement). Of special concern is the cost in both funds and staff for Criminal Background Checks for all CNA applicants (federally mandated in long term care). The appropriations necessary to implement such a program are significant. However, the BNE is currently implementing criminal background checks for all its 270,000 licensees over a graduated period of the next 10 years.

Nurse aide training, competency evaluation, registry and the complaint registry are currently regulated by the Texas Department of Aging & Disability Services. Responsibility for conducting the skills tests and written (oral) test for nurse aide candidates in Texas is contracted to Assessment Systems Inc.(ASI) in Pennsylvania (a national testing company) with an in-state subcontractor, Nurse Aide Competency Evaluation Service (NACES Plus Foundation) [an affiliated corporation with the Texas Nurses Association (TNA).]

Although not currently regulated by the BNE, the Texas BNE has long had a strong working relationship with TNA, NCSBN, and other state agencies (through periodic direct collaborative efforts as well as on an ongoing basis through the Health Professions Council). By including the regulation of unlicensed assistive personnel within the jurisdiction of the BNE, nursing practice along the continuum of unlicensed personnel under the nurse delegation through vocational nursing, registered nursing and advanced practice nursing could be more efficiently regulated by the one agency in the best position to coordinate the competing interest.

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

Amend the Nursing Practice Act to grant the BNE jurisdiction over regulated assistive personnel including the authority to develop nurse aide competency evaluation, registry and complaint resolution.

Because of the number of certified nurse aides on the Texas registry, (approx. 116,000 with more than 1,600 additional CNAs added to the registry each month), the budgetary impact on the Board would be significant. It is assumed that the budget, staff and functions of the Texas Department of Aging & Disability Services Nurse Aide Registry would be transferred to the BNE under this proposed consolidation.

## **IX.3 – Self-Directed Semi-Independent (SDSI) Status**

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

Should the Board of Nurse Examiners be a self-directed semi-independent agency similar to the status shared by the Texas State Board of Public Accountancy and Texas Board of Professional Engineers?

### **B. Discussion**

In 1999, the 76<sup>th</sup> Legislature passed the Self-Directed Semi-Independent (SDSI) Project Act which allowed three state agencies to become more self-directed, semi-independent agencies. In particular, the agencies moved their funds outside the state treasury, payed their own bills and reimbursed the State for all services rendered. The 78<sup>th</sup> Legislature re-authorized the pilot in 2003. Since adoption of its 2002-2007 Strategic Plan, the Board of Nurse Examiners has supported the application of Self-Directed Semi-Independent status for itself and the management of its affairs.

The State controls the activities of SDSI agencies in many ways. The Governor appoints the Board members who run these agencies. The Board remains subject to the Open Meetings Act and the Open Records Act. Board decisions are procedurally and substantively guided by the Administrative Procedure Act. All contested cases brought by the Board are tried before Administrative Law Judges at the State Office of

Administrative Hearings. The Board would be represented in the courts of the State of Texas by the Attorney General. The Board would be subject to sunset review, and file annual reports with the governor. SDSI agencies are audited by the State Auditor's Office and are subject to the Internal Auditing Act.

In addition, the Board would not have unfettered discretion to raise funds from the public. The legislature has set specific limits on the amounts that SDSI agencies may charge the regulated profession for the services provided by the agency.

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

The Board has identified several advantages of Self-Directed Semi-Independent status:

- Direct control over agency funds under direction of the Board.
- Direct control over agency programs with added flexibility for dynamic and efficient implementation.
- Flexibility to establish other programs outside the legislatively-mandated programs to promote public welfare.
- More flexibility in staff compensation necessary to attract and retain qualified professional staff given the current demand of professional nurses and the increasing nursing shortage.
- Limited duplication in often voluminous reports.

Under the Self-Directed Semi-Independent model, the Governor continues to appoint the board members and to designate the board chairman. Sovereign immunity remains intact for enforcement and disciplinary functions. The agency remains subject to the *Open Meetings Act* and *Public Information Act*. The agency is, however, removed from the cost of government (appropriations), yet the agency continues to remit fees to the general revenue fund without a reduction to the state budget.

There would be little, if any, fiscal impact on our budget if the Board of Nurse Examiners would be allowed to become a Self-Directed Semi-Independent agency. Upon implementation, any transition costs would be easily absorbed since licensees' fees are collected continuously. Any additional fees necessary to cover program costs would be approved by the governing board just as they are currently. The Board has been required in each of the last bienniums to raise fees to cover the required funds needed to operate the agency and additional funds to the general revenue to cover all indirect costs (object code 3560). If Self-Directed Semi-Independent status is allowed, the Board would continue to transfer funds to the State of Texas general revenue fund on an annual basis.

In addition, the oversight agencies such as the Legislative Budget Board and the Governor's Office of Budget and Planning are relieved of budget oversight responsibilities. The State budget is reduced and any surplus revenue generated by the agency would be remitted annually to the General Revenue fund.

## **IX.4 – Amendments to Nursing Practice Act**

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

Should the Nursing Practice Act be amended to address certain provisions which are no longer accurate, are unnecessary, or have expired by their own terms. The specific sections are as follows: Texas Occupations Code §§ 301.261(a), 301.301(c), 301.302(b), and 301.304.

### **B. Discussion**

**Texas Occupations Code § 301.261(a)**

Texas Occupations Code § 301.261(a) addresses the process by which a licensee who no longer wishes to practice nursing can request that the BNE deem an active license as “inactive.” This status allows the nurse to maintain his/her license without having to meet the continuing education requirements and to pay the fees required of an active licensee. This “inactive” process is initiated by the licensee submitting a request in writing and becomes effective when the BNE receives the request. The statutory language, however, states that the license does not become inactive until the license expires at the end of the renewal period. The BNE would like the last sentence of § 301.261(a) removed and have this section read as follows:

(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.~~

**Texas Occupations Code § 301.301(c)**

Section 301.301(c) is entitled “License Renewal” and was drafted when the Board administered the licensing exam; however, the licensing exam is now contracted out to a vendor and any fees for the test are submitted to the vendor and not the Board. Subsection (c) addresses the “amount charged for examination for the license” as a factor in the fee for an expired license. Since the Board is no longer the licensing exam administrator, this fee to the Board is nonexistent and this fee process for an expired license is obsolete. The BNE would like § 301.301(c) to read as follows:

(c) A person whose license has ~~been expired for 90 days or less~~ may renew the license by paying to the board the required ~~renewal fee, and a fee that is equal to one-half the amount charged for examination for the license.~~ ~~If a license has been expired for more than 90 days but less than one year, the person may renew the license by paying to the board all unpaid renewal fees and a fee that is equal to the amount charged for examination for the license.~~

**Texas Occupations Code § 301.302(b)**

Section 301.302(b) entitled “Renewal of Expired License by Out-of-State Practitioner” has a similar issue as the previously discussed subsection because the statutory language addresses the “initial fee for the license” which had originally included the examination fee. The Board would charge the same fees for all expired licenses and make no distinction between in-state or out-of-state practitioners. The BNE would like § 301.302(b) to read as follows:

(b) The person must pay to the board a fee, ~~that is equal to the amount of the initial fee for the license and the renewal fee.~~

**Texas Occupations Code § 301.304**

Section 301.304 is entitled “Hepatitis C Component in Continuing Education” and by its own terms in subsection (d) expired on June 1, 2004. The board would like this section repealed.

**C. Possible Solutions and Impact**

See “Discussion” section above.

## IX.5 – Collection of Administrative Costs

### A. Brief Description of Issue

Should the BNE have the authority to assess and collect various contested case costs including attorney's fees as part of its costs in an administrative hearing?

### B. Discussion

Texas Occupations Code § 301.461 of the Nursing Practice Act allows the board to assess the administrative costs of a hearing. Due to the vagueness of the statute and what constitutes administrative costs, the taxpayers pay almost all board costs for a hearing because the majority of the board's costs involved are the attorney's fees and other legal-related expenses. This eliminates any incentive for a licensee to settle a matter through an Agreed Order. Without the imposition of the majority of the costs on the licensee, the legal matter is forced to a hearing before the State Office of Administrative Hearings (SOAH) with the additional financial costs being incurred by the board. Due to the board's caseload, the matter pending at SOAH remains unresolved, and the licensee remains in an unrestricted practice. The administrative law judge should have the specific authority to include attorney's fees in the assessment of hearing costs against the licensee. In order to maintain our performance capability to thoroughly enforce violations of the NPA and serve our mission to protect the public, it is important that these types of costs be authorized by statute.

### C. Possible Solutions and Impact

The BNE staff would recommend there be specific statutory authority to recover administrative costs. The expenses associated with SOAH proceedings continued to rise significantly. In order to maintain our performance capability to thoroughly enforce violations of the NPA and serve our mission to protect the public, it is important that types of costs be authorized by statute. The board would recommend that section 301.461 of the Nursing Practice Act be amended as follows:

#### **Texas Occupations Code § 301.461.**

Sec. 301.461. ASSESSMENT OF COSTS.

The board may assess a person who is found to have violated this chapter the direct administrative costs incurred by the board in taking disciplinary action, of conducting a hearing to determine the violation. The costs shall include, but are not limited to, reasonable and customary legal fees, investigative services, the cost of a court reporter and witnesses, deposition expenses, costs of transcriptions of testimony, reproduction of records, Board Staff time, travel and expenses, and any other necessary costs.

Additionally, for purposes of renewal, include in Section 301.301: "Payment of any costs assessed pursuant to Section 301.461."

### C. Possible Solutions and Impact

See discussion above.

## IX.6 – Advanced Practice Registered Nurse Multistate Compact

### A. Brief Description of Issue

Should Texas join the Advance Practice Registered Nurse Multistate Compact?

### B. Discussion

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 to seek licensure in every jurisdiction and gives the Board of Nursing expanded jurisdictional powers to investigate and take action against a license or a privilege to practice when necessary.

Adopted by the Texas Legislature in 1999 (House Bill 1342), the NLC is codified in Chapter 304 of the Texas Occupations Code. As of June 2004, the Compact has been adopted by 20 states: Arizona, Arkansas, Delaware, Idaho, Indiana, Iowa, Maine, Maryland, Mississippi, Nebraska, New Mexico, New Jersey, North Carolina, North Dakota, South Dakota, Tennessee, Texas, Utah, Virginia and Wisconsin. The 17 states that have implemented the NLC are: Arizona, Arkansas, Delaware, Idaho, Iowa, Maine, Maryland, Mississippi, Nebraska, New Mexico, North Carolina, North Dakota, South Dakota, Tennessee, Texas, Utah, and Wisconsin. (See Appendix H for a map of participating states.)

Much like the need to facilitate interstate practice and regulation for RNs and LVNs, a growing need exists to expand such licensure options to advanced practice nurses. Advanced practice nurses may be accepting locum tenens assignments to provide access to health care in areas of Texas that would otherwise not have access to such services for a short or an extended period of time (e.g., anesthesia services). Others may live in areas that border another state and provide services to patients in both states. Under the current system, these advanced practice nurses must hold advanced practice licensure/authorization in each state in which they intend to practice and meet all requirements for maintenance of the license/authorization in each state.

In 2000, the Delegate Assembly of the National Council of State Boards of Nursing endorsed minimum criteria for nurses to obtain legal authority to practice in an advanced practice role and specialty. These criteria include: an unencumbered RN license; completion of an appropriately accredited graduate level advanced educational program; and current certification by a national certifying body in the advanced role and specialty appropriate to the advanced educational preparation (includes maintenance requirements). The uniform licensure requirements assure consistent minimum licensure standards essential to the protection of the public's health and welfare while facilitating interstate practice for advanced practice nurses.

In 2002, a model Advanced Practice Registered Nurse Compact was developed for the purpose of mutual recognition of advanced practice nursing licenses by states who are party to that compact. The Advanced Practice Registered Nurse Compact is modeled after the existing Nurse Licensure Compact for RNs and LVNs and allows advanced practice nurses to practice in any state that is a member of the compact based on his/her "home" state advanced practice nursing license. Advanced practice nurses practicing under the compact privilege, however, must comply with the practice laws of the state in which they are practicing (e.g., laws relating to prescriptive authority, collaborative agreements). At this time, Utah is the only state that has passed legislation to adopt the Advanced Practice Registered Nurse Compact.

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

The Board would adopt the Model Advanced Practice Nurse Licensure Compact. As a party to the Nurse Licensure Compact for RNs and LVNs since January 1, 2000, the Texas Board of Nurse Examiners already has significant experience with this type of regulation. Expanding the compact to include advanced practice nurses would likely be a smooth transition within the agency. In 2004, in excess of 265 individuals have been authorized as advanced practice nurses in Texas based on a RN license from another state that is party to the Nurse Licensure Compact. It is anticipated that even more advanced practice nurses may be willing to accept

temporary assignments in Texas should they have the ability to do so without meeting additional licensure requirements, thereby increasing the public’s access to advanced practice nursing services. Entry into such a compact would also help alleviate confusion expressed by stakeholders, such as advanced practice nurses, third party payers, and employers, regarding the application of an interstate compact to the RN practice privilege but not the advanced practice privilege.

## IX.7 – Continuing Education

### A. Brief Description of Issue

There are three issues at the forefront of continuing education for nurses. The first is whether or not the Board should mandate nursing jurisprudence continuing education (CE) for all licensed nurses to ensure knowledge about board rules and regulations. There is a precedent in other health care licensing agencies, such as the Texas Medical Board, for mandated jurisprudence CE.

The second issue is whether other types of mandated “targeted” CE are good public policy and whether specific criteria should be used to evaluate specific targeted CE.

The third issue is whether Continuing Education (CE) should be the sole method for assurance of competent, safe practitioners?

### B. Discussion

#### Issue #1:

During the 75<sup>th</sup> legislature, SB 617 was adopted which enabled the BNE to conduct pilot programs for the purpose of evaluating the continued competency of nurses in providing safe nursing care. The BNE approved several pilot programs and subsequent findings from the studies provided core knowledge about methods to evaluate continued competency of Texas nurses. In 2000, the BNE published *Ensuring Professional Nursing Competence* which outlined potential regulatory options to address ongoing nursing competency.

One recommendation outlined in the report suggests that the BNE require licensed nurses, including endorsees, to provide evidence of two hours of targeted education in nursing jurisprudence in each license renewal period. This recommendation is timely and stems from an increase in the number of disciplinary cases (31.6 percent more nurse licenses were sanctioned in FY 05 than in FY 04) and a perceived lack of knowledge regarding the Nursing Practice Act and rules of the Board among nurses in general.

The jurisprudence CE requirement for disciplined nurses in Texas is a minimum 6 hour course. The comment repeated by many nurses after attending one of the Board’s jurisprudence and ethics workshops is “I wish I had come to this sooner—I would not have made the same mistake had I known then what I know now.” Consideration should be given for mandating completion of a more in-depth CE (IE: 6 hours) for initial licensees to Texas, with the above recommendation for 2 hours of jurisprudence CE for each renewal period.

#### Issue #2:

A second issue evolves around what is referred to as “targeted” CE. Targeted CE generally require a special topic continuing education program for nurses and such bills are introduced into the legislature every session. Typically targeted CE is mandatory for all licensed nurses. Hepatitis C [77<sup>th</sup> Tex. Legis.,

HB2650] and Bioterrorism CE [78<sup>th</sup> Tex. Legis., HB1483] are examples. Most recently, targeted CE for nurses employed in emergency rooms was passed adding section 301.306 to the NPA [79<sup>th</sup> Tex. Legis., SB39], mandating that nurses in these settings obtain at least two hours of CE in forensic evidence collection.

Given the diversity in nursing scopes of practice and clinical practice settings (even within the same level of nursing education and licensure), is mandating a certain topic of CE for all nurses or nurses within a specific practice setting the best approach to assure competency?

Questions that should be posed for consideration of mandated targeted CE include:

Is education about this topic pertinent for all nursing personnel? For instance, education about Hepatitis C may not be applicable for nurses who have no involvement or participation in a clinical practice setting.

Would the topics or subject matter be a burden to the nurse considering other CE needed for the particular area/specialty of practice? Is the topic or subject matter necessary to ensure safe, effective nursing practice?

### Issue #3:

Another recommendation from the BNE report *Ensuring Professional Nursing Competence* is that CE should not be the sole means to ensure continued competency. This recommendation is gaining national support and several boards of nursing are reevaluating methods for assurance of ongoing safe practice. The North Carolina Board of Nursing now allows a wide variety of competency development activities that the nurse determines is best for her practice. There are several options and examples include certification, completion of a refresher course and 640 hours of practice within the last two years. In Texas, several groups are reviewing this issue and have formed the Texas Competency Consortium to share information and coordinate competency development in the state. This group may be proposing new models for the assurance of continued competency. Review of any proposed new competency models should go through the Board's Nursing Practice Advisory Committee (NPAC) to assure any recommendations for change have been discussed by key external stakeholder groups prior to any proposed rule language being presented to the Board.

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

The BNE should establish mandates for continuing education for nursing jurisprudence and ethics, both for initial licensure and for licensure renewal. Requests to the legislature concerning mandated CE should be evaluated for administrative and professional feasibility, appropriateness and necessity for safe, effective practice. The Board's Nursing Practice Advisory Committee could review proposals and make recommendations if requested to do so. The BNE should also be open to reviewing and evaluating alternate forms of the assurance continued competency in addition to CE requirements already in place.

## **IX.8 – Criminal Background Checks**

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

Should the Board of Nurse Examiners be responsible for conducting FBI criminal background checks for nursing students?

### **B. Discussion**

Currently, the Board of Nurse Examiners is authorized to conduct FBI criminal background checks on all its applicants for licensure and all its licensees by authority of Texas Occupations Code, section 301.1615 and

Texas Government Code, sections 411.087 and 411.125.

There is increasing pressure on nursing schools to conduct criminal background checks on its nursing students prior to admission because a student's criminal background may be an impediment to the student's clinical experiences based on hospital restrictions and an impediment to licensure by the Board. There are currently no provisions under Texas law that give nursing schools access to criminal history records for admission purposes. State law permits access to criminal history records for both law enforcement and employment purposes only. Under § 411.082, the code specifies that a recognized criminal justice purpose includes the "screening of applicants for employment." Section 51.215 of the Texas Education Code gives access to institutions of higher education but only for employment purposes.

The screening process for licensure can start early in a student's educational life with the declaratory order of eligibility. The declaratory order process determines eligibility for licensure prior to enrolling or early after enrollment in an accredited nursing program. One of the purposes of the process is to avoid a needless use of resources by both a student and a school toward earning a degree in nursing when the student could not qualify for licensure.

For individuals currently enrolled in a nursing educational program, schools are required to provide students with both verbal and written information "regarding conditions that may disqualify graduates from licensure and of their rights to petition the Board for a Declaratory Order of Eligibility." However, for the Board to begin requiring and conducting background checks, the Board may need additional appropriations to cover the cost of the checks.

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

The Board would require additional funds to conduct background checks on all students currently enrolled rather than those who would submit to checks upon application for licensure. The number of students enrolled in Texas nursing programs significantly exceed those who eventually apply for licensure.

## **IX.9 – Non-traditional Nurse Education Programs**

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

Should the Nursing Practice Act be amended to give the Board more guidance as to its jurisdiction and authority over new and emerging forms of nurse education such as online nurse education?

### **B. Discussion**

Texas Occupations Code, Section 301.157 provides that the Board shall approve programs of study to prepare nurses. The Board is required to prescribe and publish the minimum requirements and standards for a course of study in each program that prepares registered nurses or vocational nurses. As a component of an approved program, a person may not be licensed as a graduate of any school of nursing or educational program unless the person has completed the requirements of the prescribed course of study, including clinical practice, of an approved school of nursing or educational program.

The Board has seen a proliferation of non-traditional nurse education programs throughout the country. For example, there have been many recent attempts to create on-line nursing programs in Texas and out of state. Some of these programs market to individuals worldwide. Additionally, there are nursing programs being offered in other countries that seek to gain accreditation and approval by trying to affiliate with accredited programs within the United States. The nursing shortage and ubiquitous use of the Internet technology seem to be driving the rapid growth of innovation and non-traditional nursing programs.

Unfortunately, there is little data to support the conclusions that these new non-traditional nurse programs can satisfy the minimum competency requirements for licensure in nursing. It is very difficult to evaluate the quality of these out-of-state programs and often no way to determine whether the student has engaged in observed clinical practice, which is required by Section 301.157 of the Texas Occupations Code.

Although Texas often reviews requests for approval from innovative programs located in Texas, there are many programs nationally which seek their approval from regional accrediting bodies or other state licensing agencies. Unlike with traditional nursing programs, there is little experience by accrediting bodies and states in assessing the quality of these programs. Many on-line programs, for example, are approved by some states but not others. Often, programs are not approved by states due to the lack of verifiable clinical experience.

**C. Possible Solutions and Impact**

The Nurse Practice Act may be amended to address the concerns outlined above and give guidance to the Board regarding the minimum standards for approval of nursing programs.

**X. Other Contacts**

<b>A.Fill in the following chart with updated information on people with an interest in your agency, and be sure to include the most recent e-mail address.</b>			
<b>Board of Nurse Examiners Exhibit 15: Contacts</b>			
<b>INTEREST GROUPS</b> (groups affected by agency actions or that represent others served by or affected by agency actions)			
<b>Group or Association Name/ Contact Person</b>	<b>Address</b>	<b>Telephone</b>	<b>E-mail Address</b>
Texas Organization of Nurse Executives (TONE)/Kenneth Massie	PO Box 142275 Austin, TX 78714	(512) 365-6495	<a href="mailto:Kenamassie@yahoo.com">Kenamassie@yahoo.com</a>
TONE/Kendra Slatton	PO Box 142275 Austin, TX 78714	(512) 365-6495	<a href="mailto:Klslatton@hotmail.com">Klslatton@hotmail.com</a>
Texas Nurse Practitioners/Pamela Brown Stewart	PMB 253 1030 East Hwy 377, STE 110 Granbury, TX 76048	(817) 573-6586	<a href="mailto:Impactpbs@aol.com">Impactpbs@aol.com</a>
Coalition for Nurses in Advanced Practice (CNAP)/Lynda Woolbert	PO Box 5047, Austin, TX 78763	(979) 345-5974	<a href="mailto:Lwoolb@charter.net">Lwoolb@charter.net</a>
Houston Baptist University College of Nursing/Nancy Yuill	Houston Baptist University, 7502 Fondren Road, Houston Texas 77074-3298	(281) 649-3000	<a href="mailto:Nyuill@hbu.edu">Nyuill@hbu.edu</a>

Central Texas College/Sandra Thomason	Central Texas College, PO Box 1800, Killeen, Texas 76540-1800	(254) 526-1301	<a href="mailto:Sandra.thomason@ctcd.edu">Sandra.thomason@ctcd.edu</a>
Texas Organization of Associate Degree Nursing (TOADN)/Bonnie Higgins	PO Box 18285, Austin, Texas 78760	(210) 733-2375	<a href="mailto:Bonnie.Higgins@TCCD.edu">Bonnie.Higgins@TCCD.edu</a>
Texas Organization of Baccalaureate and Graduate Nursing Education (TOBGNE)/Linda Klotz	TOBGNE – Chair: Pamela Watson Dean of Nursing, UTMB at Galveston, 301 University Boulevard, Galveston, TX 77555	(409) 772-1510	<a href="mailto:Lklotz@mail.uttyl.edu">Lklotz@mail.uttyl.edu</a>
TOBGNE/Nancy Yuill	See above	See above	<a href="mailto:Nyuill@hbu.edu">Nyuill@hbu.edu</a>
TOADN/Helen Reid	PO Box 18285, Austin, Texas 78760	(210) 733-2375	<a href="mailto:Reid@tvcc.cc.tx.us">Reid@tvcc.cc.tx.us</a>
Texas School Nurse Organization (TSNO)/Pamela Burke	TSNO, PO Box 821376, Houston, Texas 77282-1376	(713) 267-5055	<a href="mailto:Pam_Burke@ROUNDROCKISD.ORG">Pam_Burke@ROUNDROCKISD.ORG</a>
Consortium of Texas Certified Nurse-Midwives/Mary Brucker	3031 Shadow Drive West, Arlington, TX 76006-2770		<a href="mailto:Mbruck@parknet.pmh.org">Mbruck@parknet.pmh.org</a>
Consortium of Texas Certified Nurse-Midwives/Sister Deborah Fuchs	4000 Sunflower Lane, Belton, TX 75613		<a href="mailto:Sdfcdp@juno.com">Sdfcdp@juno.com</a> or <a href="mailto:gale@infohwy.com">gale@infohwy.com</a>
TONE/Erika Lochner	PO Box 142275 Austin, TX 78714	(512) 365-6495	<a href="mailto:Elochner@kdhosp.org">Elochner@kdhosp.org</a>
Texas Clinical Nurse Specialists/Theresa Posani; Angela Clark, PhD	PO Box 830460 Richardson, TX 75082	(972) 672-7334 (512) 471-9078	<a href="mailto:nurseteach@ieeee.org">nurseteach@ieeee.org</a> or <a href="mailto:apclark@mail.utexas.edu">apclark@mail.utexas.edu</a>
Greater Texas Chapter of the National Association of Pediatric Nurse Practitioners/Margienetta Norris, MSN, CPNP	4702 Bell Point Ct. Arlington, TX 76017	(817) 478-0663	<a href="mailto:margienetta@sbcglobal.net">margienetta@sbcglobal.net</a>
Texas Primary Care Educators/Gayle Varnell	19970 Holly Hills Dr., Larue, TX 75770		<a href="mailto:Gayle@drfrog.com">Gayle@drfrog.com</a>

Texas League of Vocational Nurses/Pamela Brashears	306 East Adams Avenue, Temple, Texas 76501	(254) 853-2702	<a href="mailto:Jpbrarsr@cs.com">Jpbrarsr@cs.com</a>
Texas Hospital Association/Elizabeth Sjoberg	PO Box 15587, Austin, TX 78761	(512) 465-1590	<a href="mailto:esjoberg@tha.org">esjoberg@tha.org</a>
<b>INTERAGENCY, STATE, OR NATIONAL ASSOCIATIONS</b> (that serve as an information clearinghouse or regularly interact with your agency)			
<b>Group or Association Name/ Contact Person</b>	<b>Address</b>	<b>Telephone</b>	<b>E-mail Address</b>
Texas Association for Home Care/Rachel Hammon	TAHC, 3737 Executive Center Drive, Ste. 268, Austin, Texas 78731	(512) 338-9293	<a href="mailto:Rachel@tahc.org">Rachel@tahc.org</a>
Texas Association of Deans and Directors Professional Nursing Programs (TADDPNS)/Glenda Walker	Stephen F. Austin State University Division of Nursing, P.O. Box 6156 – SFA Station, Nacogdoches, Texas 75962-6156	(210) 733-2367 (Lula Pelayo)	<a href="mailto:Gwalker@sfasu.edu">Gwalker@sfasu.edu</a>
Texas Nurses Association (TNA)/Phyllis Gordon	7600 Burnet Road Suite 440, Austin, TX 78757	(512) 452-0645	<a href="mailto:Gordonp@uthscsa.edu">Gordonp@uthscsa.edu</a>
National Association of Clinical Nurse Specialists/Kathy Baldwin	2090 Linglestown Rd., Ste 107, Harrisburg, PA 17110	(717) 234-6799	<a href="mailto:k.baldwin@tcu.edu">k.baldwin@tcu.edu</a>
TNA/Phyllis Adams	7600 Burnet Road Suite 440, Austin, TX 78757	(512) 452-0645	<a href="mailto:Pcadams@uta.edu">Pcadams@uta.edu</a>
TNA/Claire Jordan	See above	See above	<a href="mailto:Cjordan@texasnurses.org">Cjordan@texasnurses.org</a>
TNA/Sandra Kay Oliver	See above	See above	<a href="mailto:SKOLIVER@swmail.sw.org">SKOLIVER@swmail.sw.org</a>
TNA/Jim Willmann	See above	See above	<a href="mailto:Jwillmann@texasnurses.org">Jwillmann@texasnurses.org</a>
Licensed Vocational Nurses Association of Texas (LVNAT)/Jeanie Ruth Anderson	PO Box 180065, Austin, Texas 78718-0065	(512) 302-3979	<a href="mailto:Jrandymcc@yahoo.com">Jrandymcc@yahoo.com</a>
LVNAT/Frances Ray	See above	See above	<a href="mailto:Nurse1102@msn.com">Nurse1102@msn.com</a>
LVNAT/Shirley Rice	See above	See above	<a href="mailto:Makylah6@yahoo.com">Makylah6@yahoo.com</a>
LVNAT/Thelma Davis	See above	See above	<a href="mailto:Thelmad@totalaccess.net">Thelmad@totalaccess.net</a>
Texas Association of Nurse Anesthetists (TANA)/Jim Walker	4412 Spicewood Springs Rd. #400 Austin, TX 78759	(512) 346-8773	<a href="mailto:Jimwalker@houston.rr.com">Jimwalker@houston.rr.com</a>

TANA/Susan Willis	See above	See above	<a href="mailto:Williscrna@comcast.net">Williscrna@comcast.net</a>
Texas Association of Vocational Nurse Educators (TAVNE)/Loretta Mahaffey	TAVNE – Jackolyn Morgan, Director of Nursing, Cisco Junior College, 101 College Heights, Cisco, TX 76437	(915) 673-4567	<a href="mailto:Lmahaffe@jpshealth.org">Lmahaffe@jpshealth.org</a>
TAVNE/Linda Bland	See above	See above	<a href="mailto:Lbland@tvcc.cc.tx.us">Lbland@tvcc.cc.tx.us</a>
TAVNE/Jackolyn Morgan	See above	See above	<a href="mailto:Jmorgan@cisco.cc.tx.us">Jmorgan@cisco.cc.tx.us</a>
TAVNE/Jackolyn Morgan	See above	See above	<a href="mailto:Jmorgan@cisco.cc.tx.us">Jmorgan@cisco.cc.tx.us</a>
TAVNE/Nancy Maebius	See above	See above	<a href="mailto:Nanmaebius@aol.com">Nanmaebius@aol.com</a>
TAVNE/Gie Archer	See above	See above	<a href="mailto:Marcher@nctc.edu">Marcher@nctc.edu</a>
TAVNE/Sue Owens	See above	See above	<a href="mailto:Sowe@tjc.edu">Sowe@tjc.edu</a>
<b>LIAISONS AT OTHER STATE AGENCIES</b> (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>E-mail Address</b>
Texas State Board of Medical Examiners/Health Occupation Licensing Agency/Donald Patrick, Executive Director	333 Guadalupe St., Ste.3-610 Austin, TX 78701	(512) 305-7010	<a href="mailto:Donald.patrick@tsbme.state.tx.us">Donald.patrick@tsbme.state.tx.us</a>
Texas Board of Chiropractic Examiners/Health Occupation Licensing Agency/Sandra Smith, Executive Director	333 Guadalupe St., Ste.3-825 Austin, TX 78701	(512) 305-6700	<a href="mailto:Sandra.smith@tbc.state.tx.us">Sandra.smith@tbc.state.tx.us</a>
Texas State Board of Dental Examiners/Health Occupation Licensing Agency/Sherri Sanders, Interim Executive Director	333 Guadalupe St., Ste.3-800 Austin, TX 78701	(512) 463-6400	<a href="mailto:Bobby.schmidt@tsbde.state.tx.us">Bobby.schmidt@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 Department of Aging and Disability Services/Regulatory Agency – Nursing Home Abuse and Neglect/Cheryl Danielson, Program Specialist	701 W. 51 <sup>st</sup> St., PO Box 149030, Austin, Texas 78714-9030	(512) 438-3011	<a href="mailto:Cheryl.danielson@dads.state.tx.us">Cheryl.danielson@dads.state.tx.us</a>
Community Preparedness Section, Texas Department of State Health Services/Regulatory Agency – management of disease outbreaks, natural disasters and bioterrorism threats, Leslie Mansolo	1100 West 49th Street, Austin, Texas 78756	(800) 588-1248	<a href="mailto:Leslie.mansolo@dshs.state.tx.us">Leslie.mansolo@dshs.state.tx.us</a>

## XI. Additional Information

**A. 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.**

<b>Board of Nurse Examiners</b>			
<b>Exhibit 16: Complaints Against the Agency C Fiscal Years 2003 and 2004</b>			
	<b>FY 2003</b>	<b>FY 2004</b>	<b>FY 2005</b>
<b>Number of complaints received</b>	0	1	0
<b>Number of complaints resolved</b>	0	1	0
<b>Number of complaints dropped/found to be without merit</b>	0	1	0
<b>Number of complaints pending from prior years</b>	0	0	0
<b>Average time period for resolution of a complaint</b>	0	2 days	0

The following cases are pending against the board in district court:

(A) Cause No. GN-102115

*Kathleen Davies v. Texas Board of Vocational Nurse Examiners, Terri Hairston, and Mary Strange, in the 53<sup>rd</sup> Judicial District Court of Travis County, Texas*

(B) Cause No. GN400204

*Basil Brown, Yvonne Brown v. Texas State Board of Nurse Examiners, et al, 261<sup>st</sup> Judicial District Court of Travis County*

(C) Cause No. 03-04813-B

*Basil Brown, et al, v. Texas Board of Nurse Examiners, et al, in the 44<sup>th</sup> Judicial District Court, Dallas County, Texas*

(D) Cause No. BN204412

*John Doe v. Board of Nurse Examiners, et al, in the 345<sup>th</sup> Judicial District Court of Travis County, Texas*

(E) Cause No. 0505724-D

*Mark A. Turner v. Board of Nurse Examiners for the State of Texas, in the 95<sup>th</sup> Judicial District Court of Dallas County, Texas*

<b>B. Fill in the following chart detailing your agency's Historically Underutilized Business (HUB) purchases.</b>				
<b>Board of Nurse Examiners Exhibit 17: Purchases from HUBs</b>				
<b>FISCAL YEAR 2002</b>				
<b>Category</b>	<b>Total \$ Spent</b>	<b>Total HUB \$ Spent</b>	<b>Percent</b>	<b>Statewide Goal</b>
<b>Heavy Construction</b>	0	0	0	11.9%
<b>Building Construction</b>	0	0	0	26.1%
<b>Special Trade</b>	9,742.50	0	0	57.2%
<b>Professional Services</b>	9,742.50	0	0	20.0%
<b>Other Services</b>	301,220.56	78,624.25	26%	33.0%
<b>Commodities</b>	79,551.88	15,024.33	18%	12.6%
<b>TOTAL</b>	400,257.44	93,648.58	23.4%	

<b>FISCAL YEAR 2003</b>				
<b>Category</b>	<b>Total \$ Spent</b>	<b>Total HUB \$ Spent</b>	<b>Percent</b>	<b>Statewide Goal</b>
<b>Heavy Construction</b>	0	0	0	11.9%
<b>Building Construction</b>	0	0	0	26.1%
<b>Special Trade</b>	212	0	0	57.2%
<b>Professional Services</b>	14,352	3,000	20.9%	20.0%
<b>Other Services</b>	538,834	105,396	19.5%	33.0%
<b>Commodities</b>	103,374	37,988	36.7%	12.6%
<b>TOTAL</b>	656,874	146,384	22.2%	

<b>FISCAL YEAR 2004</b>				
<b>Category</b>	<b>Total \$ Spent</b>	<b>Total HUB \$ Spent</b>	<b>Percent</b>	<b>Statewide Goal</b>
<b>Heavy Construction</b>	0	0	0	11.9%
<b>Building Construction</b>	0	0	0	26.1%
<b>Special Trade</b>	0	0	0	57.2%
<b>Professional Services</b>	9,167	0	0	20.0%
<b>Other Services</b>	484,218	107,908	22.2%	33.0%
<b>Commodities</b>	137,876	61,636	44.7%	12.6%
<b>TOTAL</b>	631,262	169,544	26.8%	

<b>FISCAL YEAR 2005</b>				
<b>Category</b>	<b>Total \$ Spent</b>	<b>Total HUB \$ Spent</b>	<b>Percent</b>	<b>Statewide Goal</b>
<b>Heavy Construction</b>	0	0	0	11.9%

<b>Building Construction</b>	0	0	0	26.1%
<b>Special Trade</b>	880	880	100	57.2%
<b>Professional Services</b>	12,470	0	0	20.0%
<b>Other Services</b>	795,932	203,708	25.5%	33.0%
<b>Commodities</b>	146,438	38,001	25.9%	12.6%
<b>TOTAL</b>	955,720	242,589	25.3%	

**C. Does your agency have a HUB policy? How does your agency address performance shortfalls related to the policy?**

Yes. The policy is to include HUBs in at least 20% of the total value of contracts and subcontracts awarded annually by the agency in purchasing and public works contracting. If a performance shortfall occurs, goal percentages for the next fiscal year are adjusted.

**D. 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? (Tex. Government Code, Sec. 2161.252; TAC 111.14)**

Yes.

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

	<b>Response / Agency Contact</b>
1. Do you have a HUB coordinator? (Tex. Government Code, Sec. 2161.062; TAC 111.126)	Yes – Keith LaSalle, (512) 305-6857
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? (Tex. Government Code, Sec. 2161.066; TAC 111.127)	No. Agency resources cannot support such a program.
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? (Tex. Government Code, Sec. 2161.065; TAC 111.128)	No. Agency resources cannot support such a program.

**F. Fill in the chart below detailing your agency's Equal Employment Opportunity (EEO) statistics.**

**Board of Nurse Examiners  
Exhibit 18: Equal Employment Opportunity Statistics**

<b>FISCAL YEAR 2002</b>							
<b>Job Category</b>	<b>Total Positions</b>	<b>Minority Workforce Percentages</b>					
		<b>Black</b>		<b>Hispanic</b>		<b>Female</b>	
		<b>Agency</b>	<b>Civilian Labor Force %</b>	<b>Agency</b>	<b>Civilian Labor Force %</b>	<b>Agency</b>	<b>Civilian Labor Force %</b>
<b>Officials/Administration</b>	4	25%	7%	0	11%	50%	31%
<b>Professional</b>	9	11%	9%	0	10%	78%	47%
<b>Technical</b>	4	0%	14%	25%	18%	50%	39%
<b>Protective Services</b>	17	6%	18%	18%	21%	76%	21%
<b>Para-Professionals</b>	3	33%	18%	33%	31%	66%	56%
<b>Administrative Support</b>	27	18%	19%	26%	27%	89%	80%
<b>Skilled Craft</b>	0	0	10%	0	28%	0	10%
<b>Service/Maintenance</b>	0	0	18%	0	44%	0	26%

<b>FISCAL YEAR 2003</b>							
<b>Job Category</b>	<b>Total Positions</b>	<b>Minority Workforce Percentages</b>					
		<b>Black</b>		<b>Hispanic</b>		<b>Female</b>	
		<b>Agency</b>	<b>Civilian Labor Force %</b>	<b>Agency</b>	<b>Civilian Labor Force %</b>	<b>Agency</b>	<b>Civilian Labor Force %</b>
<b>Officials/Administration</b>	4	25%	7%	0	11%	50%	31%
<b>Professional</b>	10	10%	9%	0	10%	80%	47%
<b>Technical</b>	4	0	14%	25%	18%	50%	39%
<b>Protective Services</b>	13	8%	18%	23%	21%	77%	21%
<b>Para-Professionals</b>	3	33%	18%	33%	31%	66%	56%
<b>Administrative Support</b>	26	23%	19%	27%	27%	92%	80%
<b>Skilled Craft</b>	0	0	10%	0	28%	0	10%
<b>Service/Maintenance</b>	0	0	18%	0	44%	0	26%

<b>FISCAL YEAR 2004</b>							
<b>Job Category</b>	<b>Total Positions</b>	<b>Minority Workforce Percentages</b>					
		<b>Black</b>		<b>Hispanic</b>		<b>Female</b>	
		<b>Agency</b>	<b>Civilian Labor Force %</b>	<b>Agency</b>	<b>Civilian Labor Force %</b>	<b>Agency</b>	<b>Civilian Labor Force %</b>
<b>Officials/Administration</b>	13	15%	7%	15%	11%	62%	31%
<b>Professional</b>	13	8%	9%	0%	10%	92%	47%
<b>Technical</b>	3	0%	14%	33%	18%	67%	39%

<b>Protective Services</b>	13	8%	18%	15%	21%	69%	21%
<b>Para-Professionals</b>	5	20%	18%	20%	31%	60%	56%
<b>Administrative Support</b>	36	17%	19%	36%	27%	81%	80%
<b>Skilled Craft</b>	0	0%	10%	0%	28%	0%	10%
<b>Service/Maintenance</b>	0	0%	18%	0%	44%	0%	26%
<b>FISCAL YEAR 2005</b>							
<b>Job Category</b>	<b>Total Positions</b>	<b>Minority Workforce Percentages</b>					
		<b>Black</b>		<b>Hispanic</b>		<b>Female</b>	
		<b>Agency</b>	<b>Civilian Labor Force %</b>	<b>Agency</b>	<b>Civilian Labor Force %</b>	<b>Agency</b>	<b>Civilian Labor Force %</b>
<b>Officials/Administration</b>	4	25%	7%	0%	11%	50%	31%
<b>Professional</b>	13	13%	9%	25%	10%	92%	47%
<b>Technical</b>	4	0%	14%	25%	18%	50%	39%
<b>Protective Services</b>	11	11%	18%	22%	21%	64%	21%
<b>Para-Professionals</b>	7	7%	18%	29%	31%	43%	56%
<b>Administrative Support</b>	40	15%	19%	30%	27%	83%	80%
<b>Skilled Craft</b>	0	0%	10%	0%	28%	0%	10%
<b>Service/Maintenance</b>	0	0%	18%	0%	44%	0%	26%

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

The Board of Nurse Examiners maintains an EEO policy. The BNE addresses affirmative action shortfalls by expanding the number of minority publications utilized for advertising of vacant BNE positions. By increasing the number of publications utilized to advertise vacant BNE positions and increasing our minority applicant pool, we are increasing the number of minorities in professional positions at the BNE.

**XII. Agency Comments**

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