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August 3, 2007

Katherine Thomas MN, RN
Executive Director
Texas Board of Nurse Examiners
333 Guadalupe, Suite 3-460
Austin, Texas 78701-3944

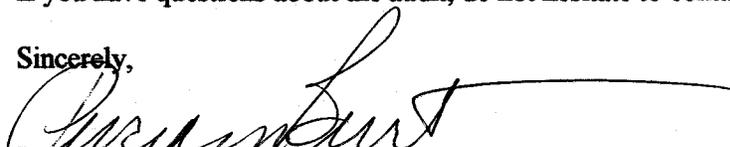
Re: Annual Audit of the Texas Peer Assistance Program for Nurses
Prepared for the Texas Board of Nurse Examiners

Dear Ms. Thomas:

Please find enclosed the Annual TPAPN Audit. If it will assist you staff, I can e-mail the report as a Word attachment. Please advise.

If you have questions about the audit, do not hesitate to contact me.

Sincerely,



Penny Puryear Burt, RN, JD

Enclosure: 2006-2007 Audit Report (4 pages)

cc: Michael Van Doren, MSN, RN, CARN, TPAPN Program Director

PPB/ae

ANNUAL AUDIT OF THE TEXAS PEER ASSISTANCE PROGRAM FOR NURSES

PREPARED FOR

THE TEXAS BOARD OF NURSE EXAMINERS

AUDITOR: Penny Puryear Burt, RN, JD

AUDIT PERIOD: May 8, 2006 - April 15, 2007

CONFIDENTIALITY

Records of drug and alcohol services and certain mental health services are confidential under state law, Chapter 467 of the Health and Safety Code, and under the federal confidentiality regulations in 42 Code of Federal Regulations Part 2.

In compliance therewith, the auditor executed a Qualified Service Organization Agreement.

The audit was conducted April 19, 2007-May 18, 2007 in the office of the Texas Peer Assistance Program for Nurses (TPAPN) in Austin, Travis County, Texas using the electronic case management system (Athena) and original paper documents.

At the auditor's request and pursuant to its contract with the Athena Software Provider, TPAPN obtained random samples of RN and LVN participants. TPAPN Staff prepared hard copies of (1) the sample lists and (2) the electronic data summary field for each participant (Athena Participant Snapshot).

The sample lists were marked to tally audit items and retained by the auditor for sufficient time to compare to BNE disciplinary action lists and prepare this report.

The Athena Snapshots were used to record pertinent data from TPAPN's digital and paper records. These and the auditor's notes were retained by TPAPN during the audit, released to the auditor for sufficient time to prepare this report and thereafter returned to TPAPN as part of the 2006-2007 working papers.

Original paper documents were provided by TPAPN staff at the auditor's request and used only in TPAPN's office.

All lists, Athena Snapshots and working papers were kept under lock and key while in the auditor's possession and returned to TPAPN by hand with a copy of this report.

SCOPE OF THE AUDIT

This audit includes RN and LVN participants licensed by Texas Board of Nurse Examiners (BNE).

RN and LVN TPAPN participants were sampled and are reported in separate sections.

The audit was designed to ensure:

1. That peer assistance services were not being contemporaneously offered to individuals currently receiving significant disciplinary action, particularly disciplinary action involving monitoring, from the BNE.
2. That TPAPN services were not being offered to individuals who had received significant disciplinary action within the five (5) years preceding participation in TPAPN.

3. That TPAPN services were not being offered to individuals other than those licensed by the BNE.
4. That the peer assistance services offered were only those specifically authorized by Chapter 467, Texas Health and Safety Code.
5. That nurses who signed participation agreements were appropriate to receive peer assistance services.
6. That records of peer assistance services contained sufficient detail to permit evaluation of TPAPN's compliance with applicable law and its agreement with the BNE.

AUDIT PROCEDURE

Audit Period: The period beginning on May 8, 2006 and ending on April 15, 2007.

RNs: Forty (40) RNs in the TPAPN Participant Database who signed Participation Agreements during the audit period were returned by the software provider in response to the auditor's request for a fifteen percent (15%) random sample. Each file in the sample was reviewed.

LVNs: Nineteen (19) LVNs in the TPAPN Participant Database who signed Participation Agreements during the audit period were returned by the software provider in response to the auditor's request for a fifteen percent (15%) random sample. Each file in the sample was reviewed.

RN AND LVN Active Cases on April 15, 2007: A query of the TPAPN Active Case Database for RNs and LVNs who were active in the program on April 15, 2007 produced a list of seven hundred sixty three (763) individuals. Of these, six hundred ninety eight (698) individuals had signed participation agreements and were crosschecked for disciplinary action in the five (5) years preceding April 15, 2007.

TPAPN policies, procedures, forms, electronic database fields and program records for the RN and LVN samples were evaluated for compliance with applicable law and TPAPN's agreement with the BNE.

BNE REFERRALS AND TPAPN ACCEPTANCE OF INDIVIDUALS OUTSIDE THE USUAL TPAPN PARAMETERS

The 2005-2006 audit identified BNE referrals whose records reflected that they had abstained from alcohol and drugs or had been free of mental illness symptoms for more time than is required to complete the TPAPN program. The usual duration of TPAPN participation is two (2) years for LVNs and RNs and three (3) years for APNs. Substantially longer abstinence and remission history raises the question of whether such individuals meet the definition of "impaired professional" or "impaired student" contained in Chapter 467 of the Texas Health and Safety Code.

The random sample of RNs reviewed for the 2006-2007 audit contained one (1) RN participant who, according to the BNE's Order requiring TPAPN participation, had been clean and sober for more than four (4) years at the time of referral to TPAPN.

BNE REFERRALS AND TPAPN ACCEPTANCE OF PARTICIPANTS WITH CRIMINAL CONVICTIONS

Individuals in the audit samples included BNE referrals to TPAPN who had significant criminal history. TPAPN accepted these individuals. Most were seeking Orders of Conditional Eligibility. The BNE's CE Orders requiring TPAPN participation usually contained Finding of Fact showing:

- A logical relation between the crime and chemical dependency,
- Evidence regarding duration of abstinence and
- Recent forensic psychological evaluation

Some individuals with BNE Orders requiring TPAPN participation had additional criminal history unrelated or tenuously related to alcohol, drugs or mental illness.

Peer assistance funds are available under Chapter 467, Texas Health and Safety Code for nurses with impairment due to chemical dependence or mental illness. The qualifying mental illness diagnoses are limited to major depression, bipolar disorder, schizophrenia, anxiety disorders, or schizoaffective disorder.

Evidence that participants met the criteria required by Chapter 467 for TPAPN participation was sometimes questionable.

AUDIT RESULTS

Results for RN Participants

1. Except for the participants described in the two preceding paragraphs, the TPAPN files reviewed met all criteria of the audit.
2. All individuals referred to as RNs who signed Participation Agreements during the audit period were shown as RNs in the BNE's database.
3. There were no indications that any individuals other than those with current licenses were receiving TPAPN services.
4. There was no evidence that services other than those specifically authorized by Chapter 467 of the Health and Safety Code were being provided to the licensees of the BNE.
5. There was no evidence that any individual received contemporaneous peer assistance services from TPAPN while being monitored by the BNE.
6. There was no evidence that any individual receiving TPAPN services had received significant disciplinary action in the last five (5) years.

Results for LVN Participants

1. All individuals referred to as LVNs who signed TPAPN Participation Agreements during the audit period were shown as LVNs in the BNE's database.
2. There were no indications that any individuals other than those with current licenses were receiving TPAPN services.
3. There was no evidence that services other than those specifically authorized by Chapter 467 of the Health and Safety Code were being provided to licensees of the BNE.
4. There was no evidence that any individual received contemporaneous peer assistance from TPAPN while being monitored by the BNE.
5. There was no evidence that any individual receiving TPAPN services had received significant disciplinary action in the last five (5) years.

Results for all cases (RN and LVN) active in TPAPN on April 15, 2007

There was no evidence that any individual who was receiving TPAPN services on April 15, 2007 had received significant disciplinary action in the last five (5) years.

Results for TPAPN Policies, Procedures, Forms, Electronic Database Fields and Program Records

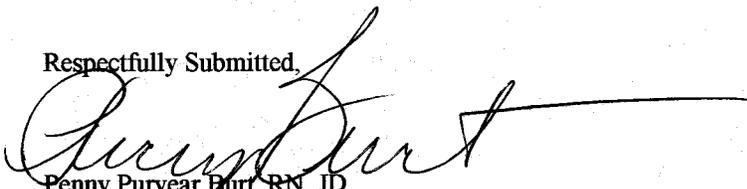
1. TPAPN's policies and procedures conform to the requirements of applicable law and the agreement with the BNE.
2. TPAPN's forms and electronic database fields are designed to collect and protect the data required by applicable law and the agreement with the BNE.
3. TPAPN's electronic and paper case files reviewed in this audit reflected timely and thorough collection of relevant information and regular case review.

4. Case Manager's notes in the audit samples reflect active and responsive communication with participants and others involved in their assessment, compliance and employment.
5. The participant's consent to release of information was adequately documented in each file reviewed.
6. Case files reviewed in the audit samples reflected timely reporting of participant non-compliance to the BNE.
7. Paper files were kept in secure storage.
8. TPAPN staff used secure passwords to control access to electronic files.

AUDIT RECOMMENDATIONS

1. That the TPAPN audit be performed annually.
2. That the BNE and TPAPN review and discuss Chapter 467, Health and Safety Code criteria for TPAPN participation.
3. That the BNE and TPAPN review and discuss the propriety of Chapter 467 Peer Assistance for individuals with criminal convictions that are unrelated or tenuously related to chemical dependence or the short list of approved mental illness diagnoses.
4. That the BNE and TPAPN review and discuss the propriety of diverting to peer assistance those individuals with criminal convictions that would be appropriate for denial or restriction of a license pursuant to Chapter 301, Texas Occupations Code, the NPA, BNE Rules and Disciplinary Guidelines.
5. That TPAPN staff continue to query the BNE's electronic licensure and disciplinary database as nurses are referred to the program and sign Participation Agreements.
6. That the BNE provide TPAPN with comprehensive electronic lists of Board Actions for RNs and LVNs and update said lists each time the BNE updates its own lists.
7. That the BNE provide the electronic Board Action Lists in a form that is fully sortable by TPAPN.
8. That the BNE include at least the following information fields in the Board Action Lists it provides to TPAPN:
 - a. Licensee name
 - b. Social Security Number
 - c. Type of license (RN or LVN)
 - d. License number
 - e. Date of licensure
 - f. Board Action(s)
 - g. Date of Board Action(s)
 - h. Sanction(s) imposed

Respectfully Submitted,


Penny Puryear Burt, RN, JD