

Fiscal Year 2011 Trend Data, Issues and Implications

Summary of Report:

Review the Annual 2011 Trends Report.

Historical Perspective:

The Executive Director provides an annual report to the Board for the Fiscal Year proceeding the October meeting. The purpose of the report is to review trends and issues identified in the prior year and consider implications for the new fiscal year.

This report pertains to Fiscal Year 2011, the period beginning September 1, 2010 and ending August 31, 2011.

Staff Recommendation:

No action required. For information and discussion.

FY 2011 TRENDS

NURSING PRACTICE

In order to maximize opportunity to promote patient safety, a proactive approach to nursing regulation is necessary. Educating nurses about their role in the prevention of error and patient harm is an integral component of continued competency and professional development. Historically, the Practice Department has done this by answering practice inquiries that come to the agency and conducting workshops around the state. In 2011, the Practice Department began offering webinars with the goal of reaching more nurses with less cost. Staff will continue to develop webinars as well as investigate other innovative methods for educating nurses about patient safety.

The Texas Board should become the official source of information for Texas nurses, their employers and the public when it comes to patient safety and nursing regulation. Consequently, data collection and interpretation of data will be an important issue when seeking appropriations to meet the demands of nursing regulation. Should we consider obtaining the services of a nurse informaticist to assist in the interpretation of data? Should the Board develop a social media plan to utilize Facebook, Twitter and LinkedIn to provide proactive regulatory information?

Movement of Health Care into Community Based Settings

SB 1360 directs the Board, in conjunction with the Department of Aging and Disability (DADS), to work together in the development of new models of health care delivery for nursing and non-nursing staff. The LVN On-Call Pilot Program began in the summer of 2011 and will continue until September 1, 2015. The purpose of the pilot is to ascertain if LVNs can safely provide on-call services within selected DADS programs. During the development of the pilot, it became clear that many employers and LVNs lack an understanding or awareness that LVNs have a directed scope of practice and must have a clinical supervisor. The pilot program should help resolve this issue. It will also be important to ascertain if the LVN's non-nursing clinical supervisor, such as a physician, understands his/her role in supervising the LVN's scope of practice. With the growing number of LVNs in the community, should the LVN curricula be reviewed?

Chapter 225 of the Delegation Rules addresses RNs delegation to unlicensed assistive personnel in community based settings. The rules are highly complex and need to be simplified. In addition, with the aging population and ongoing thrust of community based services, RNs will need to effectively but safely delegate nursing tasks.

Telehealth is a technology which could increase access to health care in remote areas of the state and in home health settings. Is there a role for nursing to maximize this technology?

Direct-care workers (UAPs) will increase in numbers to handle the growing population of elderly and disabled. Should we pursue regulating UAPs?

Just Culture

The science of patient safety and the Just Culture approach continues to be a prominent theme in nursing regulation. Should we explore whether the Board has a role in working with employers of nurses with practice related disciplinary actions to provide further guidance? Should we explore the use of K-Starr for Nurses with practice errors? Should we explore the use of TeamSTEPPS - An **evidence-based teamwork system** to improve communication and teamwork skills among health care personnel as a stipulation?

Institute of Medicine

The four key messages of the RWJ and IOM Future of Nursing Report should be discussed in our agency and compared to our resource documents to determine if any regulatory implications exist.

- Nurses should practice to the full extent of their education and training.
- Nurses should achieve higher levels of education and training through an improved education system that promotes seamless academic progression.
- Nurses should be full partners, with physicians and other health professionals in redesigning health care in the United States.
- Effective workforce planning and policy making require better data collection and an improved information infrastructure.

State Office of Administrative Hearings

SOAH hearings are increasing, thus placing more of a demand on the nursing practice consultants' participation as resources to legal and enforcement staff as well as functioning as expert witnesses during the hearings. This trend along with other increases in the workload of the practice department has necessitated changing one education consultant FTE into a practice consultant FTE. We may need to seek additional FTEs in the next legislative session but will evaluate in FY 2012.

APRN :

Progress has been made on the implementation of the Consensus Model. We will continue our work in implementing the consensus model including bringing APRN title recognition in line with those outlined in the model. We must also continue working towards developing internal systems to issue an actual license.

The APRN compact is due to expire 12/31/11 and we will need to consider changes to prepare for introduction during the next legislative session.

APRN total numbers of approvals continue to increase and tax our resources and further validate the need for our new APRN consultant position which was recently filled. This position should help reduce the application processing time.

NURSING EDUCATION:

Texas Board of Nursing Education Department Outreach Activities: Staff have invested in educational outreach activities designed to educate constituents and reach out to various nursing education groups to gather data and determine constituent needs. These activities include:

- Information Sessions for institutions interested in developing new nursing programs.
- Transition to Practice Workshop
- Regional Pilot Teleconferences with Programs and Board Staff
- Deans and Directors Orientation
- Presentations to Texas Association of Vocational Nurse Educators (TAVNE), Texas Association of Deans and Directors of Professional Nursing Programs (TADDPNP)
- Meeting with National Accreditors
- Differentiated Essential Competencies (DECS) Workshop for nursing education programs.

Collaborative Activities with other State of Texas Agencies:

- Meetings with Texas Workforce Commission (TWC) Joint visits to three jointly regulated institutions.
- Communications with Texas Higher Education Coordinating Board (THECB) staff to discuss new program proposals, including need for program in local community.
- Meetings with Texas Center for Nursing Workforce Studies (TCNWS) throughout the year to plan the Nursing Education Program Information Survey (NEPIS) and the Compliance --Audit for Nursing Education Programs (CANEP)

Advisory Committee on Education considered the following issues:

- Issues in the nursing education environment which will be going to the ACE Committee.
- Allowing only licensed nurses to serve as preceptors in nursing education.
- Eliminating petitions for waivers for director qualifications, but allowing petitions for emergency faculty waivers to be submitted to Board Staff.
- Strengthening requirements for the author of a new program proposal and for employment and involvement of a proposed director early in the proposal development.
- Providing the Board more purview over the establishment of extension sites/campuses.
- Assurance that online instruction in nursing education programs provides nursing students with a quality education.
- Requiring all AND programs to establish articulation agreements with BSN programs.
- Including content on geriatric and end-of-life care in professional nursing education programs.

Growth of Nursing Education Programs

There is an increased use of online nursing education by Texas-approved nursing programs and an increased interest by Texas residents to engage in online nursing education from programs in other states. Should the Board have more of a role in regulating online nursing programs?

Outside pressure on nursing education programs to increase enrollments related to state funding may have resulted in programs enrolling high-risk or unqualified students. There have been more programs with low NCLEX examination pass rates, requirements for self-study reports, and implementation of measures to improve student performance and success necessitating an increase in staff workload

Currently, there are 97 VN programs and 107 RN programs. Since September 1, 2006, the Board has approved 36 new nursing education programs with almost half (47%) from career schools. With this growth, the education consultants recognize a growing need for better understanding and collaboration between other state regulatory agencies and the accreditation organizations.

Nursing programs are reporting growing competition for clinical spaces and the difficulty in finding all clinical experiences, especially those for specialty areas (OB, Peds). This is complicated by the start of new programs and questions about the need for additional programs in communities and the availability of adequate clinical space for new and existing nursing programs. There is much anecdotal discussion about this issue but no one entity is making this a priority issue. Is this a role for the Board?

A continuing shortage of qualified faculty in the state is the rationale for many programs waiving faculty holding the BSN degree and having completed 50% of their MSN degree requirements. In addition, the continuing turnover of program directors requires attention and guidance from the education consultants to assist them in their new roles.

Institute of Medicine

In response to the IOM recommendation to increase BSN-prepared nurses, more programs are establishing RN to BSN tracks, or are increasing their enrollments in existing RN to BSN tracks. Rule 215.9(e)(4) requires that “baccalaureate and entry-level master’s degree programs in nursing shall include learning activities in basic research, and management/leadership, and didactic and clinical learning experiences in community health nursing.” This rule requirement and the distinctions between competencies of associate degree nursing and baccalaureate degree nursing graduates (DECs) will assist in assuring that the graduates from RN to BSN tracks receive educational preparation for BSN nursing practice.

LICENSURE AND CUSTOMER SERVICE:

Renewed Licenses: We are experiencing an average of 4% increase in RN renewals per year; this is consistent over the last five years. Will this trend begin to decrease with the exodus of aging baby boomers and traditionalists? This will likely remain stable given the higher number of exam graduates feeding into the system. We are experiencing between 2-3% increase in VN renewals per year; this is a new trend of growth. The continuous influx of Army VNs who do not actually practice in Texas and the number of VN's becoming RNs will also influence the total number of vocational licensees practicing in Texas facilities.

Number of endorsements: Both RN and VN endorsements have been flat. This will not likely trend up or down for several years since the economic downturn has resulted in less hiring in some areas of the state.

Number of applications for licensure by exam: We are experiencing between 5% and 10 % increase in applications for RNs licensure by exam. This has been an outcome of the increased funding from the state over the past eight years. The money appropriated for nursing education in the FY 12-13 biennium will be less and the number of new RN schools has increased significantly, and we expect to see either a flattening of applications by exam or a slight decrease in FY 13.

We are experiencing an inconsistent number of licensure by exam applications for VNs, ranging from 1.5% to 4%. Given the number of new VN programs and the continuation of the Army VNs coming through Texas, we expect to continue to experience a 2-3% increase in this area.

Number of phone calls: We were experiencing over 300,000 calls a year and dropped to 246,402 in FY 11. Staff anticipate calls to be in the 200,000 to 250,000 range given our website revisions allowing applicants to check the status of their license online.

CBC : We are now experiencing 15,000 CBC for new students which should remain stable over the current biennium. The question is should the BON make this program mandatory for new students? It would benefit students to have licensure eligibility determined before investment in nursing education and it would benefit facilities to have criminal background checks done before clinical experiences. CBC upon renewal will end officially on August 31, 2013. We should begin to see a decrease in enforcement cases in FY 14 and FY 15 as we process the remaining criminal history cases.

ENFORCEMENT:

Cumulative investigations have grown significantly from FY 08 - FY 11. The case load of operations staff has nearly doubled and the case load per investigator has increased by 200 per investigator.

The **total number of complaints** have increased by a third since 2008 and we are resolving nearly as many cases as are opened each year. The increase in FTEs in FY 10 and FY 11 has enabled the agency to resolve more cases. However, the accumulated backlog is not necessarily on the decline until staff can resolve more cases than are being opened. This equilibrium will potentially be met with the additional new staff approved in the budget for FY 12-13.

Cases resolved with disciplinary action have significantly increased over the past four years. The increase is consistent with the rise in number of complaints and the hiring of additional staff. There is generally a one year lag time following the hiring of new enforcement and legal staff before production improvements are realized.

Trends in **type of disciplinary action** show growth in the number of revocations, suspensions, voluntary surrenders, and warnings with stipulations. Reinstatements, remedial education orders and reprimands with stipulations appear flat. The revocations and surrenders are likely due to greater number of defaults and more criminal history including crimes that fall under 301.4535, the time limited bars to licensure. The increase in warnings are probably related to one time issues and some criminal conduct.

Eligibility cases are growing due to increasing numbers of students, the student criminal background check program and resulting declaratory orders for eligibility.

SOAH hearings have increased and the time for resolution for cases going to hearing have increased. Growing caseload will lead to more contested hearings. The length to resolution is attributable to discovery processes permitted by the APA which can add as much as four months.

Deferred Disciplinary Action Pilot: This pilot continues and the Advisory Committee for the pilot was established in FY 11. They met once during the year and requested additional data and resources to evaluate the effectiveness of the program. They will meet again in December 2011 to review the data and resources and any future recommendations. Matters resolved by deferred discipline have increased over the year but remain a relatively small number of cases.

Corrective Actions: Corrective Actions are limited by rule to certain administrative violations and represent a relatively small number of cases. Staff will evaluate effectiveness and make recommendations for this rule in FY 13.

INFORMATION TECHNOLOGY

IT continues to offer opportunities for the agency to create efficiencies and respond to the needs of our customers. The following activities in FY 11 were accomplished for these purposes:

Use of Smart Phones.: Our online renewal application was converted to provide nurses with the option of renewing their license by phone. In FY 2012 – we will review options to provided license verifications in a user friendly format for web browsers used on smart phones.

Social Sites: Social sites, Facebook, Linked In and Twitter are becoming increasingly popular for businesses to disseminate information. We plan on reviewing option of setting up a information only business site to advertise Workshops, webinars and possibly notify constituents of rule and policy changes.

Webinars: The Board has jumped into the Webinar area and will continue to develop and present one hour informational sessions on Nursing Jurisprudence, Nursing Laws and Regulations and Nursing Peer Review. We have the ability to record the sessions and may offer them "On Demand" at a later date.

AOG Online: We've concluded User Testing for the AOG Online application and will start offering Texas schools to use this option.

eNotification: Pushing notification of licensure status and discipline changes to subscribers is in internal testing. User testing will be performed later this year and available for the public in FY 2012.

Nursys Data Integrity Project: In FY 11 we applied for and received from NCSBN direct funding for temporary staff to supply missing or incorrect data in our database. We are 70% complete with this project and will continue until completion. Staff may also ask to extend the funding to add disciplinary orders to the Nursys Data Base which will decrease agency workload currently involved with supplying orders to other states.