

## REPORT OF THE EXECUTIVE DIRECTOR

### NATIONAL ISSUES

**NCSBN e-Notify Service:** This service delivers real-time notification to employers about nurses in their employ. The system provides licensure and publicly available discipline data directly as the information is entered into the Nursys database by boards of nursing. Employers can chose the types and frequency of notifications such as expiration of license and discipline on a license. Currently there are 452 Texas nursing employers with 16,297 nurses enrolled in e-Notify. NCSBN is now permitting individual nurses to enroll.

**NCSBN National Simulation Study Wins Two Awards:** NCSBN issued the following announcement. “The National Council of State Boards of Nursing’s (NCSBN) study, “The NCSBN National Simulation Study: A Longitudinal, Randomized, Controlled Study Replacing Clinical Hours with Simulation in Prelicensure Nursing Education,” is the recipient of two awards honoring its contributions to the body of nursing knowledge. NCSBN was the recipient of the first Excellence in Educational Research Award, a program of the Sigma Theta Tau International (STTI)/Chamberlain College of Nursing Center for Excellence in Nursing Education, presented at STTI’s International Nursing Research Congress in Hong Kong. It was unanimously selected by the judges because it was a broad-based study that has nationwide and potentially international impact on nursing education. The International Nursing Association for Clinical Simulation & Learning (INACSL) presented Jennifer Hayden, MSN, RN, associate, NCSBN Research department, with the first INACSL President’s Award in recognition of her role as the project director for the National Simulation Study and her leadership in bringing this sentinel work to fruition.” The full report of the study is available as supplement to the July 2014 issue of the Journal of Nursing Regulation (JNR) and is available at:

<http://jnr.metapress.com/home/main.mpx>.

**New National Institutes of Health (NIH) System to Monitor Drug Abuse Trends:** The National Institute on Drug Abuse (NIDA) recently announced that a National Drug Early Warning System (NDEWS) is being developed that will identify emerging drug trends through the utilization of national and local data sources. NDEWS is being designed to alert health care experts to potential outbreaks of illicit drug use and identify an increased use of designer synthetic compounds (imitation versions of illicit drugs). The new system will detect emerging drug trends by utilizing social media, Web scans, existing surveys and drug-related listservs and networks. <http://www.nih.gov/news/health/jul2014/nida-17.htm>

**Nurses Likely to See an Expanded Role in Chronic-Condition Care:** According to a study published in the *Annals of Internal Medicine*, a team approach that uses nurse-managed protocols may have positive effects on the outpatient treatment of adults with chronic conditions, such as diabetes, high blood pressure and high cholesterol. Study investigators reviewed 18

studies on the effectiveness of registered nurses (RNs) in leading the management of chronic conditions and found that patients with nurse-managed care had lower blood pressure and steeper declines in low-density lipoprotein (LDL) cholesterol. The investigators suggest that with the increased demand for primary care services resulting from the Affordable Care Act, RNs may be a valuable asset for treating and improving the care of patients with chronic diseases. The study investigators note that the implementation of a patient-centered medical home model will play a crucial role in the reconstruction of team-based care and will expand the responsibilities of team members. Nurses, the largest health care workforce group, are in an ideal position to work with other team members to deliver more accessible and effective chronic disease care.

[http://www.rwjf.org/en/blogs/human-capital-blog/2014/08/an\\_expanded\\_rolefor.html](http://www.rwjf.org/en/blogs/human-capital-blog/2014/08/an_expanded_rolefor.html)

**Final Rule Published Rescheduling Hydrocodone Combination Products (HCPs):** The Drug Enforcement Agency (DEA) published its final rule rescheduling HCPs from Schedule III to the more-restrictive Schedule II. The scheduling change imposes Schedule II regulatory controls and sanctions on anyone who handles, or proposes to handle, HCPs. HCPs are drugs that contain both hydrocodone, which is already a Schedule II drug by itself, and other substances such as acetaminophen or aspirin. DEA said that the rescheduling of HCPs resulted from recognition that HCPs are one of the most addictive and potentially dangerous prescription medications available. The scheduling change went into effect Oct. 6, 2014. <http://www.justice.gov/dea/divisions/hq/2014/hq082114.shtml> . The Board of Nursing website has an added link on the home page to information regarding this change.

**Centers for Disease Control and Prevention (CDC) Report Links Hospital Drug Diversion to Bacterial and Viral Infections:** According to a recent CDC report including data over a 10-year period, nearly 30,000 hospital patients were potentially exposed to blood-borne pathogens as a result of drug diversion by infected health care professionals. CDC researchers reviewed hospital records for outbreaks of patient infections from Jan. 1, 2000 through Dec. 31, 2013, and identified six instances of infection outbreaks which resulted from drug diversion by health care personnel in U.S. health care settings. Two of the outbreaks were caused by tampering with opioids administered via patient-controlled analgesia pumps; resulting in gram-negative bacterium in 34 patients. The other four outbreaks involved tampering with syringes or vials containing fentanyl; resulting in hepatitis C virus (HCV) infection in 84 patients. The six health care professionals responsible for the exposure to the patients included three technicians and three nurses. CDC researchers suggest that these outbreaks reveal gaps in the prevention, detection and response to drug diversion in U.S. health care facilities. Systems and protocols must be developed and followed to prevent drug diversion, and allow for early detection and response in order to ensure patient safety. According to the report, appropriate response includes potential for patient harm assessment, consultation with public health officials and prompt reporting to enforcement agencies.

[http://www.mayoclinicproceedings.org/article/S0025-6196\(14\)00342-5/abstract](http://www.mayoclinicproceedings.org/article/S0025-6196(14)00342-5/abstract)

**Federal Bureau of Investigation (FBI) Announced Next Generation Identification (NGI) System is Fully Operational:** The Criminal Justice Information Services (CJIS), a division of the FBI, recently announced the full operational capability of its NGI system. The NGI system has expanded the FBI's biometric identification capabilities by introducing enhanced automated fingerprint search capabilities, mobile fingerprint identification and electronic image storage.

Replacing the FBI's Integrated Automated Fingerprint Identification System, the NGI system has added new services and capabilities. Two new services that are part of NGI's full operational capability are Rap Back and the Interstate Photo System (IPS). The Rap Back service allows authorized agencies to receive notification of subsequent criminal activity reported on individuals holding positions of trust, such as school teachers. The IPS facial recognition service is an investigative tool providing the law enforcement community the capability to search images in photographs that are connected to criminal identities. The FBI notes that these new services are a significant step forward in using biometrics to assist with investigations by the criminal justice community.

<http://www.fbi.gov/news/pressrel/press-releases/fbi-announces-full-operational-capability-of-the-next-generation-identification-system> Board Staff has discussed the new Rap Back system with Texas Department of Public Safety (DPS) staff. They indicated they will participate in the program in the future.

## STATE ISSUES

**Health Professions Council:** The Health Professions Council (HPC) met on September 8, 2014 for its regular quarterly meeting. The Council reviewed reports on budget, training, and technology. The chair reported on a newly developed matrix of all agencies, their metrics, and agency participation in resource sharing programs of the Council. This document will help inform state policy makers. Activation of several committees will result in meetings to discuss issues in preparation for the 84<sup>th</sup> Legislative Session.

## BOARD ISSUES

**BON Bulletin Articles :** The October issue of the *Board of Nursing Bulletin* contains: 1.) article on Joint Statement of the Texas Board of Nursing, Texas Medical Board, and Texas State Board of Pharmacy on Hydrocodone Combination Products and Tramadol; 2.) article on Promoting Patient Safety through the Electronic Health Record and Use of Computerized Provider Order Entry; and 3.) an article on whether a "coach" is the same as a preceptor in a nursing education program.

**Board Meeting:** A retreat will be held on Wednesday, October 22<sup>nd</sup> at the Hilton Garden Inn from 2 - 6 pm. In addition, according to the direction from the Evaluation and Development Committee consisting of Board members Kathy Leader Horn and Patti Clapp and input from the Board, there will be a Board Development session on Friday on the Department of Public (DPS) Safety Rap Back Program.

**TPAPN and BON Active Enrollment in Drug Testing:** In follow up to a question by the Board in July regarding the number of active drug monitoring cases by TPAPN and the BON, the following demonstrates that TPAPN has more people monitored through our vendor, Recovery Trek than the Board. This question was raised by Board member Tamara Cowen during the last board meeting. Review of a report by Recovery Trek produced on October 8<sup>th</sup> revealed that 460 TPAPN participants and 320 Board ordered nurses are currently monitored by drug screening.

The Board's policy for drug monitoring is only nurses currently working are drug screened, while TPAPN tests participants whether or not they are working.

**Self Directed/Semi Independent Status Sunset Report:** The Sunset Commission was directed by the 83<sup>rd</sup> Legislature to conduct a SDSI study and report recommendations to the 84<sup>th</sup> Legislature. The Study has recently been released and staff are evaluating. The Executive Director will provide a summary of the report at the October Board meeting.

## **AGENCY ISSUES**

**New Staff Positions:** According to Article IX, Section 10.6 (a) (2) (A), the agency has authority to exceed by up to 110% its full time equivalent employee (FTE) cap . We have hired some staff in customer service and enforcement monitoring to deal with surges in workload. Thus, we exceeded our cap in the fourth quarter. The attached report has been filed with the Governor and the Legislative Budget Board. **(Attachment A)**

**Board Staff Article Published in the Journal of Nursing Regulation:** Denise Benbow, Jena Abel, Kristin Benton and Janice Hooper authored an article titled: "Beyond the Scope of Practice: Licensed Vocational (Practical) Nurses in Community Settings" in the October 2014 issue of the JNR. **(Attachment B)**

**Rule 221, Advanced Practice Nurses:** Following withdrawal of the rule, Board staff met individually with each commenter to further discuss their comments. Information obtained through these meetings will help staff re-draft the Rule following the 84<sup>th</sup> Legislative Session.

**Nursing Jurisprudence Examination:** The Jurisprudence examination required for initial licensure by Texas Occupations Code Section 301.252, License Application, was implemented in September 2008. Those applying for initial licensure by exam or endorsement **after** September 1, 2008 must pass the Jurisprudence Exam in order to be eligible for licensure.

Also, pursuant to recent rule amendments, nurses who have not been current in Texas for four or more years, must complete the Jurisprudence Examination prior to reinstatement. Attached are statistics for Jurisprudence exam takers for past 3 fiscal years including through the fourth quarter of Fiscal Year 2014. **(See Attachment C).**

Staff are working with a psychometrician to update the Jurisprudence Examination. Contracts have been signed and work initiated.

**Commitment to On-going Regulatory Excellence (CORE):** The July Executive Director report contained a note from the CORE Chair regarding our use of CORE data. Since that meeting, I have received another note from Ms. Ridenour. This note follows. I have authorized her to share the report with other Boards of Nursing.

Dear Kathy Thomas and Mary Beth Thomas,

The CORE Committee met last week and was most impressed with the attached report

developed by Mary Beth Thomas. The eight page analysis of the 240 page 2012 Texas CORE Report demonstrated how the CORE data may be used to better assign staff/resources and also take other “actions” to improve program performance and providing accountability to the public.

The committee also requested that this report be shared with other boards as an “exemplar CORE report.”

Congratulations on this great milestone in “best in class” in using the CORE Data! Please let me know if you would be willing to have me share with all the Executive Officers.

Also, would you please forward this message to Mary Beth?

Regards,

Joey Ridenour RN MN FAAN  
Executive Director  
Arizona State Board of Nursing  
4747 N. 7th Street, Suite 200  
Phoenix, Arizona 85014  
Direct Line: 602 771 7801

**Dr. Ayars Presented at Army Practical Nurse Program Faculty Development/Training Session:** Dr. Virginia Ayars was invited to be a presenter at this recent event held at Ft. Gordon, Georgia. Attached is her report on the event. (***Attachment D***)

**National Council of State Boards of Nursing (NCSBN) Projects:** Staff continues the BON on-boarding process for the new NCSBN data base system, Optimal Regulatory Board System, ORBS, (formally known as ROMs) system, by hiring a Business analyst to map all of the BON business processes. The business analyst is meeting with each department and on schedule to complete the process this fall. Design meetings continue as our on-boarding date nears.

**Information Technology Updates:**

IT activities for the fourth quarter include:

- Upgraded BON security with a new firewall system.
- Completed initial and ongoing participation in NCSBN NURSYS with addition of APRN and temporary licensure data.
- Completed automated process to search for records without NCSBN numbers and identify records without an identifier number.
- Completed the conversion from the 5 digit to the 10 digit school code in our systems.
- Deployed new hardware as part of the BON refresh cycles.
- Worked with DIR to implement Voice Over Internet Protocol (VOIP) phones in customer service area. Project will be completed in first quarter of FY 2015.
- Purchased new firewall and switch for Health Professions Council to improve the bandwidth and speeds in the Board conference room.

- Implemented a new Background check initiative to get those records without a DPS SID number to update in our system.
- Completed the Information Technology Detail Plan which is required by the Legislative Appropriations Request.
- Set up a new Laserfiche template for scanning in Advanced Practice Registered Nurse files.
- Met with multiple vendors and suppliers to ascertain which core network components needing upgrade and evaluated vendor options.
- Added board order monitoring data elements to the quarterly statistics report.

On-going projects include working with DIR to implement the Voice over Internet Protocol (VoIP) system and continued work with DIR to find solutions to the bandwidth issue in the Hobby Building.

**Website:** Big Hit Productions recently won an award based upon the design of our website

The following are changes that have been made to the website since the last Board Report.

- Updated the Strategic Plan
- Added a new form to website for Graduate Rosters
- Posted July Board Materials
- Posted Quarterly Statistics
- Updated the Nursing program education page
- Updated the board meeting reports
- Updated The RN nursing education Programs approved by the board
- Updated The LVN nursing education Programs approved by the board
- Posted information regarding the Delegation Task force meeting
- Posted the Legislative Appropriations Report on the Website
- Added and removed multiple Job postings.
- Added the posting that Rule 221 withdrawn
- Posted Eligibility & Disciplinary meeting agenda
- Posted new rule changes for July
- Updated enforcement flowchart with a newer one
- Posted new rule changes for August
- Posted several historical E&D meeting agendas
- Updated Board Member information

**Key Meetings and Presentations: by the Executive Director and Staff since the last Board meeting. (Does not include internal meetings with staff) .**

**Executive Director**

*Meeting:* with Nagla Elerian, Director for the Center for Health Statistics, Department of State Health Services, July 22, 2014, Austin

*Meeting:* RN Delegation - Texas Department of Juvenile Justice, July 24, 2014, Austin

*Meeting:* with staff from the Center for Nursing Workforce Studies to discuss budget and other needs of the Center, July 25, 2014, Austin

*Conference Call:* Texas Team Education Committee, July 28, 2014

*Meeting:* Nurse Licensure Compact Compliance Committee, July 30-31, 2014, Chicago.

*Meeting:* SB 1857 Advisory Committee, August 1, 2014, Austin

*Invited Testimony:* On BON rules and policies for House Veterans, Defense and Veterans' Affairs Committee Joint Hearing with the House Licensing & Administrative Procedures Committee, August 7, 2014

*Meeting:* Comments on Rule 221 with Representative John Zerwas, August 8, 2014, Austin

*Meeting:* Comments on Rule 221, Texas Nurse Practitioners, August 8, 2014, Austin

*Meeting:* Nurse Licensure Compact Administrators (NLCA) Annual Face-to-Face Meeting, August 12, 2014, Chicago

*Conference:* NCSBN Annual Conference, August 13-15, 2014, Chicago

*Meeting:* Texas Nurses Association Nursing Legislative Agenda Coalition Meeting; August 16, 2014, Austin

*Invited Testimony:* Legislative Budget Board Hearing, August 18, 2014

*Meeting:* Board Staff and Texas Nurses Association Staff, August 20, 2014

*Meeting:* with Staff of Board of Nursing, Texas Medical Board and Texas State Board of Pharmacy to discuss joint development of a Business Continuity Plan, August 21, 2014, Austin

*Conference Call:* Texas Team Education Committee, August 25, 2014

*Meeting:* Texas Department of Public Safety Prescription Monitoring Program Stakeholders, August 25, 2014, Austin

*Meeting:* Comments on Rule 221, Texas Nurses Association, August 21, 2014, Austin

*Meeting:* Tri-Regulator Collaborative (Federation of State Medical Boards, National Council of State Boards of Nursing, National Association of Boards of Pharmacy), August 26, 2014, Chicago

*Meeting:* Comments on Rule 221 with Stella Logan, August 28, 2014, Austin

*Meeting:* Comments on Rule 221 with Texas Society of Anesthesiologists, American Society of Anesthesiologists, August 28, 2014, Austin

*Meeting:* NCSBN Board of Directors Meeting, September 4-5, 2014, Chicago

*Meeting:* Quarterly Meeting of the Health Professions Council, September 8, 2014, Austin

*Conference Call:* NLC Compliance Committee, September 8, 2014

*Meeting:* Comments on Rule 221, Coalition for Nurses in Advanced Practice, September 8, 2014, Austin

*Meeting:* Comments on Rule 221, Texas Medical Association, September 10, 2014, Austin

*Conference Call:* NLC Compliance Committee, September 18, 2014

*Hosted Meeting and Training:* Elliot Vice, Staff, NCSBN, September 18-19, 2014, Austin

*Conference Call:* Texas Team Practice Committee, September 19, 2014

*Meeting:* Comments on Rule 221, Texas Association of Nurse Anesthetists, September 22, 2014, Austin

*Conference:* Call with Texas Team Education Committee, September 22, 2014

*Meeting:* Texas Team Legislative Summit, September 23, 2014, Austin

*Meeting:* Health Professions Council Shared Services Committee, September 23, 2014, Austin

*Meeting:* Texas Nurses Association, September 29, 2014, Austin

*Conference Call:* TTUHSC Correctional Health to Discuss LVN Scope of Practice, October 2, 2014

*Meeting:* Texas Association of Deans and Directors of Professional Nursing Programs, October 3, 2014

*Conference Call:* NLC Compliance Committee, October 9, 2014

*Meeting:* NCSBN Board of Directors, October 13-14, 2014, Alexandria, VA

*Conference Call:* Texas Department of Juvenile Justice regarding delegation, October 17, 2014

*Conference Call:* Texas Team Practice Committee, October 17, 2014

*Meeting:* Health Professions Council Budget and Planning Committee, October 21, 2014, Austin

*Meeting:* Quarterly meeting of Texas Center for Nursing Workforce Studies, October 22, 2014, Austin

### **Director of Operations**

*Presentation:* Texas League for Vocational Nurses; June 21, 2014, Richmond, Texas

*Meeting:* NCSBN Delegate Assembly; August 12 - 15, 2014 Chicago

*Meeting:* Texas Nurses Association Nursing Legislative Agenda Coalition Meeting; August 16, 2014, Austin

*Invited Testimony:* Legislative Budget Board Hearing, August 18, 2014

### **Director of Enforcement**

*Conference:* NCSBN Disciplinary Case Management Summit, June 4-6, 2014, Park City, Utah

*Meeting:* NCSBN CORE Discipline Effective Practices Subcommittee, August 29, 2014, Chicago

*Presentation:* Austin Bar Association, Administrative Law CLE Panel: "Your client received an investigation letter from the Board, now what?" September 17, 2014, Austin

### **Director of Nursing and Nursing Consultants**

*Conference Call:* Texas TERCAP, July 7, 2014

*Conference Call:* National Council of State Boards of Nursing Education Call, July 8, 2014

*Meeting:* Texas Team Practice Committee, July 18, 2014

*Meeting:* Education Informal Information Session, July 22, 2014

*Meeting:* RN Delegation - Texas Department of Juvenile Justice, July 24, 2014, Austin

*Conference:* Paramedics Emerging Role, Institute for Healthcare Improvement (IHI), July 24, 2014, Webinar

*Meeting:* Delegation Task Force for Chapter 224, July 30, 2014, Austin

*Meeting:* Episcopal Health Foundation Community Meeting, July 30, 2014, Tyler

*Presentation:* Protecting Your Patients and Your Practice Workshop to Texas A&M University KSTAR for Nurses Program, July 31, 2014, Austin

*Meeting:* SB 1857 Advisory Committee, August 1, 2014, Austin

*Presentation:* Nursing Peer Review: Understanding the Process, August 6, Webinar

*Conference:* Army Practical Nurse Program Faculty Development/Training Session, August 6-8, 2014, Augusta, GA

*Meeting:* LVN On-Call Pilot Program, Deceased Individual Review, August 7, 2014, Austin

*Meeting:* Comments on Rule 221, Texas Nurse Practitioners, August 8, 2014, Austin

*Meeting:* Comments on Rule 221 with Representative John Zerwas, August 8, 2014, Austin

*Conference Call:* Texas Higher Education Coordinating Board (THECB), August 8, 2014

*Conference:* Hot Topics in Emergency and Trauma Care, August 9, 2014

*Meeting:* Practice Committee, Texas Nurses Association, August 13, 2014, Austin

*Conference:* NCSBN Annual Conference, August 13-15, 2014, Chicago

*Hearing:* Legislative Budget Board Hearing, August 18, 2014

*Conference Call:* Texas TERCAP, August 19, 2014

*Meeting:* Board Staff and Texas Nurses Association Staff, August 20, 2014

*Presentation:* APRN Scope of Practice, August 21, 2014, Webinar

*Conference:* 1st Annual Cross Systems Summit, August 21-22, 2014, Austin

*Meeting:* New Deans and Directors Orientation, August 22, 2014, Austin

*Conference Call:* Texas Team Education Committee, August 25, 2014

*Meeting:* Texas Department of Public Safety Prescription Monitoring Program Stakeholders, August 25, 2014, Austin

*Meeting:* Comments on Rule 221, Texas Nurses Association, August 25, 2014, Austin

*Meeting:* Texas A&M University KSTAR for Nurses Program, August 25, 2014, Conference Call

*Meeting:* NCLEX Item Review Sub Committee (NIRSC), August 25-27, 2014, Chicago

*Conference:* Top Ten Challenges for Blended Learning, August 27, 2014, Webinar

*Meeting:* Comments on Rule 221, Texas Society of Anesthesiologists and American Society of Anesthesiologists, August 28, 2014, Austin

*Meeting:* Comments on Rule 221, Stella Logan, August 28, 2014, Austin

*Meeting:* Board Staff and Texas Association of Aesthetic Nursing, September 4, 2014, Austin

*Meeting:* Physician Delegation of Aesthetic Procedures and Texas Medical Board rules, Texas Association of Aesthetic Nursing, September 4, 2014, Austin

*Conference:* Texas Nurse Practitioners Annual Conference, September 4-7, 2014, San Antonio

*Meeting:* Texas Peer Assistance Program for Nurses Advisory Committee Meeting, September 5, 2014, Austin

*Meeting:* Delegation Task Force for Chapter 224, September 5, 2014, Austin

*Meeting:* Comments on Rule 221, Coalition for Nurses in Advanced Practice, September 8, 2014, Austin

*Conference Call:* NCSBN Practice Call, September 9, 2014

*Presentation:* Protecting Your Patients and Your Practice Workshop, September 9, Arlington

*Presentation:* APRN Licensure and Practice in Texas: Meeting the Challenges, Meeting the Needs, September 10, 2014, Arlington

*Presentation:* Nursing Peer Review: Putting Your Committee Together Workshop, September 10, Arlington, TX

*Presentation:* LVN Scope of Practice Workshop, September 10, Arlington, TX

*Presentation:* Protecting Your Patients and Your Practice Workshop, September 11, Arlington, TX

*Meeting:* Texas Higher Education Coordinating Board (THECB), September 11, 2014, Austin

*Conference Call:* Education Task Force Planning Call September 11, 2014

*Conference Call:* Education Task Force Planning Clinical Instruction Guideline, September 12, 2014

*Meeting:* Interagency Coordinating Council for HIV and Hepatitis Meeting, September 12, 2014, Austin

*Meeting:* LVN On-Call Pilot Program, Deceased Individual Review, September 16, 2014, Austin

*Conference:* Patient Safety Culture, Agency Healthcare Quality Research and Quality, September 16, 2014, Webinar

*Workshop:* National League for Nursing Faculty Intensive: The Basics, September 16, 2014, Arizona

*Meeting:* RN Scope of Practice and Delegation, Texas School for the Blind and Visually Impaired, September 17, 2014, Austin

*Meeting:* LVN On-Call Pilot Program, Deceased Individual Review, September 18, 2014, Austin

*Conference Call:* Nursing Jurisprudence and Ethics Exam and Professional Testing, Inc. and e-StrategySolutions, Inc., September 19, 2014

*Conference Call:* Texas TERCAP, September 19, 2014

*Meeting:* THECB, September 20, 2014

*Conference:* Call with Texas Team Education Committee, September 22, 2014

*Meeting:* NCLEX Item Review Sub Committee (NIRSC), September 22-24, 2014, Chicago

*Meeting:* Texas Team Legislative Summit, September 23, 2014, Austin

*Conference:* Obstetric Hemorrhage Patient Safety Bundle, September 23, 2014, Webinar

*Conference Call :* KSTAR staff, September 24, 2014

*Conference Call:* NCSBN APRN Networking Call, September 25, 2014

*Conference:* The NLC: A Basic Overview, September 25, 2014, Webinar

*Conference:* NCSBN Nursing Licensure Compact, September 25, 2014, Webinar

*Meeting:* KSTAR Pilot Beta Test, September 30, 2014, Round Rock

*Meeting:* LVN On-Call Pilot Program, Deceased Individual Review, October 2, 2014, Austin

*Meeting:* e-Strategy Solutions, Inc., BON Course Catalog, October 2, 2014, Austin

*Conference Call:* TTUHSC Correctional Health to Discuss LVN Scope of Practice, October 2, 2014

*Meeting:* Texas Association of Deans and Directors of Professional Nursing Programs, October 3, 2014

*Presentation:* Protecting Your Patients and Your Practice Workshop, October 7, Amarillo

*Conference Call:* KSTAR staff, October 8, 2014

*Presentation:* Protecting Your Patients and Your Practice Workshop, October 9, Tyler

*Meeting:* Interagency Coordinating Council for HIV and Hepatitis Meeting, October 9, 2014, Austin

*Meeting:* NCLEX Examination Meeting, October 13-14, 2014, Chicago

*Meeting:* Pearson Vue Testing Center Member Board NCLEX Visit, October 15, 2014

Conference Call : KSTAR staff, October 15, 2014

Quarterly Statistics Where Executive Director Closed Cases in Compliance with Board Policy:

**Case Resolution Report**  
June 1, 2014 through August 31, 2014

<b>Type of Action</b>	<b>Total</b>
No Jurisdiction	3
No Violation	6
No Action	501
Insufficient Evidence	236
Admonish	79
Without Prejudice	1551
TPAPN Referrals	107
EEP Referrals	15
Corrective Actions	91
<b>Totals</b>	<b>2,589</b>

Quarterly Statistics Where Executive Director Ratified Temporary Suspension Cases in Compliance with Board Policy:

**Temporary Suspension Case Resolution Report**  
**June 1, 2014, through August 31, 2014**

Ratified by K. Thomas on Board's Authority

<b>Type of Action</b>	<b>Total</b>
Voluntary Surrender	8
Enforced Suspension	2
Enforced TPAPN	1
Closed Without Prejudice	1
<b>Totals</b>	<b>12</b>

Quarterly Statistics Where Executive Director Ratified Requests for Exception in Compliance with Board Policy:

**REQUESTS FOR EXCEPTION TO A PREVIOUSLY ISSUED AGREED ORDER**

April 1, 2014 through May 31, 2014

Total Number of Requests Received	17
Number of Requests Resolved	3
Number of Requests Granted by Executive Director	0
Number of Requests Granted by Eligibility and Disciplinary Committee	0
Number of Requests Denied by Eligibility and Disciplinary Committee	0
Number of Requests Denied Pursuant to Board's Guidelines for Exceptions to Existing Board Orders	3
Number of Requests Pending	14

## LVN DISCIPLINARY ORDERS

Time frame: June 1, 2014, through August 31, 2014

<b>DISCIPLINARY</b>	
32	<p><b>FINE WITH REMEDIAL EDUCATION</b></p> <ul style="list-style-type: none"> <li>28 Submitted an Application/Renewal Document in which false, deceptive, and/or misleading information was given by failing to disclose a criminal history</li> <li>3 Practiced professional nursing without a valid nursing license</li> <li>1 Inappropriately documented another nurse's username and password as a witness to so-sign for insulin</li> </ul>
27	<p><b>REMEDIAL EDUCATION</b></p> <ul style="list-style-type: none"> <li>1 Withdrew Morphine, Hydromorphone, Fentanyl, Hydrocodone/APAP and Alprazolam without following proper wastage procedures</li> <li>1 Administered 2 doses of Doxycycline 500 milligrams instead of Dicloxacillin 500 milligrams as ordered</li> <li>1 Convicted of Disorderly Conduct Display of Firearm</li> <li>3 Disciplinary action taken by another licensing authority</li> <li>1 Failed to administer and/or failed to document the administration of Novolin 20 units</li> <li>1 Misappropriated Lidocaine, Ibuprofen and Promethazine</li> <li>1 Inadvertently the wrong date on a Skilled Nursing note</li> <li>1 Withdrew Hydrocodone but failed to document the administration</li> <li>1 Failed to contact physician to obtain an order for a dressing change when noted patient had a soiled dressing</li> <li>1 Failed to document collection of a urine analysis specimen and examination of fecal impaction</li> <li>1 Exposed patient to a risk of infection and harm by working shift despite not feeling well</li> <li>1 Failed to administer 60mg Lasix, a diuretic, to a resident as ordered by physician</li> <li>1 Failed to immediately assess a patient complaining of shortness of breath</li> <li>1 Left assignment without notifying supervisor or appropriate personnel</li> <li>11 Failed to properly document a late entry nursing note</li> </ul>
19	<p><b>TPAPN CONFIDENTIAL BOARD ORDER</b></p> <ul style="list-style-type: none"> <li>1 Intemperate use of Cocaine</li> <li>1 Intemperate use of Codeine; misappropriation of Dilaudid</li> <li>2 Convicted of two counts of Driving While Intoxicated</li> <li>1 Intemperate use of Benzodiazapines, Alprazolam, Lorazepam, Cocaine, Hydrocodone and Hydromorphone</li> <li>1 Intemperate use of Hydrocodone, Hydromorphone, Meperidine; diverted Fentanyl, Morphine and Dilaudid</li> <li>1 Lacked fitness to practice nursing in that she self medicated multiple times with anxiety medication</li> <li>1 Arrested for submitting unauthorized/fraudulent prescriptions for controlled substances; became dependent on multiple controlled substances</li> <li>1 Intemperate use of Xanax, Tramadol and Methamphetamines; failed to properly care for a patient</li> <li>1 Admitted to being addicted to Hydrocodone and Dilaudid; intemperate use of Lorazepam and Meperidine</li> <li>1 Submitted fraudulent prescriptions; arrested for felony Fraud Poss CS/Prescription SCH III/IV</li> <li>1 Lacked fitness to practice in that she admitted to abusing alcohol</li> </ul> <p><b>TPAPN ENFORCED SUSPENSION BOARD ORDER</b></p> <ul style="list-style-type: none"> <li>1 Deferred judgment for felony Possession of a Controlled substance and convicted of misdemeanor DWI</li> <li>2 Convicted of two counts of misdemeanor Driving While Intoxicated</li> <li>1 Misappropriation of and intemperate use of Hydrocodone</li> <li>1 Outpatient treatment to include methadone management treatment for opiate abuse</li> <li>1 Falsely documented the administration of Ativan; misappropriation of Ativan</li> <li>1 Misappropriation of Valium; intemperate use of marijuana</li> </ul>

**VOLUNTARY SURRENDER**

- 2 Submitted a statement voluntarily surrendering their license to practice nursing
- 1 Currently on probation for the convicted of third degree felony Driving While Intoxicated 3<sup>rd</sup> or more
- 1 Physically forced a patient into a prone position after the patient refused to take his medication
- 3 Submitted statement of surrender in lieu of complying with Board Order
- 1 Currently on probation for state jail felony Poss Controlled Substance PG 1<1G
- 1 Physically and/or emotionally abused a resident
- 1 Currently on probation for felony Failure to Pay Over Employment Tax; Aiding and Abetting
- 1 Indicted for felony Possession of a Controlled Substance - Drug Free Zone; Possession of Controlled Substance w/ Intent to Deliver and two counts of Delivery of a Controlled Substance Drug Free Zone
- 1 Attempted to commit suicide by overdosing on Lorazepam and alcohol twice
- 1 Failed to assess appropriately and notify physician when Resident was injured during transfer
- 1 Currently on probation for third degree felony Possession of a Controlled Substance PG 1>= 1G <4G
- 1 Disciplinary action taken by another Licensing Authority
- 7 Non-compliance with previous Board Order

# LVN ENDORSEMENT/PETITIONER DISCIPLINARY ORDERS

Time frame: June 1, 2014, through August 31, 2014

535	<p><b>APPLICANTS/ PETITIONERS</b></p> <ul style="list-style-type: none"> <li>4 Non disclosure of Criminal History or Disciplinary Action on Application for Licensure by Examination</li> <li>1 Deferred judgment for felony Possession of Marijuana</li> <li>1 Deferred judgment for state jail felony Tamper w/ Government Record Defraud/Harm</li> <li>3 Deferred judgment for felony Possession of a Controlled Substance</li> <li>1 Convicted of Driving While Intoxicated, Theft by Check and 3 counts of Driving While License Suspended</li> <li>1 Deferred judgment for third degree felony Unlawfully, Intentionally &amp; Knowingly Possess Marijuana in a Useable Quantity of More than Four Ounces and Less than Five Pounds</li> <li>1 Deferred judgment for misdemeanor Interfere w/ Emergency Call</li> <li>1 Deferred judgment for state jail felony Theft (\$1,500 - \$20,000)</li> <li>2 Diagnosed with Bipolar Disorder</li> <li>1 Convicted of misdemeanor Noise Disturbance; Loitering; Take Merchandise w/o Intent to Pay; and Possession of Marijuana; felony Conspiracy; Hinder Own Prosecution and 3 counts Theft by Deception</li> <li>1 Deferred judgment for state jail felony Forgery by Passing - two counts</li> <li>1 Convicted of misdemeanor Assault, False Report to Police Officer and Driving While License Invalid</li> <li>1 Deferred judgment for misdemeanor Theft</li> <li>1 Entered Substance Abuse Program</li> <li>1 Disciplinary action taken by another Licensing Authority</li> <li>1 Deferred judgment for misdemeanor Forgery Financial Instrument and DWLS</li> <li>1 Deferred judgment for felony Possession of Methamphetamine</li> <li>1 Convicted of misdemeanor Assault</li> <li>1 Deferred judgment for state jail felony Unauthorized Use of Vehicle</li> <li>1 Convicted of third degree felony Engaging in Organized Criminal Activity</li> <li>1 Deferred judgment for state jail felony Forgery; second degree felony Poss Controlled substance</li> <li>1 Deferred judgment for three counts of third degree felony Credit Card Abuse; misdemeanor Theft by Check and Theft</li> <li>1 Convicted of felony Uttering Forgery</li> <li>1 Deferred judgment state jail felony Theft; convicted misdemeanor Theft by Check</li> <li>1 Convicted of felony Burglary of Habitation with Intent to Commit Theft; deferred judgment for state jail felony Credit Card Abuse; convicted of three counts misdemeanor Theft</li> <li>1 Convicted of state jail felony Possession of Marijuana and two counts of Possession of Cocaine</li> <li>1 Deferred judgment for state jail felony Security Document by Deception</li> <li>1 Convicted of felony robbery; deferred judgment for misdemeanor Criminal Trespass - Entry</li> <li>1 Deferred judgment for state jail felony Theft \$1500 - 20k and convicted of misdemeanor Theft by Check</li> <li>1 Deferred judgment for state jail felony Evading Arrest; convicted of misdemeanor Breaking and Entering; Criminal Mischief and two counts Driving While License Invalid</li> <li>1 Convicted of state jail felony Forgery of Financial Instrument and deferred judgment for two counts misdemeanor Theft by Check</li> <li>1 Convicted of misdemeanor Shoplifting; Careless Driving; deferred judgment for Theft of Property</li> <li>1 Convicted of misdemeanor Driving While Intoxicated and Theft \$500 to \$1500</li> <li>1 Convicted of Driving While Intoxicated; deferred judgment for felony Poss Controlled Substance</li> <li>1 Pre-Trial Diversion for Driving While Intoxicated and Possess Marijuana &lt;2 oz</li> <li>1 Convicted of misdemeanor Driving While Intoxicated; Possession of Drug Paraphernalia and two counts of Possession fo Marijuana</li> <li>1 Deferred judgment for misdemeanor Possession fo Marijuana</li> <li>1 Deferred judgment for misdemeanor Assault - Bodily Injury and Possession of Marijuana</li> <li>1 Deferred judgment for misdemeanor Fraud - Welfare over \$500 and Drove Impaired</li> <li>1 Convicted of two counts of third degree felony Forgery</li> <li>1 Deferred judgment for felony Theft \$200/\$10,000 (Aggregation)</li> <li>1 Convicted of misdemeanor Terroristic Threats, Theft, Driving While Intoxicated and 2 counts of Assault</li> <li>5 Denial of Licensure</li> </ul>
482	No Grounds for Denial/Youthful Indiscretion

60	<p><b>ENDORSEMENTS</b></p> <ul style="list-style-type: none"> <li>8 Disciplinary action taken by another Licensing Authority</li> <li>1 Convicted of third degree felony Grand Larceny</li> <li>1 Convicted of third degree felony Attempted Burglary; misdemeanor Assault Causes Bodily Injury and Theft</li> <li>1 Article 15 - Physically Striking Another; convicted of felony Assault/Battery of High and Aggravated Nature</li> <li>1 Convicted of misdemeanor Aid By Misrepresentation - Over \$400; Issuance of a Bad Check</li> <li>5 Non disclosure of Criminal History or Disciplinary Action on Application for Licensure by Endorsement</li> <li>1 Denial of Licensure</li> <li>42 No Grounds for Denial</li> </ul>
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## LVN CORRECTIVE ACTION

Time frame: June 1, 2014, through August 31, 2014

46	<p><b>CORRECTIVE ACTION</b></p> <ul style="list-style-type: none"> <li>6 Non disclosure of misdemeanor Theft</li> <li>4 Non disclosure of misdemeanor Theft by Check</li> <li>1 Non disclosure of misdemeanor Possession of Marijuana</li> <li>1 Non disclosure of misdemeanor Purchase/Furnish Alcohol to a Minor</li> <li>2 Non disclosure of misdemeanor Interference with Public Duties</li> <li>12 Non disclosure of misdemeanor Driving While Intoxicated</li> <li>1 Non disclosure of misdemeanor Resisting Arrest or Search</li> <li>1 Non disclosure of misdemeanor Criminal Trespass</li> <li>1 Non disclosure of misdemeanor Obstruction of Passageway</li> <li>1 Non disclosure of misdemeanor Indecent Exposure</li> <li>1 Non disclosure of misdemeanor Driving While License Invalid</li> <li>1 Non disclosure of misdemeanor Issuance of a Back Check</li> <li>4 Non disclosure of misdemeanor Assault Causes Bodily Injury</li> <li>1 Non disclosure of misdemeanor Possession of Drug Paraphernalia</li> <li>1 Non disclosure of misdemeanor Criminal Mischief</li> <li>1 Non disclosure of misdemeanor Disorderly Conduct</li> <li>7 Practiced Nursing without a valid license</li> </ul>
1	<p><b>ENDORSEMENTS</b></p> <ul style="list-style-type: none"> <li>1 Non disclosure of misdemeanor Driving While Intoxicated</li> </ul>
6	<p><b>APPLICANTS/ PETITIONERS</b></p> <ul style="list-style-type: none"> <li>1 Non disclosure of misdemeanor Driving While License Invalid</li> <li>1 Non disclosure of misdemeanor Unlawfully Carrying a Weapon</li> <li>1 Non disclosure of misdemeanor Driving While Intoxicated</li> <li>2 Non disclosure of misdemeanor Theft</li> <li>1 Non disclosure of misdemeanor Reckless Driving</li> </ul>

## LVN DEFERRED DISCIPLINE

Time frame: June 1, 2014, through August 31, 2014

5	<p><b>REMEDIAL EDUCATION - DEFERRED DISCIPLINE</b></p> <ul style="list-style-type: none"> <li>1 Administered Demerol 100 mg in excess of physician's order for a maximum dose of 50 mg</li> <li>1 Failed to adequately document in an OASIS Re-certification Assessment</li> <li>1 Failed to submit Nursing Notes</li> <li>1 Failed to adequately assess a student when he came to the Nurse's Office with complaints of sudden loss of vision</li> <li>1 Emailed confidential health information belonging to a student to a third party without authorization</li> </ul>
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## RN DISCIPLINARY ORDERS

Time frame: June 1, 2014, through August 31, 2014

<b>DISCIPLINARY</b>	
35	<p><b>FINE WITH REMEDIAL EDUCATION</b></p> <ul style="list-style-type: none"> <li>22 Submitted an Application/Renewal Document in which false, deceptive, and/or misleading information was given by failing to disclose a criminal history</li> <li>1 Practiced as a Family Nurse Practitioner without authorization</li> <li>1 Failed to protect a patient's Protected Health Information</li> <li>1 Signed the documentation of skilled nursing visits that were made by a field Staff Nurse failing to indicate that the visits were done by another nurse</li> <li>1 Entered and implemented physician's orders for her husband</li> <li>1 Inappropriately documented prescriptions when she signed her name and the physician's name</li> <li>1 Practiced outside her scope as a Woman's Health Nurse Practitioner</li> <li>1 Violated patient confidentiality and privacy by creating electronic videos with cell phone</li> <li>1 Exceeded scope of practice by inappropriately preparing a letter for a person she had never met or cared for</li> <li>5 Practiced professional nursing without a valid nursing license</li> </ul>
24	<p><b>REMEDIAL EDUCATION</b></p> <ul style="list-style-type: none"> <li>1 Failed to adequately and completely document interventions used and failed to appropriately respond to an emergency situation</li> <li>1 Performed a home visit for a minor without a parent or guardian present</li> <li>1 Failed to obtain the consent for a surgical procedure, failed to verify the patient's identify, failed to verify the procedure to be done including site</li> <li>1 Convicted of two counts of Driving While Intoxicated</li> <li>1 Violated patient confidentiality and privacy in that she took photographs of a newborn without consent</li> <li>1 Failed to completely and accurately transcribe admission order</li> <li>1 Withdrew Morphine Sulfate, Fentanyl and Zolpidem Tartrate, but failed to document the administration or follow proper procedures for wastage</li> <li>1 Failed to report to Department of Aging once notified of possible negligence</li> <li>1 Documented a blood pressure thought to belong to a patient instead of assessing the patient</li> <li>1 Failed to document relevant past medical and surgical history</li> <li>1 Misappropriated Humulin belonging to patients previously discharged</li> <li>1 Deferred judgment for misdemeanor Unlawfully Carrying a Weapon</li> <li>1 Violated professional boundaries of the nurse/client relationship; failed to protect confidential patient information</li> <li>1 Established an IV site and self-administered Epinephrine while on duty</li> <li>1 Failed to immediately assess a patient complaining of shortness of breath</li> <li>1 Left assignment without notifying supervisor or appropriate personnel</li> <li>1 Failed to report that a patient was not a registered patient and did not sign a consent for an Intravenous Pyelogram in Radiology; Failed to document a physician's verbal order</li> <li>1 Convicted of misdemeanor Resisting a Peace Officer</li> <li>1 Deferred judgment for misdemeanor Battery</li> <li>1 Disciplinary action taken by another licensing authority</li> <li>1 Failed to notify the physician or document in the medical record that the patient had 3+ edema to both lower extremities</li> <li>3 Failed to properly document a late entry nursing note</li> </ul>

34	<p><b>VOLUNTARY SURRENDER</b></p> <ul style="list-style-type: none"> <li>7 Submitted a statement voluntarily surrendering license to practice nursing</li> <li>8 Disciplinary action taken by another Licensing Authority</li> <li>1 Currently on probation for three counts of third degree felony Driving While Intoxicated</li> <li>1 Indicted for felony Possession of a Controlled Substance - Drug Free Zone; Possession of Controlled Substance w/ Intent to Deliver and two counts of Delivery of a Controlled Substance Drug Free Zone</li> <li>1 Intemperate use of Hydrocodone and Marijuana</li> <li>1 Currently on probation for third degree felony Theft of Property &gt;=\$20K &lt; \$100K</li> <li>1 Attempted to commit suicide by overdosing on Lorazepam and alcohol twice</li> <li>1 Transferred approximately \$40,000 from her patient's savings account into her personal checking account 1</li> <li>Currently on probation for third degree felony Driving While Intoxicated 3<sup>rd</sup> Offender BAC .08</li> <li>1 Found lying half-naked and unconscious on the bathroom floor while on duty; intemperate use of Cocaine and Benzodiazepines</li> <li>1 Failed to notify physician, as ordered, when Patient had 2 episodes of critically low blood sugar readings</li> <li>5 Submitted statement of surrender in lieu of complying with Board Order</li> <li>5 Non-compliance with previous Board Order</li> </ul>
37	<p><b>TPAPN CONFIDENTIAL BOARD ORDER</b></p> <ul style="list-style-type: none"> <li>1 Intemperate use of Hydrocodone, Hydromorphone, Meperidine; diverted Fentanyl, Morphine and Dilaudid</li> <li>1 Misappropriation of medications; deferred judgment for 11 counts of Possession of Dangerous Drug</li> <li>1 Intemperate use of Morphine and Dilaudid</li> <li>1 Withdrew Hydromorphone without valid physician's order; misappropriate Hydrocodone &amp; Hydromorphone</li> <li>1 Convicted of two counts of Driving While Intoxicated</li> <li>1 Intemperate use of Morphine, Clonazepam and Hydromorphone</li> <li>1 Misappropriation of Hydrocodone, Fentanyl, Oxycodone, Dilaudid and Midazolam</li> <li>1 Intemperate use of Marijuana, Morphine, Midazolam and Promethazine</li> <li>1 Voluntarily entered treatment for substance abuse</li> <li>1 Falsely documented the administration of Dilaudid; submitted falsified/unauthorized prescriptions</li> <li>1 Found unconscious in the restroom at a local fast food chain with an intravenous line and a bottle of Propofol connected to her left hand</li> <li>1 Completed 10 week intensive outpatient program</li> <li>1 Self-admitted to Huntsville Memorial Hospital for substance abuse</li> <li>1 Lacked fitness to practice nursing in that she self medicated multiple times with anxiety medication</li> <li>1 Admitted to becoming dependent on multiple controlled substances</li> <li>1 Intemperate use of Xanax, Tramadol and Methamphetamines; failed to properly care for a patient</li> <li>1 Admitted to being addicted to Hydrocodone and Dilaudid; intemperate use of Lorazepam and Meperidine</li> <li>1 Submitted fraudulent prescriptions; arrested for felony Fraud Poss CS/Prescription SCH III/IV</li> <li>1 Lacked fitness to practice in that she admitted to abusing alcohol</li> <li>1 Falsified vital signs; intemperate use of Alcohol</li> <li>1 Intemperate use of Opiates</li> <li>1 Intemperate use of Hydromorphone and Hydrocodone</li> <li>1 Diversion of Morphine, Hydrocodone, Hydromorphone, Alprazolam, Diazepam, Clonazepam, Diphenoxylate, Methylphenidate, Oxycodone, Pregabalin and Lorazepam</li> <li>1 Deferred judgment for misdemeanor Forge Alter Prescription</li> <li>1 Withdrew Demerol, Morphine, and Stadol without a physician's order</li> </ul> <p><b>TPAPN ENFORCED SUSPENSION BOARD ORDER</b></p> <ul style="list-style-type: none"> <li>1 Intemperate use of Methadone, Codeine, Morphine, Hydromorphone, Hydrocodone and Tramadol</li> <li>1 Misappropriation of Demerol, Stadol, Fentanyl and Morphine</li> <li>1 Arrested for two charges of Driving While Intoxicated</li> <li>1 Deferred judgment for felony Possession of a Controlled substance and convicted of misdemeanor DWI</li> <li>1 Intemperate use of Hydrocodone, Xanax and Oxycodone</li> <li>1 Misappropriation of Hydrocodone, False entries documenting the administration of Hydrocodone</li> <li>2 Convicted of two counts of misdemeanor Driving While Intoxicated</li> <li>1 Misappropriation of Demerol; Pre-Trial Agreement for felony Possession of a Controlled Substance</li> <li>3 Non compliance with prior Board Order - Confidential TPAPN Order</li> </ul>

# RN ENDORSEMENT/PETITIONER DISCIPLINARY ORDERS

Time frame: June 1, 2014, through August 31, 2014

919	<p><b>APPLICANTS/ PETITIONERS</b></p> <ul style="list-style-type: none"> <li>1 Non disclosure of Criminal History or Disciplinary Action on Application for Licensure by Examination</li> <li>3 Convicted of misdemeanor Driving While Intoxicated</li> <li>1 Deferred judgment for felony Possession of Methamphetamine</li> <li>1 Convicted of misdemeanor Assault in the Fourth Degree</li> <li>1 Deferred judgment for second degree felony Burglary and convicted of misdemeanor Theft</li> <li>1 Deferred judgment for state jail felony Theft of Property</li> <li>1 Deferred judgment for third degree felony Securing Execution of Document by Deception</li> <li>1 Convicted of misdemeanor Disorderly Conduct, Reckless Driving and 2 counts Driving While Intoxicated</li> <li>1 Convicted of misdemeanor Issuance of Bad Check; Disturbing the Peace and Reckless Driving</li> <li>1 Convicted of Driving While Intoxicated and three counts of Trespass</li> <li>1 Deferred judgment for state jail felony Welfare Fraud</li> <li>1 Convicted of DUI First Offense; Driving While Intoxicated; Obst Passageway and Reckless Driving</li> <li>1 Falsely documented vital signs, including blood pressure and pain level scores</li> <li>1 Deferred judgment for Unlawful Possession of Aphetamine; Obstructing Highway Passageway; DWI</li> <li>1 Convicted of misdemeanor Burglary of Vehicle and state jail felony Burglary of a Building</li> <li>1 Deferred judgment for third degree felony Possession of Marijuana</li> <li>1 Convicted of misdemeanor Possession of a Controlled Substance and Evade Arrest/Detention</li> <li>1 Deferred judgment for misdemeanor Negligent Homicide</li> <li>1 Convicted of misdemeanor Possession of Marijuana and three counts of Driving While Intoxicated</li> <li>1 Deferred judgment for state jail felony Manufacture/Delivery Controlled Substance</li> <li>2 Convicted of state jail felony Tampering with Government Records</li> <li>2 Entered an Outpatient program for chemically dependent adults</li> <li>1 Convicted of misdemeanor Driving Motor Vehicle W/ Under Influence; Leaving Scene of Accident and DUI</li> <li>2 Deferred judgment for Driving Under Influence of Alcohol and convicted of Public Intoxication</li> <li>1 Entered Intensive Residential Treatment</li> <li>1 Deferred judgment for misdemeanor Disorderly Conduct and 3 counts of Theft</li> <li>1 Convicted of Driving While Intoxicated; deferred judgment for Public Intoxication</li> <li>1 Intemperate use of Oxycodone</li> <li>1 Convicted of misdemeanor Driving While Intoxicated and Driving Under the Influence</li> <li>1 Convicted of misdemeanor Poss Marijuana; Possession of Drug Paraphernalia and Reckless Driving</li> <li>1 Convicted of Minor in Poss of Beer and Public Intoxication; deferred judgment for Poss Alcohol by a Minor</li> <li>1 Diagnosed with Schizoaffective Disorder, Bipolar Type</li> <li>1 Participated in Mental Health counseling</li> <li>1 Convicted of two counts of misdemeanor Possession of Marijuana</li> <li>1 Diagnosed with Bipolar II Disorder</li> <li>1 Deferred judgment for second degree felony Poss Cocaine; convicted of misdemeanor Burglary of Motor Vehicle and Theft</li> <li>5 Convicted of two counts of misdemeanor Driving While Intoxicated</li> <li>1 Deferred judgment for second degree felony Fraud Use/Poss ID and two counts of misdemeanor Theft; and two counts of Possession of Controlled Substance</li> <li>1 Convicted of two counts Inflict Corporal Injury Spouse/Cohab</li> <li>2 Deferred judgment for state jail felony Criminal Mischief \$1,500 - \$20K</li> <li>1 Deferred judgment for misdemeanor Obstruct Highway Passageway</li> <li>1 Convicted of misdemeanor DUI - Minor; Unlawfully Poss Alcohol and two counts of Minor in Possession</li> <li>1 Deferred judgment for state jail felony Possess Methylenedioxy Methamphetamine</li> <li>1 Deferred judgment for misdemeanor Theft; convicted of misdemeanor Theft</li> <li>1 Convicted of misdemeanor Possession of Alcohol by Minor 3<sup>rd</sup> or More</li> <li>1 Deferred judgment for misdemeanor Weapon - Unlawfully Carrying</li> <li>1 Convicted of misdemeanor Driving While Intoxicated; deferred judgment for Theft</li> <li>3 Deferred judgment for state jail felony Possession of a Controlled Substance</li> <li>2 Disciplinary action taken by another licensing authority</li> <li>1 Denial of Licensure</li> </ul>
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	<p><b>APPLICANTS/ PETITIONERS - CONTINUED</b></p> <ul style="list-style-type: none"> <li>1 Convicted of misdemeanor Disorderly Conduct and two counts of Driving While Intoxicated</li> <li>1 Deferred judgment for state jail felony Credit or Debit Card Abuse</li> <li>1 Pre-Trial diversion for felony Assault - Public Servant</li> <li>1 Convicted of misdemeanor Stealing; Possession of Drug Paraphernalia; Regulation of Controlled Substance and Consumption of Alcohol by Minor</li> <li>1 Re-current episodes of Major Depression with Psychotic features</li> <li>1 Deferred judgment for misdemeanor Theft by Check; Theft; Fail to Identify Giving False Information</li> <li>1 Convicted of misdemeanor Assault; Theft by Check and 2 counts of Possession of Marijuana</li> <li>1 Deferred judgment for felony Man/Del/Sell/Poss Controlled Substance and misdemeanor Possession Controlled Substance PG 3&lt;28G</li> <li>1 Verbally and Physically abused a cognitively impaired patient</li> <li>1 Deferred judgment for state jail felony Unauthorized Use of a Motor Vehicle</li> <li>1 Deferred judgment for misdemeanor Criminal Trespass-Habitation/Shelter</li> <li>1 Deferred judgment for third degree felony Possession of a Controlled Substance and Forgery; state jail felony Possession of a Controlled Substance and misdemeanor Possession of Marijuana</li> <li>1 Deferred judgment for five counts of misdemeanor Possession of Drugs</li> <li>1 Pre-Trial agreement for felony Secure Execution of Document by Deception</li> <li>1 Convicted of three counts of misdemeanor Driving While Intoxicated</li> <li>1 Convicted of felony Theft Over \$500 and misdemeanor Theft Between \$100 and \$500 and forgery, Attempted Unauthorized Use of an Access Card</li> <li>1 Deferred judgment for misdemeanor Theft and Possession of Marijuana</li> <li>1 Convicted of five counts of felony Burglary</li> <li>1 Deferred judgment for third degree felony Assault - Public Servant</li> <li>1 Convicted of felony Burglary of Building and Burglary of Vehicle; misdemeanor Possession of Marijuana; Driving While License Suspended and two counts of Driving While Intoxicated</li> <li>1 Deferred judgment for state jail felony Criminal Mischief and convicted of misdemeanor Poss Alprazdam</li> <li>1 Convicted of felony Conspiracy to Counterfeit, Possess, and Pass Counterfeit Obligations of the US</li> <li>1 Convicted of felony Conspiracy to Distribute More Than 100 Kilograms of Marijuana and misdemeanor Disorderly Conduct and</li> <li>1 Deferred judgment for Consumption of Alcohol Beverage; Disorderly Conduct and Public Intoxication</li> <li>1 Convicted of misdemeanor Consumption of Alcohol by Minor and Assault Bodily Injury</li> <li>1 Convicted of state jail felony Theft of Service &gt;=\$1,500 &lt;\$20k; Theft and DWLS</li> <li>1 Convicted of misdemeanor Driving While License Invalid; OUI-Liquor and Driving While Intoxicated</li> </ul> <p>829 No Grounds for Denial/Youthful Indiscretion</p>
205	<p><b>ENDORSEMENTS</b></p> <ul style="list-style-type: none"> <li>15 Disciplinary action taken by another licensing authority</li> <li>1 Convicted of misdemeanor Illegal Operation of Motor Vehicle While Under the Influence 4 counts</li> <li>4 Denial of Licensure</li> <li>1 Pre-Trial diversion for Practice as an RN without License; Deferred judgment for misdemeanor Theft of Property</li> <li>1 Deferred judgment for misdemeanor Passing Bad Check and Harassment - Strike/Shove/Kick</li> <li>1 Convicted of felony Burglary</li> <li>1 Convicted of third degree felony Burglary and Assault and two counts of second degree felony Theft of Property</li> <li>1 Entered treatment for Bipolar Disorder</li> <li>1 Convicted of misdemeanor Battery, Public Intoxication and Driving Under the Influence</li> <li>1 Convicted of felony Arson, misdemeanor Obstructing Officer and six counts of Worthless Check</li> <li>1 Deferred judgment for felony Felonious Assault</li> <li>1 Convicted of third degree felony Distribution of Controlled Substance/Methamphetamine</li> <li>2 Pre-Trial Intervention for Unlawful Possession of Dangerous Drug</li> <li>4 Non disclosure of Criminal History or Disciplinary Action on Application for Licensure by Endorsement</li> </ul> <p>170 No Grounds for Denial</p>

## RN CORRECTIVE ACTION

Time frame: June 1, 2014, through August 31, 2014

48	<p><b>CORRECTIVE ACTION</b></p> <ul style="list-style-type: none"> <li>1 Non disclosure of misdemeanor Theft of Service</li> <li>21 Non disclosure of misdemeanor Driving While Intoxicated</li> <li>1 Non disclosure of misdemeanor Reckless Driving</li> <li>1 Non disclosure of misdemeanor Possession of Marijuana</li> <li>2 Non disclosure of misdemeanor Driving While License Suspended</li> <li>1 Non disclosure of misdemeanor Purchase/Furnish Alcohol to a Minor</li> <li>4 Non disclosure of misdemeanor Theft by Check</li> <li>2 Non disclosure of misdemeanor Theft of Property</li> <li>2 Non disclosure of misdemeanor Disorderly Conduct</li> <li>1 Non disclosure of misdemeanor Criminal Trespass</li> <li>1 Non disclosure of misdemeanor Assault Causes Bodily Injury</li> <li>1 Non disclosure of misdemeanor Obstruction of Passageway</li> <li>1 Non disclosure of misdemeanor Possession of a Controlled Substance</li> <li>2 Non disclosure of misdemeanor Interference with Public Duties</li> <li>7 Practiced Nursing without a valid license</li> </ul>
9	<p><b>ENDORSEMENT</b></p> <ul style="list-style-type: none"> <li>5 Non disclosure of misdemeanor Driving While Intoxicated</li> <li>1 Non disclosure of misdemeanor Theft by Check</li> <li>1 Non disclosure of misdemeanor Disorderly Conduct</li> <li>1 Non disclosure of misdemeanor Assault</li> <li>1 Non disclosure of misdemeanor Disposal of Garbage - Littering</li> </ul>
5	<p><b>APPLICANTS/ PETITIONERS</b></p> <ul style="list-style-type: none"> <li>1 Non disclosure of misdemeanor Failure to Stop and Give Information</li> <li>1 Non disclosure of misdemeanor Possession of Marijuana</li> <li>1 Non disclosure of misdemeanor Accident Involving Damage to Vehicle</li> <li>2 Non disclosure of misdemeanor Theft</li> </ul>

## RN DEFERRED DISCIPLINE

Time frame: June 1, 2014, through August 31, 2014

10	<p><b>REMEDIAL EDUCATION - DEFERRED DISCIPLINE</b></p> <ul style="list-style-type: none"> <li>1 Withdrew Morphine, Lorazepam and Midazolam but failed to document the administration</li> <li>1 Inappropriately instructed a certified nurse aide to administer a Tramadol 50mg tablet</li> <li>1 Failed to verify the identify of a patient before administering Rocephin 1gm by intramuscular injection</li> <li>1 Failed to administer 4 units of fresh frozen plasma as ordered</li> <li>1 Failed to document frequent vital signs whose blood pressure had dropped to 55/31</li> <li>1 Failed to adequately document in an OASIS Re-certification Assessment</li> <li>1 Failed to notify the student's parents, the principal and law enforcement that the student had been cut in the arm by another student who brought a knife to school</li> <li>1 Failed to ensure that a refill of an antiseizure medication, Vimpat was obtained</li> <li>1 Failed to notify the physician when she decided to withhold a percutaneous endoscopic gastrostomy</li> <li>1 Administered Demerol 100 mg in excess of physician's order for a maximum dose of 50 mg</li> </ul>
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## Texas Board of Nursing

333 Guadalupe Street, Ste. 3-460, Austin, Texas 78701  
 Phone: (512) 305-7400 Fax: (512) 305-7401 www.bon.texas.gov

**Katherine A. Thomas, MN, RN, FAAN**  
*Executive Director*

October 6, 2014

Trevor Whitney  
 Legislative Budget Board  
 Robert E. Johnson Building  
 1501 North Congress  
 Austin, Texas 78711

Re: Invocation of Rider

Mr. Whitney:

As required by the General Appropriations Act (GAA), Article IX, Section 6.10 (a)(2)(A), the Texas Board of Nursing (BON) is reporting that we have exceeded the full time equivalent (FTE) cap. The BON is allowed up to 109.7 FTEs in our current appropriation and as of August 31, 2014, we had a staffing level of 111.8 FTEs. The executive director authorized this approval invoking the above referenced GAA rider effective March 1, 2014 with the approval of the BON board through their governance policy directing the executive director to oversee all agency operational procedures within legal parameters set by the Texas Legislature.

The BON has deployed the additional staff in the licensing and enforcement strategies specifically to decrease the number of days it takes to license applicants by examination and endorsement, answer phone and email inquiries, increase the number of workshops and webinars educating licensees on their scope of practice and monitor licensees under board orders.

Over the past four fiscal years, the agency licensing section has absorbed volume increases and more importantly, administrative complexities in their processes specifically with the inclusion of a nursing jurisprudence examination and criminal background checks for all applicants. With the increase in funding by the State of Texas to schools of nursing and the good Texas job market, we have experienced a steady increase in the number of applicants applying to take the NCLEX through Texas and the number of applicants by endorsement. It is taking longer to process a license which does not allow someone to work as a nurse in Texas as quickly as they are eligible to be employed. From fiscal year 2010 through fiscal year 2014, we have experienced an 18% increase in the number of applicants by endorsement. In that same time period, we have seen a 30% increase in the number of students taking the nursing examination through Texas. The number of days it takes to process a permanent RN license by endorsement is now an average of 103 days and for LVN's it is now 125 days. We issue temporary licenses for up to 120 days which makes many nurses and employers anxious about their employment until their permanent license is issued.

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### Members of the Board

Kathleen Shipp, MSN, RN, FNP  
 Lubbock, *President*

Nina Almasy, MSN, RN Austin	Deborah Bell, CLU, ChFC Ablene	Patricia Clapp, BA Dallas	Tamara Cowen, MSN, RN Harlingen	Sheri Crosby, JD, SPHR Dallas	Marilyn Davis, MPA, BSN, RN Sugar Land
Shelby Ellzey, BBA Midlothian	Monica Hamby, LVN Amarillo	Kathy Leader-Horn, LVN Granbury	Mary M. LeBeck, MSN, RN Weatherford	Josefina Lujan, PhD, RN El Paso	Beverley Jean Nutall, LVN Bryan

The Practice Department has effectively been educating nurses regarding their role in patient safety and the prevention of nursing errors through workshops and webinars. The Nursing Practice Department also maintains quality online continuing education offerings, review and updates the Nursing Jurisprudence Exam on a routine basis, and develops jurisprudence and ethics curricula for nursing education programs. These projects are funded through appropriated receipts and the BON has collected sufficient revenue to cover these costs.

Finally, disciplinary actions taken by the Board result in the necessity for monitoring. In FY 2014, the monitoring department consisted of 3 full time staff who monitored compliance of approximately 2,200 nurses. Two of those full staff also investigated noncompliance cases, responded to requests for exceptions and petitions for reinstatement, and had a caseload of approximately 361 cases. The FY 2014 caseload represents an increase of 38% from the FY 2012 caseload of 261 cases. These increased monitoring caseloads have made it challenging for staff to timely detect and quickly respond to new incidents of noncompliance.

The source of appropriations to fund the additional staffing come from general revenue and appropriated receipts. Specifically, we have used unspent funds from staff turnover and increased collection of appropriated receipts beyond what is required in our method of finance in the GAA.

If you have any questions, please do not hesitate to contact me at [Kathy.Thomas@bon.texas.gov](mailto:Kathy.Thomas@bon.texas.gov) or (512)305-6888 or Mark Majek, Director of Operations at [Mark.Majek@bon.texas.gov](mailto:Mark.Majek@bon.texas.gov) or by calling (512)305-6801.

Sincerely,

  
Katherine Thomas, MN, RN, FAAN  
Executive Director

cc: Mark Majek



## Texas Board of Nursing

333 Guadalupe Street, Ste. 3-460, Austin, Texas 78701  
Phone: (512) 305-7400 Fax: (512) 305-7401 www.bon.texas.gov

**Katherine A. Thomas, MN, RN, FAAN**  
*Executive Director*

October 6, 2014

Becky Dean  
Office of the Governor  
P.O. Box 12428  
Austin, Texas 78711

Re: Invocation of Rider

Ms. Dean:

As required by the General Appropriations Act (GAA), Article IX, Section 6.10 (a)(2)(A), the Texas Board of Nursing (BON) is reporting that we have exceeded the full time equivalent (FTE) cap. The BON is allowed up to 109.7 FTEs in our current appropriation and as of August 31, 2014, we had a staffing level of 111.8 FTEs. The executive director authorized this approval invoking the above referenced GAA rider effective March 1, 2014 with the approval of the BON board through their governance policy directing the executive director to oversee all agency operational procedures within legal parameters set by the Texas Legislature.

The BON has deployed the additional staff in the licensing and enforcement strategies specifically to decrease the number of days it takes to license applicants by examination and endorsement, answer phone and email inquiries, increase the number of workshops and webinars educating licensees on their scope of practice and monitor licensees under board orders.

Over the past four fiscal years, the agency licensing section has absorbed volume increases and more importantly, administrative complexities in their processes specifically with the inclusion of a nursing jurisprudence examination and criminal background checks for all applicants. With the increase in funding by the State of Texas to schools of nursing and the good Texas job market, we have experienced a steady increase in the number of applicants applying to take the NCLEX through Texas and the number of applicants by endorsement. It is taking longer to process a license which does not allow someone to work as a nurse in Texas as quickly as they are eligible to be employed. From fiscal year 2010 through fiscal year 2014, we have experienced an 18% increase in the number of applicants by endorsement. In that same time period, we have seen a 30% increase in the number of students taking the nursing examination through Texas. The number of days it takes to process a permanent RN license by endorsement is now an average of 103 days and for LVN's it is now 125 days. We issue temporary licenses for up to 120 days which makes many nurses and employers anxious about their employment until their permanent license is issued.

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### Members of the Board

Kathleen Shipp, MSN, RN, FNP  
Lubbock, *President*

Nina Almsay, MSN, RN Austin	Deborah Bell, CLU, ChFC Abilene	Patricia Clapp, BA Dallas	Tamara Cowen, MSN, RN Harrington	Sheri Crosby, JD, SPHR Dallas	Marilyn Davis, MPA, BSN, RN Sugar Land
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Sincerely,

  
Katherine Thomas, MN, RN, FAAN  
Executive Director

cc: Mark Majek

# Beyond the Scope of Practice: Licensed Vocational (Practical) Nurses in Community Settings

**Denise A. Benbow, MSN, RN; Jena R. Abel, JD; Kristin Benton, MSN, RN; and Janice I. Hooper, PhD, MSN, RN, FRE**

This article presents the educational preparation of licensed vocational (practical) nurses (LVNs) in Texas and the boundaries of the LVN scope of practice before describing the case against an LVN for violating those boundaries. The recounting of the case includes the actions of the LVN during a home health visit, the basis of the complaint filed against her for practicing outside her scope of practice, the subsequent hearing before an administrative law judge (ALJ), and the conflicting findings by the ALJ and the board of nursing.

The scope of practice of the licensed vocational/practical nurse (LVN/LPN) is based on the nurse's basic educational preparation, the regulations of the applicable state board of nursing (BON), and other state and federal regulations affecting LVN/LPN practice, home health agencies, or group homes in the community setting. When the LVN/LPN goes beyond the scope of practice, patient safety may be compromised, and the BON may take disciplinary action against the LVN/LPN's license. After examining the educational preparation of LVNs in Texas and the boundaries of their scopes of practice, this article presents a case that explores whether one LVN went beyond those boundaries.

## LVN Education in Texas

Licensed vocational nursing education programs in Texas operate in schools, including colleges, universities, and career schools, as well as in hospitals and military settings. These programs of nursing study prepare graduates for the NCLEX-PN® and safe, competent practice. Texas BON rules require a minimum of 558 hours of classroom instruction and 840 hours of clinical instruction for a vocational nursing education program (Texas Board of Nursing, 2014). The BON-approved curriculum includes requirements for instruction in five basic areas of nursing care: adults, mothers and newborns, children, elderly patients, and individuals with mental health problems. Although not a requirement for these programs, they may use community settings for clinical experiences. The licensed vocational nursing curriculum must be based on sound educational principles and designed to prepare graduates to practice according to the standards of nursing practice in the BON's rules (22 Tex. Admin. Code §214.9(a)).

Students need instruction and models of how LVNs can work in different settings and still function within their scope of practice. However, BON guidelines recommend that newly licensed

LVNs refrain from practicing in autonomous practice settings such as home health for at least 12 to 18 months to obtain sufficient practice experience in more structured settings (Texas Board of Nursing, n.d.). Despite these guidelines, it is not uncommon for new LVNs to begin practicing in autonomous practice settings without appropriate preparation or experience.

## LVN Scope of Practice

In Texas, the LVN has a directed scope of practice under supervision as provided in the Texas nursing practice act and rules administered by the Texas BON. (See Table 1.) The LVN participates in the nursing process and provides nursing care to patients with predictable health care needs.

The role of the LVN in the nursing process includes performing focused assessments and participating in the planning, implementation, and evaluation of nursing care. The LVN assesses the current situation for an individual patient with predictable health care needs. This focused assessment and the data collected by the LVN may contribute to the planning for the patient. However, the LVN does not make nursing diagnoses or formulate the nursing care plan; these aspects of nursing practice are solely within the scope of practice of the registered nurse (RN). When the RN formulates the nursing care plan, the LVN may implement the aspects of care within the LVN scope of practice. The LVN's tasks may include medication administration, participation in patient education, and other aspects of care. The LVN may identify changes in patients' conditions or their responses to interventions and communicate this information to the RN during the evaluation portion of the nursing process.

## Where LVNs Work

Many patients who have health conditions that lead to predictable needs require services in community settings. When an LVN practices in a community setting, however, access to an appropriate clinical supervisor may be an issue. Supervision is defined as “the process of directing, guiding, and influencing the outcome of an individual’s performance of an activity” (22 Tex. Admin. Code §217.11(2)). The supervisor, typically an RN, does not have to be on the same premises as the LVN, but must be able to provide the guidance and direction the LVN requires. Some employers in home health care and group home practice settings are not aware of scope-of-practice limitations, and they expect LVNs to function in decision-making roles for which they have not been prepared. As a result, an LVN practice violation may be more likely in community settings.

In 2011, the largest employment setting for Texas LVNs was the nursing home or extended-care setting. The third largest was home health agencies (Texas Center for Nursing Workforce Studies, 2011, p. 37). In 2011, there were 184,467 practicing RNs and 72,921 practicing LVNs in Texas (Texas Center for Nursing Workforce Studies, 2011, pp. 4 and 37). Of active LVNs, 13,274 (18.2%) worked in home health agencies; of active RNs, 10,373 (5.6%) worked in home health agencies (Texas Center for Nursing Workforce Studies, 2011, pp. 37 and 16).

## Failure to Practice Within Boundaries

The following case illustrates how one LVN practiced beyond the limits of her authorized scope of practice.

*Ms. Pugh, an LVN, was working for a home health agency as a patient health coordinator. Although the LVN’s primary responsibility was to schedule patient visits, she was not prohibited from making home visits if a nurse scheduled to make a visit cancelled. On occasion, she also served as the administrator on call, who rescheduled existing visits and scheduled new visits when an order was issued.*

*One Saturday, when Ms. Pugh was working as the administrator on call, a patient’s daughter contacted the home health agency to report that her mother was experiencing foot pain and to request a nurse visit. The patient was receiving regularly scheduled visits from the home health agency, primarily for wound care related to an ischemic foot ulceration. The patient also had diabetes, dementia, poor circulation in her feet, and bony prominences that caused abrasions between her toes.*

*Ms. Pugh tried to contact the patient’s daughter on Saturday to tell her that a visit was already scheduled for the next day but was unable to reach the daughter. On Sunday, Ms. Pugh contacted the patient’s daughter and told her that she was trying to find a nurse to substitute for the scheduled nurse, who had cancelled. Later that afternoon after failing to find another nurse, Ms. Pugh made the visit herself.*

*Ms. Pugh assessed the patient’s wound and determined that the Mefix® tape ordered by the physician and used to dress the wound was sticking to the patient’s wound bed. When Ms. Pugh removed the tape from the wound bed, the wound began to bleed and she noted new ulcers on the*

*patient’s second toe. She decided that redressing the wound with the Mefix tape could cause further injury, so she used a different type of material, Coban™, to dress the wound. The patient’s physician had not ordered Coban, and Ms. Pugh did not call the physician’s answering service or the agency’s RN on call to report the change in the patient’s condition or to seek clarification of the physician’s order. Although Ms. Pugh documented her care in the patient’s medical record, she did not document her use of Coban. A complaint was filed with the Texas BON.*

## The Hearing

After an investigation by the BON, the matter was referred to the Texas State Office of Administrative Hearings, where a hearing was conducted by an administrative law judge (ALJ). The BON staff alleged that the nurse’s actions constituted unprofessional conduct, as defined by BON rules (22 Tex. Admin. Code §217.12), and fell below the minimum standards of nursing practice established by the BON (22 Tex. Admin. Code §217.11).

The BON staff made three allegations against Ms. Pugh:

- Failing to respond in a timely manner and schedule a skilled nursing visit after the daughter’s call on Saturday. The staff stated that this conduct violated §301.452(b)(10) and (13) of the Texas nursing practice act and 22 Tex. Admin. Code §217.11(1)(A), (M), (P), (Q), & (2) and §217.12(1)(A), (1)(B), & (4). (See Table 1.)
- Failing to contact the appropriate supervisor or the patient’s on-call physician before substituting Coban for Mefix tape. This conduct, the BON staff asserted, violated §301.452(b)(10) and (13) of the Texas nursing practice act and 22 Tex. Admin. Code §217.11(1)(B), (C), (D), (M), (N), and (P) and §217.12(1)(A), (1)(B), (1)(C), and (4).
- Falsely documenting in the patient’s medical record that she dressed the patient’s wound as it had been dressed, instead of documenting that she used Coban. The BON staff charged that this conduct violated §301.452(b)(10) and (13) of the Texas nursing practice act and 22 Tex. Admin. Code §217.11(1)(D) and §217.12(1)(A), (1)(B), (1)(C), (4), (6)(A), and (6)(H).

## The LVN’s Defense

Ms. Pugh stated that she attempted to contact the patient’s daughter on Saturday to schedule a visit but was unable to reach her. Ms. Pugh also noted that the patient was scheduled for a skilled nursing visit on Sunday. She made the Sunday visit herself, she explained, because the scheduled nurse cancelled and another nurse was not available.

Ms. Pugh testified that she was acting in the best interest of the patient. She explained that the Mefix tape was sticking to the patient’s wound bed and that the patient had two new ulcers on her toe. She also testified that she did not want to redress the patient’s wound with the same tape that caused the wound to bleed.

Ms. Pugh claimed that the omission of Coban from her nurses’ notes was accidental. However, she asserted that her nurses’

TABLE 1

**Texas Law: LVN Practice and Disciplinary Proceedings****Selected References from Texas Law in Relation to the LVN Practice**

Nursing practice act (Tex. Occupations Code) §301.353, Supervision of Vocational Nurse	The practice of vocational nursing must be performed under the supervision of a registered nurse, physician, physician assistant, podiatrist, or dentist.
Board rule (22Tex. Admin. Code) §217.11, Standards of Nursing Practice	(1) Standards applicable to all nurses. All vocational nurses, registered nurses and registered nurses with advanced practice authorization shall: . . . (T) Accept only those nursing assignments that take into consideration client safety and that are commensurate with the nurse's educational preparation, experience, knowledge, and physical and emotional ability; . . . (2) Standards specific to vocational nurses. The licensed vocational nurse practice is a directed scope of nursing practice under the supervision of a registered nurse, advanced practice registered nurse, physician's assistant, physician, podiatrist, or dentist. Supervision is the process of directing, guiding, and influencing the outcome of an individual's performance of an activity. The licensed vocational nurse shall assist in the determination of predictable healthcare needs of clients.

**Selected References from Texas Law in Relation to Disciplinary Proceedings**

Nursing practice act (Tex. Occupations Code §301.452(b))	(b) A person is subject to denial of a license or to disciplinary action under this subchapter for: . . . (10) unprofessional or dishonorable conduct that, in the board's opinion, is likely to deceive, defraud, or injure a patient or the public; . . . (13) failure to care adequately for a patient or to conform to the minimum standards of acceptable nursing practice in a manner that, in the Board's opinion, exposes a patient or other person unnecessarily to risk of harm
22Tex. Admin. Code §217.11	(1) Standards applicable to all nurses. All vocational nurses, registered nurses and registered nurses with advanced practice authorization shall: (A) Know and conform to the Texas nursing practice act and the board's rules and regulations as well as all federal, state, or local laws, rules or regulations affecting the nurse's current area of nursing practice; (B) Implement measures to promote a safe environment for clients and others; (C) Know the rationale for and the effects of medications and treatments and shall correctly administer the same; (D) Accurately and completely report and document patient status and response, nursing care, and physician, dentist or podiatrist orders . . . (N) Clarify any order or treatment regimen that the nurse has reason to believe is inaccurate, non-efficacious or contraindicated
22Tex. Admin. Code §217.12	(1) Unsafe Practice—actions or conduct including, but not limited to: (A) Carelessly failing, repeatedly failing, or exhibiting an inability to perform vocational, registered, or advanced practice nursing in conformity with the standards of minimum acceptable level of nursing practice set out in Rule 217.11 (B) Carelessly or repeatedly failing to conform to generally accepted nursing standards in applicable practice settings; (C) Improper management of client records; . . . (4) Careless or repetitive conduct that may endanger a client's life, health, or safety. Actual injury to a client need not be established. . . . (6) Misconduct—actions or conduct that include, but are not limited to: (A) Falsifying reports, client documentation, agency records or other documents; . . . (H) Providing information which was false, deceptive, or misleading in connection with the practice of nursing

Note. LVN = licensed vocational nurse.

notes accurately reflected her assessment and contained accurate information regarding the nursing care she rendered. She also testified that she intended to notify the patient's physician the next day.

### Key Issues

The BON's rules permit a nurse to decide not to administer an ordered medication or treatment if the nurse clarifies the order he or she believes is inaccurate, nonefficacious, or contraindicated with the practitioner at the time of the decision (22 Tex. Admin. Code §217.11(1)(N)). The application of this rule became an important point of discussion during the hearing. The BON staff asserted that the nurse was required to contact the patient's physician to report the patient's change in condition and to clarify the existing order for Mefix tape before substituting Coban. According to the BON staff, Ms. Pugh's decision to substitute Coban contravened the physician's order and was outside of her scope of practice.

Ms. Pugh contended that it was impractical to require her to wait an indeterminate amount of time for someone to call her back after she attempted to contact the patient's physician. Because she was in the patient's home, she argued that it was in the patient's best interest to make the best decision she could with the information she had available. Ms. Pugh stated that she was familiar with Coban tape because she had used it in the past and that she believed it was a better choice than not dressing the wound at all or using the Mefix tape that had caused the wound to bleed. Further, she indicated that she felt qualified to make that decision because she frequently performed wound care in home health settings.

On cross-examination, Ms. Pugh admitted that she failed to follow the BON's guidelines for determining a nurse's scope of practice. The BON has adopted a decision tree to assist nurses in making sound decisions about the nursing tasks they undertake. (See Table 2.) If Ms. Pugh had used the BON's decision tree, she would have known that her actions were not within her scope of practice. Step 2 of the decision tree asks whether the act in question is authorized by a valid order. If the answer is no, the decision tree specifies that the act in question is not within the nurse's scope of practice.

### Decision of the ALJ

The ALJ found that Ms. Pugh violated the BON's rules (22 Tex. Admin. Code §217.11(1)(N)) by making an independent nursing decision outside her scope of practice. Further, the ALJ found that by using Coban in contravention of the physician's written order and without clarifying the order, she violated the board's rules. The ALJ, however, did not find that Ms. Pugh's conduct constituted a violation of the Texas nursing practice act.

The ALJ also found that any omission in Ms. Pugh's documentation regarding the use of Coban was unintentional. The ALJ did not find that she failed to respond or schedule a skilled nursing visit in a timely manner.

TABLE 2

### Six-Step Decision-Making Model for Determining Nursing Scope of Practice

A nurse always has a duty to his or her clients/patients to ensure that they are safe. This decision-making flowchart was developed by Texas Board of Nursing staff to assist nurses in making sound judgments about the nursing tasks or procedures they choose to undertake.

1. Is the activity consistent with the nursing practice act (NPA), board rules, and board position statements and/or guidelines?  

Yes Continue	No STOP
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2. Is the activity appropriately authorized by valid order/protocol and in accordance with established policies and procedures?  

Yes Continue	No STOP
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3. Is the activity supported by either research reported in nursing and health-related literature or in scope-of-practice statements by national nursing organizations?  

Yes Continue	No STOP
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4. Do you possess the required knowledge and have you demonstrated the competency required to carry out this activity safely?  

Yes Continue	No STOP
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5. Would a reasonable and prudent nurse perform this activity in this setting?  

Yes Continue	No STOP
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6. Are you prepared to assume accountability for the provision of safe care and the outcome of the care rendered?  

Yes Perform the activity	No STOP
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*Note.* Adapted from *Six-step decision-making model for determining nursing scope of practice*. Texas Board of Nursing. 2013. Six-Step model used with permission of the Texas Board of Nursing.

The ALJ summarized his proposed findings of fact, conclusions of law, and recommendations for disciplinary sanction in a proposal for decision (PFD), which was presented to the BON for deliberation and decision.

### Decision and Order of the BON

The BON is authorized under the Texas Administrative Procedure Act to change a finding of fact or conclusion of law in a PFD if the BON determines that the ALJ did not properly apply or interpret applicable law, agency rules, written policies, or prior administrative decisions (Tex. Gov't. Code §2001.058(e)(1)).

In this case, the BON modified several of the ALJ's proposed conclusions of law. The BON disagreed with the ALJ's conclusion that the nurse did not violate any provision of the Texas nursing practice act. Section 301.452(b)(13) of the Texas nursing practice act authorizes the BON to take disciplinary action against a nurse

if the nurse fails to conform to the minimum standard of nursing practice and, in the BON's opinion, that failure unnecessarily exposes a patient to a risk of harm. In accordance with this authority, the BON adopted minimum standards of nursing practice for nurses in Texas, as specified in rule 217.11. According to the BON, it was an error of law for the ALJ to find that Ms. Pugh violated the BON's minimum standards of nursing practice rule, but not the provision of the nursing practice act from which the rule was derived. Thus, the BON modified the PFD and adopted a conclusion of law specifying that Ms. Pugh violated §301.452(b)(13) of the Texas nursing practice act, the provision and authority from which Board rule 217.11 is derived.

The BON also found that the ALJ failed to find a violation of §301.452(b)(13) and 22 Tex. Admin. Code §217.11(1)(D). The ALJ found that Ms. Pugh's nurses' notes were accurate and complete except for her omission regarding her substitution of Coban for Mefix tape. The BON has a rule that addresses the minimum standards of nursing practice related to documentation: A nurse is required to accurately and completely document a client's status, including signs and symptoms; nursing care rendered; physician, dentist, or podiatrist orders; administration of medications and treatments; client responses; and contacts with other health care team members concerning significant events regarding the client's status (22 Tex. Admin. Code §217.11(1)(D)). The ALJ found that Ms. Pugh's documentation was incomplete because it did not state that she used Coban. However, the substitution of Coban for the ordered Mefix tape was particularly relevant. Because the nurse's documentation failed to include a complete description of the nursing care rendered, the BON determined that the PFD should be modified to reflect a violation of the Texas nursing practice act §301.452(b)(13) and 22 Tex. Admin. Code §217.11(1)(D).

Under Texas law, the BON makes the final decision on disciplinary sanctions. In this case, the ALJ recommended that Ms. Pugh's conduct be considered a minor violation under the BON's rules (22 Tex. Admin. Code §217.16). However, for a minor violation, a nurse's conduct cannot pose a risk of harm to a patient or another person. Further, a nurse's conduct cannot be considered a minor incident if the nurse ignored a substantial risk that exposed a patient or other person to significant physical, emotional, or financial harm or the potential for such harm; the nurse lacked a conscientious approach to or accountability for his or her practice; or the nurse lacked the knowledge and competencies to make appropriate clinical judgment and such knowledge and competencies cannot be easily remediated.

Thus, the BON declined to qualify Ms. Pugh's conduct as a minor incident. Ms. Pugh made an independent nursing decision to contravene a physician's written order by substituting a dressing for the ordered dressing. This decision was found to be outside of her scope of practice. To aggravate matters, she did not call her supervisor or the physician to report the patient's change in condition or to discuss or clarify the physician's order for the wound dressing. The patient, who was being treated for an ischemic ulceration on

her foot, which was further complicated by her diabetes, poor circulation, and bony prominences that caused abrasions between her toes, was particularly vulnerable. The nurse's scope of practice did not authorize her to make independent nursing decisions or to change the patient's care plan without consulting her supervisor and the patient's physician. Moreover, the nurse's conduct created a risk of harm to the patient, including the potential for additional and unforeseen complications in the patient's wound-healing process. Ultimately, the BON determined that the most appropriate sanctions were to have Ms. Pugh complete remedial education courses and reimburse the BON for the costs associated with the hearing.

## Conclusion

This case highlights the importance of providing graduates of vocational nursing education programs with a clear understanding of a directed scope of practice and their duty to patients regardless of the practice setting. LVNs that choose to practice in autonomous settings must be especially cognizant of the limitations of their scope of practice to protect not only their patients but also their own licenses.

## References

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## Texas Board of Nursing Statistical Report: FY 2014

v2.1

Measure ID	Measure Description	Totals FY'11	Totals FY'12	Totals FY'13	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Running FY 2014 Total
<b>5</b>	<b>Education Statistics</b>								
<b>5.1</b>	<b>Nursing Jurisprudence Exam Statistics</b>								
5.1.1	Total Nursing Jurisprudence Exam taken	27,821	29,414	30,816	6162	10,162	16571	13298	46193
5.1.1.1	Exam Not Completed (total)	1,216	1,248	1,715	333	3,762	5850	4379	14324
5.1.1.2	Percentage Not Completed	4.37	4.27	5.57	5.40	37.02	35.30	32.93	27.66
5.1.1.3	Did Not Pass the Exam (total)	2,468	2,509	2,384	38	911	1376	1585	3910
5.1.1.4	Percentage Did Not Pass Exam	8.87	8.62	7.74	0.62	8.96	8.30	11.92	7.45
5.1.1.5	Exam Passed (Total)	24,137	25,657	26,717	5791	5,489	9346	7334	27960
5.1.1.6	Percentage Exam Passed	86.76	87.11	86.69	93.98	54.01	56.40	55.15	64.89
5.1.2	LVN-Candidate	7,472	7,653	6,630	1141	1,802	2047	3642	8632
5.1.2.1	Exam Not Completed	399	411	382	35	600	628	954	2217
5.1.2.2	Did Not Pass the Exam	991	1,051	735	7	278	314	602	1201
5.1.2.3	Exam passed	6,082	6,191	5,513	1099	924	1105	2086	5214
5.1.3	LVN-Endorsement	1,716	1,657	1,612	308	716	712	868	2604
5.1.3.1	Exam Not Completed	105	73	113	31	296	315	316	958
5.1.3.2	Did Not Pass the Exam	387	370	346	1	129	114	171	415
5.1.3.3	Exam passed	1,224	1,214	1,153	276	291	283	381	1231
5.1.4	RN-Candidate	11,057	11,982	12,470	2441	3,802	8961	3490	18694
5.1.4.1	Exam Not Completed	361	447	634	98	1,323	2917	1121	5459
5.1.4.2	Did Not Pass the Exam	387	430	488	9	209	523	367	1108
5.1.4.3	Exam passed	10,309	11,105	11,348	2334	2,270	5522	2002	12128
5.1.5	RN-Endorsement	7,576	7,599	9,256	2062	3,550	4456	4932	15000
5.1.5.1	Exam Not Completed	351	298	535	145	1,428	1818	1829	5220
5.1.5.2	Did Not Pass the Exam	703	633	783	17	285	399	437	1138
5.1.5.3	Exam passed	6,522	6,668	7,938	1900	1,837	2239	2666	8642
5.1.6	Refresher Course/Renewal Requirements	n/a	523	848	210	291	395	366	1262
5.1.6.1	Exam Not Completed	n/a	19	51	24	115	172	159	470
5.1.6.2	Did Not Pass the Exam	n/a	25	32	4	10	26	8	48
5.1.6.3	Exam passed	n/a	479	765	182	166	197	199	744

## Army Practical Nurse Program Faculty Development/Training Session

LTC Clyde Hill, Director of the Army Practical Nurse Program (APNP) Phase I in Fort Sam Houston, Texas invited Texas Board of Nursing staff to attend the Army Practical Nurse - Faculty Development/Training Session, August 6, 2014 to August 8, 2014 in Fort Gordon, Georgia. Education Consultant Virginia Ayars attended the conference and offered a presentation to the group, comprised of site coordinators and faculty members, about the Texas Board Rules and Regulations.

The APNP is taught in two sections: Phase I, an eight-week instructional period, is taught exclusively at Fort Sam Houston, Texas; and Phase II, a 48-week instructional program is provided at five US Army medical facilities. The five bases offering Phase II sections are: (1) Brooke Army Medical Center in Fort Sam Houston, Texas; (2) Eisenhower Army Medical Center in Fort Gordon, Georgia; (3) Madigan Army Medical Center in Tacoma, Washington; (4) Walter Reed National Military Medical Center in Bethesda, Maryland, and (5) William Beaumont Army Medical Center in El Paso, Texas.

A Lieutenant Colonel (LTC) and a Sergeant First Class (SFC) oversee each of the five Phase II programs; and all participated in the APNP Faculty Development/Training Session. Topics of discussion included: how to improve student motivation; how technology enhances teaching and learning; process improvement with evidence based practice; concept mapping; effective instructional strategies; and learner assessment and evaluation methods. All of the LTCs are MSN prepared RNs while the SFCs are LPNs with advanced coursework in education.

An historical review of the APNP outcomes revealed that each year during the past 10 years, the APNP achieved annual NCLEX-PN pass rates above 90%. During the identified time period, the numbers of first-time NCLEX-PN test takers each year ranged from 307 to 479 candidates.