



TEXAS BOARD OF NURSING

2018 ANNUAL REPORT

BOARD MEMBERS

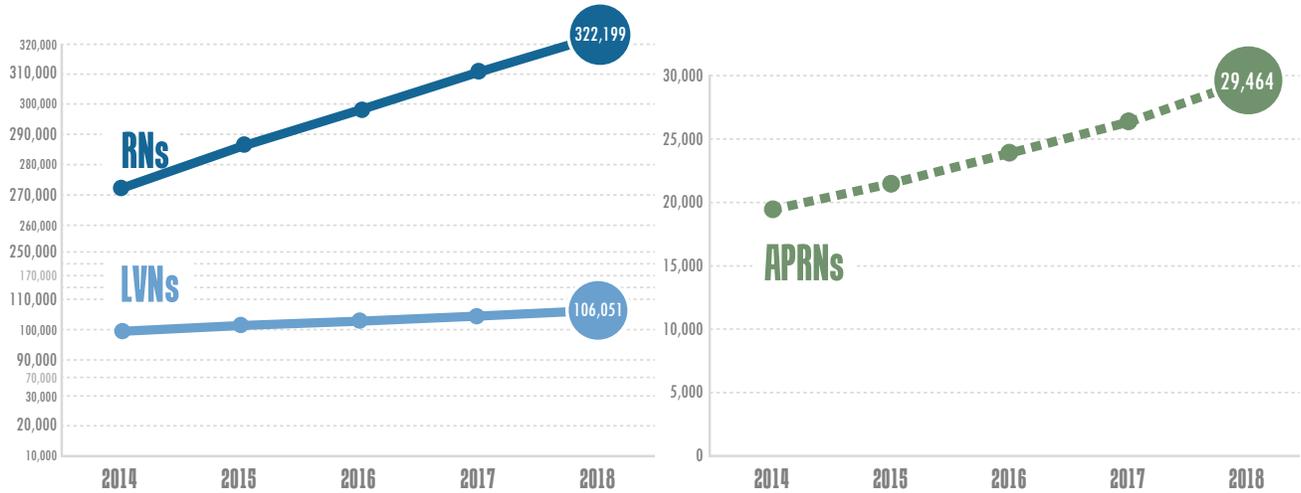
Kathy Shipp, President, MSN, RN, FNP, Representing APRN Practice, Lubbock
David Saucedo, II, Vice President, Consumer Member, El Paso
Nina Almasy, DNP, RN, CNE, Representing LVN Education, Austin
Patricia "Patti" Clapp, Vice-President, BA, Consumer Member, Dallas
Laura Disque, MN, RN, Representing RN Practice, Edinburg
Allison Porter-Edwards, DrPH, MS, RN, CNE, Representing BSN Education, Bellaire
Diana Flores, MN, RN, Representing RN Practice, Helotes
Doris Jackson, DHA, MSN, RN, Representing ADN Education, Pearland
Mazie M. Jamison, BA, MA, Consumer Member, Dallas
Kathy Leader-Horn, LVN, Representing LVN Practice, Granbury
Melissa D. Schat, LVN, Representing LVN Practice, Granbury
Francis Stokes, BA, Consumer Member, Port Aransas
Kimberly L. "Kim" Wright, LVN, Representing LVN Practice, Big Spring

OPERATIONS

NUMBER OF RNS/LVNS/APRNS IN TEXAS: FY2014-2018

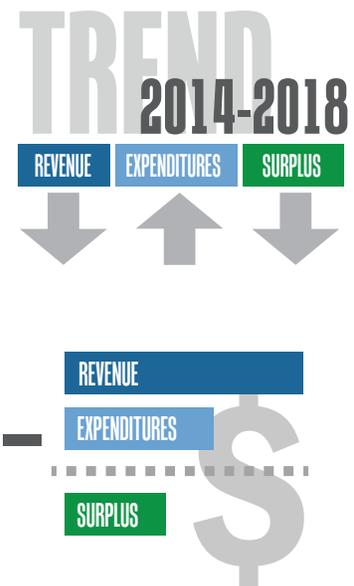
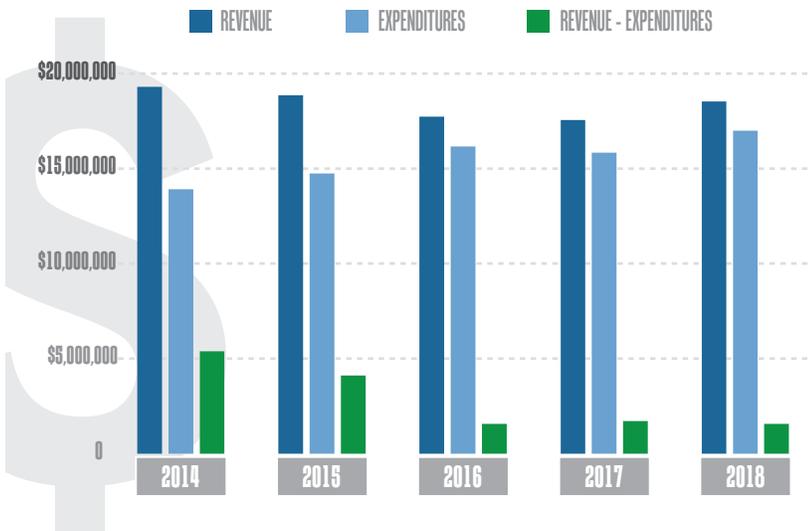
i The growth in current LVN licensure has averaged under 2% per year over the past five fiscal years whereas the average annual growth in RN licensure is just over 4%. Growth in APRN licensure is the largest with an average annual increase of approximately 11%.

Although there has been steady growth in the number of current RNs licensed by examination, the number of licenses issued by endorsement from other states has declined. The growth of APRNs has been robust as the state is experiencing a shortage of primary care providers.



TEXAS BOARD OF NURSING REVENUE/ EXPENDITURES: FY2014-2018

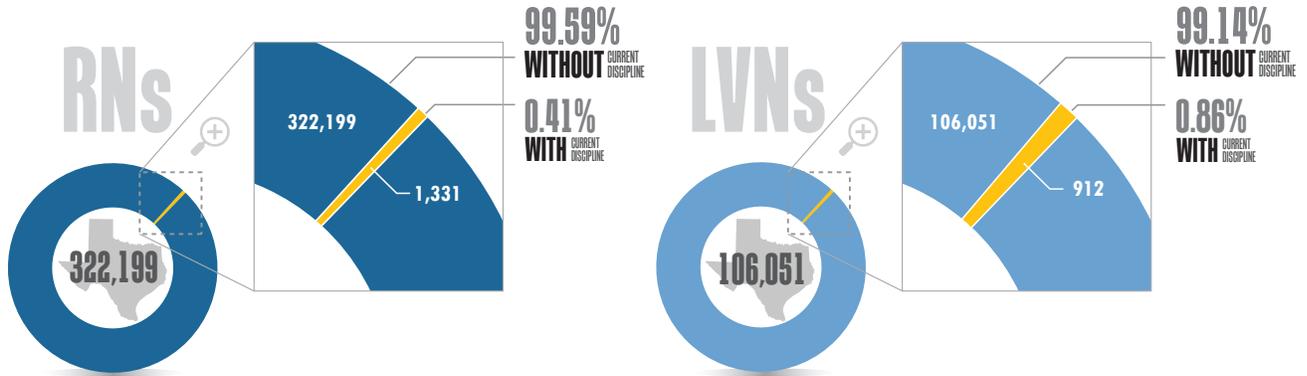
i The growth in licensees in Texas, has resulted in higher revenue from license renewals. The BON attempts to maintain a balance of funds approved by the Texas Legislature but the sustained growth of RNs and APRNs provides additional revenue beyond projections.



ENFORCEMENT

NURSES WITH CURRENT DISCIPLINE: FY2018 PERCENTAGE OF CASES COMPARED TO TOTAL POPULATION OF LICENSEES

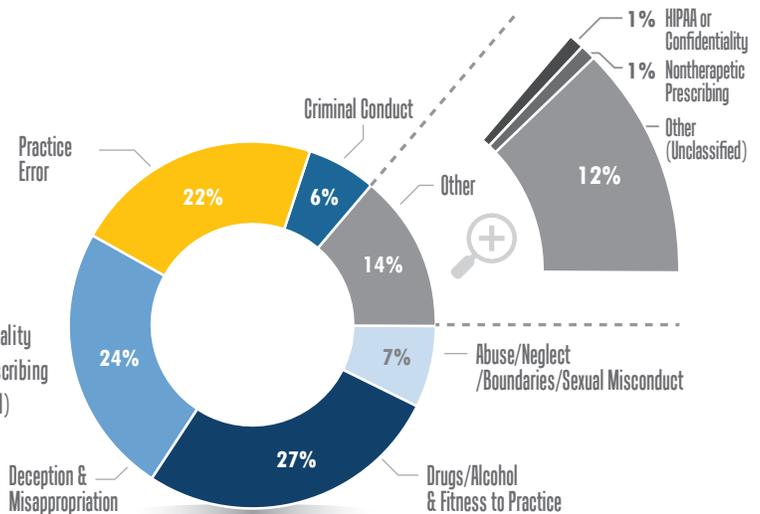
i Current discipline affects a very small population of nurses — only 0.41% of Registered Nurses and 0.86% of Vocational Nurses have current discipline as of the end of FY2018.



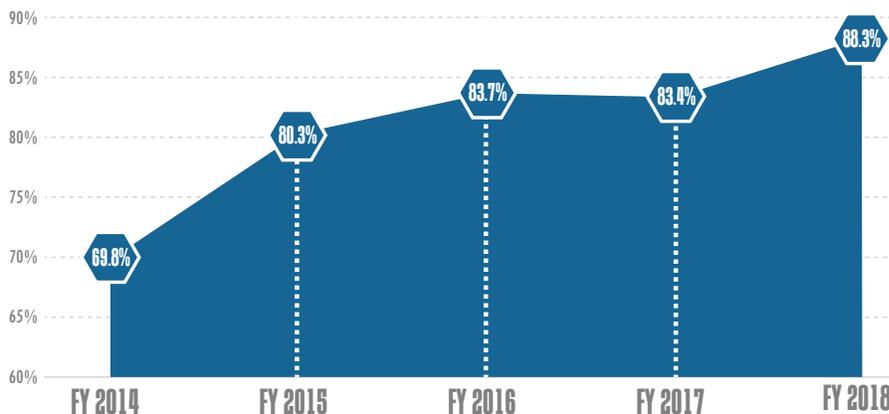
TYPES OF CASES RESULTING IN DISCIPLINE: FY2018 PERCENTAGE OF TOTAL COMPLAINT TOPICS RESULTING IN DISCIPLINE

i About half (51%) of complaints resulting in discipline included concerns about use of drugs/alcohol, fitness to practice, deception, and misappropriation, while concerns involving nursing practice issues represented less than one quarter (22%) of the complaints.

- 27% Drugs/Alcohol & Fitness to Practice
- 24% Deception & Misappropriation
- 22% Practice Error
- 14% Other
- 6% Criminal Conduct
- 7% Abuse/Neglect/Boundaries/Sexual Misconduct



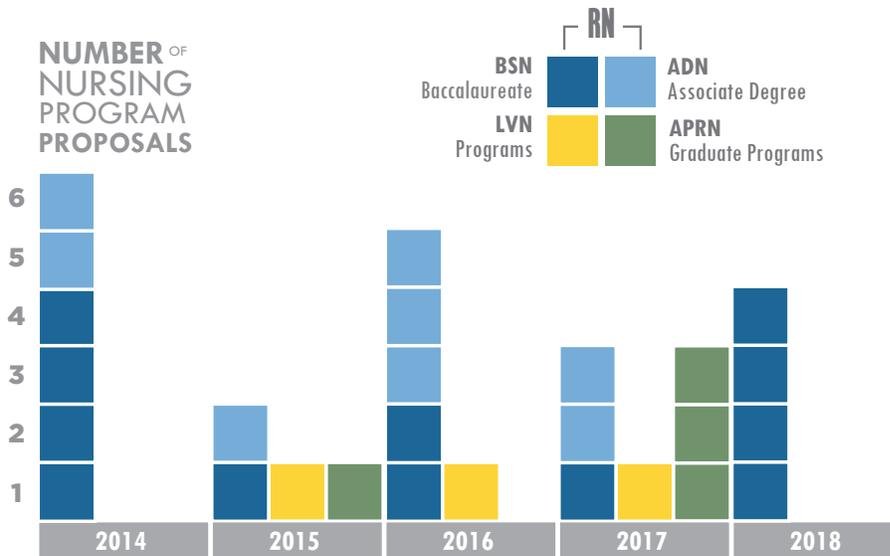
PERCENTAGE OF CASES CLOSED IN SIX MONTHS: FY2014-2018



i The Board routinely closes 8 out of 10 cases within 6 months, and in FY2018, almost 9 out of 10 cases were closed within 6 months.

EDUCATION

NUMBER OF PROGRAM PROPOSALS REVIEWED/APPROVED: FY2014-2018

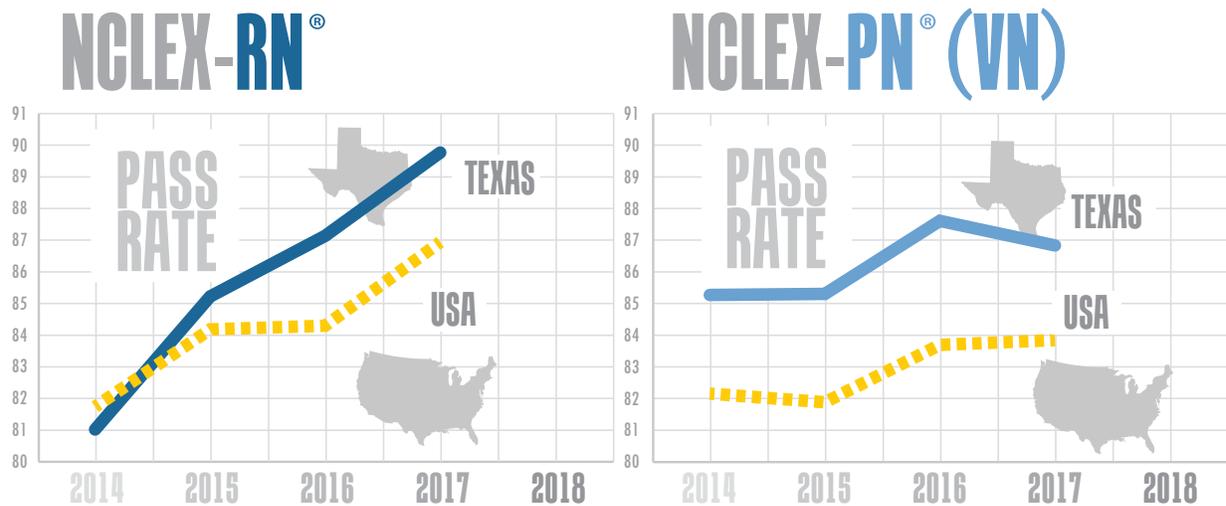


i From 2014-2018, the BON approved 27 new nursing education programs.

12 were baccalaureate degree, 8 were associate degree, 3 were vocational certificate, and 4 were APRN.

Since 2014, the number of new vocational nursing education programs has decreased.

TEXAS NURSING EDUCATION PROGRAM NCLEX® PASS RATES COMPARED TO NATIONAL PASS RATES: FY2014-2018



i The annual NCLEX-RN® and NCLEX-PN® examination pass rates of first time test-takers from registered nursing and vocational nursing programs in Texas were above the national average from 2014 - 2017 with the exception of the 2014, when the NCLEX-RN® pass rate decreased to 83.93%, just slightly below the national average of 84.29%. This was an expected decrease as the NCLEX-RN® passing standard was increased, effective April 1, 2013.

Throughout 2014, BON Education Consultants worked individually with each affected program as the programs conducted program self-studies to address identified areas for program improvement. Subsequently, the NCLEX-RN® pass rates rebounded in 2015 and remain above the national average to date. The 2018 NCLEX-RN® and NCLEX-PN® pass rates will be finalized in January 2019 and April 2019 respectively.

I. Agency Mission and Values of the Texas Board of Nursing

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

Acting in accordance with the highest standards of ethics, accountability, efficiency, effectiveness, and openness, the Texas Board of Nursing approaches its mission with a deep sense of purpose and responsibility and affirms that the regulation of nursing is a public and private trust. The Board assumes a proactive leadership role in regulating nursing practice and nursing education. The Board serves as a catalyst for developing partnerships and promoting collaboration in addressing regulatory issues. The public and nursing community alike can be assured of a balanced and responsible approach to regulation.

II. Outcomes of the 2016 – 2017 Sunset Commission Report

The most recent Sunset review of the Board began in 2015 with the development of a Self-Evaluation Report highlighting the organization and major issues being addressed by the Board. Sunset Staff solicited input from the public, interest groups and professional organizations regarding the agency. Sunset Staff also collected and evaluated information from extensive interviews with the Board Staff, performance reports and research on other states and other sources. Based upon their findings, House Bill 2950, the Texas Board of Nursing Bill was adopted in the 85th Texas Legislature. Consequently, the following changes were made by the Board of Nursing over the last fiscal year.

Path to Initial Licensure for Graduates of Out-of-State Nursing Programs that are not Substantially Equivalent to Texas Programs

House Bill (HB) 2950 included two requirements related to nursing education:

- Define substantially equivalent education standards for the purpose of ensuring graduates of out-of-state nursing education programs who apply for Texas licensure are educationally prepared
- Adopt rules to provide a clear pathway to initial licensure for graduates of out-of-state programs that the Board determines are not substantially equivalent to the Board standards for Texas Programs.

The revised definitions of substantially equivalent education standards will make it easier for applicants to understand licensure requirements. This definition will

also remove the vocational nursing education minimum clinical hours' requirement which is often a barrier for graduates of out-of-state vocational nursing (VN) education programs.

The pathway to licensure for applicants who graduate from an out-of-state program determined not substantially equivalent to Texas programs has led to the development of a new temporary licensure permit process for those applicants. These applicants may complete 500 hours of clinical practice under the direct supervision of an approved preceptor or they may complete a program designed to assess and improve clinical skills within an approved Texas nursing education program. These rule amendments became effective on February 28, 2018.

Unprofessional Conduct

HB 2950 changed the Board's laws related to Good Professional Character required for initial licensure and Unprofessional Conduct violations that may subject a nurse to licensure discipline. The Sunset Commissions findings and recommendations as adopted in HB 2950 have had a direct impact on the Board's processes associated with licensing or disciplining persons with criminal convictions. To implement these changes in rule, the Board gathered input from its Advisory Committee on Licensure, Eligibility, and Discipline. The Committee met on May 12, 2017, June 9, 2017, and September 15, 2017 to make its recommendation to the Board for rule amendments. Consequently, the Board's rules on Good Professional Character, Unprofessional Conduct, and the Disciplinary Guidelines for Criminal Conduct were amended by the Board, effective February 25, 2018.

Peer Assistance Program Management

The Sunset Commission found that the Texas Peer Assistance Program for Nurses (TPAPN) was not flexible enough to meet the needs of individual nurses and required more robust oversight to gauge the effectiveness of TPAPN's rehabilitation of nurses. In FY2017, the Board contracted with the Citizen Advocacy Center, a nonprofit organization located in Washington, D.C., and a management/performance audit was completed.

Board Staff has continued to work with the Texas Nurses Foundation to implement changes to the program to promote individualized treatment modalities. Additionally, the Board has adopted an amendment to Board rule which allows for the re-evaluation of an applicant's participation in TPAPN upon initial licensure as required in HB 2950, effective in November of 2018.

Prescription Monitoring Program

The Texas Prescription Monitoring Program (PMP) collects and monitors prescription data for all Schedule II, III, IV and V controlled substances dispensed by a pharmacy in Texas or to a Texas resident from a pharmacy located in another state. The PMP also provides a venue for monitoring patient prescription histories for practitioners and the ordering of Schedule II Texas Official Prescription Forms. The PMP is managed by the Texas State Board of Pharmacy.

The 85th Legislature enacted HB 2561 which mandated that each regulatory agency that issues a license, certification, or registration to a prescriber must promulgate specific guidelines for prescribers regulated by that agency for the responsible prescribing of opioids, benzodiazepines, barbiturates, or carisoprodol.

To implement this legislation, the Board adopted guidelines for the responsible prescribing of controlled substances at its July 2018 Board meeting. Additionally, the Board has adopted amendments to Board rules, effective November of 2018, which requires Advanced Practice Registered Nurses to check the PMP before prescribing certain controlled substances.

Enhanced Nurse Licensure Compact (eNLC)

HB 2950 enacted the Enhanced Nurse Licensure Compact (eNLC). The eNLC allows RNs and LVNs to utilize one multi-state license issued by the home state to practice in other states belonging to the compact, without the necessity of obtaining or maintaining separate licenses in each compact state. In implementing the eNLC, the Board amended its rules, effective April 18, 2018, such that an individual's eligibility to hold a multi-state privilege will be determined pursuant to the requirements of the Compact and rules adopted by the Compact Administrators.

State Office of Administrative Hearing Authority to Make Final Decisions and Elimination of Costs

HB 2950 changed the Board's laws related to the State Office of Administrative Hearings' (SOAH) ability to make final decisions regarding the findings of fact and conclusions of law and the Board's authority to assess the costs of the hearing against a Respondent.

Staff does not expect any significant impact of the elimination from the Board's authority to modify findings. Nevertheless, the Board may on occasion seek judicial review if the Board believes the ALJ has committed an error making a finding or interpreting the law. The Office of the Attorney General would be requested to represent the Board's interest if this scenario presents itself.

In the past, the Board would routinely assess costs of a hearing if the Respondent were found to be in violation of the NPA. Since recovery of these costs are no longer available, staff will monitor any possible financial impacts. It is not anticipated that the lack of authority to recover these costs will impact the enforcement strategy for those who have violated the NPA and request a SOAH hearing.

III. Legal/Enforcement Highlights

Number of New Cases – Investigator Caseloads

In FY2018, the Board opened 13,338 new cases, which was about 2,000 more cases than opened in FY2017 and FY2016. This increase in new cases was likely the result of all student criminal background check (CBC) results being reviewed by the Enforcement Department, which began in early FY2018 in order to consistently apply the Board's revised directives in evaluating CBC results and how those results apply to the practice of nursing.

Although more cases were opened in FY2018, the Board continued a 7-year trend of closing more cases each year than were opened. As a result, average caseloads for the Investigator III and Investigator IV positions were maintained below the level of having 100 cases each, with the average caseload in FY2018 being 84 cases (compared to 93 cases in FY2017).

Disciplinary Actions

In FY2018, the percent of complaints which resulted in discipline declined by 6% from FY2017, with 12.4% of complaints resulting in discipline in FY2018 and 18.4% in FY2017. This may be attributed to the Board's modified approach to criminal conduct subsequent to the Sunset Advisory Commission review.

Informal Settlement Conferences – Mediations

A decreased demand for informal settlement conferences and increased number of mediations in FY2018 can be attributed to the expanded use of the legal settlement team for support in resolving cases. In FY2018, 96 informal settlement conferences and 43 mediations were conducted, compared to 220 informal settlement conferences and 10 mediations in FY2017.

Case Closure Timelines

On average, cases of all priority levels required about 23 days less time to resolve in FY2018 than in FY2017. While the lower priority cases were closed 22 days earlier in FY2018 than in FY2017 and middle priority cases were closed 18 days earlier in FY2018 than in FY2017, higher priority cases took about 8 days longer to close in FY2018 than in FY2017.

IV. Licensing Highlights

Steady Growth in Licensure of Professional Nursing - Slight Decline in New Licenses for Vocational Nurses

Texas continues to have a substantial growth in the numbers of licensed Advanced Practice Registered Nurses (APRN) with newly issued licenses growing approximately 11% per fiscal year. Likewise, the total number of Registered Nurses (RNs) continues to increase particularly through the licensing of new graduates. Of interest, is that there was a 13.6% decrease in the numbers of Registered Nurses transferring their license to Texas by endorsement. This could be a result of the new eNLC which expanded from 25 to 31 states including two states, Florida and Oklahoma, which previously provided a higher number of licenses by endorsement.

A noticeable change from the previous 2017 Fiscal Year is the overall decline in the number of licenses by examination and endorsement of Licensed Vocational Nurses (LVNs). Though the total population of Texas vocational nurses has held steady, the numbers of vocational nursing licenses issued by endorsement from another state has decreased. As with Registered Nurse licensure, the effect of the new compact may have contributed to this decrease. However, a more likely factor for the overall decline in growth of new licensees is the steady decrease in the numbers of applicants applying to take the NCLEX-PN® exam as well as a lack of growth in new vocational nursing education programs.

V. Nursing Education Highlights

Baccalaureate Degree Nursing Programs in Public Junior Colleges

SB 2118 enacted during the 85th Legislature, authorized the Texas Higher Education Coordinating Board (THECB) to approve certain public junior colleges to offer baccalaureate degrees in specified fields of study, including nursing. The bill required nursing baccalaureate program proposals meet all Board of Nursing requirements, regardless of whether the program is a pre-or- post licensure baccalaureate degree program. Board and THECB Staff have developed a proposal application process that avoids duplication, yet assures the required input of the Board's expertise specific to nursing education.

During its April 2018 quarterly meeting, the Board acknowledged approval of Austin Community College as the first community college in Texas to offer a baccalaureate degree nursing program. While several colleges have expressed interest, the stringent eligibility criteria set forth in statute will likely prevent a large number of programs from applying. Board Staff will monitor this closely and continue to work collaboratively with THECB to ensure a coordinated approval process.

Clinical Education

Clinical education in nursing continues to generate significant discussion focused on the challenge of securing adequate clinical settings for students to meet clinical course objectives. Despite the release of Education Guidelines 3.8.7.a. *Faculty Guide to Promoting Optimal Clinical Instruction* in 2014 and 3.8.6.a. *Simulation in Pre-licensure Nursing Education* in 2015, programs continue to express difficulty with securing and retaining affiliation agreements for clinical placements.

Since there were changes to the Board's rules that eliminated a specified number of required clinical hours for VN education programs, it will be important to monitor for any impact on the challenge of securing clinical settings.

As depicted in the graph on p. 3, the number of new vocational nursing education programs has declined over the past 5 years. While the total enrollment capacity has remained stable, the number of qualified applications for admission has declined from a peak of 15,648 in 2011 to a low of 7,964 qualified applications in 2016. These declines in the number of qualified applications and new programs is likely multi-factorial

related to difficulty securing clinical affiliation agreements, the nursing faculty shortage, and a preference of some graduates to practice in an acute facility that may only hire registered nurses. However, according to the 2017 Texas Center for Nursing Workforce Studies Report on Admissions, Enrollment, and Graduation Trends in Vocational Nursing Programs, 78.9% of vocational nursing education programs perceived it was easy or very easy for their graduates to secure employment.

Board Staff will continue to track clinical education trends, including the annual trends in the use of simulation via the Nursing Education Program Information Survey (NEPIS).

Board Rule Chapters 214 and 215 were reviewed and revised during FY2018. While most revisions were non-substantive, the rules now specify that programs may use up to 50% of high-fidelity simulation activities in each clinical course, which is consistent with findings and recommendations of a 2016 landmark nursing education research study conducted by the National Council of State Boards of Nursing. Additionally, rules now require that a proposal author for a new nursing education program to also be the proposed director for that program. The intent of this requirement is to provide for the constancy of nursing leadership necessary to offer a successful nursing education program.

VI. Nursing Practice Highlights

Telehealth

Telehealth remained a newsworthy topic throughout FY2018. At the October 2018 quarterly meeting the Board adopted new 22 Tex. Admin. Code §217.24 relating to Telemedicine Medical Service Prescriptions as required by Senate Bill 1107 that passed during the 85th Legislative Session. This bill required coordinated rule making by the Board, TMB, Texas Physician Assistant Board, and Texas State Board of Pharmacy to establish determination of a valid prescription in accordance with practitioner-patient relationship that meets statutory criteria. The bill also required jointly developed responses to frequently asked questions (FAQs) on the aforementioned agencies' websites related to the determination of a valid prescription issued while telemedicine medical services are being provided. Board Staff will continue to collaborate with TMB and other agency Staff to work toward meeting the requirements of SB 1107.

Texas Taxonomy of Error Root Cause Analysis of Practice-Responsibility (TERCAP)

Following completion of the Board's TERCAP Pilot Project in August of 2016, Board staff have been working to incorporate the invaluable information gleaned regarding nursing practice breakdown to establish a standardized approach for nursing peer review committees to evaluate incidents objectively.

During FY2018, Board staff developed a resource with stakeholder input and piloted an education intervention with a large hospital system in Texas. During FY2019, the aim will be to refine the resource and disseminate it to nursing peer review committees statewide through both online and in-person education activities.