INTERNAL AUDIT OF THE
ENFORCEMENT
AT THE
TEXAS BOARD OF NURSING
REPORT NO: BON-020-001
The Board Members
Texas Board of Nursing
Austin, TX

We have conducted an internal audit (audit) of the Enforcement at the Texas Board of Nursing (BON) as of August 27, 2020. The results of our audit disclosed that the BON has adequate controls in place over the case processing and procedures compliance requirements. The report that accompanies this letter summarizes our comments.

We appreciate the courtesy and cooperation shown by the management of the BON during the course of this engagement.

Monday Rufus & Co., P.C.

August 27, 2020
Austin, Texas
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Executive Summary

Background Information

In 2007 the Board of Nurse Examiners was renamed the Texas Board of Nursing (Board) after the passing of HB 2426. The primary functions of the BON are to examine and license nurses and to enforce the rules and regulations applicable to the practice of nursing as established and defined by the Nursing Practice Act in order to protect the public. The Board’s role in the protection of the public is to license qualified nurses, enforce the Nursing Practice Act, and to regulate the practice of professional nursing in Texas. The Board regulates over 410,000 nurses and 209 schools of nursing.

The BON Enforcement Division receives and processes complaint cases which are reviewed and investigated for non-compliance with the Nursing Practice Act (NPA) and BON Rules and Regulations. Complaints may be received from outside sources and may also be initiated inside by TBON investigators after receiving nurse licensee information from other state and federal agencies such as the Texas Department of Public Safety (DPS) and Federal Bureau of Investigations (FBI). Complaints may be settled informally with BON, and if the complaint is unable to be settled informally with the nurse, BON will proceed to formal contested case resolution through the State Office of Administrative Hearings (SOAH).

The Enforcement Division has three primary teams:

a. Investigations—comprised of Criminal Justice and Registered Nurse Investigators responsible for investigating violations of the Nursing Practice Act.

b. Eligibility—comprised or investigators responsible for investigating individuals who may have some issues in their past that may prevent them from becoming licensed or retaining a license due to criminal history, substance use or mental illness.

c. Monitoring—comprised of case workers responsible for monitoring compliance/non-compliance of individuals who have received a Board Order that requires monitoring.

   a. License qualified students and licensees
   b. Account for agency funds
   c. Provide information technology support to agency

The enforcement department is supervised by the Director of Enforcement.

During the Fiscal Year 2019 the BON Enforcement Division closed 16,263 complaint cases.

The BON Enforcement Division consists of forty-nine (49) Full-Time-Equivalent (FTEs) authorized and 42 FTEs filled. For Fiscal Year 2020 the agency was authorized 125.7 FTEs.
Summary of Internal Audit Results

The BON has complaint cases processing procedures and controls in place to provide reasonable assurance that the BON is in compliance with the Texas Occupations Code, Chapter 301- Nursing Practice Act, the Texas Administrative Code, Title 22, Part 11, and the Enforcement Division policies and procedures manual requirements.

The Board has written policies and procedures established and implemented for the processing of complaint cases received.

There were no deficiencies detected in the audit of the enforcement processes that are significant to the objectives of this internal audit engagement. Any insignificant issues noted have been communicated to the management of the Board as required by Government Auditing Standards.
Detailed Observations

The primary objectives of the internal audit were:

- Reliability and Integrity of Information
- Compliance with Policies, Procedures, Laws, and Regulations
- Safeguarding of Assets
- Economical and Efficient use of Resources
- Accomplishment of Established Objectives and Goals for Operations

Internal Audit Objective 1: Reliability and Integrity of Information

All complaint cases and supporting documentation are stamped, logged, and assigned a case number upon being received by BON. Complaint cases received are sent to the Director of Enforcement for review and a decision is made to close the complaint, refer the complaint to another BON division or regulatory agency, or prioritize and assign the complaint to an investigator to determine if there is possible non-compliance with the Texas Occupations Code - Nursing Practice Act and the Texas Administrative Code, Title 22 Board Rules.

Each phase in the processing of a complaint case is appropriately documented in the case file. All case related correspondence sent by BON and received from the complainant, respondent, and/or other sources is included in the case file. Each enforcement employee has a role-based named account as instructed by the appropriate Enforcement Supervisors, and access is controlled with the use of passwords.

Internal Audit Objective 2: Compliance with Policies and Procedures, Laws, and Regulations

The internal auditors tested a sample of twenty-five (25) closed complaint cases from a total of 16,263 closed cases for FY 2019 (September 1, 2018 to August 31, 2019) for compliance with the Texas Occupations Code - Nursing Practice Act (NPA), Texas Administrative Code, Board Rules, and the BON Enforcement policies and procedures manual. No exceptions were noted. There is a provision for compliance with Texas law related to privacy.

Internal Audit Objective 3: Safeguarding of Assets

If an administrative penalty is not paid and the enforcement of the penalty is not successful, the Bon Executive Director may refer the matter to the Attorney General for collection. Physical security is in place through the use of electronic badge systems to ensure protection of hardware and software related to case management systems. There is an updated antivirus software on each computer. Mission critical data is backed up on a scheduled basis and stored at an offsite location.

Internal Audit Objective 4: Economical and Efficient use of Resources
The Enforcement Division uses a paperless complaint system which allows staff to review and process complaint cases faster and share information more efficiently. Complaints and/or cases are managed through a database system and activities are properly documented in that system.

**Internal Audit Objective 5: Accomplishment of Established Objectives and Goals for Operations**

The processes employed in managing cases appear to be effective in ensuring that the BON’s established objectives and goals for operations related to enforcement are met. We selected a sample of complaints/cases and tested for compliance with policies, procedures, laws and regulations. No exceptions were noted during our testing.
Appendix 1

Objective and Scope

Objective

The primary objectives of the internal audit were to determine the following:

- Reliability and Integrity of Information
- Compliance with Policies, Procedures, Laws, and Regulations
- Safeguarding of Assets
- Efficiency and Effectiveness of Operating Procedures
- Accomplishment of Established Objectives and Goals for Operations.

Scope

The scope of the audit work included ensuring compliance with the BON Enforcement Division Manual case processing and procedures, Texas Occupations Code-Nursing Practice Act, and the Texas Administrative Code, Title 22, Part 11 requirements. The scope included interviews with the BON’s Director of Enforcement, enforcement staff, and other agency personnel. The Enforcement Division’s closed complaint cases, supporting case file documents, and other pertinent BON documents were tested for accuracy and compliance.

Methodology

The internal auditors obtained information from the Director of Enforcement and other pertinent personnel regarding internal controls in place, and the processes for receiving and managing complaints/cases. Information was reviewed, analyzed and verified to ensure the processes were functioning as intended.

Data Reliability, Completeness and Sampling Methodology

The internal auditors determined population completeness and reasonableness by gaining an understanding of the controls in place within automated systems used in generating data; evaluated the controls and performed procedures necessary to assure reliability and integrity of data. Selected and tested a random sample of complaints/cases transactions for compliance with policies, procedures, laws, and regulations. That sample size was not necessarily representative of the population as the intent was not to project test results to the population.
Information collected and reviewed included the following:

- BON Enforcement Division policies and procedures manual
- Texas Occupations Code, Chapter 301, Nursing Practice Act
- Texas Administrative Code, Title 22, Part 11, Chapter 213
- BON Annual Financial Report for Fiscal Year Ended August 31, 2019
- TBON Website (http://tbon.texas.gov)
- Agency’s Approved Budget for Fiscal Year 2019
- Agency Strategic Plan for Fiscal Years 2019-2023
- State Auditor’s Office Audit Reports www.sao.state.tx.us

Procedures and tests conducted included the following:

- Obtained an understanding of the complaint cases processing functions conducted by the Enforcement Division personnel and controls in place.
- Researched the State Auditor’s Office report system for any TBON audit reports issued within the last three years for any complaint cases audit issues or findings.
- Reviewed the TBON Annual Financial Report sent to the State Auditor’s Office for year ended August 31, 2019 for information and an understanding of the agency’s complaint case processing.
- Inquired regarding legislative changes or potential changes in agency administrative processes which have had or may have an impact on the enforcement processing of complaint cases.
- Obtained and reviewed the BON’s Enforcement policies and procedures manual.
- Obtained list and organizational chart of all BON Enforcement Division personnel involved in the processing of complaint cases to test for proper authorizations of signatures and controls during the processing of cases.
- Obtained a listing of all complaint cases that were closed for Fiscal Year 2019 to randomly select samples for compliance testing with BON policies, procedures, laws, and regulations.

Criteria Used included the following:

- BON Enforcement policies and procedures manual for processing complaint cases.
- Texas Occupation Code, Chapter 301, Nursing Practice Act
• Texas Administrative Code, Title 22, Part 11, Chapter 213
• Texas Board of Nursing website screen on how to file a complaint
• Review of other pertinent reports and documents

Other Information
Our audit was conducted in accordance with generally accepted government auditing standards issued by
the Comptroller General of the United States. Those standards require that we plan and perform the audit
to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions
based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our
findings and conclusions based on our audit objectives. Our internal audit also conforms with the
Institute of Internal Auditor’s (IIA) International Standards for the Professional Practice of Internal
Auditing.
Appendix 2

Background Information

In 1909 the Nursing Practicing Act (NPA) was passed which gives authority to regulate the practice of nursing. In 1909 the Board of Nurse Examiners was established in Texas after the passing of SB111. In 2004 the Board of Nurse Examiners and the Board created by the Vocational Nursing Act (1951) merged, creating the Texas state agency regulating the largest number of health care providers. In 2007, the Board of Nurse Examiners was renamed to the Texas Board of Nursing (Board) after the passing of HB 2426. The Board regulates over 410,000 nurses and 209 schools of nursing. The Board’s key functions are:

- Licensing & Accreditation
  - Licensing & Examination
  - Accreditation
- Enforcement
  - Protect Public

The Board’s Mission

The mission of the Texas Board of Nursing (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 Chapters 301, 303 and 304 of the Occupations Code, supersedes the interest of any individual, the nursing profession, or any special interest group.

To carry out its mission, the Board has appropriations approval to hire 125.7 positions. The Board has 49 FTEs in the Enforcement Division, 43.7 FTEs in the Operations Division, 16 in the Nursing Department and 17 Administrative Employees including the Executive Director. There is an additional FTE (1) for each fiscal year due to the enactment of the HB 2174, 86th Legislature, Regular Session, relating to controlled substance prescriptions which results in $43,149 out of the General Revenue Funds.

The Texas Board of Nursing board consists of 13 members from throughout the State of Texas appointed by the Governor for 6-year terms with the advice and consent of the senate as follows:

(1) six nurse members, including:
  - (A) one advanced practice nurse;
  - (B) two registered nurses who are not advanced practice nurses or members of a nurse faculty; and
  - (C) three vocational nurses who are not members of a nurse faculty;
(2) three members who are nurse faculty members of schools of nursing:
  - (A) one of whom is a nurse faculty member of a school of nursing offering a baccalaureate degree program in preparing registered nurses;
  - (B) one of whom is a nurse faculty member of a school of nursing offering an associate degree program in preparing registered nurses; and
  - (C) one of whom is a nurse faculty member of a school of nursing at an institution of higher education preparing vocational nurses; and
(3) four members who represent the public.

The Board’s operating budget is prepared and approved by the Board on an annual basis, whereas the State legislative appropriation request is determined every two years. Both the budget and appropriations are reviewed and approved by the State Legislature.
Appendix 3

Report Distribution

As required by Gov’t Code Section 2102.0091 copies of this report should be filed with the following:

**Governor’s Office of Budget and Planning**
- Attn: Sarah Hicks
- Phone: (512)463-1778
- Budgetandpolicyreports@governor.state.tx.us

**Legislative Budget Board**
- Attn: Christopher Mattsson
- Phone: (512)463-1200
  - Audit@lbb.state.tx.us

**State Auditor’s Office**
- Attn: Internal Audit Coordinator
- Phone: (512) 936-9500
  - iacoordinator@sao.state.ts.us

**Sunset Advisory Commission**
- Attn: Jennifer Jones
- Phone: (512) 463-1300
  - Sunset@sunrise.state.tx.us

**Texas Board of Nursing**
Members of the Board of Nursing:

- Kathy Shipp, MSN, RN, FNP – President
- David Saucedo, II – Consumer Member
- Laura Disque, MSN, CGRN – RN Practice
- Diana Flores, MN, RN – RN Practice
- Carol Kay Hawkins – BSN, RN Education
- Mazie Mathews Jamison, BA, MA – Consumer Member
- Kathy Leader-Horn, LVN – LVN Practice
- Allison Porter-Edwards, DrPH, MS, RN, CNE – BSN Education
- Tamara Rhodes, MSN, RN -ADN Education
- Melissa Schat, LVN -LVN Practice
- Francis Stokes, BA – Consumer Member
- Rickey “Rick” Williams – Consumer Member
- Kimberly “Kim” Wright, LVN – LVN Practice

**Texas Board of Nursing Management**

Katherine Thomas, MN, RN, FAAN, Executive Director