INTERNAL AUDIT OF THE HUMAN RESOURCE MANAGEMENT

AT THE

TEXAS BOARD OF NURSING
(REPORT NO. BON 022-002)

MONDAY RUFUS & CO., P.C.
CERTIFIED PUBLIC ACCOUNTANTS AND ADVISORS

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The Board Members
Texas Board of Nursing
Austin, TX

We have conducted an internal audit (audit) of the Human Resource Management at the Texas Board of Nursing (BON) as of December 16, 2022. Our objectives were to determine the reliability and integrity of information, compliance with policies, procedures, laws, and regulations, efficiency and effectiveness of operating procedures, and safeguarding of assets. The results of our audit disclosed that the BON has procedures and controls in place to ensure reliability and integrity of information compliance related to the Human Resource Management. However, we noted an opportunity for strengthening the controls in place in the Human Resource Management.

The report that accompanies this letter summarizes our comments and recommendations.

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

Monday Rufus & Co., P.C.

December 16, 2022
Austin, Texas

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Executive Summary

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.

For fiscal year 2022 the General Appropriations Act authorized a budget of $13,722,475, with 125.7 full-time equivalent (FTEs) employees.

A thirteen-member Board governs the BON agency. The Board members are appointed by the Governor with the advice and consent of the Senate. They include 6 nurses, 3 faculty, and 4 members who represent the public. Members of the Board serve staggered terms of six years. The President of the Board is appointed by the Governor.

The Board members appoint an Executive Director who supervises the BON's activities.

The Board's departments consist of the Administration, Enforcement, Operations, and Nursing. Each department head reports to the Executive Director. The Administration Department is responsible for the human resource management functions for the BON. The Director of Human Resources who reports to the Executive Director oversees the human resource functions.

Summary of Internal Audit Results

The BON has developed policies and procedures for the Human Resource Management. All new employees have access to the Employee Handbook and acknowledgement is documented in each employee's file. Employees' performance evaluations are conducted timely. All personnel action forms are approved and signed by executive management. The BON can strengthen its personnel processes by performing background checks on all new employees hired, by improving the enforcement of the employment discrimination training program, verifying a job applicant's higher education degree, and performing background checks on all new employees hired.

There were no other deficiencies detected in the audit of the Human Resource Management that are significant to the objectives of this engagement. Any insignificant issues noted have been communicated to the management of the BON as required by Government Auditing Standards.

Summary of Management's Response

The Texas Board of Nursing has been requiring completion of Sexual Harassment training for all new employees within 30 days of hire, and all existing employees biennially. Management was under the impression that this training satisfied the training requirements established by Section 21.010. This was not correct. This training met the requirement for sexual harassment training, but did not meet the requirement for EEO training. All existing Board of Nursing employees have been tasked with completing this new training, and all new hires have been tasked with completing the training within 30 days of hire. This will ensure compliance with Texas Labor Code 21.010 going forward.

It is correct that the Texas Board of Nursing has not been conducting criminal background checks on new applicants prior to hire. Management agrees that we need to re-evaluate this.

The Board of Nursing already has systems in place to verify education of licensees. We will begin using these same systems for applicants.

Objectives, Detailed Issues, Recommendations, and Management's Response

The primary objectives of the internal audit were:

1. Reliability and Integrity of Information
2. Compliance with Policies, Procedures, Laws, and Regulations
3. Efficiency and Effectiveness of Operating Procedures
4. Safeguarding of Assets

RESULTS AND RECOMMENDATIONS

Internal Audit Objective 1: Reliability and Integrity of Information

All personnel action forms are approved and signed by executive management.

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

The BON has developed policies and procedures for the Human Resource Management.

All new employees have access to the Employee Handbook and acknowledgement is documented in each employee's file.

Employees' performance evaluations are conducted timely.

Finding #1: Improve the Enforcement of the Employment Discrimination Training Program

Criteria:

The Agency needs to improve its enforcement of the employment discrimination training program. The Texas Labor Code 21.010 requires that each state agency provide employees of the agency an employment discrimination training program. It also requires that each employee of the state agency attend the training program no later than the 30th day after the date the employee is hired by the agency and supplemental training every two years. The Agency has an employment discrimination program.

Condition:

The Agency's policy is to provide employment discrimination training to new employees no later than the 30th day after the date the employee is hired by the agency and supplemental training every two years. This complies with the above law. However, during our tests we noted

that some of the employees did not have any evidence of employment discrimination training in their personnel files.

Cause:
There are no established procedures to ensure consistent compliance with Texas Labor Code 21.010.

Effect:

The Agency is not consistently complying with the Texas Labor Code 21.010.

Recommendation:

We recommend that all employees attend the Employment Discrimination Training according to the Texas Labor Code 21.010. A consistent method of record keeping needs to be maintained in each employee's file.

Management's Response

The Texas Board of Nursing has been requiring completion of Sexual Harassment training for all new employees within 30 days of hire, and all existing employees biennially. Management was under the impression that this training satisfied the training requirements established by Section 21.010. This was not correct. This training met the requirement for sexual harassment training, but did not meet the requirement for EEO training.

As of November 16, 2022 the Texas Workforce Commission Civil Rights Division deployed a new Equal Employment Opportunity course. Per the TWC website, 'successful completion of this module will fulfill the requirements of mandatory training on employment discrimination (including sexual harassment) by state agencies under Section 21.010 for initial training within 30 days of hire and supplemental training every two years". All existing Board of Nursing employees have been tasked with completing this new training, and all new hires have been tasked with completing the training within 30 days of hire. This will ensure compliance with Texas Labor Code 21.010 going forward.

***Responsible Person for implementation**: Steve Zimmerman, Human Resources Director*

***Completion Date:** December 2022*

Internal Audit Objective 3: Efficiency and Effectiveness of Operating Procedures

There is adequate segregation of duties among the other Departments and Human Resources Department related to personnel processes.

Finding #2: Criminal Background Checks are Not Being Conducted on New Employees.

Criteria:

One significant means of finding out more about an applicant for employment is to request permission to perform a criminal background check.

Condition:

Currently criminal background checks are not being conducted on new employees hired by the BON.

Cause:

The BON's established policies and procedures for hiring employees do not require performing criminal background checks prior to making an offer of employment.

Effect:

Hiring employees has become increasingly challenging partly due to the lack of valid references from previous employers of new employee applicants. Employers typically only provide verification of the person's title and the duration of the employee's term of employment. As a result, heavy reliance is placed on the accuracy of the individual's application or resume to supplement the comments of the individual during the interview. Criminal background checks are useful in getting more information about the prospect being considered for employment. Since the BON does not conduct criminal background checks on new employees, there is an increased risk that staff may not be suitable for the position they are applying to fill.

Recommendation:

The BON should consider conducting criminal background checks on new applicants prior to hiring them, or make the employment offer with the Agency contingent upon the results of the criminal background checks. We recommend the BON re-evaluate its hiring practice and consider implementing conducting criminal background checks of new employees. We recommend consulting with the BON's Attorney for guidance prior to implementation.

Management's Response

It is correct that the Texas Board of Nursing has not been conducting criminal background checks on new applicants prior to hire. Management agrees that we need to re-evaluate this.

It is important to note that the Board of Nursing is not entitled to obtain criminal background information from the Texas Department of Public Safety if this information is to be used in hiring. Texas Government Code states the Texas Board of Nursing is entitled to background

check information from Texas DPS for license applicants, license holders, and subjects of investigation. Only certain state agencies have authorization to receive background check information From Texas DPS for job applicants (e.g. Texas Department of Family and Protective Services and Texas Health and Human Services Commission), and even those agencies have significant restrictions as to which positions they can request background check from Texas DPS. For example, Texas DFPS may obtain criminal background information for an applicant only if the position duties "include direct delivery of protective services to children, elderly persons, or persons with a disability".

If the Texas Board of Nursing were to begin background checks for applicants, this would require selection of a private background check vendor, and funding to pay for their services.

***Responsible Person for implementation**: Steve Zimmerman, Human Resources Director*

***Completion/Reevaluation Date:** March 2023*

Finding #3: Educational Transcripts or Degrees Should Be Included in Employee Files if The *Minimum Qualifications* of Their Job Posting Requires Graduation From an Accredited Four-Year College or University.

Criteria:

A good internal control ensures that applicants hired for a specific position met the Minimum Qualifications of the job posting, including documentation of the evidence of graduation from an accredited four-year college or university.

Condition:

The BON has a method of screening applicants to make sure that they meet the minimum qualifications for the position. Additionally, interviews are based on the measurable job-related experience and educational qualifications set forth in the job description. After applicants are interviewed the candidate with the highest cumulative score is selected. But the BON's hiring policy does not include verifying and documenting copies of college or university degrees or transcripts for applicants hired based on their degrees.

Cause:

The BON's policy does not include verifying degrees other than the accreditation of the higher institution where the degree was conferred.

Effect:

When personnel files do not include evidence of graduation documents from an accredited college or university as required by the job postings minimum qualifications, it cannot be determined if an applicant who has been hired met the minimum qualifications for that position.

Recommendation:

Management should consider implementing procedures requiring the verification and documentation in the personnel files evidence of graduation from a college or university. Acceptable support may include copies of transcripts, degree (s), or other supporting documentation which confirms that the applicant hired met the Minimum Qualifications of the job posting if it required graduation from an accredited four-year college or university.

Management's Response

Management concurs with this recommendation. The Board of Nursing already has systems in place to verify education of licensees. We will begin using these same systems for applicants.

Responsible Person for implementation*: Steve Zimmerman, Human Resources Director*

Completion Date: *January 2023*

Internal Audit Objective 4: Safeguarding of Assets

The BON has a process in place to ensure that accessibility to the agency's computer systems and other assets is eliminated as soon as an employee terminates employment with the agency, and that all terminated employees are appropriately deleted from the personnel records.

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*
- *Efficiency and Effectiveness of Operating Procedures*
- *Safeguarding of Assets*

Scope

The scope of the internal audit (audit) included ensuring compliance with the Texas Labor Law, Government Code, and BON operating policies and procedures. The scope included interviews with the appropriate staff of the BON. Employee personnel files, agency employee handbook, human resource forms, and other pertinent reports and documents were tested for accuracy and compliance.

Methodology

Our procedures included collecting information and documentation, performing selected tests and other procedures, analyzing and evaluating the results of the tests; reviewing operating policies and procedures, laws, and regulations, conducting interviews with the appropriate BON staff, testing for compliance with policies, procedures and laws, and review of other pertinent reports and documentation.

Data Reliability and Completeness

We obtained an understanding of the human resource processes. To ensure reliability, validity, and completeness of the data, we gained an understanding of logical access and general controls and tested those controls as appropriate.

Sampling Methodology

We selected random samples of employees and test for compliance with several attributes. Those sample sizes were 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:

- List of Agency employees with job titles and dates of employment
- List of BON staff involved in human resource processes

- Agency policies and procedures manual (Employee Handbook)
- List of training conducted for employees in fiscal year 2021 and records of attendance
- List of terminated employees in Fiscal Year 2021
- Employee personnel files
- Texas Board of nursing Website
- State Auditor's Office: Texas Human Resources Management Statutes Inventory
- General Appropriation Act (FY 2020-2021)
- Prior Internal Audit Reports or other audit reports, as applicable

Procedures and tests conducted included the following:

- Interviewing BON staff to obtain an understanding of the personnel and payroll functions, activities, and controls in place
- Obtaining and reviewing BON's Employee Handbook
- Obtaining and reviewing State legislative human resources
- Testing for compliance with employee position interview requirements
- Obtaining and reviewing employee personnel files.
- Testing for proper employee job description and state payroll classification.
- Testing for accuracy and completeness of employee information in personnel files.

Criteria Used included the following:

- Texas Labor Code, Chapter 21.010 Employment Discrimination
- State Auditor's Office: Texas Human Resources Management Statutes Inventory
- BON Employee Handbook
- BON Website
- Review of Other pertinent reports and documents
- Immigration Reform and Control Act of 1986

Other Information

Our audit was conducted in accordance with *generally accepted government auditing standards.* These 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 internal audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusion based on our internal 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:
    - o (A) one advanced practice nurse;
    - o (B) two registered nurses who are not advanced practice nurses or members of a nurse faculty; and
    - o (C) three vocational nurses who are not members of a nurse faculty;

(2) three members who are nurse faculty members of schools of nursing:
    - o (A) one of whom is a nurse faculty member of a school of nursing offering a baccalaureate degree program in preparing registered nurses;
    - o (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 2102.0091 copies of this report should be filed with the following:

Governor's Office of Budget and Planning
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Budgetandpolicyreports@governor.state.tx.us

Legislative Budget Board
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State Auditor's Office
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Texas Board of Nursing Management
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