INTERNAL AUDIT OF THE OPEN RECORD REQUESTS

AT THE

TEXAS BOARD OF NURSING

(REPORT NO: BON 2022-001)

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 Open Record Requests at the Texas Board of Nursing (BON) with respect to the reliability and integrity of information, compliance with rules, policies, procedures, laws, and regulations, safeguarding of assets, economical and efficient use of resources, and accomplishment of established objectives and goals for operations as of June 17, 2022.

The results of our tests disclosed that the Board has developed controls in place to ensure reliability and integrity of information, compliance with rules, policies, procedures, laws, and regulations, safeguarding of assets, economical and efficient use of resources, and accomplishment of established objectives and goals for operations. However, we noted an opportunity to improve the established processes.

The report that accompanies this letter summarizes our comments.

We appreciate the courtesy and cooperation the management of the Board showed during the course of the engagement.

Monday Rufus & Co., P.C.

June 17, 2022
Austin, Texas

(512) 380-0799 1508 Dessau Ridge Lane, Suite 405, Austin, Texas 78754 Fax (512) 380-0797

TABLE OF CONTENTS

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.

Texas Government Code, Chapter 552, gives the public the right to access government records. An officer for the public information and officer's agency may not ask the reason for the request of records. Ideally, all government records are considered public and available when requested. However, there are certain exceptions that may be applicable to the disclosure of information. For example, information that is confidential by laws, either constitutional, statutory, or by judicial decision may not be released when requested. Barring any exceptions, a government agency is required to promptly release the requested information.

Requesters of open records have the right to the following:

- Prompt access to information that is not considered confidential or otherwise protected.
- Receive treatment equal to all other requesters, including accommodation in accordance with the American with Disabilities Act (ADA) requirements.
- Receive certain kinds of information without exceptions.
- Receive written statement of estimated charges, when charges will exceed a certain amount, in advance of work being started and opportunity to modify the request in response to the itemized statement.
- Choose whether to inspect the requested information (most often at no charge), receive copies of the information or both.
- A waiver or reduction of charges if the government body determines that access to the information primarily benefits the general public.
- Receive a copy of the communication from the government body asking the Office of the Attorney General for a ruling on whether the information can be withheld under one of the accepted exceptions, or if the communication discloses the requested information, in a redacted copy.
- Lodge a written complaint about overcharges for public information with the Office of the Attorney General. Other complaints may also be filed with the county or district attorney of the county where the government body is located. If the complaint is against the county or district attorney, the complaint must be filed with the Office of the Attorney General.

Internal Audit Results

There is a process for receiving Open Record Requests. An Open Record Request can come in by mail, fax, or email. The BON has established Policies and Procedures that are consistent with Texas Government Code, Chapter 552, and has made it available on the Agency's website. The policy includes the Rights of the Requesters, Responsibilities of the BON, as a governmental body, Information to be Released, Costs of Records, and Information that may be withheld due to an exception.

Any insignificant issues noted have been communicated to the management of the Commission as required by *Government Auditing Standards.*

Objectives and Results

The primary objectives of the internal audit were:

1. Reliability and Integrity of Information
2. Compliance with Policies, Procedures, Laws, and Regulations
3. Safeguarding of Assets
4. Economical efficient use of resources
5. Accomplishment of established objectives and goals for operations

RESULTS

Internal Audit Objective 1: Reliability and Integrity of Information.

There is a process for receiving Open Record Requests. A request can be received by mail, fax, or email. Each Open Record Request is initially forwarded to the Public Information Coordinator and reviewed by the Open Records Attorney prior to processing.

The BON has established Public Information Requests Policies and Procedures that are consistent with Texas Government Code, Chapter 552, and has made it available on the Agency's website. The policy includes the Rights of the Requesters, Responsibilities of the BON, as a governmental body, Information to be Released, Costs of Records, and Information that may be withheld due to an exception.

The information is entered into the Agency's database and protected via password. Data is also encrypted at rest using an encryption software and password. Access to data is limited to authorized employees on a need-to-know basis. Data is backed up and stored at an offsite location.

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

Open records request are governed by state and federal law, and requests involving confidential data are reviewed on a case-by-case basis. The BON has established a Public Information Requests Policies and Procedures that are consistent with Texas Government Code, Chapter 552, and has made it available on the Agency's website.

Internal Audit Objective 3: Safeguarding of Assets.

The Agency has a process in place to restrict access to agency applications with the use of passwords. Passwords are not displayed during logon and contain a combination of letters, numbers, and special characters. There is anti-virus software on all computers and there is up to date security patches. There are adequate controls in place to maintain agency assets. The open records systems are protected by role-based access and monitored using agency active directory infrastructure. Open record staff use the agency's network to maintain the open records system. Staff computers are located in the BON's physical office. A badge is required to enter the BON offices. Additionally, the BON building is staffed by security guards. Mission critical data including Open Record Requests and fulfillment is backed up on a scheduled basis and stored at a contracted offsite location.

Internal Audit Objective 4: Economical and Efficient Use of Resources

The BON receives Open Record Requests by mail, email, fax, and in person. Only authorized staff have access to the open records inbox and account. Open Records Requests are reviewed and fulfilled on a case-by-case basis.

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

The BON has established Public Information Requests Policies and Procedures that are consistent with Texas Government Code, Chapter 552, and has made it available on the Agency's website. We selected a sample of 25 Open Record Requests and tested for the relevant attributes. No exceptions were noted.

Appendix 1

Objective and Scope, and Methodology

Objective

The primary objective of the audit was to evaluate the following:

- *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*

Scope

The audit scope of the internal audit work included ensuring reliability and integrity of information, compliance with rules, policies, procedures, laws and regulations, safeguarding of assets, economical and efficient use of resources, and accomplishment of established objectives and goals. The scope included interviews with the appropriate staff of the Legal and Compliance Division, review of pertinent documents and testing for accuracy and compliance.

Methodology

Obtained an understanding of the processes over Open Record Requests, performed a risk assessment to determine the risk of noncompliance with laws, rules, and regulations, and identified controls which are in place.

Data Reliability and Completeness

We obtained an understanding of the automated controls and determined that information systems were not a critical part of the Open Record Requests. Information is received and entered into a database system. To ensure reliability, validity, and completeness of the data, we gained an understanding of logical access and general controls and assessed those controls as appropriate.

Sampling Methodology

There were 2,696 Open Record Requests in Fiscal Year 2021. We randomly selected a sample of 25 and tested for the relevant attributes. That sample size was not necessarily a representative of the population as the intent was not to project test results to the population.

Information collected and reviewed included the following:

- Internal Audit Plan for Fiscal Year 2022
- Agency's Open Record Requests Webpage
- Texas Government Code, Chapter 552
- Office of the Attorney General of Texas - Public Information *Handbook* 2022
- A list of Open Record Requests
- Completed Data Control Questionnaire
- Supporting documentation for Open Record Requests and responses
- General Appropriation Act (FY 2022-2023)
- Strategic Plan 2021 - 2025
- Texas Board of Nursing Website

Procedures and tests conducted included the following:

- Interviewed the appropriate staff of the BON to obtain an understanding of the processes for Open Record Requests.
- Obtained, reviewed, and tested a sample of Open Record Requests received and processed in Fiscal Year 2021, and obtained the supporting documentation.
- Reviewed Texas Government Code, Chapter 552
- Reviewed the Open Record Requests from the Agency's Website
- Reviewed the responses to the Data Control Questionnaire
- Assessed the accuracy and reliability of information entered into the Open Record Requests Database.
- Obtained, selected a random sample of Open Record Requests, and tested for relevant attributes.

Criteria Used included the following:

- Chapter 552, Texas Government Code
- Texas Board of Nursing Open Record Request Webpage
- Office of the Attorney General of Texas - Public Information *Handbook* 2022
- Review of other pertinent reports and documents

Other Information

Our internal audit was conducted in accordance with *generally accepted government auditing standards.* 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 internal audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions 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

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 450,000 nurses and 218 schools of nursing. The Board's key functions are:

• Licensing & Accreditation
o Licensing & Examination
o Accreditation
• Enforcement
o 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, 40.7 FTEs in the Operations Division, 20 in the Nursing Department and 16 Administrative Employees including the Executive Director.

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 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.tx.us

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

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