Annual Report
and
Strategic Direction

2017 – 2018

Texas Board of Nursing

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2017 Annual Report

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Texas Board of Nursing

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About the Texas Board of Nursing

The Texas Board of Nursing (BON or Board), established by the Texas Legislature in 1909, is responsible for the licensing and regulation of more than 400,000 licensed vocational nurses, registered nurses, and advanced practice registered nurses. The Board approves more than 200 nursing education programs and ensures that Texas consumers are protected from unsafe, incompetent, and unethical nursing practice by licensed nurses.

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, 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.

Agency Structure

The Texas Board of Nursing consists of 124.7 employees, under the supervision of an Executive Director, which is governed by 13 Board members appointed to six-year staggered terms by the Governor. The current Board members are listed below:

Board Members

• Kathy Shipp, President, MSN, RN, FNP	Representing APRN Practice
• Patricia "Patti" Clapp, Vice-President, BA	Consumer Member

• Nina Almasy, DNP, MSN, RN, CNE	Representing LVN Education
• Deborah Hughes Bell, CLU, ChFC	Consumer Member
• Laura Disque, MN, RN	Representing RN Practice
• Allison Porter-Edwards, DrPH, MS, RN, CNE	Representing BSN Education
• Diana Flores, MN, RN	Representing RN Practice
• Doris Jackson, DHA, MSN, RN	Representing ADN Education
• Kathy Leader-Horn, LVN	Representing LVN Practice
• Beverley Jean Nutall, LVN	Representing LVN Practice
• David Saucedo, II	Consumer Member
• Francis Stokes, BA	Consumer Member

The framework for the Board to make decisions in serving the citizens of Texas is through legislative guidance and regulatory policies. This framework ensures the following:

Texas Statewide Objectives

- Accountable to tax and fee payers of Texas
- Efficient such that maximum results are produced with a minimum waste of taxpayer funds, including through the elimination of redundant and non-core functions
- Effective in successfully fulfilling core functions, measuring success in achieving performance measures and implementing plans to continuously improve
- Provision of excellent customer service
- Transparent such that agency actions can be understood by any Texan

Key Functions and Performance of the Texas Board of Nursing

- Regulation of the practice of nursing
- Approval of nursing education programs
- Investigating and adjudicating complaints
- Participation in the Multistate Nurse Licensure Compact

Customer Service Standards

- The agency is committed to providing excellent service to our customers, the citizens of Texas. Staff provides prompt, professional, and courteous service in person, as well as on the telephone, through correspondence, and over the Internet. Staff provides materials that are clear and understandable. Staff responds to requests for information in a timely manner and will seek and respond to feedback from stakeholders.

Key Events in 2017

Texas Board of Nursing Sunset Review

The Texas Legislature created the Sunset Commission to review the need for and success of agencies carrying out the responsibility of state government. Agencies typically undergo review once every 12 years. The most recent 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, the Sunset Commission presented the following issues for the Board to the 85th Legislature with subsequent statutory changes as appropriate:

Issue 1. Absent conclusive evidence regarding Excelsior's nursing program, the Board is the most appropriate entity to determine qualifications for initial nurse licensure.

- Remove the December 31, 2017 expiration date for Excelsior's exception. Create a process, similar to steps of an in-state program, for program improvement or expiration of the exception if Excelsior's NCLEX nursing licensure passage rates fall below the Board's standard.
- Develop a path to initial licensure for graduates of out-of-state programs that are determined not to be substantially equivalent to Texas programs.

Issue 2. Broad and subjective standards extending beyond the practice of nursing could lead to harsher sanctions for nurses.

- Limit the use of subjective standards for licensure decisions by demonstrating a connection between a nurse's conduct and the practice of nursing.

Issue 3. The Board's peer assistance program needs improved flexibility and oversight to most effectively rehabilitate nurses.

- Require the Board's peer assistance program to develop and use flexible program requirements in line with nurse's needs and diagnosis.
- Create a formal process to allow students an opportunity for re-evaluation of participation in peer assistance upon initial licensure.
- Adequately measure the effectiveness of the peer assistance program.

Issue 4. Texas must adopt the Nurse Licensure Compact to ensure continued mobility within the profession.

- Adopt the new Nurse Licensure Compact.

Issue 5. Clear statutory authority could help the Board better monitor improper prescribing of controlled substances.

- Clarify the statute and provide direction for the Board to monitor advanced practice registered nurses' improper prescribing of controlled substances.

Issue 6. The Board's statute does not reflect current standard elements of Sunset reviews.

- Update the across-the-board requirement related to Board member training and discontinue the Board's two reporting requirements and a defunct pilot program.

Issue 7. The state has a continuing need to regulate nurses.

- Continue the Board for 12 years.

85th Legislature – Key Legislation

In addition to the Sunset statutory initiatives outlined above, other important legislative initiatives occurred during the 85th Legislature including:

- HB 3296 by Representative Klick relating to Nursing Peer Review Committees
- SB 1107 by Senator Schwertner related to telemedicine and telehealth services
- SB 2118 by Senator Seliger related to public junior colleges offering a baccalaureate degree

These key legislative initiatives, the Sunset Commission recommendations and other important issues are fully discussed in the following report and provide background information and strategic directions.

LEGAL

- Unprofessional Conduct and Good Professional Character
- Peer Assistance Program Management
- Prescription Monitoring Program
- State Office of Administrative Hearings
- Practice Breakdown and Remediation (KSTAR)
- Federal Anti-Trust Training

Unprofessional Conduct and Good Professional Character

House Bill (HB) 2950, the Texas Board of Nursing Sunset Bill, 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 Commission findings and recommendations as adopted in HB 2950 will have a direct impact on the Board's processes associated with licensing or disciplining persons with criminal convictions. The Board will likely take less disciplinary actions regarding some crimes and behaviors which may have previously been considered unprofessional conduct or demonstrated a lack of professional character.

The Commission found that the Board's definition of Good Professional Character was too subjective and that its application should be limited to the practice of nursing. The Commission

found that the Board's broad standards for professional character were not consistent with the Legislature's policy to limit enforcement actions to the practice of nursing, potentially resulting in harsher sanctions. The Commission recommended that the Board revise its rules regarding good professional character to remove any subjective language or requirements not specifically related to the practice of nursing. Additionally, the Commission directed the Board to review its Criminal Conduct Guidelines (Guidelines) to limit disciplinary actions to crimes directly related to the practice of nursing. Under this recommendation, the Board was instructed to review its Guidelines defining which crimes relate to the practice of nursing and ensure the Guidelines do not expand beyond crimes that affect actual nursing practice. The Commission further stated that the Board's rules should not relate to crimes indicating subjective traits like honesty, trustworthiness, or good professional character if those crimes have not occurred in relation to or reasonably correlate to a nurse's job. Further, the Commission recommended that the Board seek stakeholder input to revise the rules and adopt new rules by March 1, 2018.

In the January 2017 meeting, even before passage of HB 2950, the Board charged its Advisory Committee on Licensure, Eligibility and Discipline to review the Sunset Commission's recommendations and provide input to the Board consistent with the Commission's report. The Advisory Committee, whose membership was compromised of an appropriate stakeholders group, met on May 12, 2017; June 9, 2017; August 11, 2017; and September 15, 2017.

A quorum was not attained at their last meeting on September 15, 2017, and the stakeholder group was unable to make formal recommendations to the Board regarding its good professional character rule. Nevertheless, the Committee members that were present at that meeting discussed the Board's current rule and provided informal comments to Staff along with the cumulative work product the Committee had completed by that time.

As a result of the Advisory Committee's input and HB 2950, Staff submitted proposed rule changes to the Board consistent with the new legislation and management suggestion of the Sunset Commission. On October 26, 2017, the Board approved a rule proposal to amend 22 Texas Administrative Code §213.27, relating to *Good Professional Character,* and a rule proposal to revise 22 Tex. Admin. Code §213.28, relating to *Licensure of Individuals with Criminal History.* The Board also approved amendments to the Board's Disciplinary Guidelines for Criminal Conduct.

Strategic Direction for 2018

The new rules will have the most significant impact regarding those actions, if any, the Board takes against persons with criminal history. Section 301.252(a)(1) requires only that an applicant have "good professional character related to the practice of nursing." Further, if the applicant has not committed a violation that is based on a clear and rational showing on the ability to practice nursing effectively, they will be considered to have good professional character. Further, any finding of unprofessional conduct committed by a nurse or applicant must be "in the practice of nursing." *See* NPA, sec. (301.452(b)(10).

Similarly, the new rules will change how the Board will enforce its authority regarding the commission of misdemeanor crimes. Although the Board may evaluate an applicant or licensee concerning the commission of any felony offense, the Board is limited to take action only against those misdemeanors involving moral turpitude. Texas Courts have held that some crimes specifically do not involve moral turpitude. These crimes include misdemeanor Driving While Intoxicated and other misdemeanor crimes related to drugs and alcohol. In the future, the Board

will monitor multiple misdemeanors that do not result in an investigation to identify the relationship to future disciplinary orders or criminal convictions.

Implementation of the HB 2950 directives through adoption of the Board rules will likely decrease conditional eligibility orders and substance use related investigations and discipline orders. The Board will no longer investigate misdemeanor drug or alcohol crimes and evaluate their potential impact, if any, on a nursing license. Particularly, if the drug or alcohol related crime is not a felony and did not happen while practicing nursing. In addition, most misdemeanor assault crimes will no longer be subject to disciplinary action unless they occur during the practice of nursing.

Peer Assistance Program Management

House Bill (HB) 2950, the Texas Board of Nursing Sunset Bill, changed the Board's laws related to the management of its peer assistance program for nurses with substance use disorders or mental health issues. The Board has for many years contracted with the Texas Nurses Foundation and the Texas Peer Assistance Program for Nurses (TPAPN).

The Sunset Commission made several findings regarding the Board's current program that led to an amendment in the NPA. The Commission found that the Board's peer assistance program 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. Additionally, the Commission determined that a formal process needed to be implemented to allow for a re-evaluation of a student's eligibility order if a significant time had passed between the order and the student's graduation.

HB 2950 amended the Board's peer assistance program requirements which directs the Board to adopt rules that establish guidelines for individualized requirements for participants based on diagnosis and need; and to ensure that participation requirements and treatment plans for participants who are referred for similar reasons are administered consistently. Additionally, HB 2950 requires a formal process be created for review of those eligibility orders for students at the time of initial licensure to determine if participation is still needed.

The Board was further directed to engage in more robust management of the peer assistance program. HB 2950 established a statutory requirement that the Board adopt a rule that establishes a clear procedure based on meaningful performance goals for evaluating the success of its peer assistance program. See NPA sec. (301.4106). The Commission included directives concerning management action that the Board take including designating a contract manager to oversee contract compliance. The Commission also required the peer assistance program to post information about the various program tracks on its website.

Strategic Direction for 2018

In development of a more flexible program, Staff intends to engage the help of experts in peer assistance and substance use disorder evaluation and diagnosis. In collaboration with TPAPN, Staff continues to work to identify how an appropriate evaluation of participants can be obtained regarding the severity of the substance use disorder diagnosis. If a reliable and proper diagnosis can be obtained, it is anticipated that flexible participation tracks will be consistently implemented to meet the needs of the participants.

Additionally, the Board has for several years had an exception process that allowed for the re-evaluation of eligibility orders after graduation from nursing school. However, this process should be formalized specific to peer assistance and include notification of the student's right to seek re-evaluation of the prior eligibility order.

Staff has already begun the process of developing meaningful performance goals. The Board has contracted with the Citizen Advocacy Center, a nonprofit organization located in Washington, D.C., to conduct a management/performance audit beginning early 2018. It is anticipated that this audit will provide the Board with an in-depth evaluation of the current process. Additionally, Staff has dedicated an agency lawyer to serve as the designated contract manager assigned to the peer assistance program. The oversight will include verification of compliance that TPAPN post the proper information about the program on its website.

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 (TSBP).

The 85th Legislature enacted HB 2561, the TSBP Pharmacy Sunset bill, which mandates 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.

Further, HB 2561 clarifies that the Board must require its regulated prescribers to periodically access the information submitted to the PMP. The Board is required to develop guidelines for Advanced Practice Registered Nurse (APRN) prescribers. APRN prescribers are required to check the PMP prior to prescribing one of these categories of drugs unless the patient is a cancer patient. In patterns indicating potentially harmful practices, the Board must consider the number of times a prescriber prescribes one of these categories of drugs and also review the patterns of prescribing combinations of these drugs and other dangerous drug combinations. This has implications for non-therapeutic prescribing cases. The Board is required to provide names and contact information for prescribers to the TSBP.

Strategic Direction for 2018

Board staff will develop all rules and guidelines necessary to implement HB 2561 in the coming year. Currently, the Staff attends the Interagency Prescription Monitoring Program Work Group Meeting sponsored quarterly by the TSBP. The workgroup receives information and coordinates with the TSBP to implement the new technologies of the PMP system to discover non-therapeutic practices.

Currently, the Board monitors the PMP for patterns that indicate potentially harmful practices and will pursue those cases where non-therapeutic prescribing practices are indicated. Investigations will include evaluating whether the APRN has complied with the required check of the PMP prior to prescribing. The current system will require APRN emails to push

notifications to practitioners when certain criteria are met indicating possible non-therapeutic prescribing patterns of practice.

State Office of Administrative Hearing

Authority to Make Final Decisions and Elimination of Costs

House Bill (HB) 2950, the Texas Board of Nursing Sunset Bill, 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. The NPA sec. 301.459, Occupations Code, is amended so that in a contested case, the Board may not change a finding of fact. The Board still maintains the final authority to issue the sanction based on those findings and conclusions. Additionally, the Board may obtain judicial review of any finding of fact or conclusion of law issued by the administrative law judge as provided by the Administrative Procedures Act. NPA sec. 301.461 was amended so that the Board may not assess administrative costs of conducting a hearing.

The Board approved the proposal for rule amendments that implemented the changes outlined in sections (301.459) and (301.461). The rule amendments will also eliminate the opportunity for an appearance of the Respondent after the Administrative Law Judge (ALJ) makes their final decision.

Strategic Direction for 2018

Historically, the Board rarely made any substantive changes to an ALJ's findings of fact and conclusions of law. 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. Recovery of these costs are no longer available. Staff will monitor the financial impacts of the loss of these costs in the coming year. It is not anticipated, however, 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.

SOAH Hearing Settings

The number of cases set for hearing at SOAH in FY 2017 was 465 **(Figure 1)**. This includes the number of cases docketed during the fiscal year, the settings associated with probable cause hearings docketed during the fiscal year, as well as those settings from FY 2016 that were continued and reset from FY 2016. The total number of cases set for FY 2017 has not grown dramatically as indicated by **Figure 1**.

Figure 2 shows the number of new cases docketed at SOAH in FY 2017, and **Figure 3** shows the number of pre-hearing settlements that occurred after setting the case. These charts show a slight decrease in cases being set and settled.

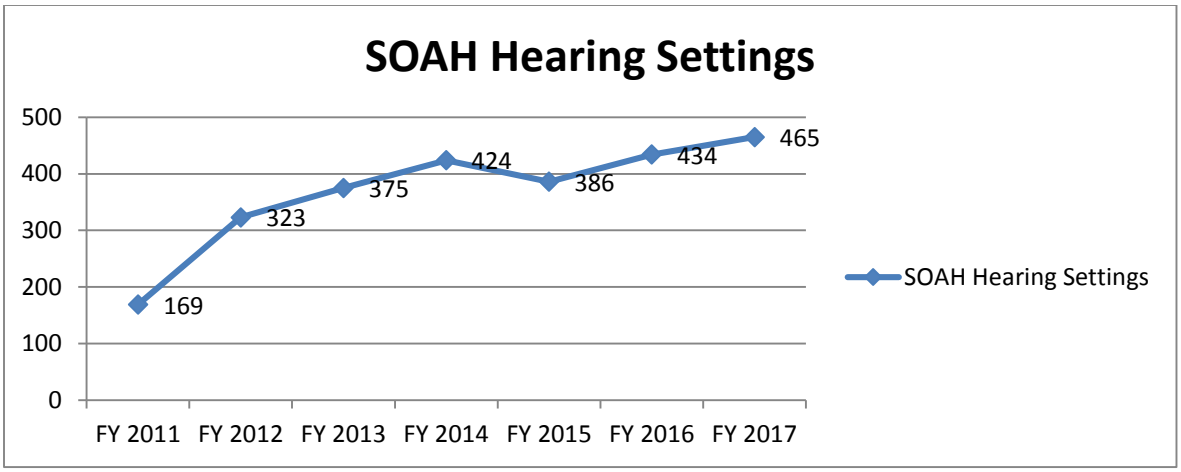


Figure 1

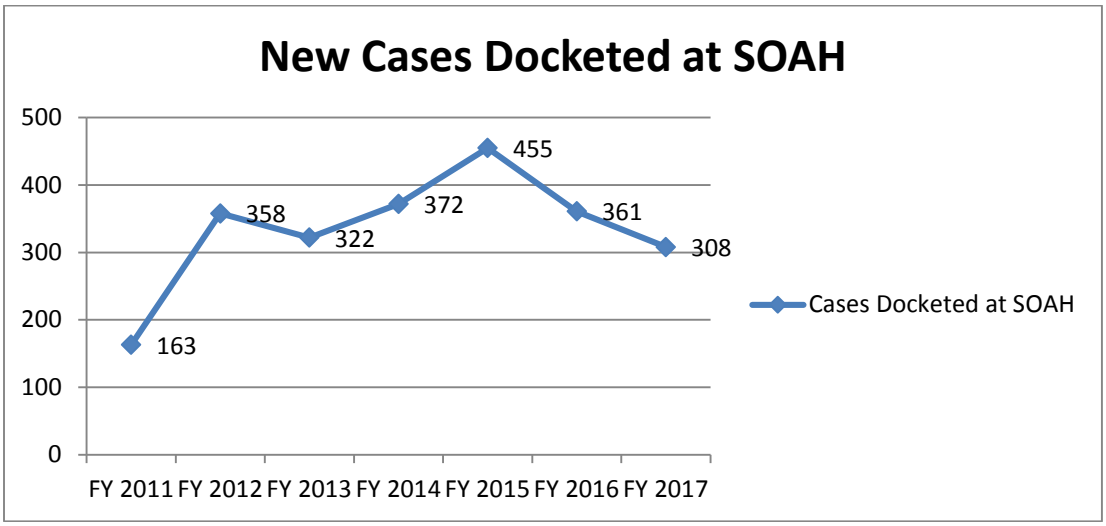


Figure 2

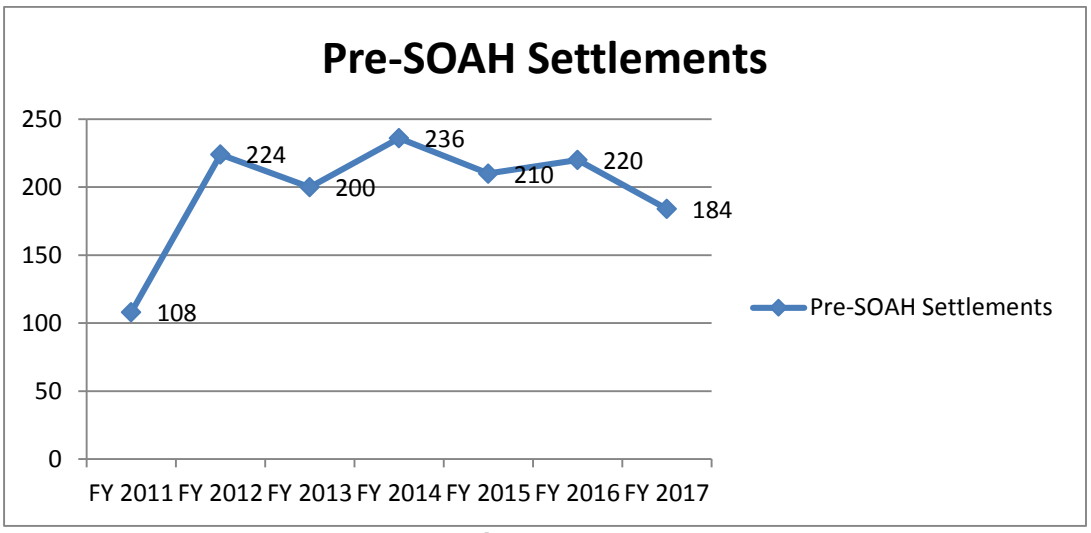


Figure 3

House Bill (HB) 2950, the Texas Board of Nursing Sunset Bill, changed the Board's laws related to SOAH's 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.

Strategic Direction for 2018

Staff is currently re-evaluating its current docketing practices at SOAH. SOAH has implemented a docketing policy that makes it somewhat more difficult to obtain a hearing date more than 90 days out. Nevertheless, SOAH has offered to increase dates available for ALJ assisted mediations. As a result, Staff has begun requesting that SOAH assign mediators to Staff cases before a formal hearing date is requested and set at SOAH.

Staff anticipates having to set fewer cases for a formal SOAH hearing in the next fiscal year and more mediations. Staff will be monitoring the number of mediations set and successfully settled. Similarly, Staff will continue to track the number of cases docketed, tried, or settled pursuant to the conventional practices of the past.

Practice Breakdown and Remediation (KSTAR)

In October 2013, the Board approved a two-year pilot program with the Texas A&M Rural and Community Health Institute (RCHI) and the College of Nursing (CON) to offer the Knowledge, Skills, Training, Assessment and Research Nursing (KSTAR) Pilot Program as an option to nurses with practice violations that result in a disciplinary sanction of a warning and below. KSTAR is a comprehensive program that utilizes an individualized assessment of a nurse with practice breakdown issues, and designs a personalized remedial education plan aimed at correcting any knowledge deficits that may exist.

In October 2015, the Board approved a two year extension of the pilot to continue through October 2017. At the July 2017 quarterly Board meeting, a summary of the pilot outcomes was presented and the Board approved KSTAR Nursing as a permanent disciplinary option for nurses meeting eligibility criteria as set out in Board Rule 213.35.

As of October 4, 2017, 91 agreed Board orders for the KSTAR program have been ratified.

- Eighty-eight nurses have enrolled in the KSTAR Nursing program;
- Sixty-five nurse participants successfully completed the program;
- Seventeen nurse participants are in the process of completing the program;
- Six nurse participants were referred back to the Board; and
- Three nurses failed to enroll in the KSTAR Nursing program.

Strategic Direction for 2018

The concept of targeted assessment and individualized remediation of practice breakdowns has been shown to be a promising alternative to conventional discipline. KSTAR's success will continue to be monitored as the outcome research is gathered and reported to the Board. Nevertheless, it remains somewhat expensive and cost prohibitive for some nurses compared to traditional discipline.

Because the original KSTAR pilot program was approved by the Board based on a pointed rule, (22 Tex. Admin. Code, sec 213.35), no other candidates have come forward seeking participation in the KSTAR program. Because KSTAR is currently approved and no longer in its pilot phase, Rule 213.35 is somewhat obsolete. It is Staff's intention to amend Rule 213.35 to broaden the option for any candidate who may wish to pursue implementing a program with similar targeted remediation strategies.

Federal Anti-Trust Training

House Bill (HB) 2950, the Texas Board of Nursing Sunset Bill, amended the NPA to require additional training to Board members in the area of federal antitrust. The training program provided to each new Board member must contain information "on the types of board rules, interpretations, and enforcement actions that may implicate federal antitrust law by limiting competition or impacting prices charged by persons engaged in a profession or business the board regulates…" *See* NPA, sec. 301.059(b)(4). The amendment provided that the Executive Director shall also create a training manual to include all appropriate training information which each Board member will sign and acknowledge receipt.

Strategic Direction for 2018

The Executive Director, with guidance information from the Texas Office of Attorney General and legal Staff of the Board, is developing the required information and material for the Board member training manual. The information is designed to address the federal anti-competitive laws.

ENFORCEMENT

- Disciplinary Actions - Number of New Cases
- Average Pending Cases, and Average Pending Cases Per Investigator
- Average Number of Days to Complete Investigations
- Average Number of Days to Close Cases
- Percentage of Cases Closed Within Six Months
- Total Cases Opened Compared to Total Cases Closed
- Number of Board Disciplinary Orders Being Monitored

Disciplinary Actions - Number of New Cases

The Board enforces the NPA and Board Rules and Regulations by setting minimum standards for nursing practice and nursing education, and conducting investigations of complaints against nurses. Complaints are received about nursing practice or conduct that could be violations of the NPA. The Board holds a responsibility to review all complaints and determine if complaints contain sufficient information to identify the nurse, are within the Board's jurisdiction, and if proven, would constitute a violation of the NPA.

In FY 2017, the Board opened 11,358 new cases, as seen in **Figure 4**. There was no significant difference in the number of new cases opened in FY 2017, compared to FY 2016, where 11,458 cases were opened. This leveling trend may be attributed to the end of a three-year decline in new cases seen through FY 2016 as the fingerprint criminal background check (CBC) process for all licensees was completed.

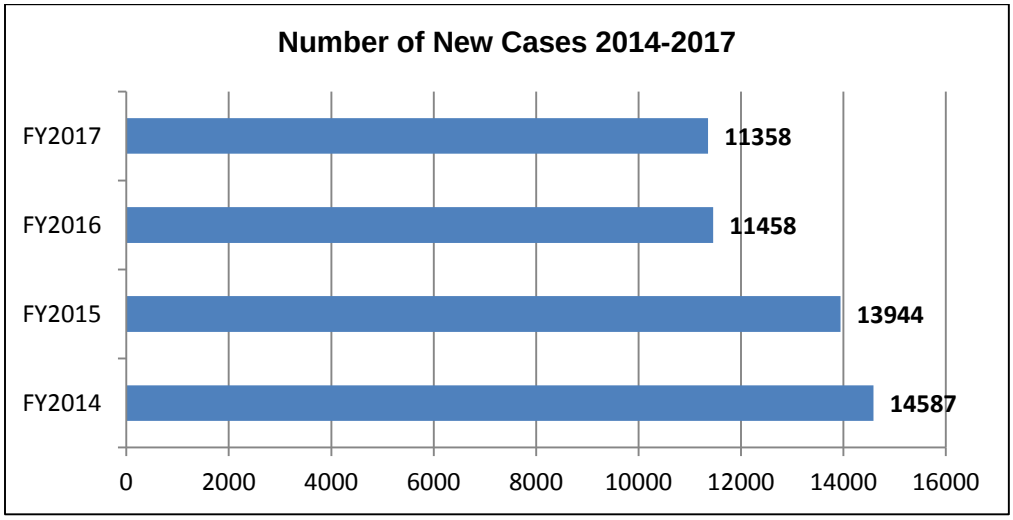


Figure 4

FY2018 Strategic Direction

Based on recommendations made by the Sunset Commission, the Board was required to re-evaluate its Criminal Conduct Rule and reanalyze how it views crimes that have no direct nexus to the practice of nursing. As outlined in the Sunset finding Issue 2 related to sanctions for nurses, revisions will most likely result in a decrease in the number of criminal cases the Board reviews, thus decreasing the number of open investigations.

The federal government, through the Federal Bureau of Investigation (FBI), has created a system called the Rap Back service which notifies authorized agencies of criminal justice investigations of those in positions of trust, such as licensed nurses. In order to implement this process, the FBI must first approve the Board. The Board anticipates approval in the coming year, and has requested to implement federal Rap Back processes as soon as possible. At the time of implementation, the Board may see a slight increase in criminal cases related to the practice of nursing. However, this increase may be offset by the decrease in the number of cases determined to have no nexus to the practice of nursing.

The State of Texas will be part of the new Enhanced Nurse Licensure Compact (eNLC) on January 19, 2018. By eNLC compact law, Texas will no longer participate or be a party state in the original Nurse Licensure Compact. The eNLC allows RNs and LVNs to utilize one multi-state license to practice in other states belonging to the compact, without the necessity of obtaining or maintaining separate licenses in each compact state. To date, three states in the original compact have not joined the eNLC (Colorado, New Mexico, and Rhode Island) and five new states not in the previous compact will implement the eNLC (Florida, Georgia, Oklahoma, West Virginia, and Wyoming). The difference in the subtractions and additions of states into and out of the compact will result in an additional 535,760 licensed nurses that will be eligible to have privileges to practice in the State of Texas. Currently, the Board receives 0.97

complaints per 100 Texas nurses. Using this same standard for nurses that will gain the privilege to practice in Texas from the eNLC, if 5% of the possible new compact licensees choose to practice in Texas, the Board may see an estimated 260 additional cases per year.

Average Pending Cases, and Average Pending Cases Per Investigator

As seen in **Figure 5**, the average number of pending cases decreased slightly from FY 2016 to FY 2017. A pending case is any case where an investigation has been initiated, but a final resolution has not yet been reached. Investigators in the Enforcement Department all carry a caseload of assigned cases. The average number of pending cases per investigator can be seen in **Figure 6**. The decrease of the actual number of pending cases in FY 2017 corresponded to an 8.7% decrease in the average number of pending open cases (3313 cases) and to a 3.1% decrease in the average number of investigator caseloads (76.1 cases).

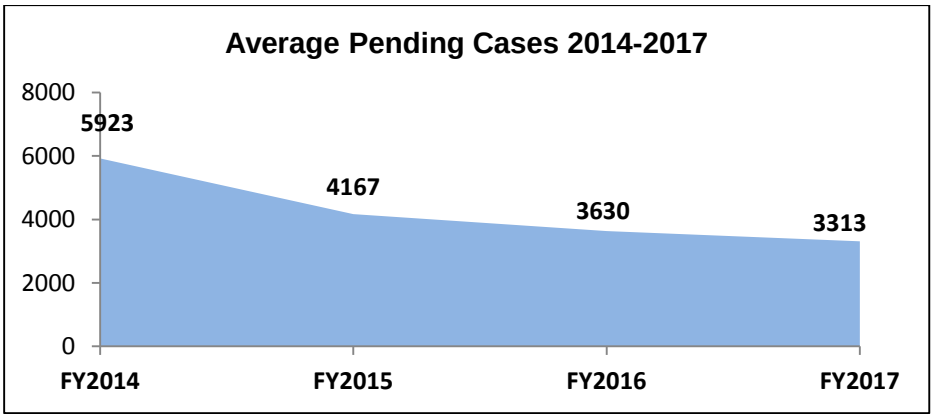


Figure 5

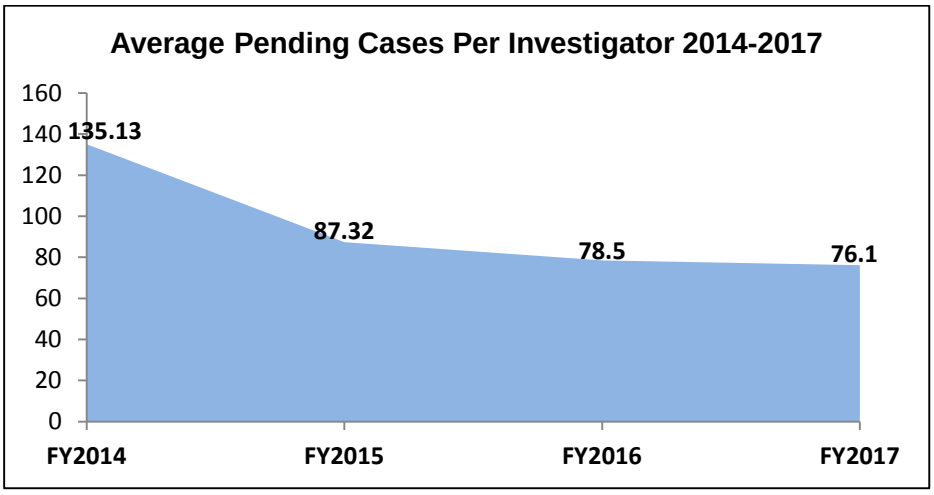


Figure 6

FY2018 Strategic Direction

As reflected in **Figure 6**, average caseloads for all investigators has steadily decreased. This decrease allows the investigator to process cases more efficiently which, in turn, has reduced the average number of pending cases as seen in **Figure 5.** With the elimination of the

Governor's hiring freeze and the continued open positions and possible new hires, the trend should continue to decrease, resulting in increased movement of pending open cases. However, with all of the aforementioned improvements in case resolution, the Board continues to have the highest investigative caseload of all health regulatory agencies in Texas.

Average Number of Days to Complete Investigations

The data in **Figure 7** reflects the average number of days to complete investigations. Each case is assigned a priority (one, two, or three) based on the risk posed to the public. As defined by Board Rule, Priority One cases are based on complaints indicating that credible evidence exists showing a guilty plea, with or without an adjudication of guilt, or conviction of a serious crime involving moral turpitude; or a violation of the NPA involving actual deception, fraud, or injury to clients or the public; or a high probability of immediate deception, fraud or injury to clients or the public. An increase in days required to complete Priority One investigations is the most significant reason for the overall increase (67.25 days in FY 2016 to 122.92 days in FY 2017).

The increase in days to completion can also be attributed to a hiring freeze initiated by the Governor of the State of Texas, starting February 1, 2017, and ending September 1, 2017. Before and during this event, several investigator positions became vacant. Due to the freeze, the Enforcement Department was unable to hire for those positions, thus causing a delay in the completion of investigations. Though there was a slight increase of approximately eight days in the time taken to complete an investigation in FY 2017, investigations were still completed in an average of 40.92 days (**Figure 7**).

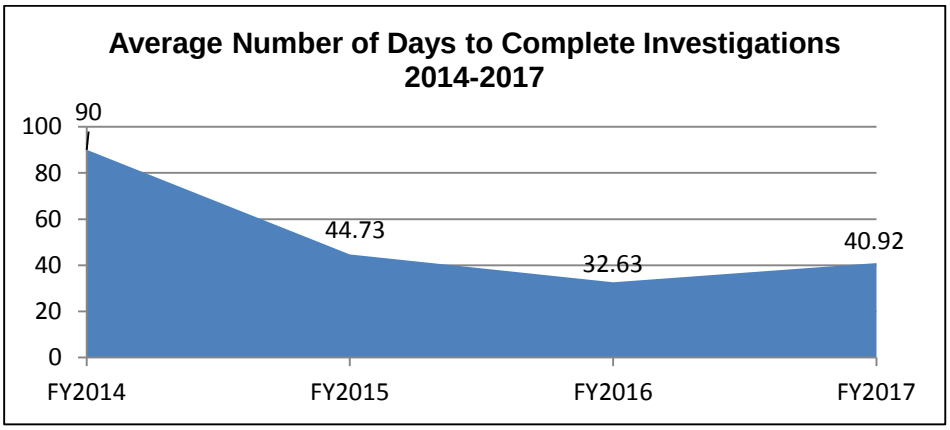


Figure 7

FY2018 Strategic Direction

Enforcement Staff will continue to monitor the number of days to complete investigations. With the lift of the hiring freeze, and new investigator positions filled, it is predicted that FY 2018 will show a decrease in average number of days to complete investigations.

Average Number of Days to Close Cases

A case is considered "closed" if the investigation has been resolved with: (1) formal disciplinary action, i.e. remedial education, fine, warning, reprimand, suspension, probation, or revocation; (2) a corrective action (non-disciplinary action); or (3) the Board determines, based on a review of the evidence, that a sanction on the nurse's license is not needed.

Figure 8 reflects that for cases closed in FY 2017, the average number of days required to close all case investigations decreased by 2.53% from 89.70 days in FY 2016, to 87.43 days in FY2017. This decrease is fueled by the net decrease of pending open cases (**Figure 5**) and decrease in average investigator caseloads (**Figure 6**).

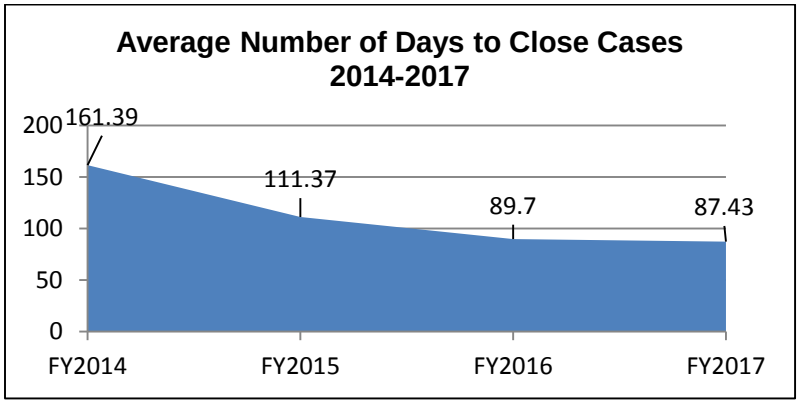


Figure 8

FY2018 Strategic Direction

Enforcement Staff will continue to monitor and evaluate the number of days required to close all case investigations. It is predicted that the average number of days will continue to slightly decrease and/or plateau.

Percentage of Cases Closed Within Six Months

An investigation typically takes five to 12 months to complete, from initiation to case closure. There are numerous factors beyond the control of the Board, such as difficulties in obtaining records or continuation of hearing dates, which can affect how quickly cases are closed. 83.4% of the cases closed in FY 2017 were closed within six months, as reflected in **Figure 9**.

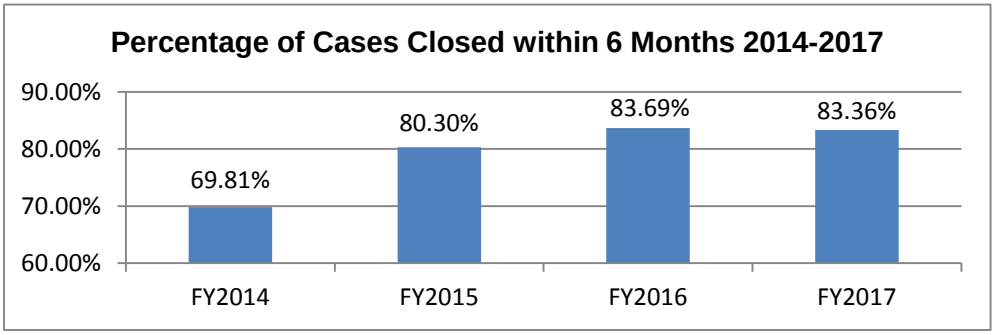


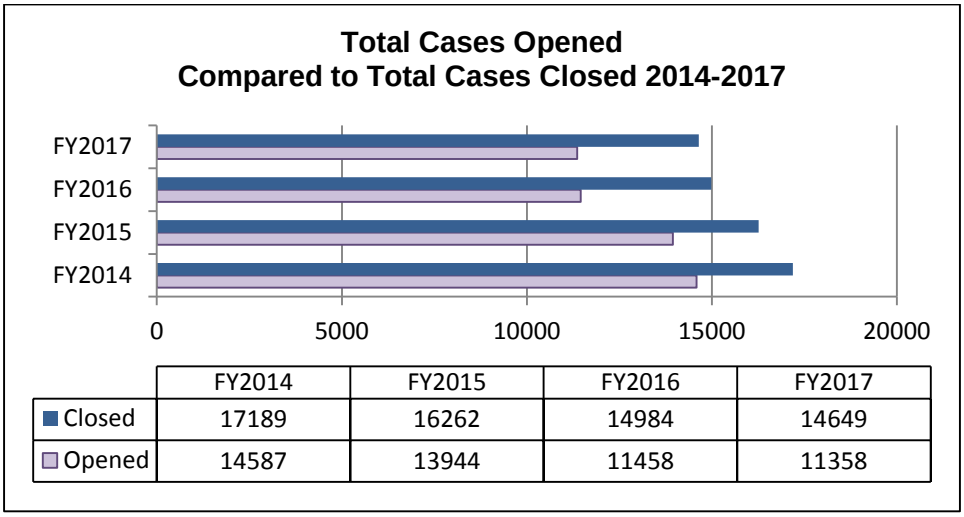
Figure 9

FY2018 Strategic Direction

Enforcement Staff will continue to monitor and evaluate the number of days required to close all case investigations. It is predicted that the average number of days will continue to slightly decrease and/or plateau, which will continue the trend of a large percentage of cases being closed within six months.

Total Cases Opened Compared to Total Cases Closed

As shown in **Figure 10**, for the fourth consecutive fiscal year, more cases were closed than new cases were opened. In FY 2017, a total of 14,649 cases were closed, and a total of 11,358 new cases were opened. As a result, there was a net decrease of 3,291 in the number of cases open and pending throughout the year. At any given time, investigators are managing a revolving workload that includes opening cases, carrying out investigations, reviewing evidence, working with the legal department on settling cases, and processing case closures. With less cases being opened overall, the work balance will shift so Staff will be able to address pending cases and proceed to case closures more efficiently.



	FY2014	FY2015	FY2016	FY2017
Closed	17189	16262	14984	14649
Opened	14587	13944	11458	11358

Figure 10

FY2018 Strategic Direction

With the declining trend in the number of new cases opened (See **Figure 4**), and the end of the February-September 2017 hiring freeze, we would expect to continue the trend of closing more cases than were opened. This will continue to reduce the Enforcement Department's total number of pending open cases (**Figure 5**).

Number of Board Disciplinary Orders Being Monitored

Board disciplinary orders routinely contain various requirements for nurses to complete, and these requirements must be tracked and monitored to ensure compliance with orders. The Compliance Department is a subsection of the Enforcement Department, and has case managers to monitor nurses under Board disciplinary orders. Nurses under Board order may

be monitored for one to two years or longer, depending on their personalized requirements, which results in continuous caseload for the case managers. As shown in **Figure 11**, the total number of Board disciplinary orders being monitored in FY2017 was 4,228, a 9.6% increase from the 3,859 orders being monitored in FY2016.

Of the 4,228 orders being monitored in FY2017, approximately 1,057 have employment stipulations. Employment stipulations may consist of nursing performance evaluations, drug screening, therapy reports, support group attendance reports, and probation reports. These reports and evaluations result in a large volume of correspondence between Board staff and the nurses, employers, and support staff in the community.

The Board currently utilizes a third-party vendor to help facilitate drug screening. There are currently 1,139 nurses participating in the Board's drug screening program, a portion of whom are testing voluntarily to provide proof of sobriety in order to reinstate a license or lift the suspension of a license.

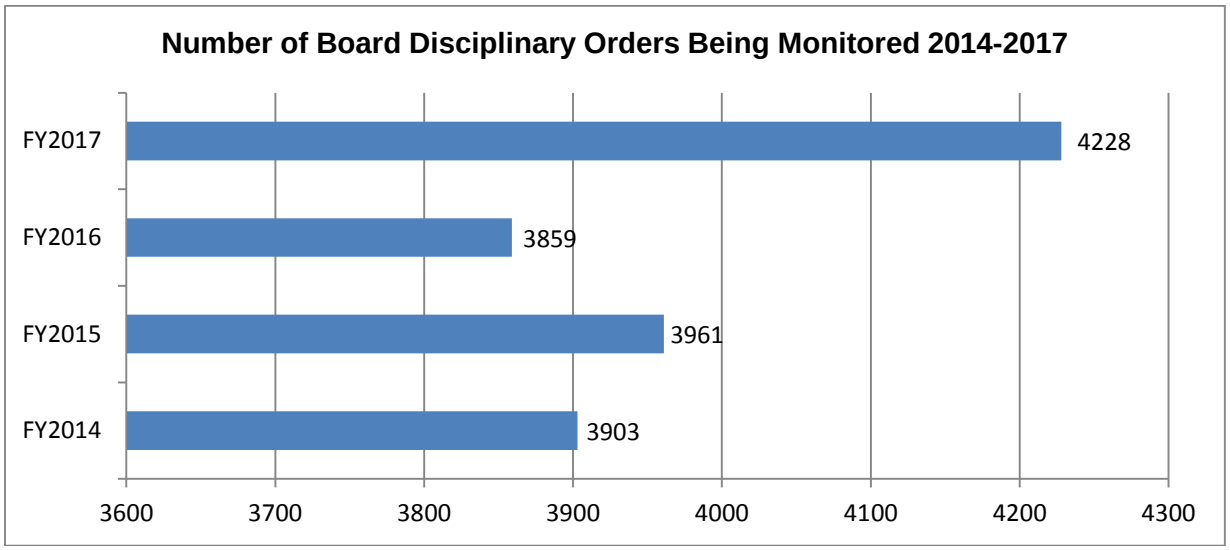


Figure 11

FY2018 Strategic Direction

The Compliance Department was reorganized at the beginning of FY2018 with the addition of three case managers to assist with the increase of monitored cases. With the reorganization, the Compliance Department will be able to provide additional support to the nurses being monitored and to assist them in successfully completing the requirements of their order. The requirements are designed to remediate deficits in nursing knowledge and skill and/or to treat substance use disorders. Completion of the requirements helps to improve nursing practice and ensures safe patient care.

LICENSING

- Growth in the Number of Nursing Licensees
- Enhanced Nurse Licensure Compact (eNLC)
- Petition for Declaratory Order Process
- Disaster Relief Nursing Services and the Need for Flexible Licensing

Growth in the Number of Nursing Licensees

Licensed Vocational Nurses (LVN)

Several data reflect the lack of growth in individuals seeking LVN licensure. **Figure 12** reflects that the total growth in LVN licensure has remained consistent for the last five years with a growth rate of less than 2%. **Figure 13** reflects a 21% decrease in the licensure of newly graduated VN students by exam while the rate of LVN's seeking Texas licensure by endorsement through another jurisdiction has essentially remained unchanged as reflected in **Figure 14**. **Figure 15** also reflects the flattening of LVN licensure renewal. The reasons for the lack of growth in LVN licensure is most likely due to a decline in the demand for VN services in the healthcare industry, primarily in the hospital setting, and to the efforts of many VN programs in assisting their students to continue their education to obtain RN licensure.

VN programs are also experiencing a lack of growth and in some cases a decline. The total numbers of VN programs have decreased from 97 in 2012 to 88 in 2016 resulting in fewer candidates to take the NCLEX exam. Anecdotally, staff hear that programs have the slots to take more VN students but are unable to fill these slots due to lack of demand from potential applicants. Data from the Nursing Education Program Information Survey (NEPIS) outlined in **Figures 16** and **17** reflects the declining numbers in admissions and graduates of VN programs.

Other NEPIS data reflects:

- Enrollment capacity has decreased every year since 2011. (Decreased by 20.5% since 2011)
- The number of qualified applicants to VN programs has decreased every year since 2011. (Decreased by 49.1% since 2011)
- Number of students being turned away has decreased every year since 2011. (83.7%)

Registered Nurses (RN)

As outlined in **Figure 12**, between FY 2012 – FY 2017 the number of currently licensed RNs has consistently increased between 4 – 5% each year. This growth is fueled by the increased number of licenses by Examination (**Figure 13**), averaging approximately 3% growth each year and approximately 7% average annual growth in licensure by Endorsement (**Figure 14**). The peak in 2015 of 9953 endorsements reflects the implementation of a new process which has improved the overall completion of applications. Of note is that it appears that there is more of a plateau in the last three years of those RNs taking the NCLEX and the numbers endorsing into Texas. If this trend continues, there may be a decrease in the growth pattern of licensed RNs.

Advanced Practice Registered Nurses (APRNs)

The number of APRN licenses issued annually continues to increase and has almost doubled since FY 2012 as reflected in **Figures 18 and 19**. Both the increased demand for health care services as a result of expanded coverage following implementation of the Patient Protection and Affordable Care Act of 2014 and the shortage of primary care physicians are likely drivers for the increased need for APRNs and, in particular, nurse practitioners.

Despite the significant growth of APRNs, licensing staff have maintained reasonable timelines to issue a license within an average of 10 – 12 business days. The growing volume of applications continues to impact the workload of the APRN licensing department significantly and is not expected to slow.

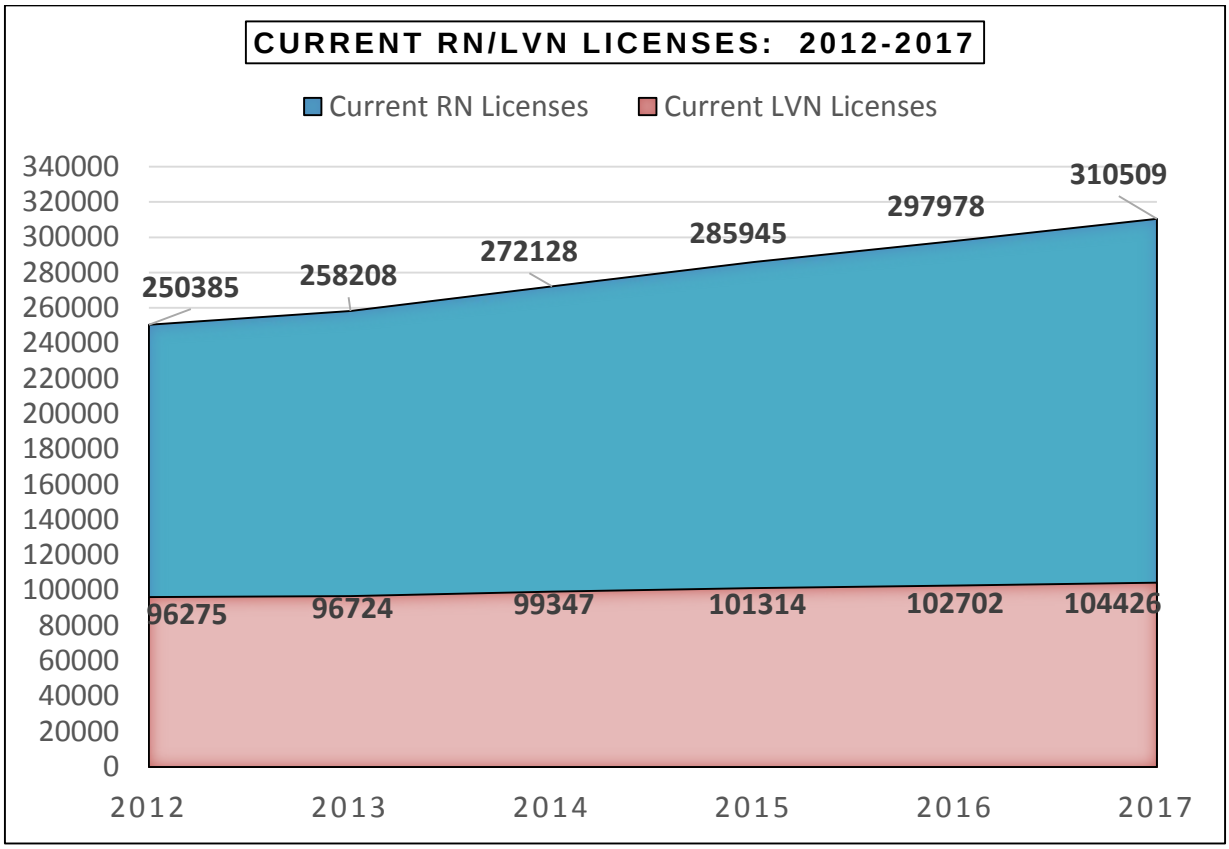


Figure 12

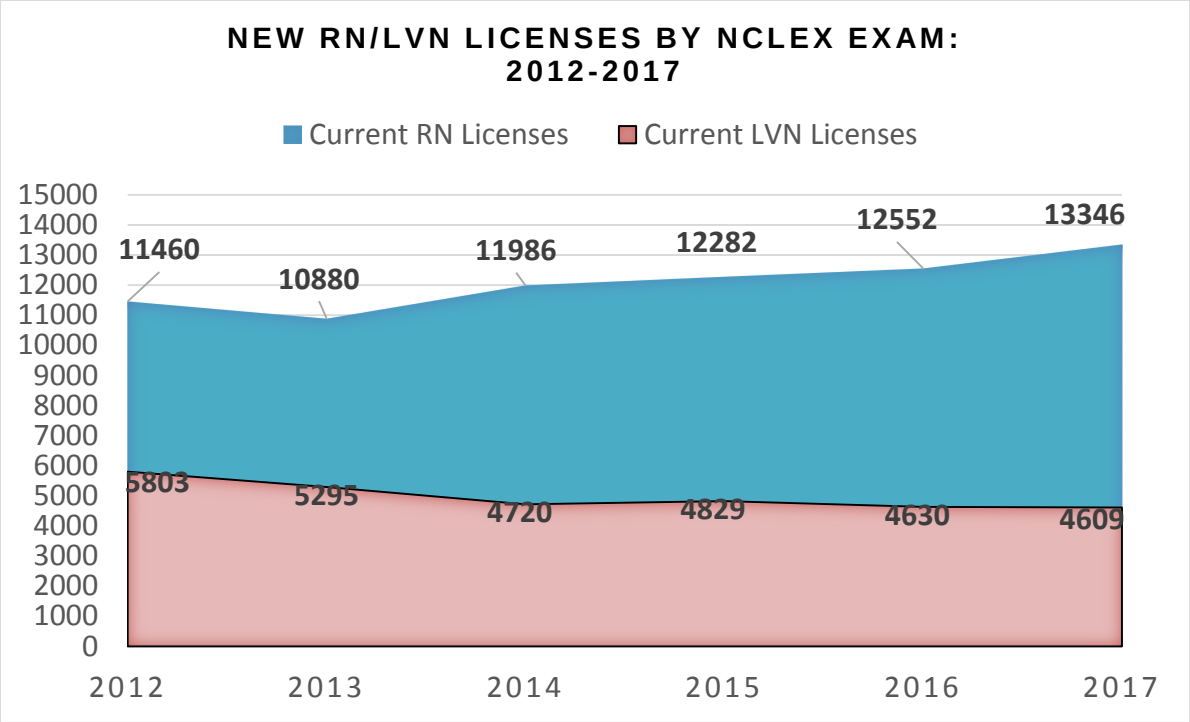


Figure 13

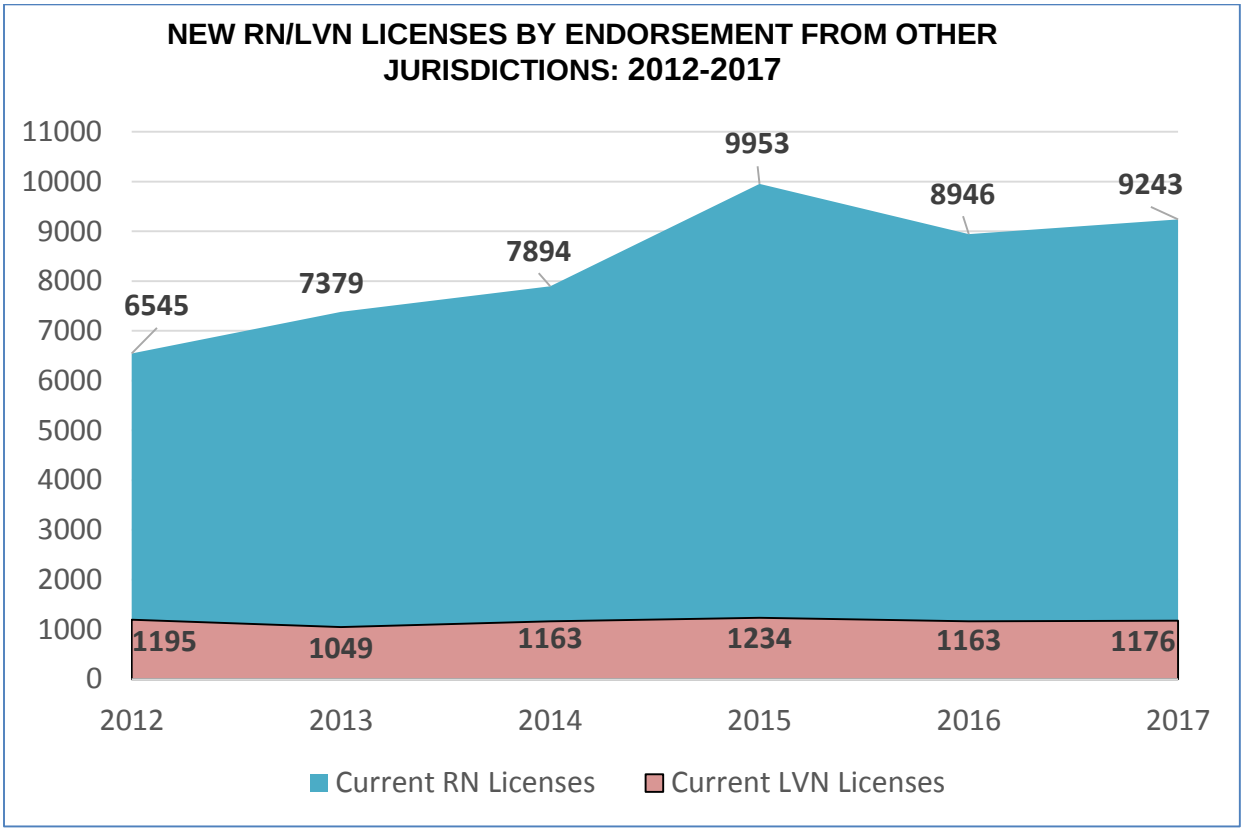


Figure 14

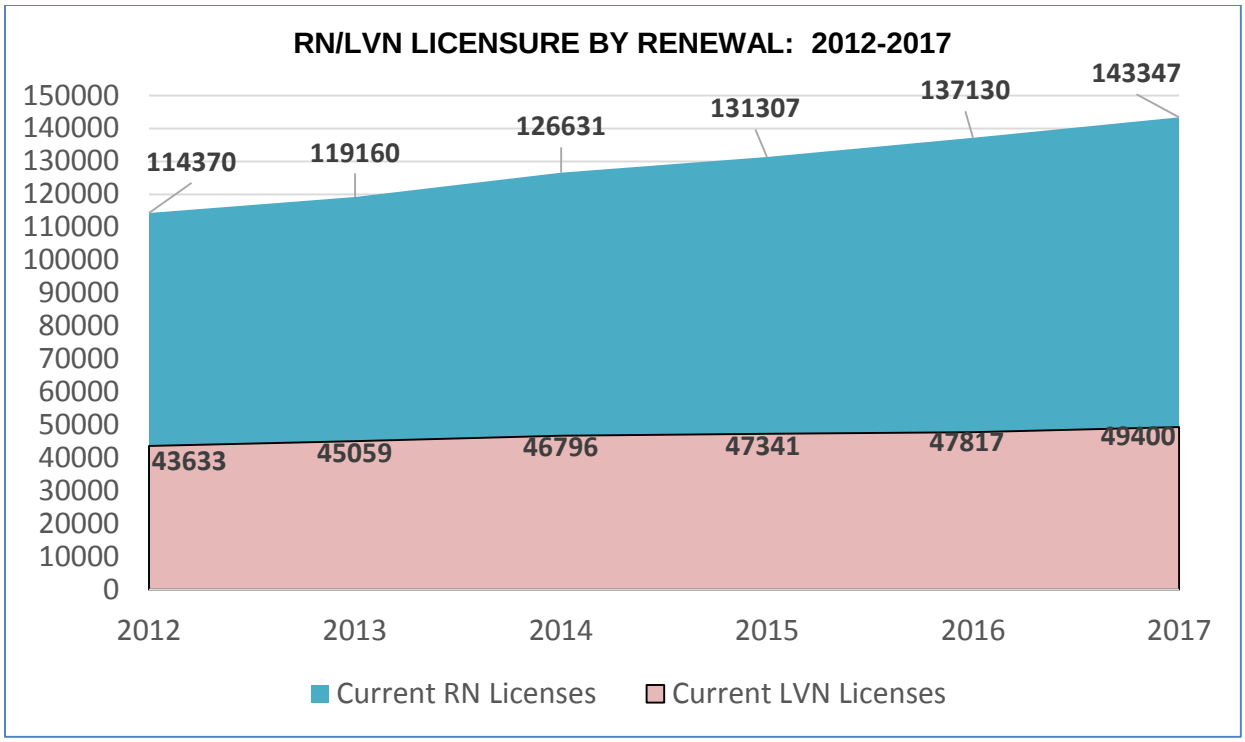


Figure 15

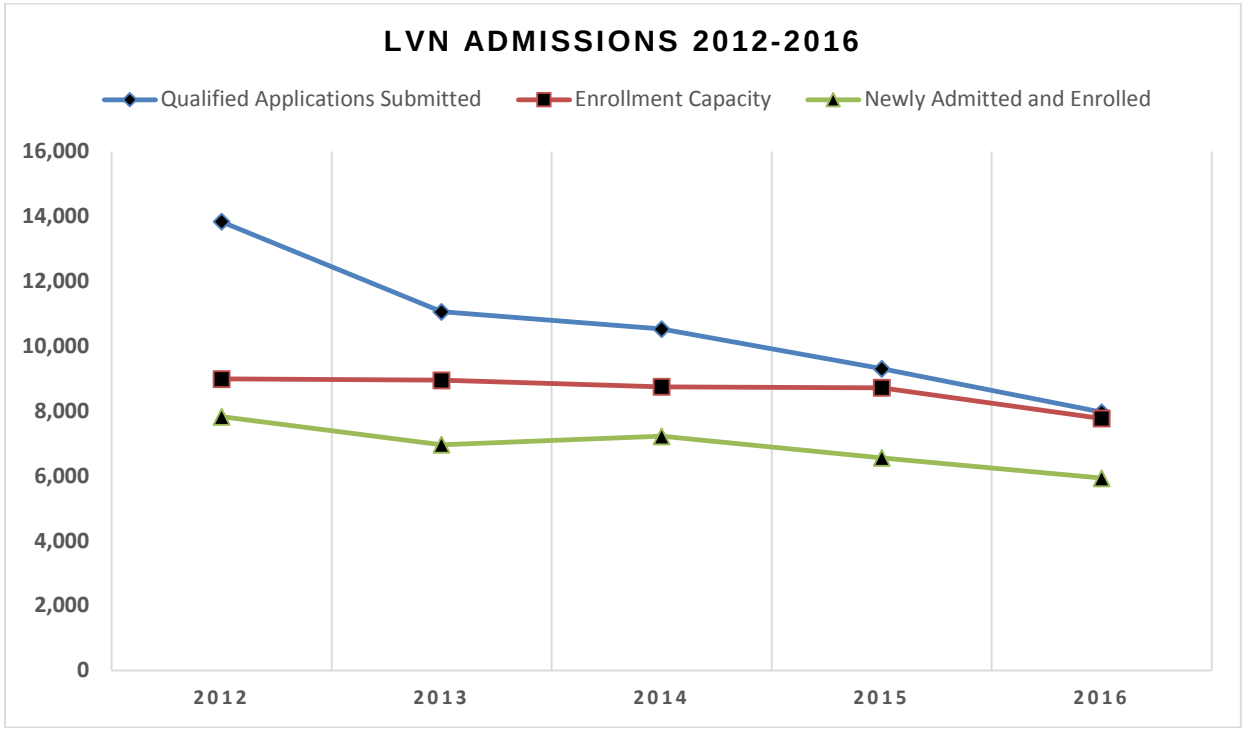


Figure 16

2006-2016 TOTAL GRADUATES OF LVN PROGRAMS

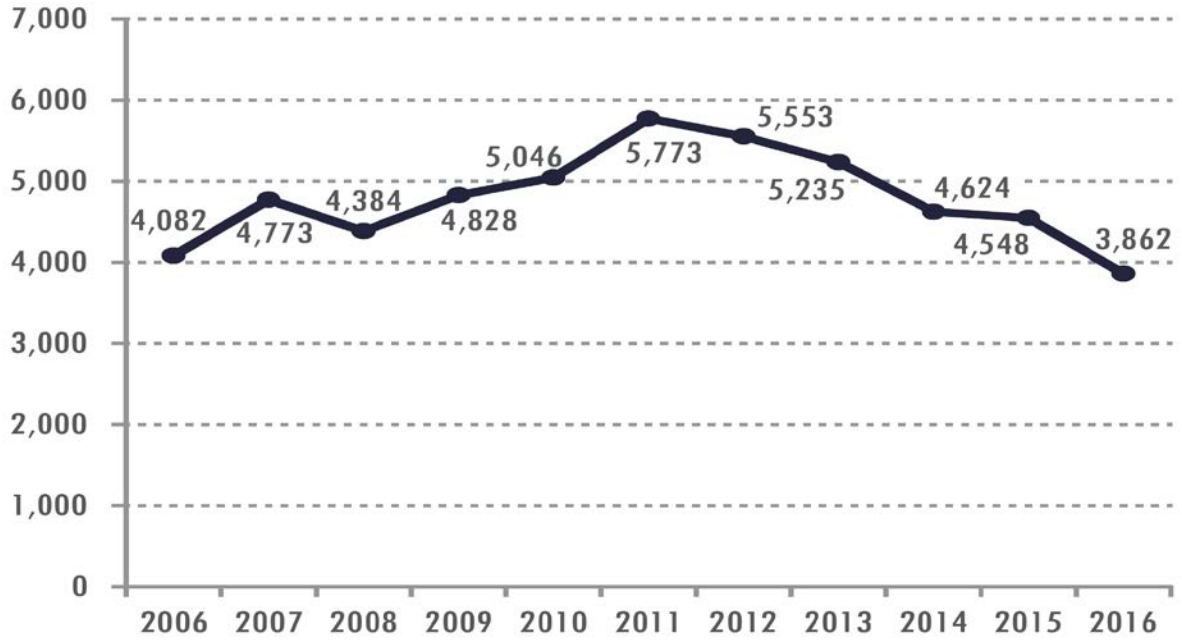


Figure 17

Number of Texas APRN Licenses Issued by Role FY 2012 – FY 2017						
APRN Role	**FY 2012**	**FY 2013**	**FY 2014**	**FY 2015**	**FY 2016**	**FY 2017**
Nurse Practitioners	1263	1547	1641	2136	2587	2755
Clinical Nurse Specialists	31	53	39	43	31	34
Certified Nurse Midwives	30	46	45	59	49	42
Certified Registered Nurse Anesthetists	347	359	361	387	392	385

Figure 18

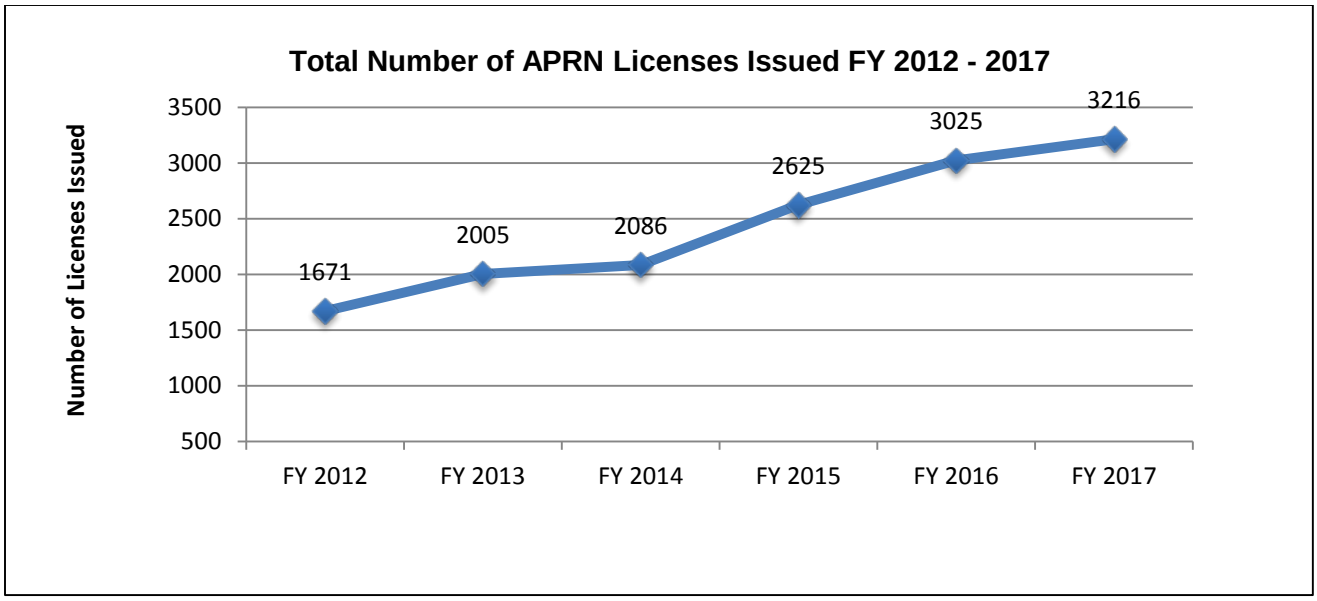


Figure 19

FY 2018 Strategic Direction

In a report by the Texas Center for Nursing Workforce Studies about the future demand for nurses and its subsequent implications for the growth of licensure in this state, they conclude;

"There are many factors that can influence either supply of or demand for nurses. It is important to keep in mind what the impact will be on demand for health care providers as more people gain health care coverage, as the way people use health care services evolves, as the way health care services are delivered transforms, and as disease prevalence and acuity changes***. Likewise, there are a number of factors that can impact supply, such as ability to draw nurses to the workforce and train them in adequate numbers, and improvements or declines in the economic climate that may drive retirement patterns.*** There are also factors worth considering that extend beyond just numbers such as ensuring diversity in the workforce in order to deliver culturally competent care and the geographical distribution of not just nurses but the right combination of nurses to meet demand for needed specializations and skillsets." Texas Center for Nursing Workforce Studies, October 2016 www.dshs.texas.gov/chs/cnws.

The Board will continue to work with the Center to monitor the demand for nurses while ensuring a timely, seamless process for nursing licensure in Texas.

Enhanced Nurse Licensure Compact (eNLC)

House Bill (HB) 2950 was enacted by the 85th Texas Legislature and became effective September 1, 2017. HB 2950 enacts the Enhanced Nurse Licensure Compact (eNLC), which currently includes 27 states. Texas was a member of the original Compact, which was enacted in 2000 and was codified as Texas Occupations Code Chapter 304. The newly enacted eNLC will take the place of the original Nurse License Compact. 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.

The eNLC created an Interstate Commission of Nurse Licensure Compact Administrators (Commission) who met in August, 2017 and voted to set the date of implementation of the eNLC on January 19, 2018. Though subject to change in the near future, three states in the original compact have not joined the eNLC (Colorado, New Mexico, and Rhode Island) and five new states not in the previous compact will implement the eNLC on January 19, 2018 (Florida, Georgia, Oklahoma, West Virginia and Wyoming).

A key part of this transition is the implementation of the uniform licensure requirements (ULRs) for a nurse's eligibility in obtaining a multi-state license.

The ULRs include the requirements of having:

- graduated from an approved nursing program
- completed a criminal background check
- no felony convictions
- not enrolled in an alternative to discipline program
- a US social security number
- international credentials evaluated by an authorized credential review agency and passing an English proficiency examination if the nursing program was not conducted in English (for internationally educated students)

FY 2018 Strategic Direction

To accomplish the transition from the current compact to the eNLC, the Licensing staff have two main tasks:

- allowing licensees in the current compact states not joining the eNLC to apply for and receive a single state license; and,
- aligning current processes and licensing software to fully implement the ULRs.

Licensing software and participation with NURSYS will allow the Board to implement both objectives but the number of licensees involved is not known at this time. Staff expect the largest transition to the eNLC to come from Florida, due to the high number of licensees registered there, and from Oklahoma because it is a border state. In an effort to ascertain the eNLC's effect on Texas licensure, Staff will evaluate the balance between the numbers of licenses changing to inactive status with the number of new licenses issued.

Petition for Declaratory Order Process

As **Figure 20** reflects, the number of new and accepted students registering and going through a criminal background check has grown 100% from fiscal year 2012 to fiscal year 2017. But in that same period, the total number of students with positive criminal background checks received by the Board through a Declaratory Order has only grown by 21% as shown in **Figure 21**.

The overall increase in the numbers of new and accepted students completing a background check prior to entering a nursing program is primarily due to a change in the law in 2014 making criminal background checks for these students mandatory. The 21% growth of the number of students seeking a petition for Declaratory Orders is not surprising because most schools are now very familiar with this process and educating their new students to divulge any criminal history to the Board prior to entering the program.

Figure 21 also outlines the numbers of Eligibility Petitions closed by Operations Staff. The data reflects that Operations Staff have closed over 50% more petitions from fiscal year 2012 to fiscal year 2017. This growth of 50% can be attributed to the revision of the minor criminal convictions policy and Staff's ability to review and close more applications that reported a prior criminal history.

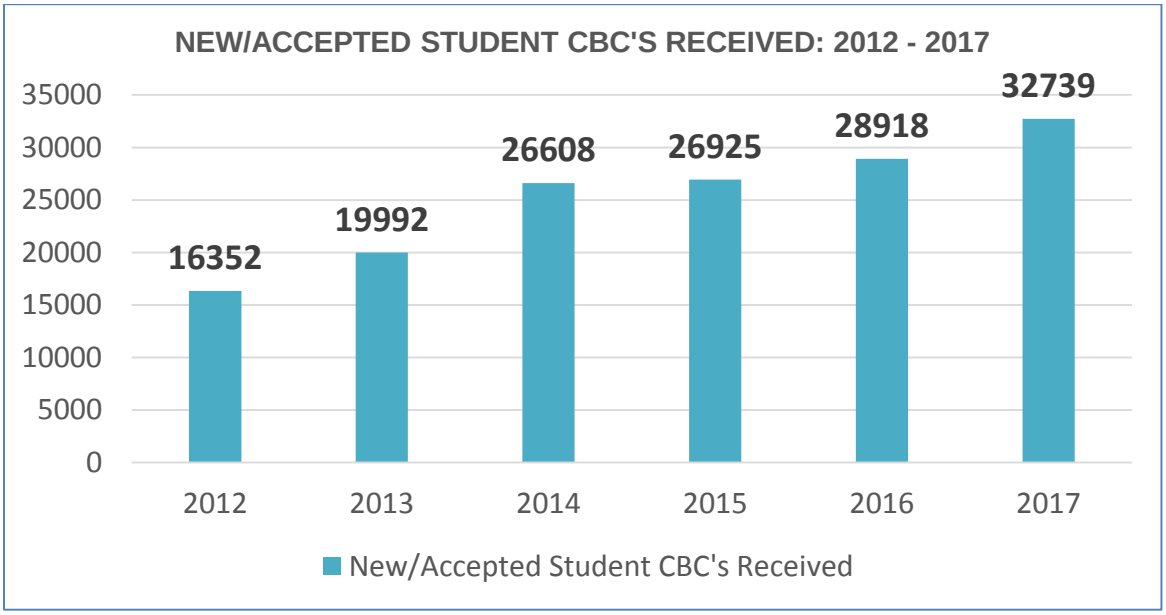


Figure 20

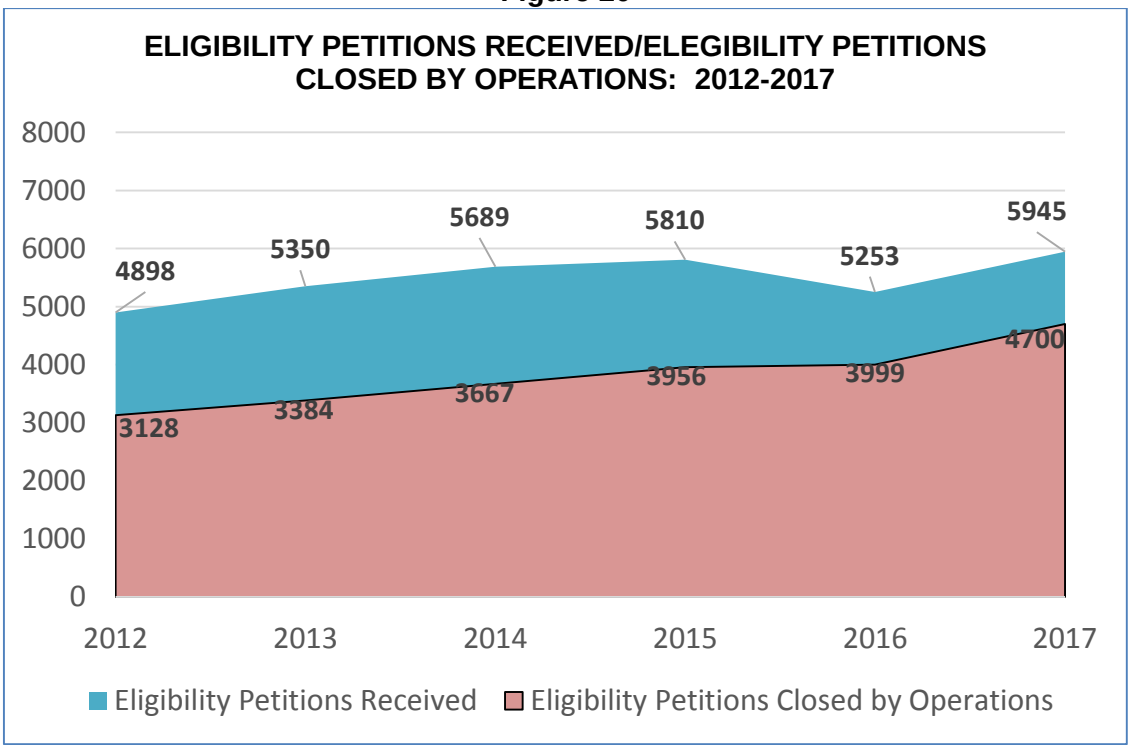


Figure 21

FY 2018 Strategic Direction

Staff will continue to monitor and evaluate the number of Eligibility Orders. Recommendations from the Sunset Commission will streamline the Declaratory Order process by allowing more review and approval by the Operations and Enforcement Departments. It is predicted that there will be fewer Eligibility Orders than in previous years but the overall number of petitions submitted to the Board should be consistent.

Disaster Relief Nursing Services and the Need for Flexible Licensing

On August 23, 2017, Governor Abbott issued a State Disaster Declaration for 30 Texas counties in anticipation of Hurricane Harvey making landfall in the Gulf Coast Region. This declaration allowed the Board to implement emergency licensure procedures with notification to the Office of the Governor. The Board requested rule exemptions from the Governor's Office to allow nurses to be screened and approved expeditiously. Fees were waived and licensure processes were expedited. The Board issued approximately 1800 temporary licenses for the duration of the disaster following the disaster declaration. Following approval from the Governor, the Board waived certain licensure requirements for nurses from non-compact states to practice in Texas if they had a clear and current license from their home state.

The Board posted announcements on the Board's website and Facebook explaining the temporary licensure process for out-of-state nurses coming to Texas to provide nursing care in disaster areas. Applications were received from hundreds of nurses seeking to provide assistance. Staff worked nights and weekends approving applications for more than 600 nurses in the first week following Harvey's arrival in Texas. The Board also developed a software program to generate letters to nurses who received temporary licenses and sent notices to them by email as well as regular mail.

Responses from nurses seeking to help were overwhelming but the majority did not know where to go or how to help. As there was no centralized placement service and the Board was not authorized to make assignments, staff clarified that the Board was not the agency to provide assignments and posted links to relief organizations that could provide some staffing direction.

Texas nurses in affected areas were needed by their health care facilities, but in some cases they needed to evacuate with their families. This violated some contracts and in certain cases they were told they would be reported to the Board for abandoning their patients. The Board provided guidance in a FAQ clarifying that this situation did not constitute abandonment of patients. However, this raises questions about implications for advanced planning for disaster events by facilities.

FY 2018 Strategic Direction

The challenge in providing regulatory oversight when bringing in out-of-state nurses to Texas for disaster relief is to balance the need for a quick turnaround time and expedited review with protection of the public. Polices are now in place to maintain constant contact with the Office of the Governor and seek clarification of the intent of the disaster declaration. Communication must be extensive and ongoing with nurses and employers concerning the status of disaster relief and waived agency policy and procedures. The national database of nurse licensure and discipline (Nursys) was critical to confirming good standing of licensees coming to Texas. This

information was instantly available from 48 states. In addition, nurses from other states in the Nurse Licensure Compact were able to come directly to Texas without further license review. This is a great advantage during times when disaster relief is needed because provisions in the Nurse Licensure Compact ensure that nurses under a Board order are prohibited from practicing in another state until the order is successfully completed. Further, the compact provides jurisdiction to all Compact states if a violation of a state's practice law occurs.

The Board recently surveyed out-of-state nurses and the organizations who employed them to gain an understanding of any issues that arose during placement for disaster relief. An initial review of the data indicates that 160 nurses responded to the survey and of these, 48.2% did not come to Texas to provide disaster relief primarily because they could not find an organization to place them. Of the 14 organizations that responded to the survey, 85% indicated that there was a need for the Board to issue a temporary license for nurses from non-compact states to provide disaster relief and rated the Board's expediency for issuing a temporary license at 4 on a scale of 5. A more in-depth review of this data will be conducted and pertinent findings will be shared with Texas and national stakeholders.

NURSING EDUCATION

- Path to initial licensure for graduates of out-of-state programs that are not substantially equivalent to Texas programs
- Evaluation of Clinical Competency Assessment Education Programs
- Baccalaureate Degree Nursing Programs in Public Junior Colleges
- Closure of programs and effects on students
- Clinical Education
- NCLEX Pass Rate Trends in Texas

Path to initial licensure for graduates of out-of-state programs that are not substantially equivalent to Texas programs

Among the requirements of the 2017 Sunset Review and HB 2950 that passed during the 85th Regular Texas Legislative Session were two requirements related to education to engage education stakeholders to:

- 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 using standards that are substantially equivalent to Board standards; and

- 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 Board's Advisory Committee on Education (ACE) met three times during FY 2017 to propose recommendations that were approved by the Board at the October 2017 Board meeting. In addition to these two recommendations, a proposed revision to Board Rule 214.9, related to the VN education program of study, was approved to remove the specific minimum number of required clinical and theory hours and replace it with a suggested ratio that is more congruent with Board Rule 215.9 related to the professional nursing education program of study.

FY 2018 Strategic Direction

If the proposed rules are adopted, the revised definitions of substantially equivalent education standards should make it easier for applicants to understand licensure requirements. The proposed rules will also remove the vocational nursing education minimum clinical hours' requirement which is often a barrier for graduates of out-of-state VN programs.

The pathway to licensure for applicants who graduate from an out-of-state program determined not substantially equivalent to Texas programs will require the Board to develop a new temporary licensure permit process for those applicants who opt to complete the required clinical hours by a preceptor-supervised clinical experiences. It will be important to track the number of applicants who are required to complete any of the pathways for licensure and evaluate effectiveness.

Evaluation of Clinical Competency Assessment Education Programs

Sunset recommendations included in HB 2950 by Burkett, related to evaluation of clinical competency assessment education programs, authorizes the Board to evaluate NCLEX-RN pass rates and impose certain requirements on the only known existing clinical competency assessment education program, the Excelsior College Associate Degree Nursing (ADN) Education Program in Albany, New York. It is anticipated that the program may be required to submit a program self-study report based on a preliminary 2017 examination year NCLEX-RN pass rate below 80%.

Throughout FY 2017, Board Staff received phone and email inquiries from students enrolled in the Excelsior College program with concerns related to delays in scheduling the clinical competency in nursing examination as well as questions regarding licensure eligibility upon program completion.

FY 2018 Strategic Direction

During FY 2018 and beyond, Board Staff will continue to monitor the Excelsior College NCLEX-RN ADN pass rate and impose requirements of HB 2950. Additionally, the accreditation status of Excelsior College will be monitored to ensure the program continues to meet statutory requirements for substantial equivalence. It will also be important to monitor any changes in national trends related to licensure eligibility of Excelsior College graduates in other jurisdictions. Should the program continue to have consecutive years of pass rates below 80%, the Board will need to prepare to implement the desk review (year 2), require the college to notify students of the potential for additional requirements (year 3) and operationalize the path to licensure requirements proposed as rule amendments at the October 2017 Board meeting (year 4).

Baccalaureate Degree Nursing Programs in Public Junior Colleges

SB 2118 by Senator Kel Seliger that passed during the 85th Regular Texas Legislative Session authorizes 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 requires that 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 been working since the bill passage to refine a proposal application process that avoids duplication, yet assures the required input of the Board's expertise specific to nursing education.

FY 2018 Strategic Direction

Board Staff anticipate at least one public junior college will apply for approval to offer a baccalaureate degree nursing program during FY 2018. 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.

Closure of programs and effects on students

Figure 22 summarizes the seven schools that closed during FY 2017.

Program name/location	Program Type	Date of Closure	Rationale & Details
1. ITT Technical Institute in Richardson, TX	Associate Degree Nursing	Sept. 9, 2016	Voluntary: Unexpectedly ceased operations of all campuses. 59 students enrolled on closure date.
2. Career Point College in San Antonio and Austin, TX	Associate Degree Nursing & Vocational Nursing Certificate	Oct. 16, 2016	Voluntary: Unexpectedly ceased operations of all programs. 1570 students enrolled on closure date.
3. College of HealthCare Professions in Houston, TX	Vocational Nursing Certificate	October 27, 2016	Voluntary: Four consecutive years of NCLEX-PN pass rates below 80%
4. Hallmark University in San Antonio, TX	Associate Degree Nursing	October 27, 2016	Voluntary: Four consecutive years of NCLEX-RN pass rates below 80%
5. Schreiner University in Kerrville, TX	Baccalaureate Degree Nursing	October 27, 2016	Voluntary: Four consecutive years of NCLEX-RN pass rates below 80%
6. Texas Southmost College in Brownsville, TX	Associate Degree Nursing	Jan. 19, 2017	Involuntary: Four consecutive years of NCLEX-RN pass rates below 80%
7. Sul Ross University in Alpine, TX	Vocational Nursing Certificate	July 20, 2017	Voluntary: Plans to propose a baccalaureate degree nursing education program

Figure 22

Among the most impactful was the closure of Career Point College (CPC) that unexpectedly ceased operation of all campuses. At that time, CPC had both ADN and VN education programs in San Antonio and Austin, Texas with approximately 1570 enrolled students. Following numerous meetings with CPC representatives, U.S. Department of Education Staff, the Texas Office of the Attorney General, Texas Higher Education Coordinating Board Staff, Texas Workforce Commission Staff and representatives from National American University (NAU), the Board, during their January 2017 meeting, approved a Teach-Out Agreement between NAU and CPC. This agreement was offered exclusively to ADN and VN students who were enrolled in a CPC nursing education program at the time of closure and allowed them an opportunity to proceed with their nursing education using the CPC curriculum. The NAU/CPC Teach-Out began enrolling previous CPC students in January 2017 and must be completed by December 2018. Given the state of flux that CPC was in prior to closure, preliminary pass rate

requirements are below the required benchmark of 80% for both the NCLEX-PN and NCLEX-RN first-time testers.

Among the four programs that closed during FY 2017 due to Board Rule compliance issues, all but one program chose to close voluntarily. This has been the trend for the past few years. Board Staff expect more programs, faced with closure due to noncompliance, will continue to choose to close voluntarily rather than be required to attend a public Board meeting.

FY 2018 Strategic Direction

Board Staff will continue to monitor the performance of former CPC students on the NCLEX-RN and NCLEX-PN as they complete the NAU Teach-Out Program. Board Rules 214.8 and 215.8 now require Board Staff approval for a program to increase enrollment 25% or greater per academic year. This should help to prevent a repeat scenario of a program such as CPC expanding too rapidly and thus unable to adequately support their students.

The Nursing Education Program Information Survey (NEPIS) continues to be a tool vital to the creation of reports that are useful in trending nursing education program data related to admission, enrollment, graduation, student and faculty demographics and faculty turnover. Additionally, with proposed rules to remove the minimum hours required in VN programs, the NEPIS will be an important tracking tool to evaluate whether or not programs implement changes and if these changes have an impact on the quality of the program.

During FY 2018, both Board Rule Chapters 214 (Vocational Nursing Education) and Chapter 215 (Professional Nursing Education) will be reviewed with proposed revisions presented to the Board for approval.

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.

The Board's Education Guideline 3.8.6.a. *Simulation in Pre-Licensure Nursing Education,* allows programs the flexibility to use the evidence based practice of replacing up to 50% of direct patient care clinical hours with simulation, provided the simulation is high fidelity and implemented using best practices. Although the 2016 NEPIS *Characteristics of Nursing Programs Reports* published by the Texas Center of Nursing Workforce Studies did report an increased use of simulation, the increase has not been as significant as anticipated, given the reported difficulty in securing clinical placements for direct patient care clinical learning experiences. For example, the median number of simulation hours reported by all professional nursing education programs only increased from 48 hours in 2011 to 79.8 hours in 2016.

FY 2018 Strategic Direction

Since the proposed changes to replace the minimum required clinical hours for VN education programs were adopted, it will be important to monitor for any impact on the challenge of securing clinical settings for both vocational and professional nursing education programs.

Board Staff will continue to track clinical education trends, including the annual trends in the use of simulation via the NEPIS.

Board Rule Chapters 214 and 215 will undergo review in FY 2018. Future possible revisions to rules related to clinical education, including use of preceptors, will be considered as the evaluation data are analyzed from a recent pilot project that increases the number of students a faculty member may supervise using a preceptor model.

NCLEX Pass Rate Trends in Texas

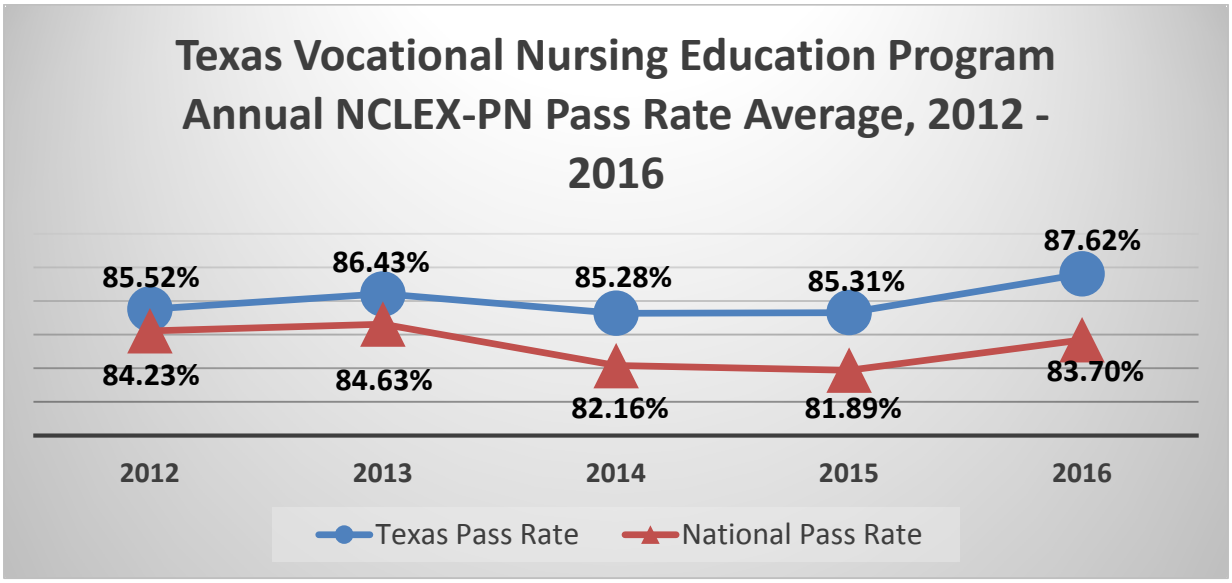


Figure 23

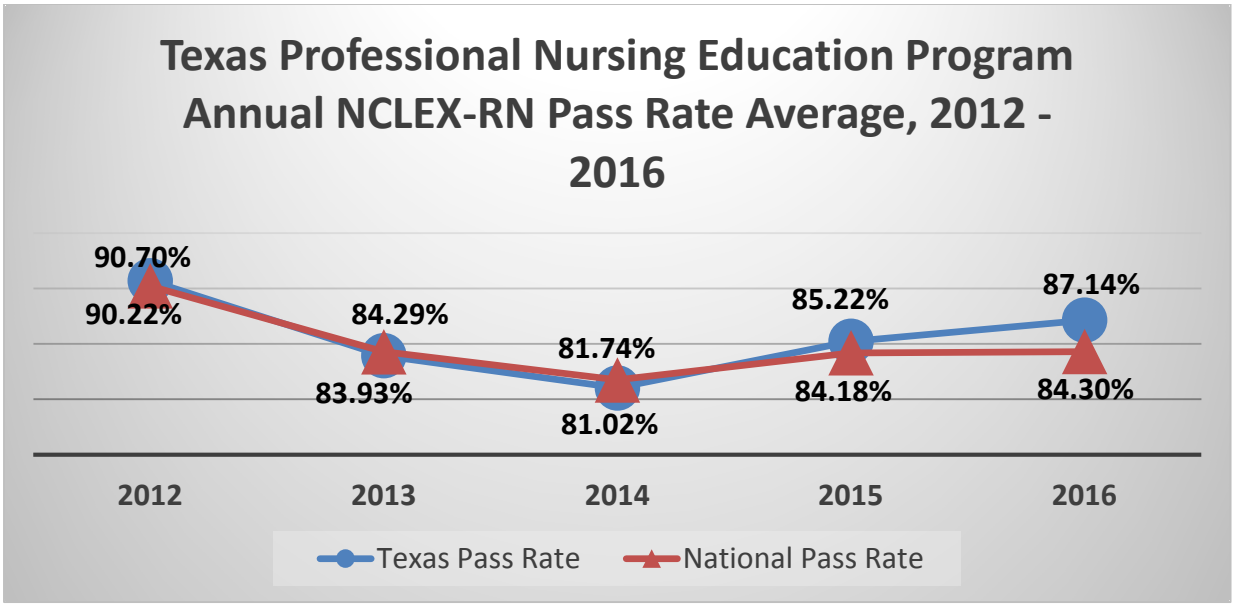


Figure 24

Figures 23 and **24** depict the 2016 NCLEX-PN and NCLEX-RN pass rate average for Texas Nursing Education Programs that remained well above the required 80% benchmark at 87.14% (NCLEX-RN) and 87.62% (NCLEX-PN), as well as above the 2016 national pass rate averages, which were 84.30% (NCLEX-RN) and 83.70% (NCLEX-PN).

FY 2018 Strategic Direction

As the next generation NCLEX evolves and offers a new format of testing aimed to evaluate clinical reasoning and judgment, Board Staff will continue to serve as a liaison for nursing education programs to the NCLEX to ensure programs are fully informed in order to implement methods to best prepare graduates. Additionally, Board Staff will monitor the work of the National Council of State Boards of Nursing Education Metrics and Outcomes Committee to consider additional regulatory tools for evaluating program quality.

NURSING PRACTICE

- Telehealth
- Practice Consultation Trends (phone calls/practice emails/outreach)
- Nursing Peer Review Changes
- Texas Taxonomy of Error Root Cause Analysis of Practice-Responsibility (TERCAP)

Telehealth

Telehealth remained a newsworthy topic throughout FY 2017 and the 85th Legislative Session. Telemedicine rules that required an initial face-to-face visit prior to practicing telemedicine with

narrow exceptions in psychiatric practice were proposed then withdrawn by the Texas Medical Board (TMB). With the rules withdrawn, Senate Bill 1107 passed and now defines telemedicine and telehealth more clearly and prohibits a health professional regulatory agency from adopting rules pertaining to telemedicine medical services or telehealth services that would impose a higher standard of care than the standard described by the bill. Additionally, the bill requires 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 requires 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.

FY 2018 Strategic Direction

Board Staff will collaborate with TMB and other agency Staff to work toward meeting the requirements of SB 1107.

Practice Consultation Trends (phone calls/practice emails/outreach)

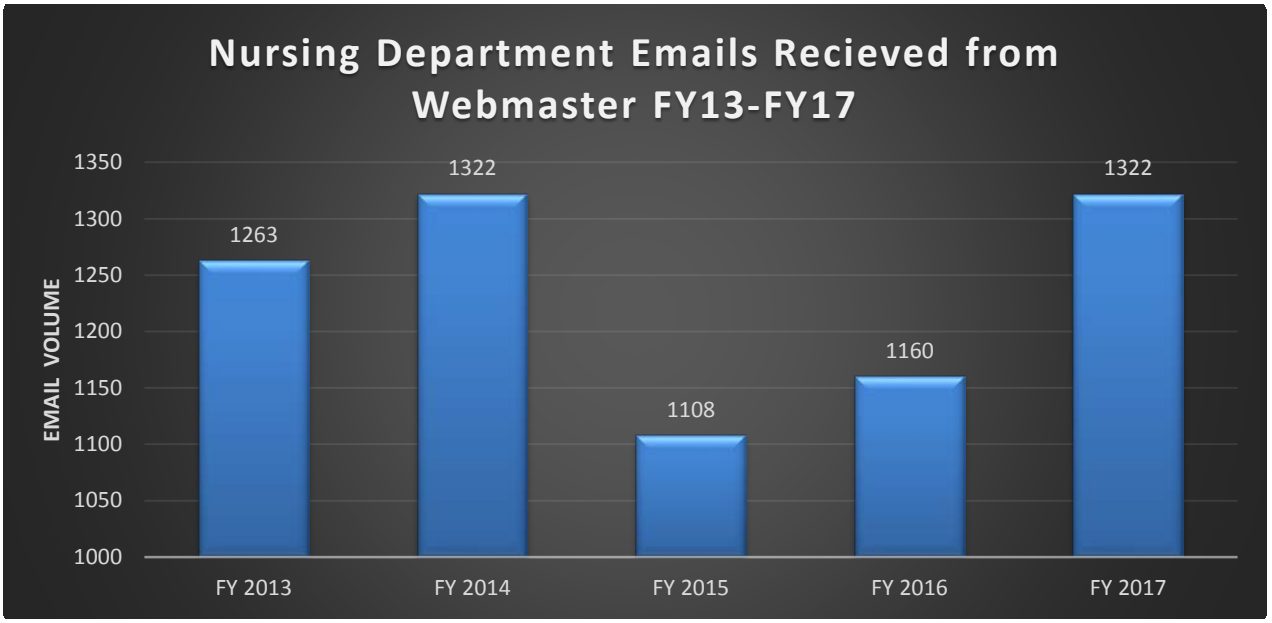


Figure 25

The volume of webmasters received by nursing increased during FY 2017 to match its highest volume since FY 2014 (**Figure 25**). Most emails received from the webmaster inquired about scope of practice, advanced practice issues, delegation, employment issues, reporting requirements, nursing peer review, and many other topics.

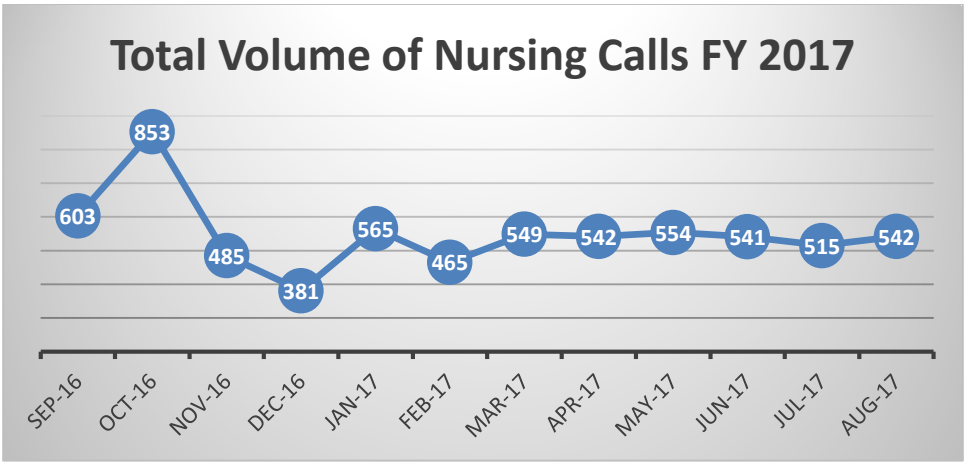


Figure 26

The volume of calls that came into the nursing practice and education lines during FY 2017 was 6,595 at an average of 550 calls per month (**Figure 26**). Calls were returned on average within 0.5 days of receipt. Call topics also included complex questions related to scope of practice, advanced practice issues, delegation, employment issues, continuing nursing education requirements, school nursing, volunteering, nursing peer review, and licensure questions.

FY 2018 Strategic Direction

The topics of most frequent emails and phone calls will be used to plan for future continuing education initiatives, Bulletin articles, Position Statements, guidelines and frequently asked questions. Based on recent questions from school nurses, Board Staff will also review guidance provided to nurses practicing in school settings to determine if revisions are needed in rules and other guidance documents, including the Board's Delegation FAQs.

Nursing Peer Review Changes

HB 3296 by Rep. Klick, in the 85th Regular Legislative Session, amended the NPA by decreasing the minimum number of nurses employed that requires an employer to provide nursing peer review.

FY 2018 Strategic Direction

Rule revision will be proposed during FY 2018 to update to the statutory requirement imposed by HB 3296 which decreased the number of nurses employed by an entity from 10 to 8: A nursing peer review committee is required to conduct peer review for RNs and LVNs if the person regularly hires, employs, or contracts for services for 8 or more nurses and for RNs, if the person regularly hires, employs, or contracts for services for 8 or more nurses, at least 4 of whom are RNs.

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

Completion of the Board's TERCAP Pilot Project was finalized in August of 2016. The four-year pilot project provided the Board with invaluable information regarding nursing practice breakdown.

Key findings include the;

- identification of trends in nurse, system and practice breakdown factors
- validation of a common language between a board of nursing and the practice environment to review and discuss nursing practice breakdown as well as the system's contribution to the breakdown event
- identification of issues regarding Peer Review Committees' understanding of the Board's mandatory reporting requirements versus internal remediation for nurses with practice breakdown
- importance of the role of an established and functional peer review Committee to ensure a balanced and comprehensive review of nursing practice breakdown

FY 2018 Strategic Direction

Because of the success of the TERCAP Pilot, a goal is in place to offer the TERCAP methodology to all Texas Nursing Peer Review Committees. Several initiatives are in place for completion of this goal in 2018. First, the TERCAP website is being updated to provide general information about TERCAP as well highlighting related links to national and state resources. Second, a summary report and webinar are being developed to share important information that was gleaned from the pilot. Third, the TERCAP Protocol will be revised for appropriate utilization by Peer Review Committees. Lastly, a webinar will be developed to provide guidance on local implementation of the TERCAP methodology.

CONCLUSION

As noted in the introduction, the Board completed an extensive Sunset Commission review, analysis and reauthorization legislation during this reporting period. The Board was continued and will be evaluated in the next Sunset review in 2029. The findings of the most recent review led to several legislative and operational changes that will direct the course of the nursing profession during this time period, particularly as it relates to how the Board evaluates good professional character and unprofessional conduct in its disciplinary process.

Several changes to support the Sunset recommendations were implemented even before they were mandated by the 85th Legislature. For instance, in January 2017, the Board charged the Advisory Committee on Licensure, Eligibility and Discipline to review the Sunset Commission's recommendations and provide input to the Board consistent with the Commission's report. The majority of the requirements of the Board as outlined in HB 2650 will be completed at the end of FY 2018.

The number of disciplinary cases opened by the Board is declining and it is predicted that these numbers will continue to decline as the Sunset recommendations are implemented, therefore limiting the number of reviews to a much smaller population comprised of nursing students and newly licensed nurses. Also contributing to the decrease in cases is the completion of criminal background checks for the total population of nurses currently licensed in Texas.

Growth in professional nursing licensure, especially APRN licensure, continues while the total numbers of LVN licenses has been steady over the last five years. The growth in VN education programs and the number of students entering and graduating from VN programs is decreasing. The Board's relationship with the Texas Center for Nursing Workforce Studies will continue to be a priority as the two agencies work together in evaluating the need for nursing personnel in Texas.

The adoption of the eNLC by the 85th Legislature positions the Board as a partner in a licensing model of the future. The eNLC will facilitate the agency's ability to protect the public through national communication and collaboration. The Executive Director will continue to monitor national trends related to the Compact's ongoing implementation.

The experiences with Hurricane Harvey and the need for disaster relief and nursing services is being evaluated. A report with implications for the Board will be provided to the Governor.

Challenges in nursing education continue. The Board will be required to remain vigilant in ensuring that graduates from out-of-state nursing education programs seeking licensure in Texas have the equivalent preparation that is required of Texas graduates. In addition, Staff will continue to closely monitor programs with quality issues and intercede when possible, so that Texas students do not have to experience the financial and emotional trauma that results when a school abruptly closes. Staff will also continue to consult education programs to find creative solutions for the assurance of clinical competency.

The nursing practice environment continues to evolve and through hundreds of inquiries from nurses, provides an opportunity for Staff to gain an understanding of what is happening in the practice arena as well as provide feedback about how the Board's rules and regulations can help nurses serve as patients' advocates in providing safe, competent care.