

Report on Implementation of SB 1857, 82nd Texas Legislature and the LVN On-Call Pilot Program

Summary of Request:

Consider the update regarding the implementation of the LVN On-Call Pilot Program required by Senate Bill (SB) 1857.

Historical Perspective:

Triage is commonly defined as the sorting of patients and prioritizing of care based on the degree of urgency and complexity of patient conditions. Telephone triage is the practice of performing a verbal interview and making a telephonic assessment with regard to the health status of the caller. Because the LVN is not educationally prepared to provide triage or telephonic assessments, the Board of Nursing (Board or BON) believes it is beyond the scope of practice for a LVN to provide triage or on-call services over the telephone. Prior to 2004, this was also the position of the Board of Vocational Nurse Examiners.

In 2011, SB 1857 was passed which created a state-wide, LVN On-Call Pilot Program to determine whether LVNs under the clinical supervision of the RN can safely provide on-call services to meet the on-going and emergent needs of individuals with intellectual and developmental disabilities in the Home and Community-based Services (HCS) program, Texas Home Living (TXHmL) and Intermediate Care Facilities for Individuals with an Intellectual Disability or Related Condition (ICF/IID) (small 1-8 bed and medium 9-13 bed facilities). An Advisory Committee, also required by SB 1857, consisting of affected stakeholders, including public and private providers, and RNs and LVNs, was formed to provide input to the BON and the Department of Aging and Disability Services (DADS) regarding the development and implementation of the pilot program.

A memorandum of understanding (MOU) between the DADS and the BON was entered into on July of 2011. The MOU outlines the general requirements for the pilot program and when LVNs may provide on-call services. DADS and BON staff developed an Operational Protocol to further identify specific requirements for participation in the pilot program. BON staff developed a Communication Protocol which provides express directions for the LVN when providing on-call telephone services, including instructing the direct support workers to call 9-1-1 in an emergency and when follow-up communication is required to the RN clinical supervisor. Numerous trainings across the state were conducted to inform nurses and providers about the pilot program and how

to use the Operational Protocol and the Communication Protocol. The pilot program is in the third year of implementation and is scheduled to end on September 1, 2015. BON and DADS staff continue to collect and evaluate data from the DADS mortality review reports.

Current Perspective:

On August 1, 2014 BON staff presented a summary of the pilot data to the SB 1857 Advisory Committee and reiterated the safety issues raised by adverse outcomes, and the lack of compliance regarding documentation as required in the Operational and Communication Protocols.

DADS staff, with input from BON staff, developed Informational and Provider Letters which were released on August 6, 2014. The letters were to remind pilot participants about requirements that pertained to documentation, performance of a comprehensive nursing assessment and nursing service plan, annual training, and LVN supervision. In addition, the letters informed providers and nurses that the use of an intermediary between a direct support staff and a LVN, to relay an individual's health information, was prohibited.

In order to identify any emerging trends, BON and DADS staff meet regularly to collect data from the mortality review records of providers who are participating in the pilot. The random sample data collection, from providers participating in the pilot was temporarily suspended in July and August of 2014, in order for DADS to develop a corrective action plan for non-compliance. A corrective action plan was found to be necessary for providers and nurses that did not comply with random sample record requests. The corrective action plan allows providers two opportunities to submit the requested records. If DADS does not receive the records after two contacts, providers will not be able to participate in the LVN On-Call Pilot Program. The record requests resumed in September. While 58 letters requesting records were mailed out, only 33 providers responded by the deadline. BON staff will continue to monitor the corrective action plan closely. DADS also developed and published a form for providers and nurses to voluntarily discontinue their participation in the pilot.

BON staff conducted and recorded a webinar on nursing documentation on June 18, 2014. In response to the Advisory Committee's request for more training on documentation, the recording was made available to DADS staff and nurses participating in the LVN On-Call pilot program free of charge early in August, 2014.

BON staff continue to reach out to stakeholders to share information and answer questions. Staff was invited to present information to the Providers Alliance for Community Services of Texas (PACSTX) Annual Conference. PACSTX is a large provider association representing numerous providers in Texas. The presentation

focused on the LVN and RN Scope of Practice, RN Delegation, the LVN On-Call Pilot Program, nursing documentation and the new nursing jurisprudence and ethics continuing nursing education requirements. As a result, the Private Providers Association of Texas (PPAT), another large provider association has requested a similar presentation in November, 2014.

BON staff remains responsive to questions from nurses and providers who are participating in the pilot program and plans to continue working closely with DADS staff and the advisory committee in all aspects of the LVN On-Call pilot program.

Pros: BON and DADS staff have taken action in an attempt to address safety concerns. The Board is in compliance with the requirements of SB 1857.

Cons: BON staff remain concerned about the safety and utility of continuing the pilot.

Staff Recommendation: No action is necessary. This item is for information purposes only.