Fiscal Year 2015 Trends, Issues and Implications

Summary of Report:

Review the Annual 2015 Trends Report.

Historical Perspective:

The Executive Director provides an annual report to the Board for the Fiscal Year preceding the October meeting. The purpose of the report is to review trends and issues identified in the prior year and consider implications for the new fiscal year. This report pertains to Fiscal Year 2015, the period beginning September 1, 2014 and ending August 31, 2015.

Staff Recommendation:

No action required. For information and discussion.

FY 2015 TRENDS

NURSING PRACTICE

In order to maximize the opportunity to promote patient safety, a proactive approach to nursing regulation is necessary. Educating nurses about their role in the prevention of error and patient harm is an integral component of continued competency and professional development. The Practice Department has done this by answering practice inquiries that come to the agency, conducting workshops around the state, and offering webinars on a variety of patient safety topics to reach more nurses. During FY 2015, the nursing department answered over 5,500 phone calls that came in directly in to education, practice and advanced practice lines and over 14,000 webmaster and email inquiries related to practice and advanced practice registered nursing. A total of 15 jurisprudence and ethics workshops were conducted in nine locations throughout Texas and six webinars on the LVN Scope of Practice, Professional Boundaries, Nursing Peer Review, Safe Harbor, Delegation in the Community Setting and the APRN Application Process.

In FY 2015, the Practice Department expanded workshops by conducting the first advanced practice registered nurse workshop along with shorter break out workshop sessions covering LVN Scope of Practice, Delegation in the Community Setting and Nursing Peer Review. The number of nurses who attended a Board of Nursing jurisprudence and ethics workshop increased from 1,095 in FY 2014 to 2,218 in FY 2015. The Practice Department worked with eStrategy Solutions (eSS) to ensure the online registration process remains efficient and responsive to stakeholder needs. The number of participants in the online jurisprudence course has increased slightly from 4,130 in FY 2014 to 4,617 in FY 2015. This trend continues from FY 2013 in large part due to passage of SB 1058 during the 2013 83rd legislative session, requiring all nurses to complete two hours of continuing nursing education in nursing jurisprudence and ethics every third licensure renewal cycle. Staff will continue to develop webinars and online educational offerings through eSS as well as investigate innovative methods for reaching and educating nurses about patient safety.

The Texas Board of Nursing continues to strive to become the official source of information for Texas nurses, their employers and the public when it comes to patient safety and nursing regulation. During FY15, the Board contracted with a nursing informaticist and a statistician to assist with interpretation of data from the Texas Taxonomy of Error, Root Cause Analysis and Practice-responsibility (TERCAP) Pilot Project as the pilot continues until August 31, 2016.

The Nursing Practice Department seeks input from the Nursing Practice Advisory Committee (NPAC) and interested stakeholders on trends influencing patient safety and the practice of nursing. As a result, rules, position statements, and guidelines are developed and recommended to the BON for their use in the regulatory decision making process. During FY 2015, the Nursing Practice Department began development of Frequently Asked Questions related to delegation following revisions to Chapter 224: Delegation of Nursing Tasks by Registered Professional Nurses to Unlicensed Personnel for Clients with Acute Conditions or in Acute Care Environments.

Additional resources developed by the Nursing Practice Department include regular updates to frequently asked questions (FAQs) and position statements. Numerous FAQs have been created from questions submitted in emails or asked during phone calls.

During FY 2015 the Practice Department launched the BON Facebook page. This initiative has provided an additional method to reach stakeholders and communicate announcements, updates and educational offerings to licensees frequently.   The BON Facebook page has reached several thousands of stakeholders and gained over 4,500 "Likes" since the page launched in April 2015.

The Texas BON Bulletin is another avenue by which the Nursing Practice Department contributes resourceful information to nurses on a quarterly basis. Bulletin articles reach thousands of nurses throughout the year and are important for relaying patient safety messages. The Bulletin regularly features a column to inform nurses on the most current nursing practice information. In FY 2015 topics included: Texas BON, Texas Medical Board and Texas State Board of Pharmacy Joint Statement on Hydrocodone Combination Products and Tramadol, Electronic health records, BON Pilot projects, Nursing Fatigue and Safety Culture.

Movement of Health Care into Community Based Settings

The trend of many metropolitan hospitals hiring only RNs with a Baccalaureate Degree in Nursing continues; therefore, RNs with an Associate Degree in Nursing and LVNs are seeking employment in community settings such as home health, hospice and school health. However, nursing education at the Associate Degree and Vocational Nursing levels does not traditionally address population health and community settings. There is continuing concern that the workforce may not be prepared to care adequately for the healthcare challenges in community-based settings. In addition, the LVN must ensure he or she has an appropriate supervisor and employers are often unaware of this statutory requirement. In some settings, clinical supervisors may be located some distance away geographically from the LVN, making timely and readily available supervision a challenge when emergency situations occur.

Registered Nurses working in school settings frequently sought consultation from nurse consultants for practice during FY 2015. The challenges of school nursing continue as a result of public education funding impacting the number of RN positions allocated for and hired to provide nursing care to students with increasingly complex healthcare needs related to chronic conditions and developmental disabilities. This staffing shift, from RNs to LVNs or unlicensed personnel has the potential to impact the health and safety of over 4 million Texas school children.

SB 1857 that passed during 2011, 82nd Legislative Session directs the Board, in conjunction with the Department of Aging and Disability (DADS), to conduct a pilot aimed to evaluate the safety of LVNs providing telephone on-call services within selected DADS programs. The LVN On-Call Pilot Program was completed on September 1, 2015. During the development of the pilot, it became clear that many employers and LVNs lack an understanding or awareness that LVNs have a directed scope of practice and must have a clinical supervisor to ensure safe practice.

A legislative report summarizing the pilot results, lessons learned and recommendations will be completed during FY 2016. Several concerns emerged during the pilot including inadequate documentation of care by nurses participating in the pilot, issues with communication of client status changes between unlicensed direct care staff and nurses and sometimes poor recognition of significant client status changes by unlicensed direct care and nursing staff. Board staff has taken steps to address these issues including free educational offerings by webinars including topics such as documentation, delegation, and caring for clients in the pilot settings. The pilot conclusions will not recommend expansion of LVN scope of practice.

Just Culture

The science of patient safety and the Just Culture approach continues to be a prominent theme in nursing regulation.

In October 2013, the Board approved a two-year pilot to implement Knowledge, Skills, Training, Assessment and Research (KSTAR) for Nurses with practice errors in collaboration with the Texas A&M Health Science Center Rural and Community Health Institute (RCHI) and the Texas A&M University Health Science Center College of Nursing. KSTAR determines within a nurse's practice, the reason for a practice breakdown and develops an individualized remediation plan for nurses to complete in a self-paced format including online education, face-to-face instruction on nursing jurisprudence and ethics and

high fidelity simulation. This type of innovative alternative to traditional discipline may enhance the Board's ability to ensure the public that a nurse's individual practice has improved and is safe to practice. The program began in December of 2014 and 29 nurses had enrolled in the KSTAR Nursing program by the end of FY 2015. Pending Institutional Review Board approval, formal research of the pilot outcomes will commence in FY 2016.

Expert Opinion and Testimony at the State Office of Administrative Hearings

The number of State Office of Administrative Hearings (SOAH) contested complaint cases continues at a high level, thus placing more of a demand on the nursing practice consultants' participation as resources to legal and enforcement staff as well as functioning as expert witnesses during the hearings. The agency's appropriations request for one additional practice consultant FTE in for the 2016-2017 biennium was approved. The significant number of SOAH hearings involving pill mill type complaints continues as well, necessitating using both internal and external experts to testify at SOAH.

APRN: Advanced Practice Registered Nurses

Progress has been made on the implementation of the Consensus Model. The agency will continue our work in implementing the Consensus Model including bringing Advanced Practice Registered Nurse (APRN) title recognition in line with those outlined in the model. The passage of SB 406 in 2013 during the 83rd Legislative Session continues to generate multiple contacts with BON staff for guidance in relation to prescribing, scope of practice, required face-to-face meetings with delegating physicians and prescriptive authority agreements. Board staff developed additional clarifications to the joint FAQs with the Texas Medical Board and the Texas Physician Assistant Board regarding the changes to prescriptive authority created by the passage of SB 406 during the 2013 Legislative Session. Proposed revisions to Board Rule Chapter 221 relating to advanced registered nurses received extensive public comment from nursing and medicine stakeholders and was withdrawn. Board staff has met with all stakeholders who provided comments to clarify concerns and will draft a revised Chapter 221 at a future date.

APRN total numbers of approvals continue to increase, thus increasing APRN licensing staff workload. During FY15, 2,625 APRNs were approved as compared to 2,086 approvals during FY14. The total number of APRNs licensed was 21,587 as of the end of FY15. The average number of days taken to approve APRN applications decreased from 53.48 days in FY13 to 11.5 days in FY15. It is anticipated that with a streamlined design of the application approval process, a continuous quality approach to improvements in process, outreach via webinar to applicants and educators, and the ability for applicants to view their application status and needs online that this will remain an efficient process.

NURSING EDUCATION

Collaborative Activities with State of Texas Agencies

- Meetings with Texas Workforce Commission (TWC) and The Texas Higher Education Coordinating Board (THECB) to refine the crosswalk comparing approval processes that relate to new nursing education programs;
- Frequent communications with Texas Higher Education Coordinating Board (THECB) staff to discuss new program proposals, including need for program in local community;
- Meetings with Texas Center for Nursing Workforce Studies (TCNWS) throughout the year to plan the 2015 Nursing Education Program Information Survey (NEPIS);
- Collaboration with TCNWS during the year in the analysis of data from the NEPIS; and
- Meeting with THECB and TNA regarding proposed nursing education grant opportunities and RFPs.

Growth of Nursing Education Programs

The BON assumed regulation of VN education programs on February 1, 2004 following passage of House Bill 1483 (2003). The number of approved VN education programs on August 31, 2015 was ninety-two (92).

The number of professional nursing (RN) programs on August 31, 2015 was one hundred seventeen (117) including one (1) remaining diploma program in the state, sixty-nine (69) ADN programs, and forty-seven (47) baccalaureate programs. Table 1 provides an overview of the trend in the total number of VN and RN programs by year:

Table 1: Trends in Numbers of VN and RN Pre-licensure Nursing Education Programs in Texas by Calendar Year 2007-2015									
Year	2007	2008	2009	2010	2011	2012	2013	2014	2015
VN	99	91	95	97	98	99	98	95	92
RN (Pre-licensure)	97	95	97	97	107	110	115	117	117

The Impact of Growth in Nursing Education in Texas

The growth in nursing education in Texas has occurred in various ways:
- the addition of fifty-eight (58) new pre-licensure nursing education programs in the State since September 1, 2007 through the Board approval process;
- growth in enrollments in programs seeking to produce more nursing graduates;
- the expansion of nursing education programs to new extension campuses/sites;
- the number of nursing education programs using online delivery to increase educational opportunities for students; and
- growth in existing and new RN-to-BSN programs to address the Institute of Medicine's recommendation to increase the number of registered nurses in the country with a BSN to 80% by 2020.

These have created new challenges in Texas based upon:
- greater demands for clinical settings to provide learning experiences for nursing education programs;
- the lack of regulation or standards for online education;
- the lack of regulation or standards for RN-to-BSN programs;
- little monitoring of extension campuses/sites; and
- the shortage of MSN-prepared nursing faculty.

A description of the new nursing education programs approved since September 1, 2006 is provided in Table 2:

Table 2: New Nursing Education Program Approvals FY 2007 - FY 2015										
Fiscal Year 9/1-8/31	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**	**TOTAL**
New Public RN Programs	0	6	1	0	5	2	4	1	0	19
New Career School RN Programs	0	1	3	0	4	2	2	1	1	14
New Private College RN Programs	1	0	0	1	2	0	1	4	0	9
New Public VN Programs	0	0	1	0	0	0	0	0	0	1
New Career School VN Programs	3	1	3	2	2	3	0	0	1	15
Total New	4	8	8	3	13	7	7	6	2	58

The total number of approved programs often changes after each Board meeting since newly approved programs are added, programs may elect to close, and the Board may withdraw approval of programs. Board action to withdraw program approval was unknown in recent history until October 2010 when an ADN program had experienced NCLEX-RN® examination pass rates of below 80% for seven (7) years. The Board realized that action to withdraw approval was not only necessary, but somewhat delayed. Since that date, the Board has consistently followed the process described in the rules, resulting in withdrawal of approval of seven (7) other programs by Board action. Board Staff closely follow programs' compliance with rules that includes achieving an annual NCLEX examination pass above 80%. Programs normally have a number of noncompliance issues and weaknesses in their programs when their annual NCLEX examination pass rate consistently falls below 80%. Possible factors that may have contributed to challenges affecting the success of programs include:

- an increase in enrollments in response to statewide promotions and incentives to produce more graduates to meet the demand for nurses in the state;
- a high turnover of program directors and nursing faculty;
- the establishment of many new nursing programs straining clinical resources for the provision of adequate clinical learning experiences;
- reports from students about ineffective or absent student policies;
- a shortage in the number of qualified faculty in the state; and
- programs in need of curricular revisions.

As of August 31, 2015, there were nine (9) active and potential proposals for new nursing education programs. These trends and challenges are continuing, suggesting a greater need for Board Staff to provide a higher level of monitoring and developing new methods of support to programs.

The Institute of Medicine *Future of Nursing* Report recommended that by 2020 eighty percent (80%) of registered nurses have a baccalaureate or higher degree. It is expected that there will be growth in

enrollment in current RN-to-BSN programs, more programs will be delivered with online instruction, and more programs will be developed in the state. Board Staff developed a document entitled "Defining Quality Indicators for Baccalaureate Degree Nursing (BSN) Nursing Education" in response to concerns from established programs about maintaining quality of all RN-to-BSN programs. The document is based upon the BSN competencies presented in the *Differentiated Essential Competencies of Graduates of Texas Nursing Programs* (DECs). In addition Board Staff collaborated with two nursing professors in an article published in the July 2013 issue of the Journal of Nursing Regulation entitled *A Regulatory Challenge: Creating a Metric for Quality RN-to-BSN Programs.*

Increases in the Numbers of Programs with Sanctions

A significant trend resulting from the growth in the number and size of nursing education programs is the increase in the number of programs with sanctions. Types of sanctions include an approval status of Full Approval with Warning, Initial Approval with Warning, or Conditional Approval Status. The annual NCLEX examination pass rate provides one (1) indicator that signals problems in a nursing program. Other signs of non-compliance with Board rules or deficiencies include: complaints about the program, frequent turnover in the director role, *Nursing Education Program Information Survey* (NEPIS) data indicating a rapid growth in enrollment of students with poor retention and graduation rates, loss of clinical practice settings, and high turnover of faculty with persistent vacancy rates.

On August 31, 2015, the number of programs with an approval status of Full (or Initial) with Warning or with Conditional Approval has grown from eleven (11) in 2014 to twenty four (24) programs with sanctions and one (1) program (whose approval has been withdrawn) in a teach-out of enrolled students. Two (1) programs closed voluntarily:
- Initial with Warning   2 BSN Programs, 3 ADN Programs and 1 VN Program
- Full with Warning   3 BSN Programs, 10 ADN Programs and 2 VN Programs
- Conditional Approval   1 ADN Program and 2 VN Programs
- Approval Withdrawn and Program in Teach-Out   1 VN Program
- Voluntary Closures   1 BSN Program and 1 VN Programs

When a program has an NCLEX examination pass rate below 80% for one (1) year, Board rules require the program to develop a Self-Study Report to identify areas of weakness, as well as to plan corrective measures to improve the success of their students. If the program has a second consecutive annual pass rate below 80%, their approval status may be changed to Initial Approval with Warning (for newly approved programs) or Full Approval with Warning, and Board Staff will conduct a survey visit. If the pass rate persists below 80% for a third year, the Board will change the approval status to Conditional Approval and the program will not be allowed to enroll new students until their pass rate for the next year is 80% or higher. Board rules require withdrawal of approval after a fourth year of a below 80% pass rate.

The Education Consultants have added more measures to assist programs when their pass rate is lower than 80% or when there are other program concerns that might suggest the consideration of a change in approval status. Usually when a program's pass rate drops, there are identifiable factors that contribute to the decline and the program needs to identify those factors and begin making changes.

In the recent past there have been about six (6) to ten (10) programs in each program type (VN, RN) that were required to write a Self-Study Report as a result of a drop below 80% on the NCLEX for the first time. In April 2013 the NCLEX-RN passing standard was raised.   The rationale for the new passing standard was based upon the fact that nurses today are caring for more complex patients in a changing health care environment, necessitating that their knowledge and skills match the workplace

requirements. In addition, the opinions of many nursing experts, Boards of Nursing, a group of standard setting judges, and the NCSBN Board of Directors were considered before the change was made.

The 2013 Texas NCLEX-RN pass rate average (83.93%) dropped below the national average (84.29%) with several Texas RN programs' NCLEX pass rates dropping below 80%. Consequently, thirty (30) RN programs were required to develop a Self-Study Report. After the NCLEX results were reported, several programs commented that their curriculum had not been updated for years, their admission and progression policies were outdated, or their remediation strategies had not been effective. However, the 2014 Texas NCLEX-RN pass rate average dropped further to 81.92%, slightly below the national average of 81.74%. Statistics from NCSBN related to NCLEX examination pass rates after a raised passing standard indicate a usual drop in pass rates followed by a rebound upward in about two (2) years. Of the thirty (30) RN programs required to develop a Self-Study Report in 2013, thirteen (13) experienced a second year with an NCLEX-RN pass rate below 80% and were moved from full or initial approval to full or initial approval with warning status in January 2015. These programs were required to have a survey visit as a result of the approval status changes. Fourteen (14) RN programs experienced a first year with an NCLEX-RN pass rate below 80% and were required to complete a Self-Study Report. In both 2013 and 2014, seven (7) VN programs were required to develop a Self-Study Report.

Board Staff are committed to assisting nursing education programs to meet the challenges of the changing environment, but the growth in nursing education as well as high dean/director and faculty turnover complicate the workload.

A summary of the first-time candidate NCLEX-PN and NCLEX-RN pass rate trends are presented in Tables 3-4 and Figures 1-4 below:

Table 3: Vocational Nursing Programs Trends in Numbers of First-Time Candidates and Annual NCLEX-PN Pass Rates 2006 - 2014									
Exam Year	2006	2007	2008	2009	2010	2011	2012	2013	2014
Number of First-Time Candidates	4440	4886	5032	5488	5627	5879	6028	5401	5060
Candidates Who Passed	4043	4362	4461	4461	4990	5099	5155	4668	4315
Texas Pass Rate	91.06%	89.28%	88.65%	88.19%	88.68%	86.73%	85.52%	86.43%	85.28%
National Pass Rate	87.87%	87.25%	85.62%	85.73%	87.06%	84.84%	84.23%	84.63%	82.16%

Figure 1: Texas Vocational Nursing Program Trends in Numbers of First-Time NCLEX-PN Candidates

Number of First-Time NCLEX-PN Candidates:
2006: 4440, 2007: 4886, 2008: 5032, 2009: 5488, 2010: 5627, 2011: 5879, 2012: 6028, 2013: 5401, 2014: 5060

Number of First-Time NCLEX-PN Candidates Who Passed:
2006: 4043, 2007: 4362, 2008: 4461, 2009: 4461, 2010: 4990, 2011: 5099, 2012: 5155, 2013: 4668, 2014: 4315
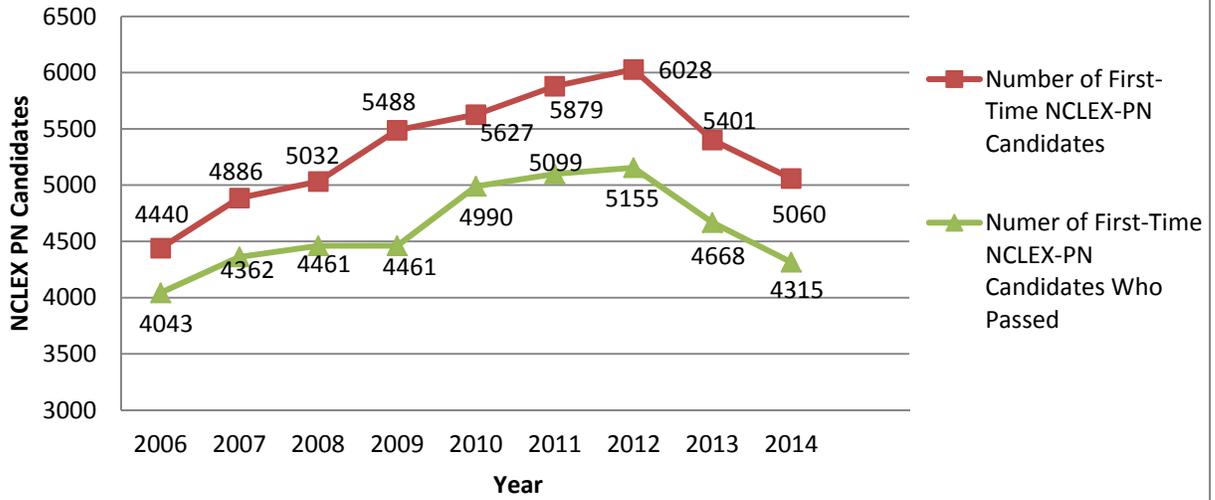
Figure 2: Vocational Nursing Program Trends in Annual NCLEX-PN Pass Rates 2006 - 2014

Texas NCLEX-PN Pass Rate:
2006: 91.06%, 2007: 89.28%, 2008: 88.65%, 2009: 88.19%, 2010: 88.68%, 2011: 86.73%, 2012: 85.52%, 2013: 86.43%, 2014: 85.28%

National NCLEX-PN Pass Rate:
2006: 87.87%, 2007: 87.25%, 2008: 85.62%, 2009: 85.73%, 2010: 87.06%, 2011: 84.84%, 2012: 84.23%, 2013: 84.63%, 2014: 82.16%
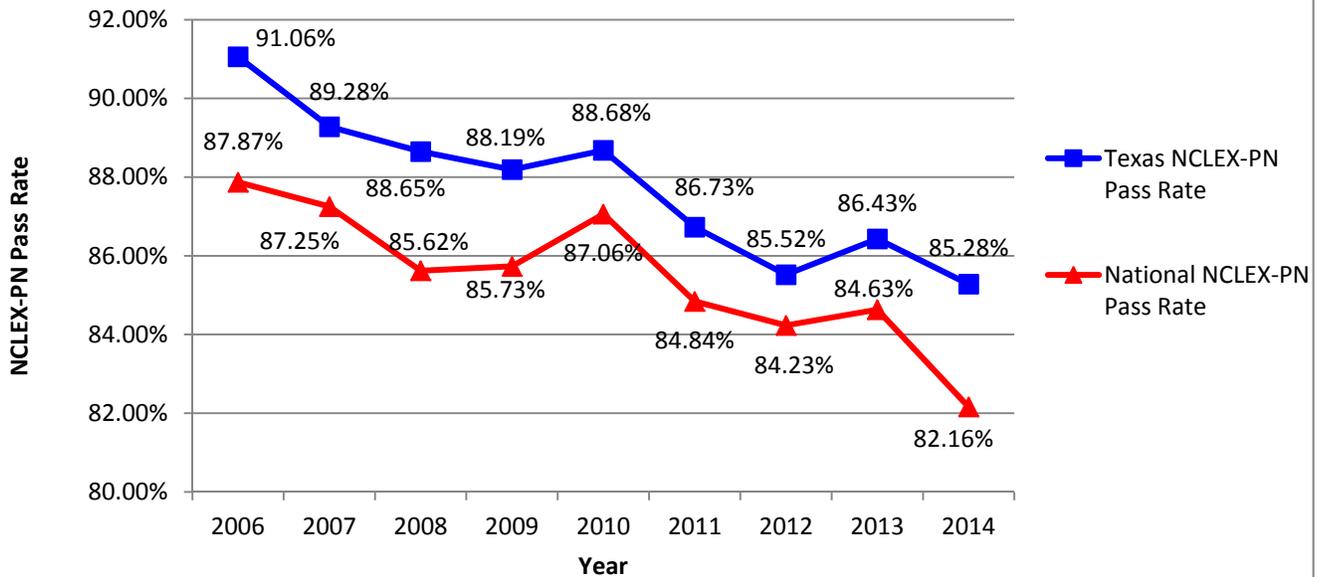
Table 4: Professional Nursing Programs Trends in Numbers of First-Time Candidates and Annual NCLEX-RN Exam Pass Rates 2006 - 2014									
Exam Year	2006	2007	2008	2009	2010	2011	2012	2013	2014
Number of First-Time Candidates	6022	7001	7521	8146	8912	9711	10615	11069	11800
Candidates Who Passed	5468	6314	6819	7413	7959	8452	9628	9290	9560
Texas Pass Rate	90.80%	90.19%	90.67%	91.00%	89.12%	87.04%	90.70%	83.93%	81.02%
National Pass Rate	86.53%	87.36%	86.67%	88.20%	87.56%	87.81%	90.22%	84.29%	81.74%

Figure 3: Texas Prelicensure RN Program Trends in Numbers of First-Time NCLEX-RN Candidates 2006 - 2014

Figure 4: Prelicensure RN Program Trends in NCLEX-RN Pass Rates 2006 - 2014
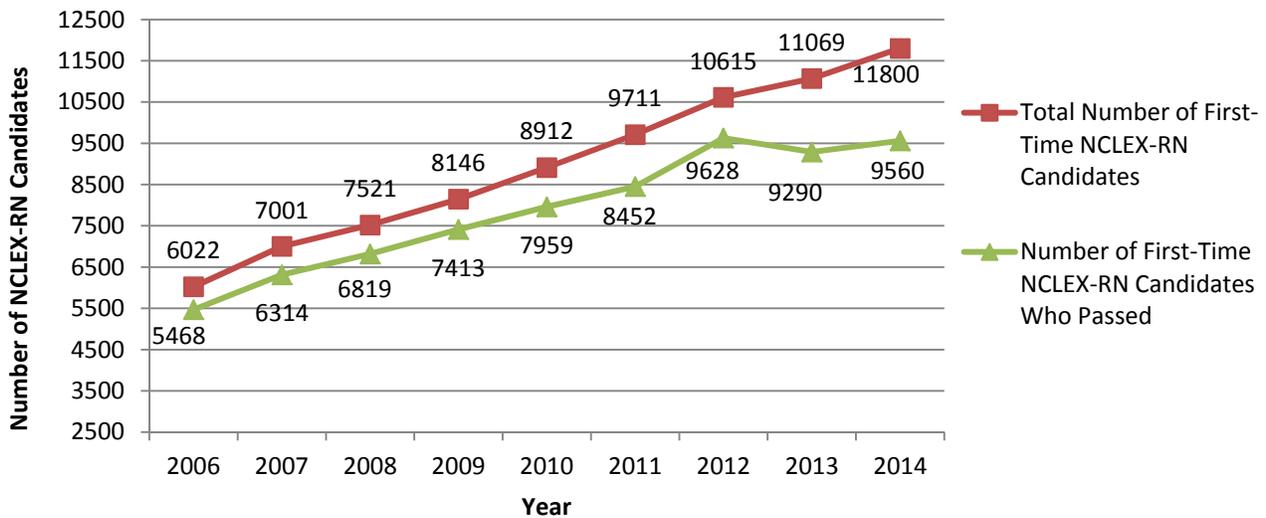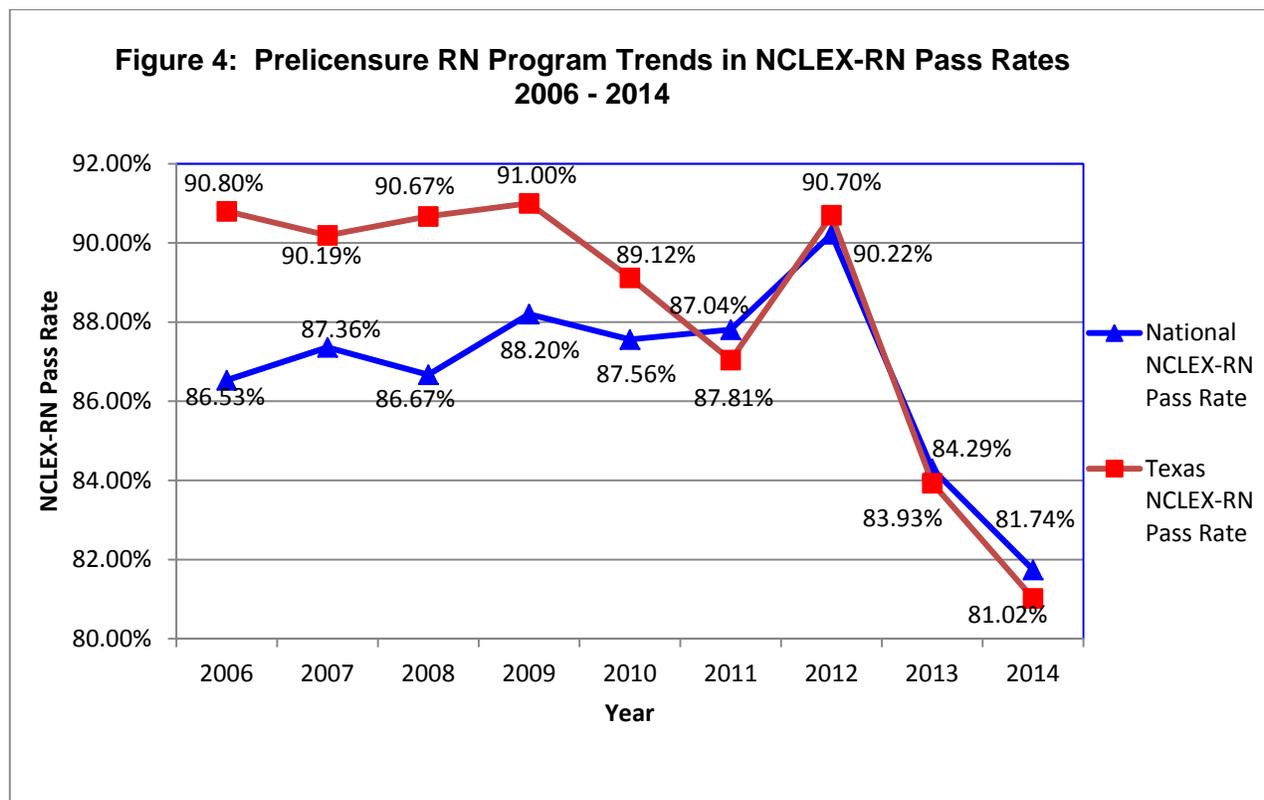
In October 2011 the Board approved the establishment of a Task Force to study the implications of the growth in nursing education in Texas. This Task Force initially met in 2012 identified four (4) major areas of impact as a result of the growth of programs in Texas:

- availability of clinical learning experiences;
- lack of qualified nursing faculty;
- developing and emerging models of nursing education; and
- workforce issues and transition into practice.

During FY 2015, the Task Force developed an education guideline for optimal clinical instruction as a tool to assist programs with innovative and qualitative measures to use in the context of scarce clinical settings. The Task Force will reconvene in FY 2016 to develop recommendations aimed to ease new graduate transition into practice by engaging workforce and education stakeholders.

LICENSING

	2010	2011	2012	2013	2014	2015
Unduplicated Current Licenses (RN)	229,798	239,377	250,385	258,208	272,128	285,945
Unduplicated Current Licenses (VN)	90,905	93,413	96,275	96,724	99,347	101,314
Licensure By Examination (RN)	9,702	10,262	11,460	10,880	11,986	12,282
Licensure By Examination (VN)	5,262	5,629	5,803	5,295	4,720	4,829
Total # of Individuals taking the RN Exam	11,556	12,770	13,684	12,589	16,991	17,266
Total # of Individuals taking the VN Exam	6,275	6,981	7,276	6,761	6,147	6,304
Licensure By Endorsement (RN)	6,705	6,251	6,545	7,379	7,894	9,953
Licensure By Endorsement (VN)	1,001	1,116	1,195	1,049	1,163	1,234
# of days to Issue Permanent License (RN)	106.99	109.21	99.06	113.7	102.5	81.4
# of days to Issue Permanent License(VN)	122.6	119.54	121.08	130.41	125.6	117.1
Renewed RN Licenses	105,711	110,999	114,370	119,160	126,631	131,307
Renewed VN Licenses	41,644	43,355	43,633	45,059	46,796	47,341
Total # of Phone Calls	302,284	246,402	285,715	204,920	199,594	215,407
transfer to Customer Service	199,522	176,154	181,859	124,683	146,396	156,709
transfer to Enforcement	4,941	3,706	5,169	7,099	6,914	4,295
transfer to Other Departments or Drop	N/A	N/A	N/A	22,152	46,284	54,403
# of Webmaster Emails	40,385	33,389	50,548	56,743	62,570	41,587
# of Current APRNs	14,164	15,279	15,841	17,177	19,509	21,587
# of DO Petitions Received	4,112	5,010	4,898	5,350	5,689	5,810
# of DO Petitions Closed by Operations	3,267	3,623	3,128	3,384	3,667	3,956

Licensed Vocational Nurses

There has been an increase of over 10,000 LVNs in the past 5 years. Although LVNs licensed by exam and endorsement has been relatively flat, LVN renewals have increased by over 5,500 over the same period.

Number of Current LVN Licensees 2010-2015
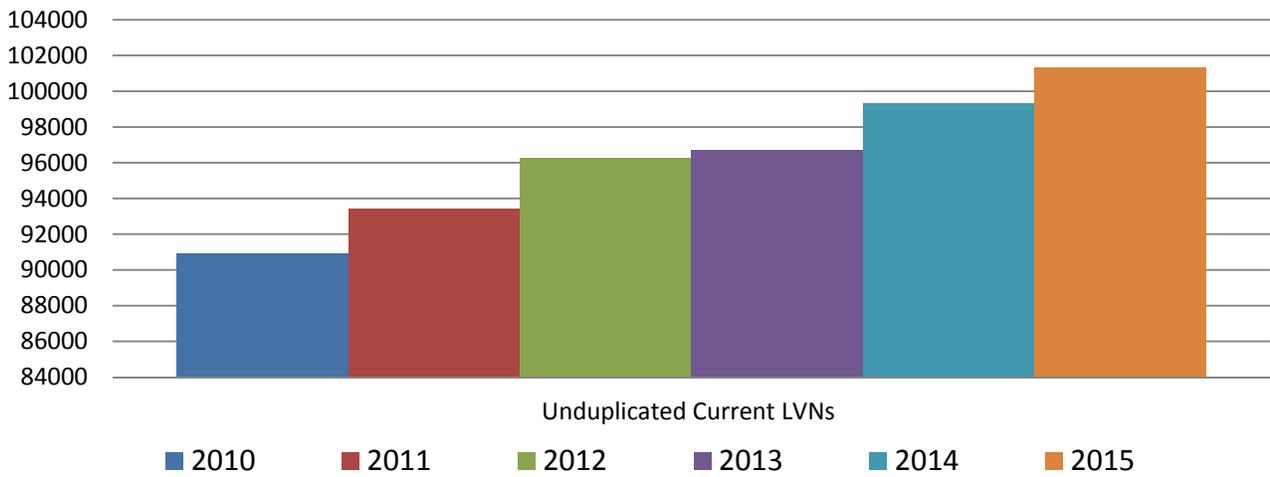
Unduplicated Current LVNs

2010 ■ 2011 ■ 2012 ■ 2013 ■ 2014 ■ 2015

Number of LVNs Licensed by Examination: 2010-2015

LVNs Licensed by Exam

2010 ■ 2011 ■ 2012 ■ 2013 ■ 2014 ■ 2015

Number of LVNs Licensed by Endorsement: 2010-2015

LVNs Licensed by Endorsement

2010 ■ 2011 ■ 2012 ■ 2013 ■ 2014 ■ 2015
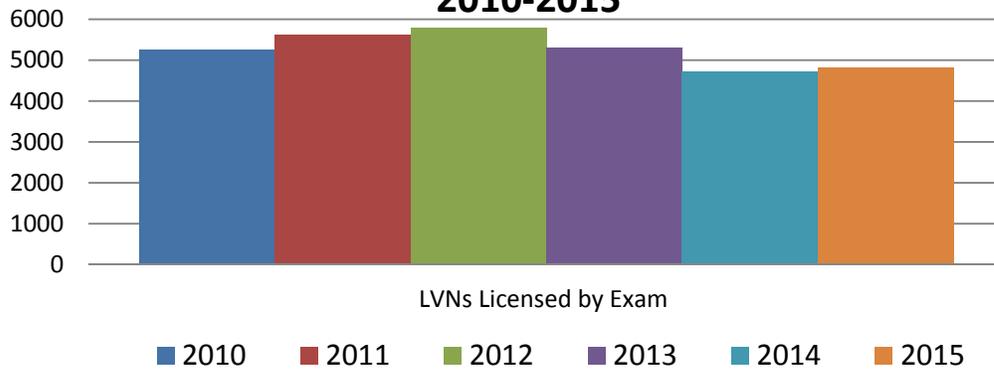
Number of Renewed LVN Licenses 2010-2015
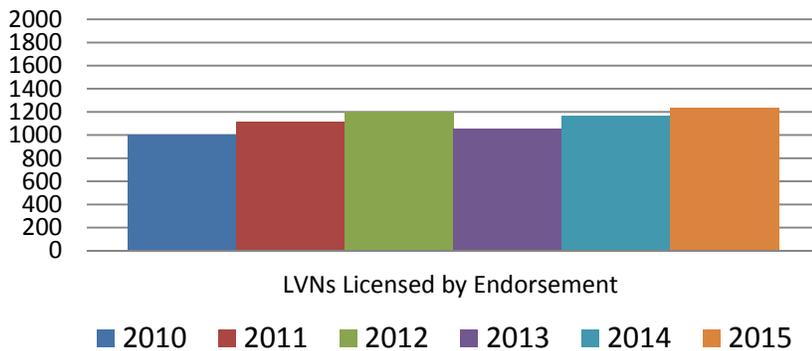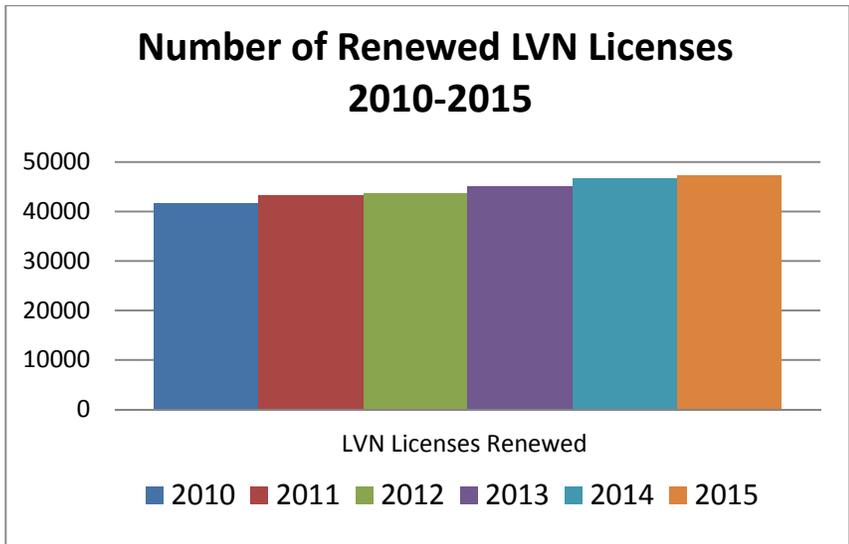
The number of days to issue a permanent license has decreased since 2013 with new staff added and performance measure implemented.

Number of Days to Issue Permanent LVN Licensure by Endorsement: 2010-2015
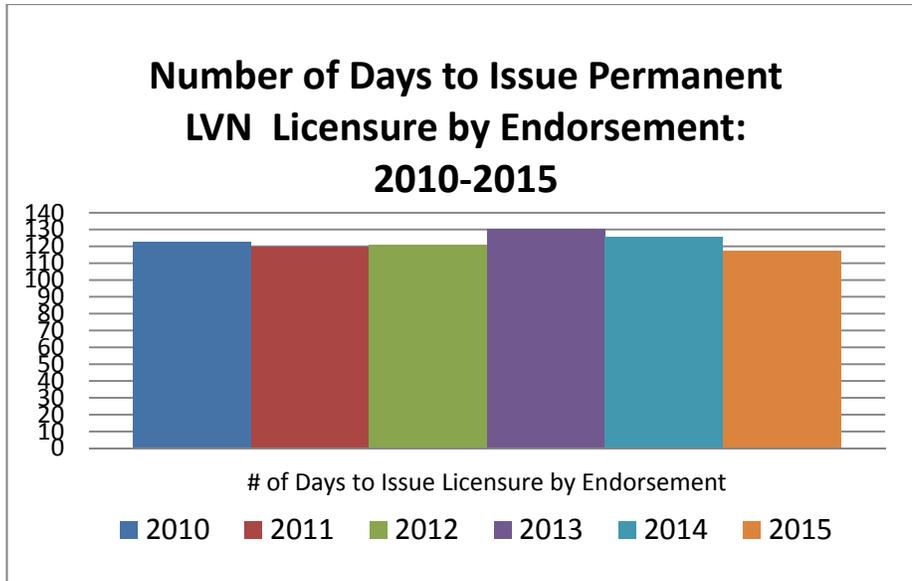
Registered Nurses

In the past five years there has been a increase of over 56,000 RNs in Texas, with an average of a 4% increase in the number of RNs renewing their license and the number licensed by examination. RNs licensed by endorsement increased by 20% from fiscal year 2014 to fiscal year 2015 and by 37% increase over a five year period. A positive economic business climate in Texas may have contributed to an increase in migration into the state. A decrease in the days in takes to issue a RN license by endorsement from 102.5 days in fiscal year 2014 to 81.4 days in fiscal year 2015 is likely due to the hiring of additional staff and implementation of performance measures.

Number of Current RN Licensees 2010-2015

Unduplicated Current RNs

■ 2010 ■ 2011 ■ 2012 ■ 2013 ■ 2014 ■ 2015

Number of RNs Licensed by Examination: 2010-2015

RNs Licensed by Examination

■ 2010 ■ 2011 ■ 2012 ■ 2013 ■ 2014 ■ 2015

Number of RNs Licensed by Endorsement: 2010-2015

RNs Licensed by Examination

■ 2010 ■ 2011 ■ 2012 ■ 2013 ■ 2014 ■ 2015

Number of Renewed RN Licenses 2010-2015

RN Licenses Renewed

■ 2010 ■ 2011 ■ 2012 ■ 2013 ■ 2014 ■ 2015

Number of Days to Issue Permanent RN Licensure by Endorsement: 2010-2015

of Days to Issue Licensure by Endorsement

■ 2010 ■ 2011 ■ 2012 ■ 2013 ■ 2014 ■ 2015

Advanced Practice Registered Nurses

Texas continues to increase the number of APRNs.   Over the past fiscal year, the number of licensed APRNs increased by 9.6% and a 7% of renewals of APRN licensure. This increase is consistent and shows no signs of slowing.

Total Number of Current APRNs: 2010-2015

of Current APRNs

■ 2010 ■ 2011 ■ 2012 ■ 2013 ■ 2014 ■ 2015
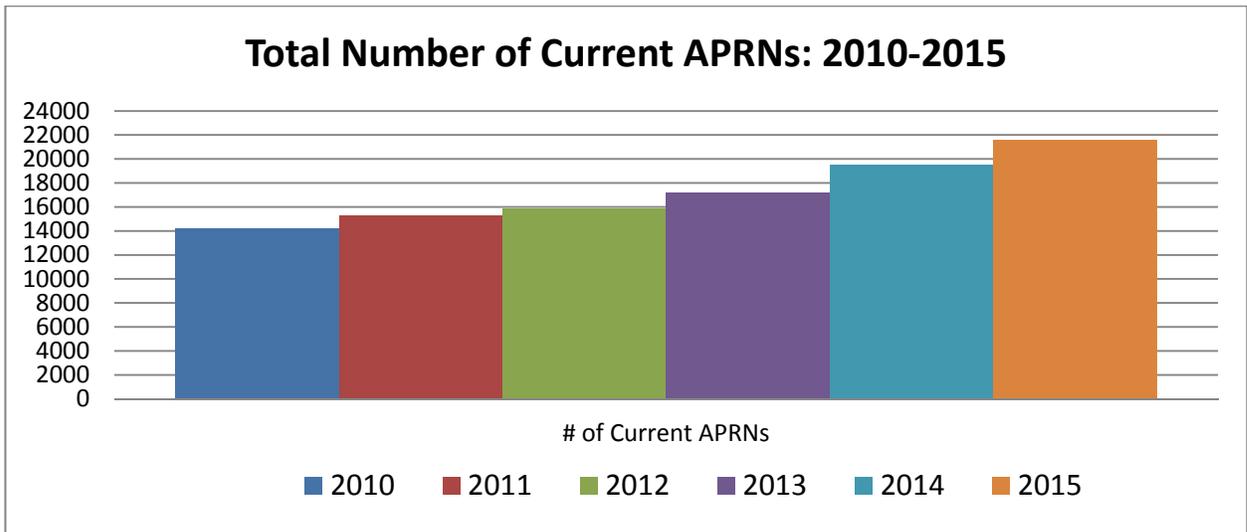
Petitions for Declaratory Orders

The number of applications for petitions for declaratory orders (DOs) over the past five years has steadily increased. Fiscal year 2015 is the first full year we have required schools of nursing to adopt the mandatory student criminal background check program. A 98% adoption rate for the program was achieved in 2015 and staff anticipate approximately 6,000 DO petitions in subsequent fiscal years.

Number of Eligibility Petitions Received: 2010-2015

Eligibility Petitions Received

Legend: 2010, 2011, 2012, 2013, 2014, 2015

Number of Eligibility Petitions Closed by Operations: 2010-2015

Eligibility Petitions Closed by Operations

Legend: 2010, 2011, 2012
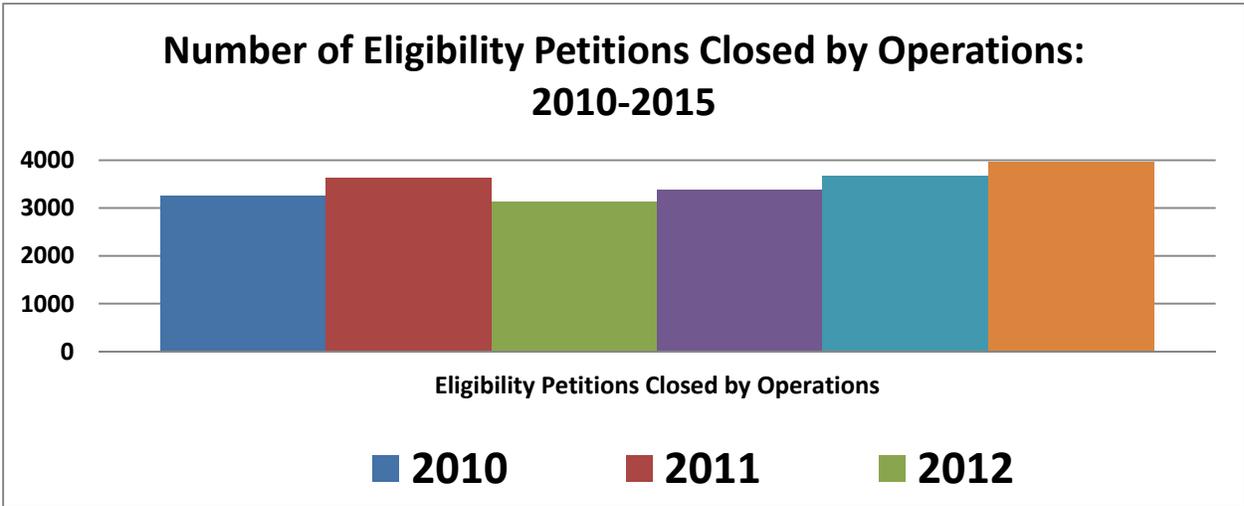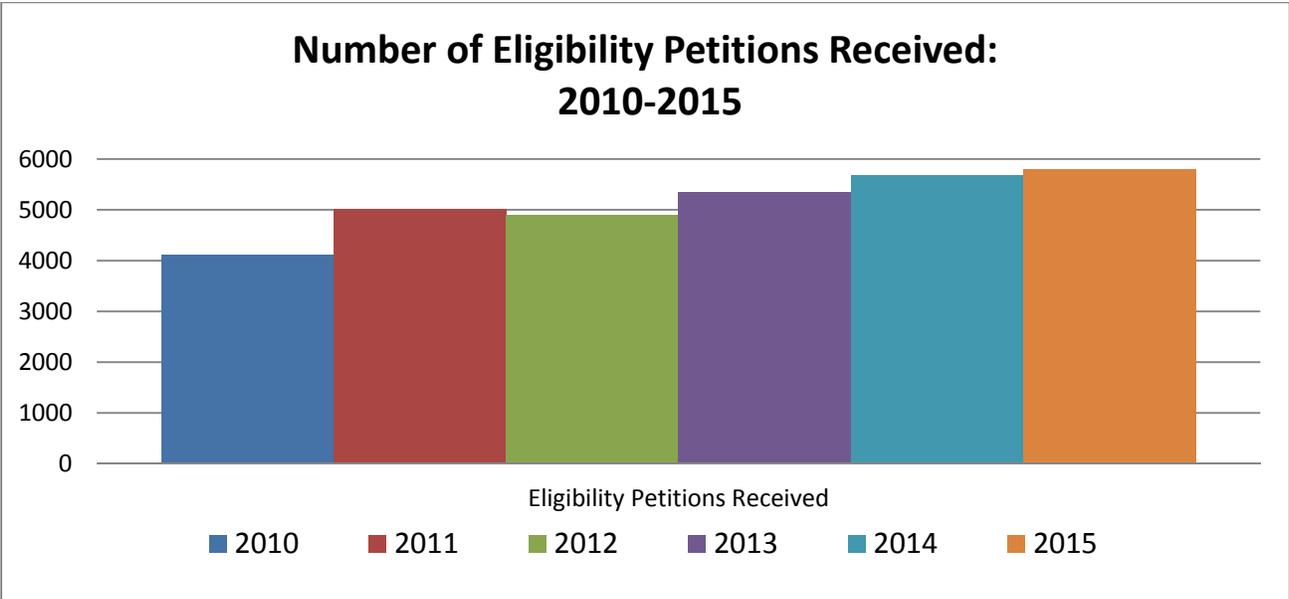
Phone Calls and Emails

Both of these areas have seen a reduction in demand over the past few years.   This is greatly influenced by the number of staff answering phones and responding to webmaster emails as well as updating our website, making information easier to locate without calling or emailing staff.   The stability of customer service staff and assignment of one person responsible for webmaster emails have contributed to performance improvement.

Total Number of Phone Calls Received: 2010-2015

Number of Webmaster E-Mails Received: 2010-2015
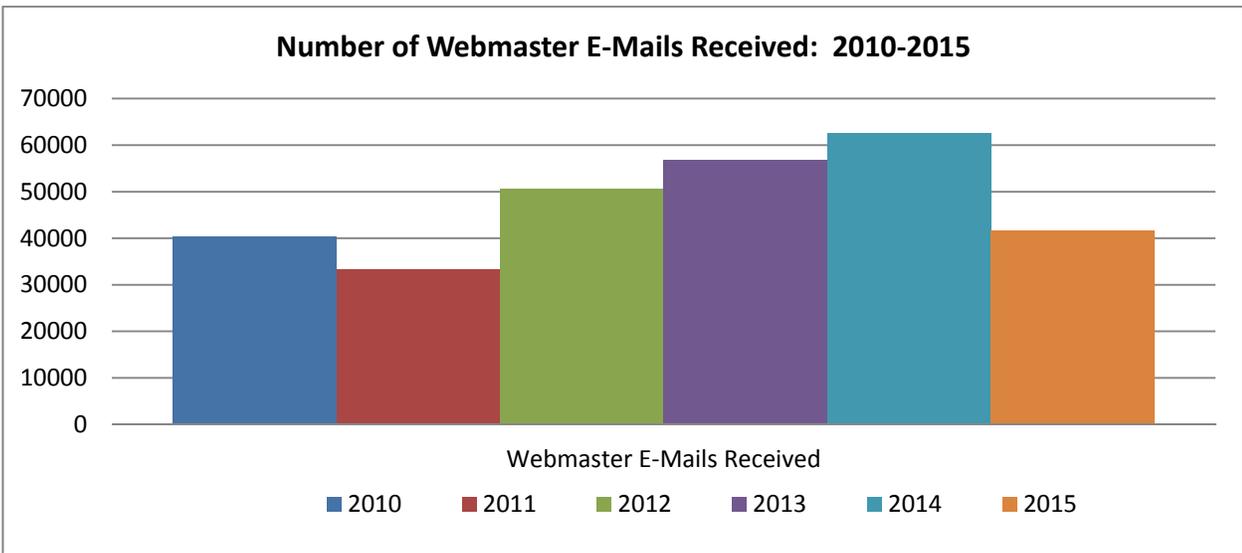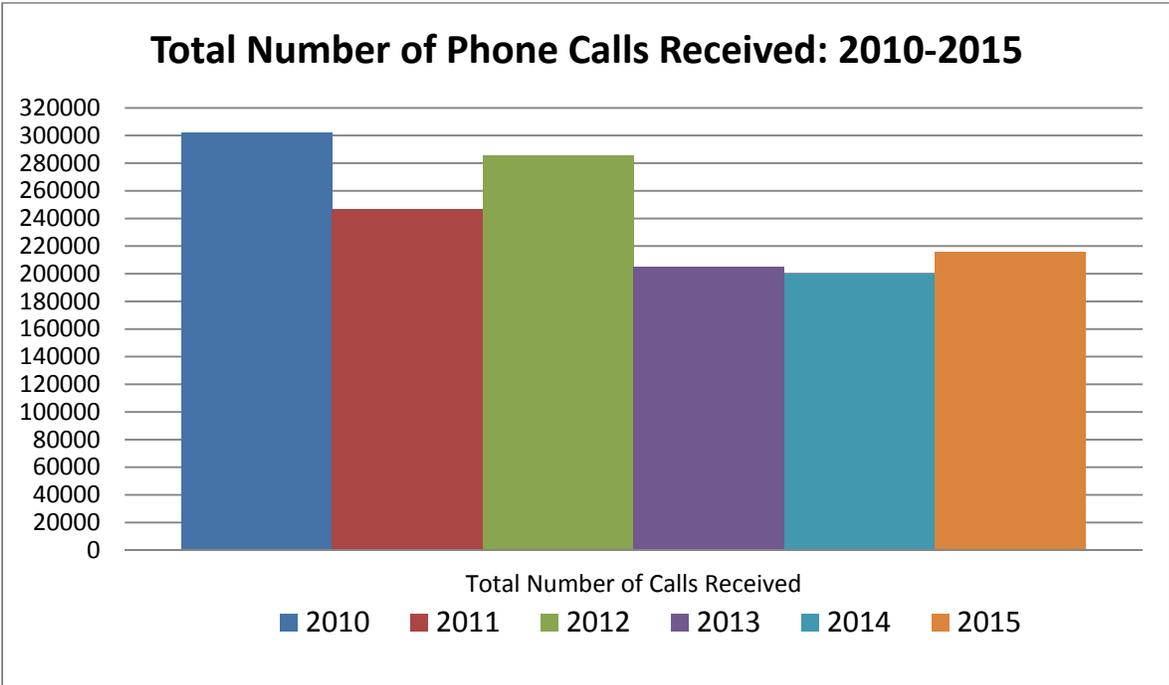
Information Technology Trends

The past fiscal year continues to see a strong trend among all Information Technology consumers to move to more distributed networks i.e. "cloud" type services.   The BON has researched cloud services as a proven method for offering staff and constituents access to important BON information such as our website which automatically fails over to another cloud based server when our server is offline.   Like many large companies the BON has sought ways to have their business continuity uninterrupted if their main systems go down. This has resulted in several system redesigns.

Security spending and focus on Information Technology continues to grow.   Frequent news stories appear on the compromise of major information systems, including the U.S. government.   The Federal Trade Commission has authority to sue businesses that have security breaches and levy fines against those businesses as an incentive to keep their network secure.   The IT world is boosting security and examining systems that have been previously been ignored due to cost.   The BON is continuing to place security as a top priority and recently implemented two factor authentication that staff will use to log into the agency computer system.

This past year the BON completed our business continuity plan which was approved by the State Office of Risk Management. This backup system was set up at the University of Texas Health Science Center in San Antonio.   In fiscal year 2016, we will test the system for reliability and train staff on disaster preparedness.

The other major project will be the implementation of the Optimal Regulatory Board System (ORBS) as the agency licensing, enforcement and nursing database.   After the initial engagement with the National Council of State Boards of Nursing (NCSBN) staff in 2015, including completion of business mapping. NCSBN will begin the actual engagement, coding and testing of ORBS in May, 2016.

ENFORCEMENT

Fewer Cases In FY 2015 And Improved Case Resolution

As expected, the number of complaints in FY2015 continued to decline compared to FY2014 [-4.07%; FY2015 13,994; FY2014 14,587], primarily due to continued reduction in number of criminal background checks being completed for licensees as the renewal CBC process nears completion. As in FY2014, the reduced number of new cases combined with internal initiatives again resulted in significant improvements case resolution during FY 2015.

Cases Opened Compared to Cases Resolved by Fiscal Year
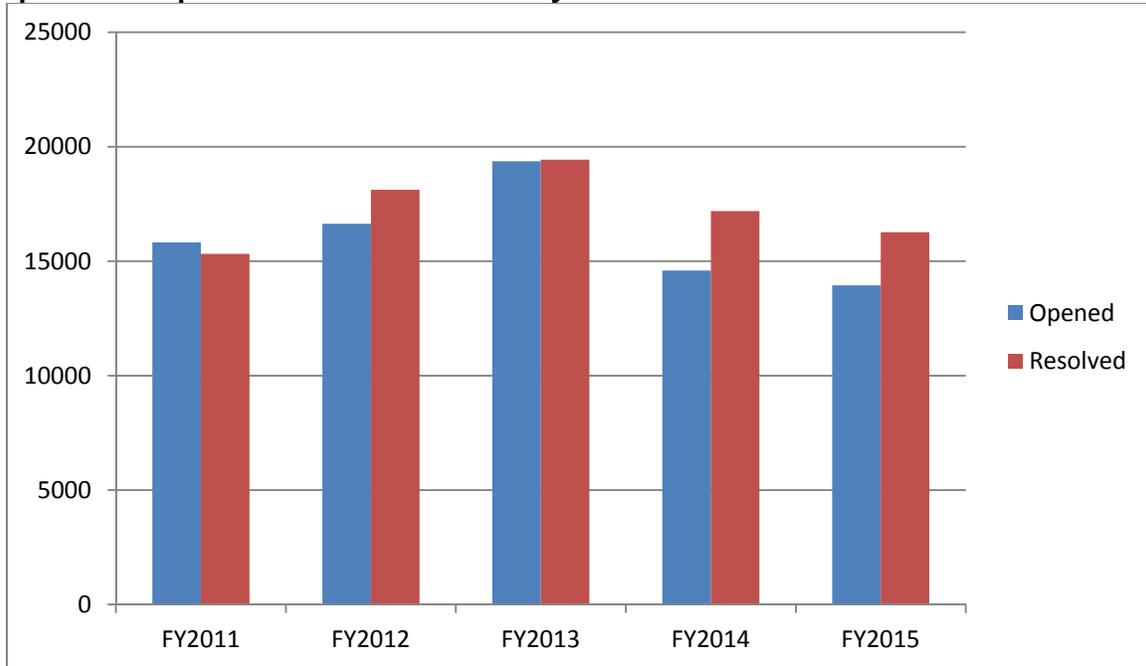
	FY2011	FY2012	FY2013	FY2014	FY2015
Opened	15823	16631	19363	14587	13994
Resolved	15318	18118	19432	17189	16262
Net to Backlog	+ 505	- 1487	- 69	- 2602	-2268

For the fourth year in a row, enforcement resolved more complaints than received, resulting in significant reduction in case backlog.

Average Number of Pending Cases by Fiscal Year
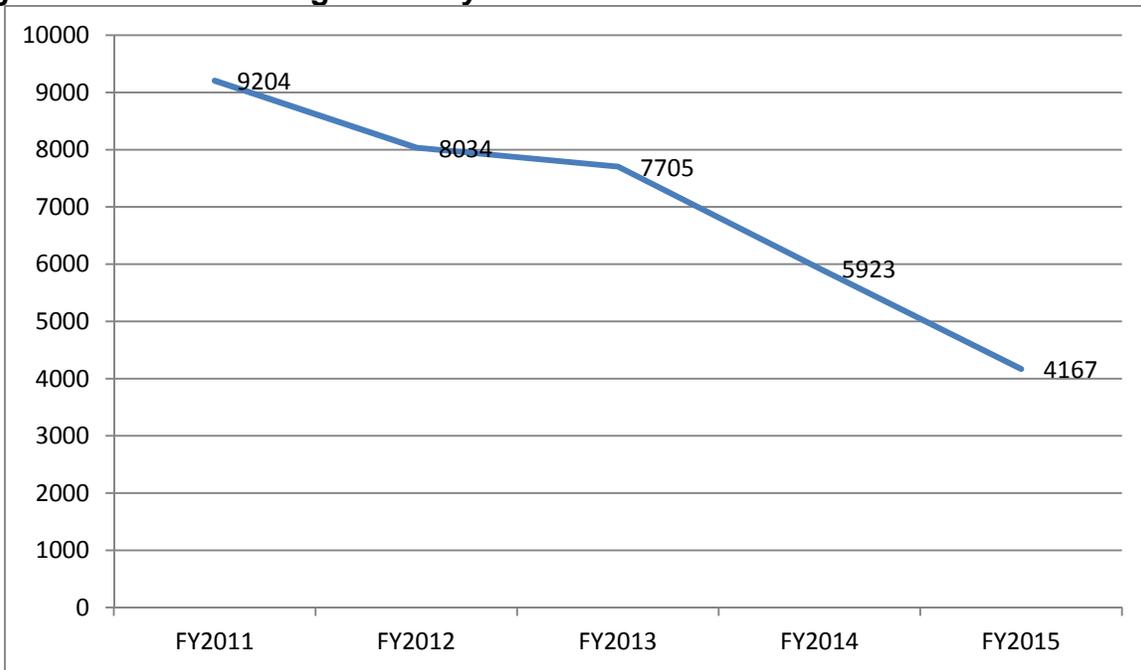
The combined effect of internal initiatives and improved case resolution are reflected by significant decreases in the average number of pending cases. For FY2015, the average number of pending cases declined to 4167, representing a 29.65% decrease from FY2014.

Average Case Loads
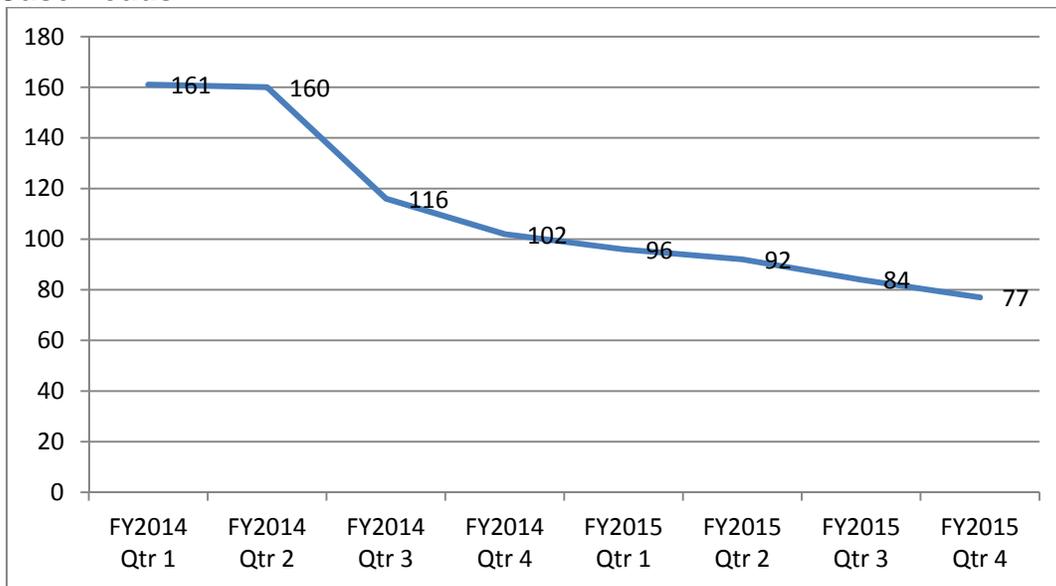
Reduced average case load per investigator

During the past two fiscal years average case load per investigator has been reduced substantially, and, in FY2015, the department's objective of maintaining less than 100 cases per investigator was achieved. The average case load for all of FY2015 was 87.32, representing a 35.4% reduction from the FY2014

average case per investigator of 135.13 cases. The reduction in case load has improved enforcement outcome measures significantly.

Average Days: Open to Completed Investigations
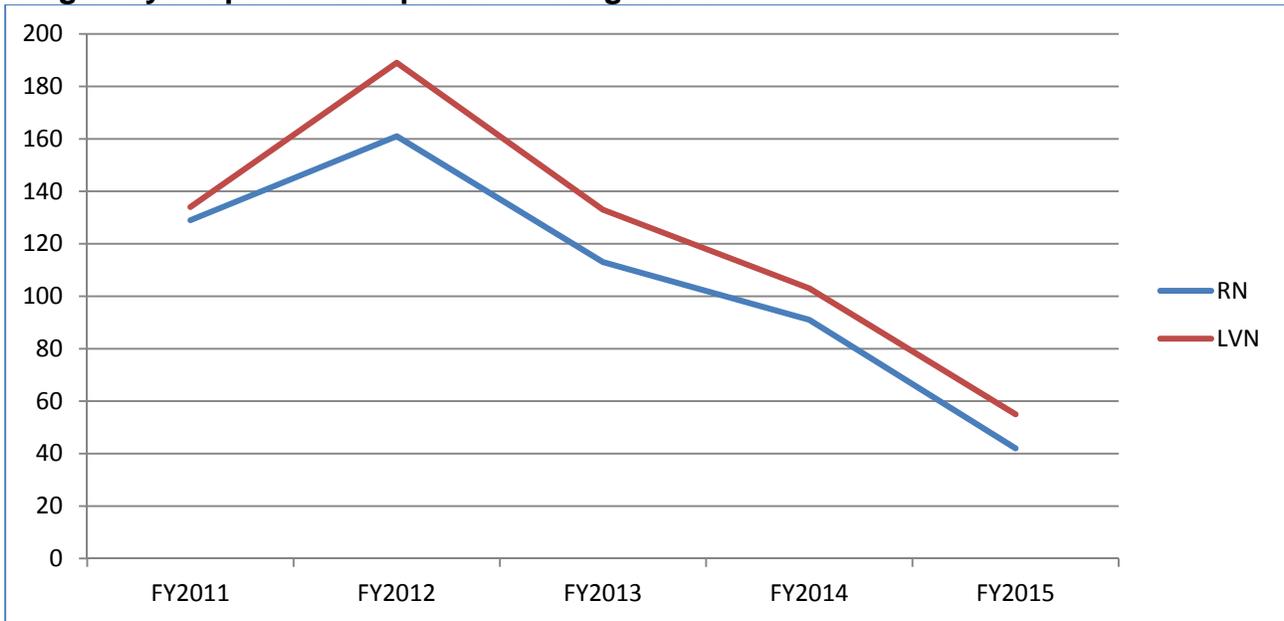
Continued improvement in average days to complete investigations

Compared to FY2014, there was a 54.05% improvement in the average number of days to complete RN investigations [FY2015 41.64 days; FY2013 90.62 days] and a 46.63% improvement in the average number of days to complete LVN investigations [FY2015 55.22 days; FY2014 103.47 days].

Average Days: Open to Final Resolution
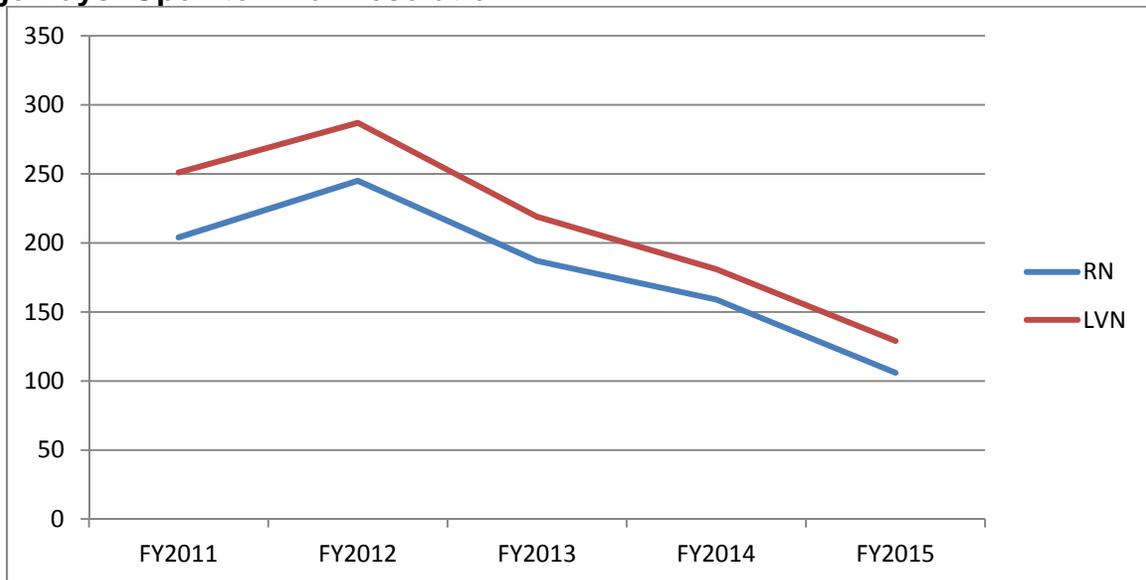
Continued improvement in average days to resolve cases

Compared to FY2014, there was a 33.20% improvement in the average number of days to resolve RN cases [FY2015 106.12 days; FY2014 158.86 days] and a 28.71% improvement in the average number of days to resolve LVN cases [FY2015 129.21 days; FY2014 181.24 days].

Age of Pending Cases
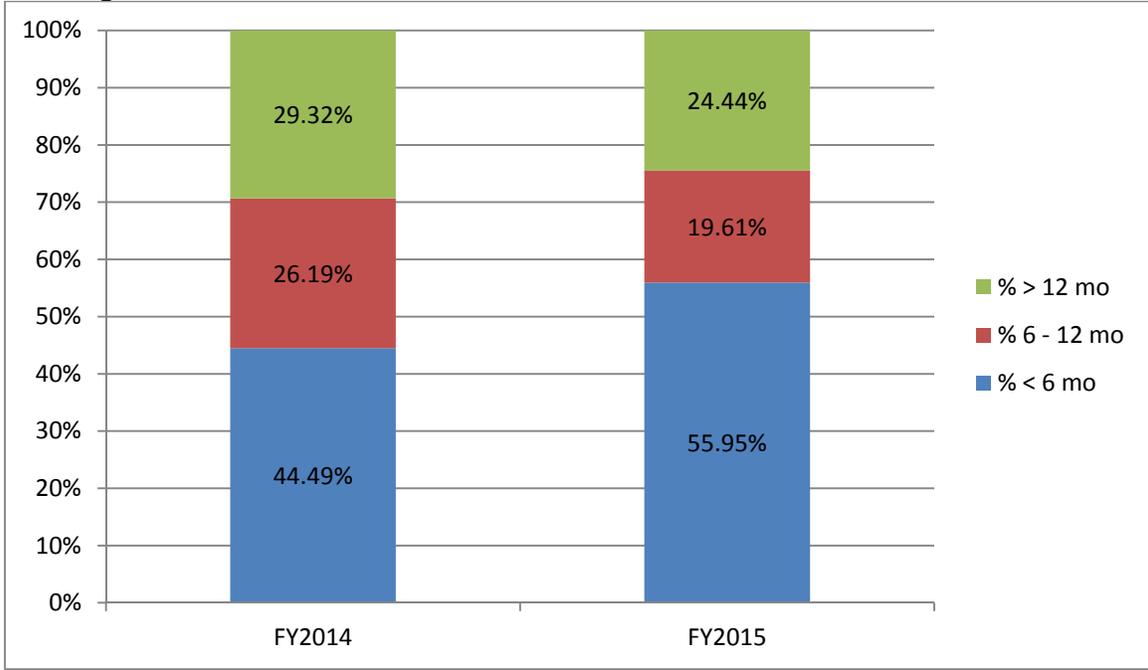
The effects of reduced caseloads and improved investigative time lines is reflected in the average age distribution of pending cases in FY2015: 55.95% of pending cases were less than 6 months old (a change of 25.8% from 44.49% in FY2014).

Average Number of Orders Being Monitored
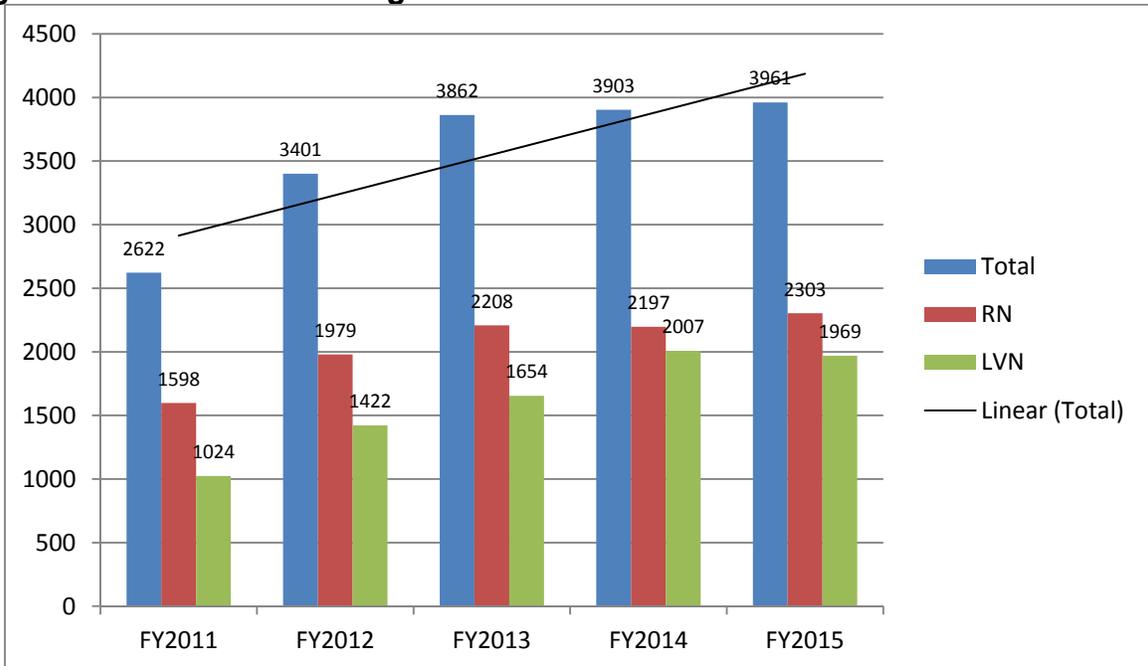
Board orders with stipulations such as education and supervision must be monitored by staff. The average total numbers of Board Orders needing to be monitored continues to increase slightly compared to past fiscal years. For FY2015, there was an average 3961 orders being monitored, of which 2303 included a RN license and 1969 included a LVN license. Note: the RN count plus the LVN count does not equal the total because duplicate licenses are allowed in these numbers.

LEGAL

Contested Case Trends
SOAH Cases (including Temporary Suspensions) Transferred from Enforcement Increased by over 25 Percent

When an investigation cannot be resolved by Agreed Order but probable cause supports a sanction, the case must be transferred to the legal department so that it can be set at the State Office of Administrative Hearings (SOAH), for a formal proceeding. Since FY 2012, the number of cases transferred to Legal from Enforcement has increased: 360 (FY 2012), 358 (FY 2013), 447 (FY 2014), 561 (FY 2015). Notably, the number of transferred cases significantly increased by 24.9% from FY 2013 to FY 2014, and 25.5% from FY 2014 to FY 2015. This is significant because the overall number of complaints and investigations has remained relatively flat or decreased.
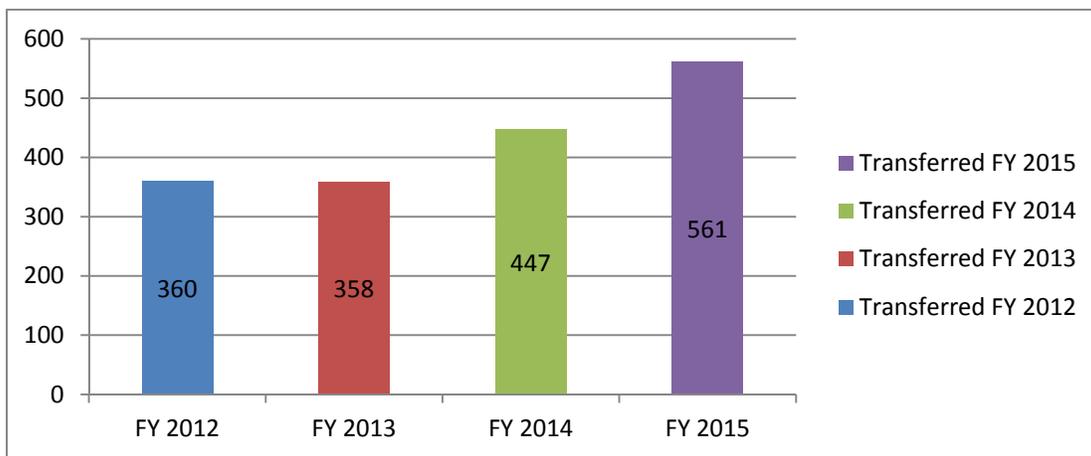
### SOAH Cases Pending per Attorney

Each attorney in Legal may be assigned an individual case that must be tried at SOAH. Each attorney will have an individual case load depending on availability, experience, and type of case. Not all attorneys are assigned an equal number of cases, however. At the end of each fiscal year, a snap-shot analysis of individual attorney dockets indicates a significant increase in the number of cases currently assigned from an average of 20.25 in FY 2013, and 20.33 in FY 2014, to 35.83 in FY 2015. This represents a 76.2% increase from FY 2014. In August of 2015, the average was as high as 39.67 cases per attorney, or a 95% increase. The August 2014 hire of a new attorney lowers the FY 2014 average, but the actual number of pending cases actually increased 50.6% from FY 2013: 81 pending, to FY 2014: 122 pending. At the end of FY 2015, 215 cases were pending.

Attorney Docket: Pending Case Average at End of Fiscal Year (Aug 31)

Chart showing pending case averages:
- FY 2013: 20.25
- FY 2014: 20.33
- FY 2015: 35.38
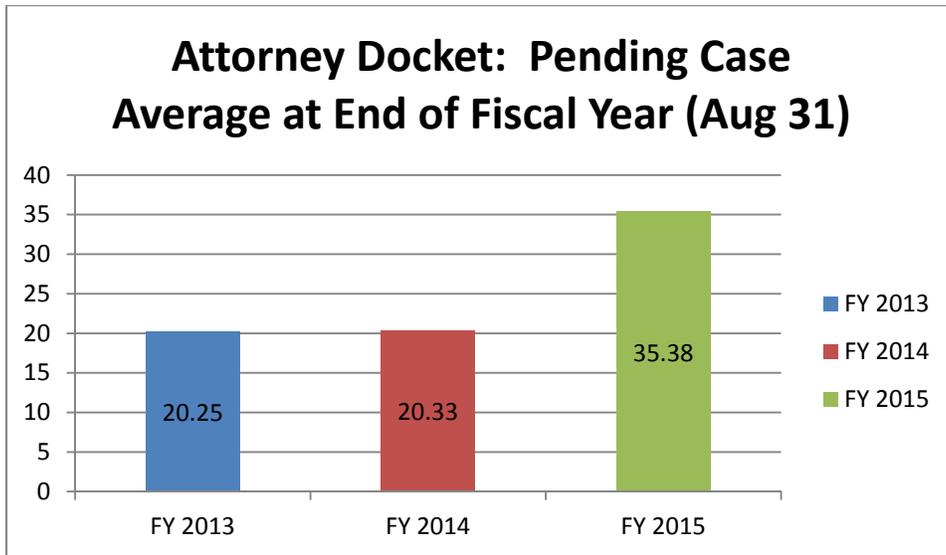
Attorney Case Resolution Time

The legal department has been tracking how many days on average it takes to resolve a matter. In FY 2014, the legal department began tracking a new metric: assignment of a SOAH case, including Temporary Suspensions, to an attorney until resolution. "Resolution" occurs upon the filing of a Motion to Dismiss, indicating a case was closed or settled via an Agreed Order, or a Proposal for Decision is issued by SOAH.

The legal department improved to an average of 107.3 days for cases assigned in FY 2015, versus an average of 114.4 days for cases assigned in FY 2014. Currently, cases are being docketed five (5) months out or further. And as this trend continues, experience dictates that cases generally reach resolution in close proximity to the contest case hearing date, which will ultimately result in longer case resolution times. The legal department will continue to monitor this metric as the number of docketed cases increases.

Attorney Case Resolution Time

Chart showing case resolution time:
- FY 2014: 114.4
- FY 2015: 107.3
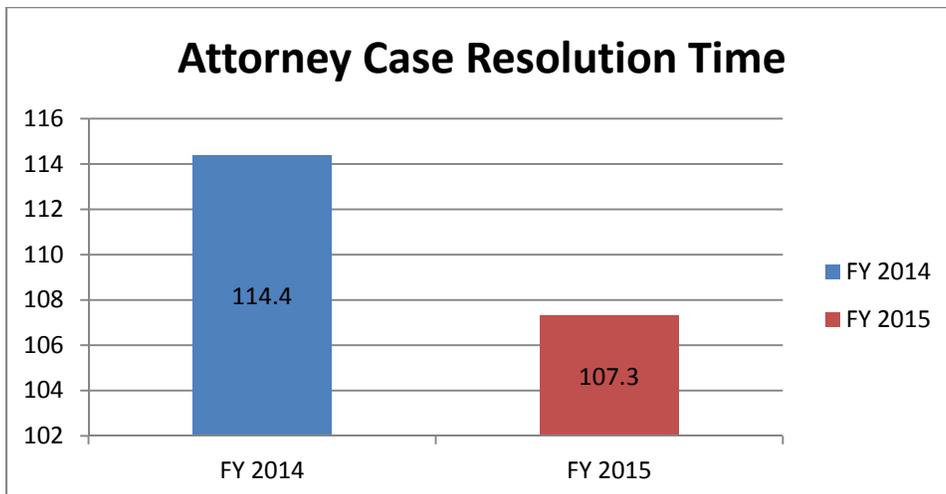
SOAH Hearing Settings (including 17 day and 60 day suspension hearings)

SOAH obtains jurisdiction when the attorney requests a docket number and asks that the matter be set on a date for hearing, whether it be a probable cause hearing or final hearing date. The number of cases set for a hearing in FY 2015 at SOAH decreased to 386 SOAH hearings (306 SOAH hearings (including final Temporary Suspension hearings) and 80 Probable Cause hearings). The total number of SOAH hearings, including both seventeen (17) and sixty (60) day temporary suspension hearings, decreased by 9% from FY 2014: 424 to FY 2015: 386. This small decrease in cases set must be considered in the context of the increased setting of non-therapeutic prescribing cases (Pill Mill), which generally consumes 4-5 hearing days per case. These multi-day cases limit the number of regular SOAH cases that can be set. And as a result of fewer available hearing dates, fewer cases were set at SOAH in FY 2015, despite the increased number of cases transferred from enforcement and cases docketed.
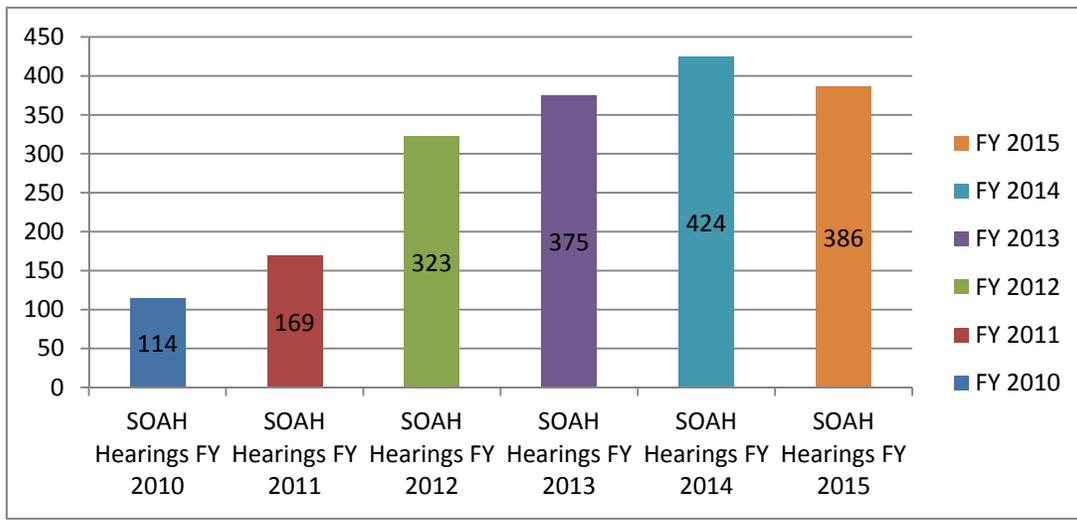

Pre-SOAH Settlements

Most often, the SOAH cases are resolved by agreement or Agreed Order before the actual hearing takes place. This may occur soon after the date the hearing is set, up until the hearing date. Staff often works hard to settle these cases by agreement before hearing in an effort to save Board resources and witness costs. However, some formal proceedings cannot be avoided. The number of cases settled prior to the SOAH hearing, including Temporary Suspensions, decreased slightly from 236 in FY 2014 to 210 in FY 2015. The high is more pronounced when considering the number of pre-SOAH settlements over the past six fiscal years, as shown below.
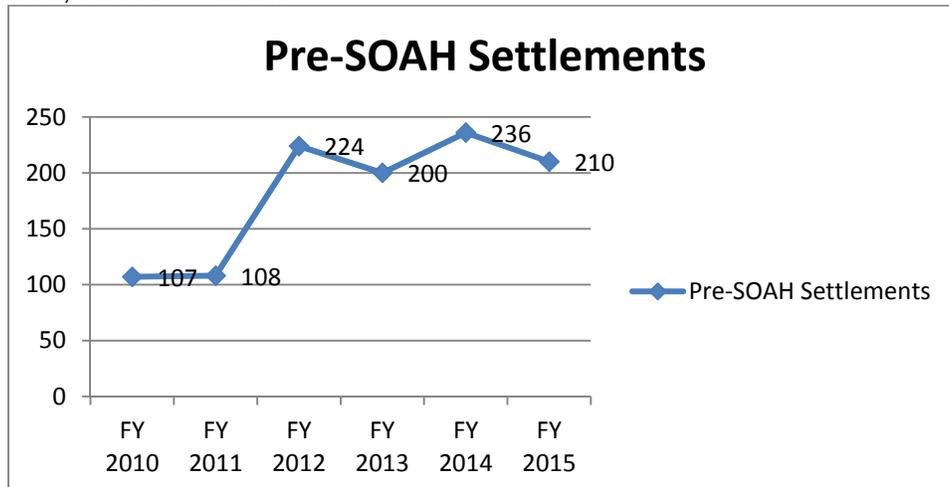
Achieving successful settlement agreements prior to SOAH hearings correlates with the Board's litigation success at SOAH hearings.

## *Cases Docketed at SOAH (including Temporary Suspensions)*

As stated previously, SOAH obtains jurisdiction over a formal proceeding when Staff requests a docket number. The number of cases docketed for a contested case hearings at SOAH has increased dramatically from FY 2010 to FY 2014, as follows: FY 2010: 123; FY 2011: 163; FY 2012: 358; FY 2013: 322; FY 2014: 372; and FY 2015: 455. From FY 2014 to FY 2015, there was a 22.3% increase in the number of cases docketed at SOAH. Please note that many cases originally docketed in FY 2015, such as those docketed/set in July and August of 2015, have a SOAH hearing date in early FY 2016.
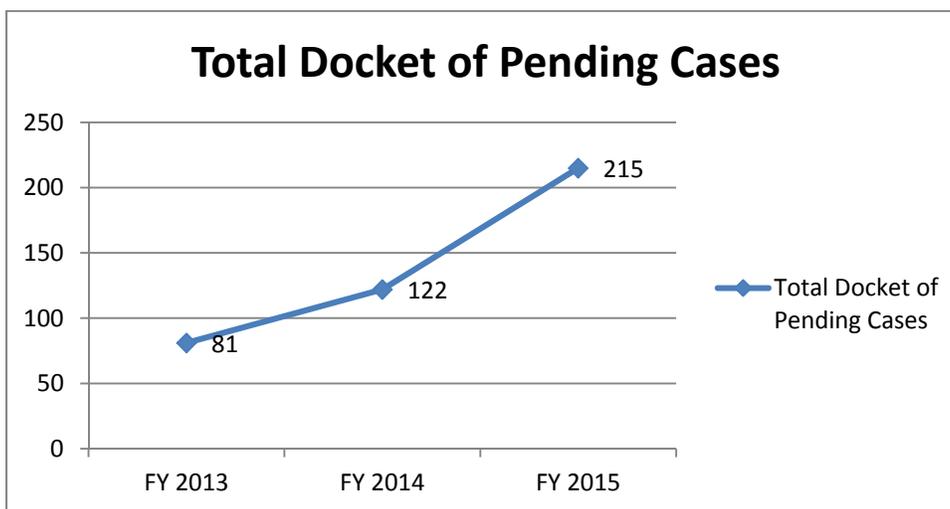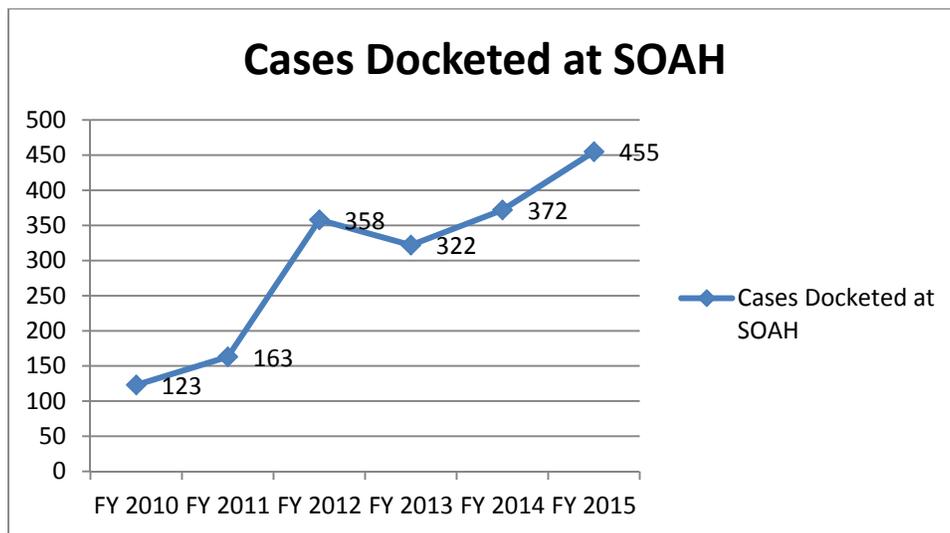
These cases are at varying stages of litigation. A dramatic increase in cases forces hearings to be scheduled 4-6 months out based on the availability of SOAH hearing dates. In the recent past, hearings were generally scheduled no longer than 90 days out. However, this time has lengthened due to the lack of SOAH hearing dates, lack of available nursing consultant expert witnesses, and attorney availability due to the carry-over of cases from the previous fiscal year.

Temporary Suspensions

Legal Staff has had to manage an ever increasing case load associated with individuals who violate a Board Order that requires drug and alcohol monitoring. Section 301.4551 requires the Board to temporarily suspend a license if a nurse is terminated from participating in the Texas Peer Assistance Program for Nurses (TPAPN) when required by Board Order or if the nurse tests positive for a prohibited substance while under Board Order. When the Eligibility and Disciplinary Committee temporarily suspend a license, the law requires that Staff set a probable cause hearing as well as a final hearing for each cause. Along with a slight decrease (FY 2014: 102; FY 2015: 91) in Temporary Suspension cases transferred from the enforcement department, the number of Probable Cause Hearing settings also decreased from 111 in FY 2014, to 80 in FY 2015. This decline may be due to the pursuit of settlement and/or voluntary surrender, either before or immediately following the initial Temporary Suspension. This correlates with a decreased number of actual Probable Cause hearings being held at SOAH, from 73 in FY 2014 to 59 in FY 2015. As nurses have become aware of the Board's more comprehensive drug screen program, the number of suspensions will hopefully continue to decrease.
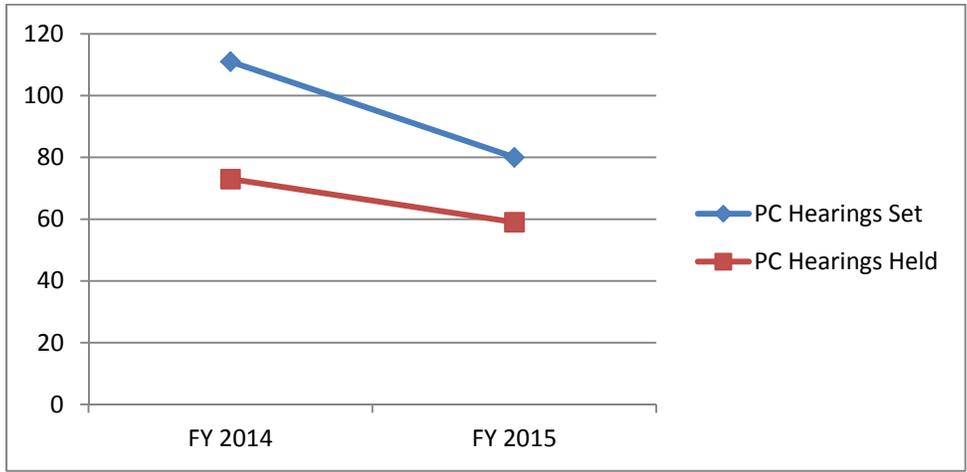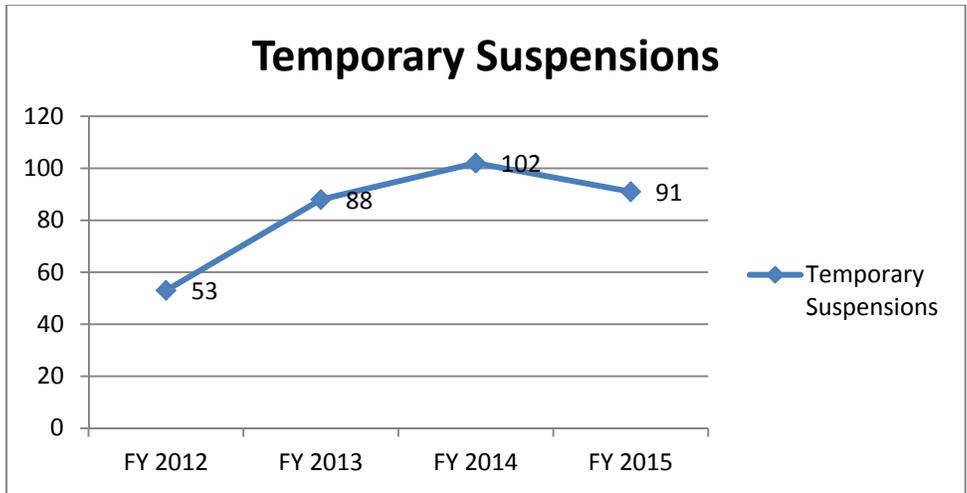
Nontherapeutic Prescribing (Pill Mill Cases)

In FY 2014, the legal department began addressing Advanced Practice Registered Nurse cases involving non-therapeutic prescribing of controlled substances as part of practices commonly referred to as "Pill Mills." The legal department has coordinated with the Texas Medical Board, the Drug Enforcement Administration (DEA), the Texas Department of Public Safety, and various local law enforcement personnel to conduct further investigation, obtain medical records, video from undercover operations, and other evidence to prosecute these complex non-therapeutic prescribing cases.

The legal department has resolved 20 Pill Mill cases between FY 2014 and FY 2015, most through a Contested Case Hearing or an Agreed Order. However, 37 new cases are currently under investigation with the enforcement department. Of the 18 pending assigned cases in legal, 2 of the nurses have been Temporarily Suspended and are awaiting a final hearing. The remaining assigned cases are awaiting expert witness review, pending settlement, or require additional investigation prior to setting the cases for SOAH.

Pill Mill Cases

- Cases In Legal
- Cases In Enforcement
- Cases Resolved