# Texas Board of Nursing

Internal Audit Report over Enforcement

Report Date: April 10, 2025

Issued: May 21, 2025

weaver

Assurance • Tax • Advisory

# C O N T E N T S

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This report presents the results of the internal audit procedures performed for Texas Board of Nursing (Nursing Board, the Board, or TBON) during the period January 21, 2025, through April 10, 2025, relating to the enforcement processes of the agency.

The objectives of this internal audit were to evaluate the design and effectiveness of the Board's enforcement processes as follows:

A. Determine whether internal controls over the enforcement process are designed to ensure that consistent processes are implemented and designed effectively to address the risks within the associated sub-processes and to ensure effective operations.

B. Verify that controls over critical enforcement processes are operating effectively, efficiently, and according to Texas law and TBON policy.

To accomplish these objectives, we conducted interviews and walkthroughs with key personnel involved in enforcement processes to gain an understanding of the current processes in place, examined existing supporting documentation, and evaluated the internal controls over the processes. We evaluated the existing policies, procedures, and processes in their current state. Our coverage period was from July 1, 2023, through December 31, 2024.

The following report summarizes the findings identified, risks to the Nursing Board, recommendations for improvement and management's responses.

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Austin, Texas
May 21, 2025

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## Background

The Texas Board of Nursing (TBON) Enforcement Department is responsible for enforcing compliance with state licensing regulations, including the Nurse Practice Act for Licensed Vocational Nurses (LVNs), registered nurses (RNs), and Advanced Practice Registered Nurses (APRNs). Within the enforcement administration process, the Enforcement Department is responsible for fielding and responding to Board inquiries by the general public or legislature, as well as processing complaints on licensed individuals from both the general public and from within TBON.

Complaints are accepted through TBON's online portal, mail, fax, email, or phone. Members of the general public, licensees, or TBON personnel may internally submit complaints. Upon receipt of a complaint, the Director of Enforcement and Assistant Director of Enforcement perform an initial review of the complaint to determine if the complaint is within TBON's jurisdiction.

If the complaint is non-jurisdictional, the complainant is provided with a letter explaining why their complaint was not opened, and the complainant may be referred to another agency. Jurisdictional complaints are recorded with TBON's case management system, N2, for processing and retention. If the complaint is within TBON jurisdiction, the complaint is then assigned to an investigator based on their workload, so that complaints are evenly allocated to investigators.

Once an investigator is assigned to a complaint, open complaint notification letters are sent to both the complainant and the respondent with the investigator's information. Every 180 days, updates are provided to both the complainant and respondent, informing them that their complaint remains open and providing an anticipated timeline for resolution.

During the investigation process, an investigator reviews the complaint and relevant documentation or support, and consults with various departments such as Legal, Nursing, or Operations. Investigators collect electronic case evidence from various internal (TBON Legal) and external (Respondent's place of practice) sources to support their decision related to the complaint. When investigators complete their investigation, a supervisory review is performed by either the Director of Enforcement (DOE) or the Assistant Director of Enforcement (ADOE). Should a violation be determined, then the legal process is initiated which could result in review and ratification of an Order by the Board.

Once an investigation is complete, the complainant and respondent are then sent a closure letter detailing the resolution of the investigation. The resolutions may consist of a dismissal where both the complainant and respondent will be notified that the investigation did not warrant action by the Texas Board of Nursing. Alternatively, the investigation can lead to a Board Order, in which both the complainant and the respondent will be notified of a mandated Board Order handed down by TBON to the responding nurse in violation of the Nurse Practice Act.

While there is no appeals process for complaints, dissatisfied complainants may still express concerns about the results of their investigation and may contact the Board. The dissatisfied complainants may either email or mail in their concerns to the Board, both of which are monitored on a daily basis by TBON's General Counsel. The Board's Legal department assesses whether a complaint warrants reopening or if the case adhered to the appropriate

process. The complainant will then be informed of the decision via mail or email by the General Counsel. During the complaint process, an investigation may rise to the level of a Board Order. Should a licensee disagree with the Board Order, they may appeal their ruling. These appeals are rare and are immediately routed to the General Counsel and Legal department for processing.

## Audit Objective and Scope

This audit focused on the enforcement process in place within the Enforcement Division of the Texas Board of Nursing. We reviewed the procedures in place for appropriate risk and regulatory coverage and compliance to ensure efficient and effective processes. Key functions and sub-processes within the enforcement process to be reviewed which included:

- Enforcement Support
- Complaint Receipt and Processing (Nursing Practice Act)
- Investigation and Violations of the Nursing Practice Act
- Appeals

Our procedures were designed to ensure relevant risks were covered and verify the following:

Enforcement Support

- Enforcement personnel produced reporting documentation timely and appropriately
- Board inquiries were responded to and resolved in a timely manner
- Criminal history records were properly maintained
- Evidence was handled according to the Board's policies and regulatory requirements

Complaint Receipt Processing (Nursing Practice Act)

- TBON contact information was accessible to consumers for complaint filing purposes
- Complaints were adequately documented and monitored by the board
- Complaints receive appropriate correspondence
- Complaints were appropriately referred to investigations
- Management reviewed and closed out complaints timely

Investigation and Violations of the Nursing Practice Act

- Investigated complaints had complete information and documentation
- Individuals involved with the complaint were notified of the investigation initiation
- Investigations were performed according to TBON procedures
- Investigations were closed or referred to prosecution appropriately
- Monthly activity reports were produced for periodic review
- Board reviewed and ratified proposed agreed orders arising from complaints in a timely manner

Appeals

- Management monitored incoming appeals from closed investigations and board order disagreements
- Complainant's appeals were appropriately referred to legal
- Licensees that requested exceptions to board orders were processed appropriately

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The objectives of this internal audit were as follows:

A. Determine whether internal controls over the enforcement process are designed to ensure that consistent processes are implemented and designed effectively to address the risks within the associated sub-processes and to ensure effective operations.

B. Verify that controls over critical enforcement processes are operating effectively, efficiently, and according to Texas law and TBON policy.

Our procedures included interviewing key personnel involved in the enforcement process to gain an understanding of the current processes in place, examining existing documentation, and evaluating the internal controls over the process. We evaluated the existing policies, procedures, and processes in their current state. Our coverage period was from July 1, 2023, through December 31, 2024.

## Executive Summary

Through our interviews, evaluation of internal control design and testing of transactions we identified three findings. The listing of findings includes those items that have been identified and are considered to be non-compliance issues with documented Texas Board of Nursing policies and procedures, rules and regulations required by law, or where there is a lack of procedures or internal controls in place to cover risks to the Texas Board of Nursing. These issues could have significant financial or operational implications.

A summary of our results, by audit objective, is provided in the table below. *See the Appendix for an overview of the Assessment and Risk Ratings*.

| OVERALL ASSESSMENT | Strong |
|---|---|

| SCOPE AREA | RESULT | RATING |
|---|---|---|
| **Objective A:** Determine whether internal controls over the enforcement process are designed to ensure that consistent processes are implemented and designed effectively to address the risks within the associated sub-processes and to ensure effective operations. | We identified 16 controls to be in place in the processes. However, we identified the following opportunities to strengthen internal controls:<br>• Begin logging complaints when the respondent cannot be identified into the case management system, including actions taken by investigators to identify the complainant, and generating systematic reports ensure incomplete complaints are processed timely.<br>• Develop and implement controls to ensure that the priority level of complaints is appropriately classified within the case management system.<br>• Consider updates to the Texas Admin Code Rule §213.13 to align with current practices, including the process to intake complaints and provide notifications. | Strong |

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| SCOPE AREA | RESULT | RATING |
|---|---|---|
| **Objective B:** Verify that controls over critical enforcement processes are operating effectively, efficiently, and according to Texas law and TBON policy. | Controls over enforcement processes are in place over critical Enforcement processes and are operating effectively and efficiently. However, through our testing we identified one case that was logged as priority level six, although this case priority level does not exist.<br><br>As a result of identifying this outlier, we recommend enhancements to the complaint classification process within the case management system to ensure alignment with Texas Admin Code Rule §213.13. | **Strong** |

## Conclusion

Based on our evaluation, the enforcement processes at Texas Board of Nursing (TBON) has procedures and controls in place designed to mitigate risks within the significant processes. However, we identified three opportunities to strengthen processes and improve the effectiveness of the controls within the enforcement process.

TBON should consider the following improvements to enhance the effectiveness and efficiency of the enforcement process and internal controls:

- Begin logging complaints unidentified respondents into the case management system. Additionally, investigators should document, within the case management system, the steps taken (telephone call, letter, date, result) to identify the complainant. This documentation provide a clear audit trial to evidence the efforts made to open the case. The Board should consider generating reports from the case management system to monitor timelines and ensure incomplete complaints are being processed.
- Update the N2 system to prevent inappropriate data entries or update its monthly batching process for closures letters to include a data reconciliation procedure. These controls will ensure that the Board effectively notifies all complainants to the status of their investigation.
- Update the Texas Admin Code §213 to align with the current enforcement processes. These updates will ensure that the Board captures all necessary details to open complaints within the N2 system and initiate their investigation. Furthermore, all complainants should be informed of the same details regarding timelines and expectations that are provided to respondents.

Follow-up procedures will be performed in 2026 to evaluate the effectiveness of remediation efforts taken to address the findings identified.

# Detailed Procedures Performed, Findings, Recommendations, and Management Response

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## Detailed Procedures Performed, Findings, Recommendations and Management Response

Our procedures included interviewing key personnel within the Enforcement Department to gain an understanding of the current processes in place, examining existing documentation, and evaluating the internal controls over the processes. We evaluated the existing policies, procedures, and processes in their current state.

## Objective A: Design of Internal Controls

Determine whether internal controls over the enforcement process are designed to ensure that consistent processes are implemented and designed effectively to address the risks within the associated sub-processes and to ensure effective operations.

**Procedures Performed:** We conducted interviews of key personnel within the Enforcement Department and examined existing documentation to gain an understanding of the current enforcement process. We documented our understanding of the processes and identified internal controls that address risks over the critical sub processes:

- Enforcement Support
- Complaint Receipt Processing (Nursing Practice Act)
- Investigation and Violations of the Nursing Practice Act
- Appeals

We evaluated the controls identified against expected controls to determine whether the identified enforcement processes and internal controls are sufficiently designed to mitigate the critical risks associated with the operational sub-processes for enforcement. We identified any unacceptable risk exposures due to gaps in the existing control structure as well as opportunities to strengthen the effectiveness and efficiency of the existing procedures.

**Results:** We identified 16 total controls in place over the significant activities within TBON's enforcement processes. We identified three findings where improvements in the processes, policies, and procedures could be made.

| Process Area | Control Coverage | Findings |
|---|---|---|
| Enforcement Support | 4 | - |
| Complaint Receipt Processing (Nursing Practice Act) | 6 | **Finding 1** |
| Investigations and Violations of the Nursing Practice Act | 3 | **Finding 2**<br>**Finding 3** |
| Appeals | 3 | - |
| **Totals** | **16** | **3** |

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**Enforcement Support**

**Finding 1 - Low – Unidentified Respondents and Complaint Intake:** The Board does not maintain controls to appropriately track, investigate, or document incomplete complaints upon intake. Additionally, the Board's current procedures do not align with the required complaint intake information outlined in the outdated Texas Administrative Code (TAC) Rule §213.13(a). The rule does not align with current enforcement practices, and requires information that may not be necessary to open a complaint, or may not be available by the complainant, such as the social security number, license number, and other information.

When the Board receives an incomplete complaint, but can identify the respondent, a complaint is logged in the N2 system. However, if a respondent cannot be identified, the complaint cannot be logged in N2. Complaints that cannot be logged into N2 are tracked manually on a hand-written list while an investigator works to ascertain the information necessary to process the complaint. There is no back up for the data collected or progress made to collect information with complaints on the manual list.

We selected a sample of complaints received by the Board during July 1, 2023, through December 31, 2024, to evaluate the timeliness of complaint processing and to determine if notifications were provided to all parties within 30 days. For one of our samples, the Board provided notice 114 days after the complaint was received. We determined the root cause of this delay was due to insufficient information submitted with the complaint to the Board, including information necessary to identify the respondent. We requested documentation from the investigator to evidence the follow-up process that was performed to identify the respondent, such as emails, phone call logs, or other documentation. Due to the manual nature of tracking in the handwritten list this information is not available.

Without processes and controls to track, investigate, and document information gathered for incomplete complaints upon intake, the Board has a heightened risk of compliance and reputational risk.

**Recommendation:** We recommend that the Board update the complaint intake process to log nondescript names into N2 such as, John and Jane Doe, for complaints where respondents cannot be identified. This will allow the Board to produce reports and monitor all complaints where a respondent cannot be identified for timeliness. Additionally, the Board should consider updating the Texas Admin Code to reflect current procedures of the Board. See Finding 3.

**Management Response:** Management agrees with this finding. Enforcement Team Management will implement a new shared folder for Unidentified Respondent Complaints within N2 (this includes complaints with no identified respondent and complaints where the name provided for the respondent does not match a licensee). A spreadsheet located in the folder will track the complaints along with dates and types of follow-up (email, telephone, text message). The Assistant Director of Enforcement will monitor the folder on a schedule to triage the complaints. Any remaining complaints to be processed will be tracked on the spreadsheet for follow-up. The enforcement admin team will monitor the spreadsheet each week and follow up, with three documented follow ups required. After such time, if no information is able to be obtained to identify the subject of the complaint, a form letter will be sent to the complainant informing them of the attempts and that the complaint will be closed.

Regarding the required information in each complaint per TAC, see Finding 3 below.

**Responsible Party:** Assistant Director of Enforcement and Program Supervisor/Admin Team
**Implementation Date:** April 1, 2025

**Investigations and Violations of the Nurse Practice Act:**

**Finding 2 - Low - Case Management Controls:** The Board does not have controls in place to prevent or detect incorrect investigation priority status entries within the case management system, and we identified a priority status level of six through our procedures, which is not a valid case priority status.

We selected a sample of complaints received by the Board during July 1, 2023, through December 31, 2024, for testing, and identified one sample that erroneously designated priority level six. Priority levels should be designated one through four according to the required Texas Admin Code Title Rule §213.13. We performed data reconciliation procedures over the entire population by searching for similar outliers and verified that this instance was isolated. We did not identify any other instances of priority levels other than levels one through four.

We identified the misclassification was the result of an incorrect hardcoded entry. The Board's case management system does not restrict data fields to predetermined options and allows for the potential input of inappropriate data.

On a monthly basis, case closure letters are batched according to priority level and mailed to complainants. Due to the inappropriate priority level six designation, the letter failed to be captured within the monthly batching process. Upon Weaver's identification of the misclassified entry, management generated and mailed a closure letter to the complainant regarding their case on February 10, 2025. The case received disposition and was closed on September 27, 2023. The complainant's closure letter was mailed 508 days after closure.

Although there is no statutory noncompliance, this does exceed the Board's internal policy to notify complainants no later than 30 days after receiving the complaint with information regarding resolution. We identified no other selected samples in noncompliance of the Board's internal notification policy.

**Recommendation:** We recommend the Board work with IT to restrict the options within the case management system to only allow priority levels of one through four when inputting data. Alternatively, we recommend during the monthly batching process for closure letters, management perform a reconciliation to identify inappropriate data entries.

**Management Response:** Management agrees with this finding. Enforcement personnel will no longer use priority level four when designating complaints. This will be addressed with the Texas Administrative Code rule update (see Finding 3 below). Enforcement Team Management will implement a new process where management will audit the open/closed case log list on a monthly basis. The audit will include a reconciliation to identify incorrect entries entered other than priority levels 1, 2, or 3. This process will be closed with documented reviews and approvals of each reconciliation.

**Responsible Party:** Assistant Director of Enforcement
**Implementation Date:** April 1, 2025

**Complaint Receipt Processing (Nursing Practice Act):**

**Finding 3 - Low - TAC Rules Updates:** The Board's current enforcement processes does not align with Texas Admin Code Rule §213.13, which was last amended in May 2004. Through our procedures we determined the following processes are not congruent with admin rules:

Complaint Submission Requirements:
The rule mandates that complaints must be submitted in writing and contain specific information, including the Nurse/Respondent Name, License Number, Social Security Number, Date of Birth, Employer, Dates of Occurrence(s), Description of Facts or Conduct, Witnesses, Outcome, Complainant Identification, and Written Instructions. However, most complaints are submitted online through the Board's complaint intake form, and information such as date of birth, social security number, and license number is not required, contrary to the rule.

Timeline Notification Requirements:
The rule requires the Board to place a timeline for completion in the investigative file within 30 days of receiving a complaint and notify all parties of any changes in the timeline within seven days of the change. However, due to the complexity of complaints, frequent changes in the timeline occur, making it operationally infeasible to notify the complainant every time a change occurs. The notification letter provided to the respondent includes detailed information on the investigation process and timeline, but the same level of detail is not provided to the complainant as required by the rule.

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**Recommendation:** We recommend the Board review and update the Texas Admin Code §213.13 to align with current practices, including the process to intake complaints and providing periodic notifications. Additionally, we recommend the Board consider providing complainants with the same level of detail regarding timeline expectations as is provided to the respondent within the notification letters.

**Management Response:** Management agrees with this finding. We will work with IT to make the following internal updates:

- Remove email option from submission of complaints on website
- Revise and update website instructions on submitting complaints through the portal
- Update email auto response to direct complainants to the portal for all complaints
- Remove obsolete complaint forms still present on website (for employers and peer review) as these are no longer needed
- Update the A15 complainant letter with information regarding general timelines/direct to TBON website, same as the Respondent Letter
- Update the complaint portal to require incident details (currently this option is "optional")

Additionally, Enforcement Management will recommend the following TAC updates:

- Revise the requirements for what should/should not be part of a complaint, to match Optimal Regulatory Board System complaint portal requirements. Remove reference to TBON "complaint form."
- Remove priority level four option for complaints
- Address timeline for reviewing complaints and issuing correspondence to parties to be consistent with increased number of complaints over the past 20 years
- Remove criminal background check language

TOC Sec. 301.204(b)(2) [last update: 1999] states that the Board "shall establish a schedule for conducting each phase of a complaint that is under the control of the board not later than the 30th day after the date the board receives the complaint." In order to change the TAC rule 213.13 under the current TOC wording, we will establish a schedule for the above rule change proposals.

**Responsible Party:**

- IT Team for submitted website changes
- Legal Department/Board Members/Governor's office for rule change

**Implementation Date:**

- For website/template changes, implementation June 1, 2025.
- Will work with legal department to submit rule change to the July 17, 2025, Board meeting. Timing is contingent upon approval by the Governor's Office and receipt of any public comments on the published proposed rule.

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## Objective B: Effectiveness of Controls

Verify that controls over critical enforcement processes are operating effectively, efficiently, and according to Texas law and TBON policy.

**Planned Procedures**

Execute test procedures over reoccurring procedures that occur on an ongoing basis to verify that key controls and procedures are being consistently performed and documented.

**Enforcement Support**

1. **Procedures Performed:** We conducted interviews, obtained supporting documentation, and verified the following:
    - Enforcement personnel produced all reporting documentation timely and appropriately
    - Board inquiries were resolved in a timely manner
    - Criminal history records were adequately maintained
    - Evidence was handled according to the Board's policies and all regulatory requirements

    **Results:** We identified one complainant that was not notified regarding the receipt of their complaint within 30 days of TBOM receiving the complaint as required by the Texas Administrative Code (TAC) Rule §213.13(a). This was the result of insufficient information provided by the complainant, who did not identify the respondent during the intake process.

    **Finding 1 - Low - Unidentified Respondents and Complaint Intake**

**Investigations and Violations of the Nurse Practice Act**

2. **Procedures Performed:** We selected a sample of open complaints between July 1, 2023, through December 31, 2024, which included jurisdictional complaints and verified the following:
    - Investigated complaints had complete information and documentation
    - Individuals involved with the complaint were notified of the investigation initiation
    - Investigations were performed according to TBON procedures
    - Investigations were closed or referred to prosecution appropriately
    - Monthly activity reports were produced for periodic review
    - Board reviewed and ratified proposed agreed orders arising from complaints in a timely manner

    **Results:** We identified one sample that was erroneously designated as priority level six. As a result, the complainant did not receive the necessary correspondence regarding the resolution of their complaint until well after the complaint had been closed.

    **Finding 2 - Low - Case Management Controls**

# Appendix

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The appendix defines the approach and classifications utilized by Internal Audit to assess the residual risk of the area under review, the priority of the findings identified, and the overall assessment of the procedures performed.

## Report Ratings

The report rating encompasses the entire scope of the engagement and expresses the aggregate impact of the exceptions identified during our test work on one or more of the following objectives:

- Operating or program objectives and goals conform with those of TBON
- Board objectives and goals are being met
- The activity under review is functioning in a manner which ensures:
    - Reliability and integrity of financial and operational information
    - Effectiveness and efficiency of operations and programs
    - Safeguarding of assets
    - Compliance with laws, regulations, policies, procedures and contracts

The following ratings are used to articulate the overall magnitude of the impact on the established criteria:

| | |
|---|---|
| **Strong** | The area under review meets the expected level. No high risk rated findings and only a few moderate or low findings were identified. |
| **Satisfactory** | The area under review does not consistently meet the expected level. Several findings were identified and require routine efforts to correct, but do not significantly impair the control environment. |
| **Unsatisfactory** | The area under review is weak and frequently falls below expected levels. Numerous findings were identified that require substantial effort to correct. |

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## Risk Ratings

Residual risk is the risk derived from the environment after considering the mitigating effect of internal controls. The area under audit has been assessed from a residual risk level utilizing the following risk management classification system.

**High**

High risk findings have qualitative factors that include, but are not limited to:

- Events that threaten TBON's achievement of strategic objectives or continued existence
- Impact of the finding could be felt outside of TBON or beyond a single function or department
- Potential material impact to operations or TBON finances
- Remediation requires significant involvement from senior TBON management

**Moderate**

Moderate risk findings have qualitative factors that include, but are not limited to:

- Events that could threaten financial or operational objectives of TBON
- Impact could be felt outside of TBON or across more than one function of TBON
- Noticeable and possibly material impact to the operations or finances of TBON
- Remediation efforts that will require the direct involvement of functional leader(s)
- May require senior TBON management to be updated

**Low**

Low risk findings have qualitative factors that include, but are not limited to:

- Events that do not directly threaten TBON's strategic priorities
- Impact is limited to a single function within TBON
- Minimal financial or operational impact to TBON
- Require functional leader(s) to be kept updated, or have other controls that help to mitigate the related risk