

**Consideration of the Licensed Vocational Nurse On-Call Pilot Program Report to the
Legislature as Required by S.B. 1857, 82nd Legislature, Regular Session, 2011**

Summary of Request:

The purpose of this report is to provide the Texas Board of Nursing (Board or BON) with the Licensed Vocational Nurse On-Call Pilot Program Report to the Legislature.

Historical Perspective:

Senate Bill 1857, passed during the 82nd Legislature, and directed the Department of Aging and Disability Services (DADS) and the Board to develop and conduct a pilot program to evaluate LVNs providing on-call services by telephone to individuals receiving services in the Home and Community-based Services (HCS) and Texas Home Living (TxHmL) Medicaid waivers and in intermediate care facilities for individuals with an intellectual disability or related conditions (ICF/IID) with 13 or fewer beds. The pilot program began September 1, 2011 and will continue through August 31, 2015.

SB 1857 required a Legislative Report be submitted to the Senate Committee on Health and Human Services and the House Committee on Public Health prior to the start of the 83rd Legislature, detailing the findings of the pilot program and jointly developed recommendations by DADS and the Board. Please see attachment 1.

The following areas are covered in the report regarding the pilot program:

- Milestones Achieved;
- Issues Identified;
- Outcomes Observed; and
- Next Steps in the Pilot Program.

Staff Recommendations:

This report is for informational purposes only. Staff will keep the Board apprised of the activities and information regarding the LVN On-Call Pilot Program.



COMMISSIONER
Jon Weizenbaum

January 14, 2013

The Honorable Lois Kolkhorst
Texas House of Representatives
P.O. Box 2910, GN.09
Austin, Texas 78768

Dear Representative Kolkhorst:

The attached report is submitted by the Texas Board of Nursing (BON) and the Department of Aging and Disability Services (DADS) as required by S.B. 1857, 82nd, Legislature, Regular Session, 2011.

This legislation requires the BON and DADS to conduct a pilot program to evaluate an expansion of licensed vocational nurses' scope of practice to include on-call services by telephone to individuals receiving services in the Home and Community-based Services/Texas Home Living Medicaid waivers and intermediate care facilities for individuals with an intellectual disability or related condition (ICFs/IID) with 13 or fewer beds. The LVN On-Call Pilot Program began September 1, 2011, and will continue through August 31, 2015.

Please let me know if you have any questions or need additional information. Marc Gold, Special Advisor for Policy and Promoting Independence, serves as the lead staff on this matter and can be reached at (512) 438-2260, or by email at marc.gold@dads.state.tx.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Weizenbaum".

Jon Weizenbaum
Commissioner

A handwritten signature in black ink, appearing to read "Katherine A. Thomas".

Katherine A. Thomas, MN, RN, FAAN
Executive Director
Texas Board of Nursing

JW:ca

Enclosure



COMMISSIONER
Jon Weizenbaum

January 14, 2013

The Honorable Jane Nelson, Chair
Senate Committee on Health and Human Services
Sam Houston Building, Room 420
Austin, Texas 78701

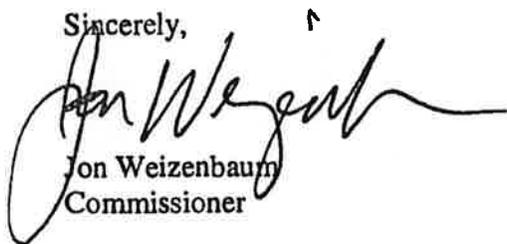
Dear Senator Nelson:

The attached report is submitted by the Texas Board of Nursing (BON) and the Department of Aging and Disability Services (DADS) as required by S.B. 1857, 82nd Legislature, Regular Session, 2011.

This legislation requires the BON and DADS to conduct a pilot program to evaluate an expansion of licensed vocational nurses' scope of practice to include on-call services by telephone to individuals receiving services in the Home and Community-based Services/Texas Home Living Medicaid waivers and intermediate care facilities for individuals with an intellectual disability or related condition (ICFs/IID) with 13 or fewer beds. The LVN On-Call Pilot Program began September 1, 2011, and will continue through August 31, 2015.

Please let me know if you have any questions or need additional information. Marc Gold, Special Advisor for Policy and Promoting Independence, serves as the lead staff on this matter and can be reached at (512) 438-2260, or by email at marc.gold@dads.state.tx.us.

Sincerely,



Jon Weizenbaum
Commissioner



Katherine A. Thomas, MN, RN, FAAN
Executive Director
Texas Board of Nursing

JW:ca

Enclosure



TEXAS BOARD
OF NURSING



LICENSED VOCATIONAL NURSE ON- CALL PILOT PROGRAM

Report to the Legislature

As Required by

S.B. 1857, 82nd Legislature, Regular Session, 2011

December 2012

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Texas Department of Aging and Disability Services

December 2012

Executive Summary

S.B. 1857, 82nd Legislature, Regular Session 2011, amended the Texas Human Resources Code relating to the administration of medications for persons with intellectual and developmental disabilities. It directed the Texas Department of Aging and Disability Services (DADS) and the Texas Board of Nursing (BON) to develop and conduct a pilot program to evaluate licensed vocational nurses (LVNs) providing on-call services by telephone to individuals receiving services in the Home and Community-based Services (HCS) and Texas Home Living (TxHmL) Medicaid waivers and in intermediate care facilities for individuals with an intellectual disability or related condition (ICFs/IID) with 13 or fewer beds. This report satisfies the requirement in the legislation for submission of a report prior to the start of the 83rd Legislature to the Senate Committee on Health and Human Services and the House Committee on Public Health.

Milestones Achieved

- A Memorandum of Understanding was agreed to by DADS and the BON.
- An advisory committee of public and private providers, registered nurses (RNs) and LVNs was appointed and activated.
- Training on the requirements of S.B. 1857 was developed and delivered to providers, owners, administrators and professional staff.
- An operational protocol containing essential requirements necessary to support the safety of individuals receiving services in the pilot was developed.
- A communication protocol was adopted to maximize communications between LVNs and RNs and support a team approach for meeting the ongoing and emergency needs of individuals receiving services in the pilot.
- A data submission system providing the ability to track and trend elements associated with the on-call service was developed and made available to providers.

Issues Identified

- DADS rules for the HCS and TxHmL waivers needed amending to require clinical supervision of LVNs.
- The RN curriculum does not include specific training related to nursing practice for persons with an intellectual or developmental disability (IDD), and the availability of RNs with IDD experience is limited.
- Due to funding constraints, the system for collecting, analyzing and evaluating the pilot's data is limited in ability.
- Travel expenses and limited staff resources posed a challenge for provider participation in face-to-face training sessions. A computer-based training module was developed to mitigate these barriers.

- A standardized and validated protocol specific for LVNs was not available. DADS, the BON and advisory committee members collaborated to successfully develop one.

Outcomes Observed

- Providers and nursing staff have new insight and better understanding into the BON rules, regulations and standards of practice.
- Nurses have indicated increased ability to mitigate risk for potential complications through use of the comprehensive nursing assessment for each individual served.
- Providers, RNs and LVNs indicate that communication is better and professional roles have been clarified and understood.
- LVNs have reported increased job satisfaction due to the structure and clarity associated with communication with, and supervision by, the RN.

Next Steps

- Because there is insufficient data at this time to draw conclusions or make recommendations, DADS will continue to collect data related to on-call telephone services provided by LVNs and evaluate the findings with the BON and the advisory committee throughout the current fiscal year and submit findings in the December 2013 report.

The advisory committee will continue monitoring the pilot, make recommendations for improvement and consider additional issues such as:

- A pilot participant survey (providers, nurses, individuals/families served); and
- Functionality and efficiency of the pilot protocols and data collection processes and procedures.

Introduction

S.B. 1857, 82nd Legislature, Regular Session, 2011, adds Subchapter D-1 (Administration of Medication for Clients with Intellectual and Developmental Disabilities) to Chapter 161 of the Human Resources Code. This legislation requires the Texas Board of Nursing (BON) and the Department of Aging and Disability Services (DADS) to conduct a pilot program to evaluate an expansion of licensed vocational nurses' (LVNs) scope of practice to include on-call services by telephone to individuals receiving services in the Home and Community-Based Services (HCS) and Texas Home Living (TxHmL) Medicaid waivers and intermediate care facilities for individuals with an intellectual disability or related condition (ICFs/IID) with 13 or fewer beds. On-call telephone services mean providing telephone services anytime of the day or night to handle non-urgent, urgent and emergent conditions an individual may experience, making a telephone assessment, providing instructions to an unlicensed person over the phone regarding that condition and reporting those instructions to an RN clinical supervisor. The LVN On-Call Pilot Program will determine whether there is any impact on the quality of care provided to individuals served in the designated intellectual and developmental disability (IDD) programs while LVNs are allowed to function in an expanded scope of practice. The pilot began Sep. 1, 2011, and will continue through Aug. 31, 2015.

This report satisfies the statutory requirement for submission of a report prior to the start of the 83rd Legislature, including recommendations and findings to the Senate Committee on Health and Human Services and the House Committee on Public Health, regarding the pilot program.

Scope of Report

The first year of the pilot was devoted to planning, establishing policies and procedures, developing the communication protocol and operational protocol training, establishing contracts and implementing a data collection process. This report focuses on the development and initial phase of the pilot. Subsequent reports will include identification of evaluation criteria and recommendations based on findings.

Background

The BON rules 22 Texas Administrative Code (TAC) 217.11 (2) and (3) indicate that on-call services provided by telephone are within the scope of practice of the RN but not within the scope of practice of the LVN. The RN scope of practice and the LVN scope of practice, while different, are based upon the educational preparation in the RN or LVN programs of study. The Texas Occupations Code Chapter 301 (Nursing Practice Act), Section 301.353 (Supervision of Vocational Nurse) and 22 TAC 217.11(2) states that the LVN practice is a directed scope of practice and must be supervised by an RN, physician, physician assistant, dentist or podiatrist. There is a growing need for nursing services to individuals with IDD who are living in the community and an insufficient number of RNs who choose to work in this setting. Because of the difficulty in employing RNs, LVNs began to perform certain functions that were outside their legal scope of practice, including telephone on-call services. The purpose of this pilot is to test

the concept of allowing LVNs to perform on-call services provided by telephone without impacting quality of care.

S.B. 1857 required the BON and DADS to conduct the pilot. Both agencies entered into a memorandum of understanding establishing the pilot on July 6, 2011. (See Appendix A)

Advisory Committee

S.B. 1857 required that the pilot be developed in coordination with public and private providers and RNs and LVNs employed by ICF/IID facilities with 13 or fewer beds and HCS/TxHmL waiver programs. The BON and DADS formed an advisory committee to function in this capacity (see Appendix C for Advisory Committee membership).

The advisory committee's purpose is to:

- advise in the overall implementation of the pilot;
- advise in the overall development of the operation protocol and communication protocol;
- assist in the development of the goals and measureable outcomes;
- review outcomes of the pilot and advise DADS and the BON of future actions;
- make recommendations for corrective actions when data indicate unsafe or ineffective nursing care resulting from the pilot;
- identify best practices that can be replicated without increasing costs;
- provide input to the development of the legislative report detailed in S.B. 1857; and
- meet at least quarterly.

The committee provided consultation and recommendations on all aspects of the pilot documents (see Appendix D for documents reviewed by the committee).

Training

Providers, owners, administrators and their professional staff were requested to attend 1.5 day training sessions regarding the requirements of S.B. 1857, including the pilot. These sessions were available by registration in five cities (a total of seven sessions) across Texas from October 2011 through December 2011 (see Appendix B for a listing of training dates and locations). Speakers included staff from DADS and the BON. More than 1,500 participants registered to attend the face-to-face training sessions.

The pilot training is now available via computer-based training on the DADS website at <http://www.dads.state.tx.us/business/CBT/lvnocpp/index.html>

In addition, DADS provides a dedicated web page for providers and their staff to access all written information disseminated at the initial training sessions, as well as any updated materials and ongoing provider notifications. Two additional webinars provided pilot updates and clarifications. A dedicated email address (SB1857@bon.texas.gov) was developed for providers

and nurses to contact BON staff directly with specific questions regarding S.B. 1857 and the pilot.

Operational and Communication Protocol Development

An operational protocol was developed as a framework for the pilot and contains essential requirements necessary to provide support and safety to individuals receiving services. The operation protocol describes the goal, purpose, data collection, documentation, outcome measures, participation requirements and evaluation criteria that will be used in the pilot program.

S.B. 1857 required the LVN to use standardized and validated protocols or decision trees when performing on-call telephone services. After an extensive and unsuccessful national search for standardized and validated protocols applicable to the LVN scope of practice, the BON, DADS and the advisory committee developed a communication protocol.

The communication protocol describes how the LVN will provide on-call telephone services and when the LVN must communicate with the RN clinical supervisor. A primary component of the communication protocol requires the LVN to communicate with the RN clinical supervisor to ensure the safety of the individual at any point if the individual's condition or situation changes significantly or exceeds the LVN's level of competency. The communication protocol identifies conditions in which the LVN notifies the RN and when an LVN immediately initiates emergency medical services. The LVN must collaborate with the RN to help implement the nursing service plan when providing on-call services and following up with individuals. However, emergency and urgent situations may arise at any time in which the LVN must provide on-call and follow-up services.

The communication protocol identifies a new model to define the collaborative relationship between the LVN and the RN. This new model is intended to maximize communication between the LVN and the RN to develop a team approach for meeting the ongoing and emergent needs of individuals in these programs. (See Appendix D for the communication protocol).

Data Collection and Evaluation

All HCS, TxHmL, and ICF/IID providers must collect and report data related to on-call services. This includes providers who use RNs exclusively to provide on-call services. The data collected and submitted by providers during the pilot are used by the BON and DADS to determine whether LVNs performing telephone on-call services in the programs outlined in the legislation provide safe, effective nursing care. Data being analyzed include:

- number of deaths by fiscal year;
- number of admissions to nursing facilities and inpatient treatment facilities by fiscal year;
and
- results of mortality reviews.

In addition, existing critical incident data that includes numbers of emergency restraints, medication errors and physical injuries will be expanded to include:

- number of on-call service requests received by RNs and LVNs;
- action taken by RNs and LVNs in response to the calls; and
- the outcome for the individual following the on-call service.

Currently required critical incident data and mortality review information submitted to DADS by providers are also being analyzed. BON staff will continue to track and trend complaint data submitted to the BON for nursing incidents related to the pilot.

DADS developed a data submission page in the Client Assignment and Registration System (CARE) that provides the ability to track and trend elements associated with the on-call service provided by both RNs and LVNs during the pilot period. Providers were required to begin monthly data submission as of April 30, 2012. Data elements included:

- Provider's name
- Contract number
- Program (ICF/IID, HCS, TxHmL)
- RN or LVN
- Month/year
- Date of the call
- Time of the call
- Individual's name
- CARE ID
- Type of call
 - Non-urgent condition
 - Urgent condition
 - Emergency condition
- Action taken (by RN or LVN)
- Individual outcome

Reports extracted from this data will be combined with the information collected from the BON complaints system and analyzed regarding safety, efficiency and LVN competency.

Pilot Participation Requirements

Providers who utilize LVNs for telephone on-call services must participate in the statewide pilot; those who choose not to participate in the statewide pilot must use RNs to provide on-call services. Each participating provider and its nursing staff (RNs and LVNs) are required to sign an agreement with DADS that indicates full understanding and intent to comply with the terms

of the pilot. Participating providers must attend a DADS-sponsored training. (See Appendix D for the operation protocol and additional pilot requirements.)

Pilot Participation

As of September 30, 2012, the table below identifies the number of provider contracts that are participating in the pilot:

	Total Contracts Participating in Pilot	Total Active Contracts
HCS Contracts	94	712
TxHmL Contracts	44	274
ICF Contracts	376	853

Nurses Participating in the Pilot*

	LVN	RN	Total
HCS Nurses	235	142	377
ICF/IID Nurses	1227	504	1731
TXHML Nurses	116	65	181
Grand Total	1578	711	2289

** Many nurses are listed under multiple contracts. A single nurse may be counted multiple times. As of 9/30/12, the unduplicated count for LVNs participating in the pilot program is 211; for RNs, it is 93.*

Issues Identified through Implementation

Several issues have been identified during the implementation of the pilot. These issues include:

- BON rules require that the LVN’s practice be supervised by an RN, physician, physician assistant, dentist or podiatrist. DADS rules regarding nursing services for HCS/TxHmL did not specifically require clinical supervision of LVNs. Many providers employed only LVNs. All providers must now ensure LVNs are clinically supervised.
- The availability of RNs with experience in the IDD setting is limited. The RN curriculum does not include specific training in the IDD field of practice, and as a result, new RNs are more likely to practice in other, more familiar settings.
- Developing system to collect, analyze and evaluate the pilot’s data without incurring significant cost was difficult. Expanding the CARE system to include a data entry screen that would be available and accessible 24 hours per day by all contractors was determined to be the best solution. However, due to financial constraints, the system allows retrieval of only aggregate data with basic sort functions and limited data entry space.

- Attendance at the initial statewide face-to-face training sessions was difficult for some providers and their staff due to travel expense and limited staff resources. A new computer-based training module available on the DADS website should mitigate possible barriers to meeting the training requirements of the pilot.
- A standardized and validated protocol specific for LVN use was not available. DADS, the BON and members of the advisory committee collaborated to develop an LVN communication protocol designed specifically for the LVN level of education and practice.

Positive Outcomes

Since the pilot program's launch, several positive outcomes have been identified. The following list includes anecdotal information received to date by advisory committee members and provider organizations:

- Providers and their nursing staff have indicated new insight and understanding into the BON rules and regulations and standards of nursing practice.
- Nurses have indicated an increased ability to identify previously missed health-related issues and thus were able to mitigate the risk for potential complications because the pilot requires participating providers to complete a comprehensive nursing assessment for each individual served.
- Participating providers, LVNs and RNs have indicated a better system for communication has been established and professional roles have been clarified, which, in turn, decreases confusion and benefits the individuals served.
- LVNs have reported greater in job satisfaction due to the structure and clarity associated with the communication with and supervision by the RN in the exercise of nursing decisions.

Next Steps

Since the enactment of S.B. 1857, the BON and DADS have worked collaboratively with the advisory committee to investigate and test the expansion of the role of LVNs in the community setting while ensuring existing professional standards and the BON rules are upheld in the delivery of services in the HCS and TxHmL programs and ICF/IID facilities with 13 or fewer beds. The first year of the pilot consisted mostly of planning activities; training the providers, RNs, LVNs, DADS reviewers and surveyors regarding the requirements of the pilot; and implementing the requirements outlined in the operation protocol. There is insufficient data at this time to draw conclusions or make recommendations. DADS will continue to collect data related to on-call telephone services provided by LVNs and evaluate the findings with the BON and the advisory committee during state fiscal year 2013 and will submit those findings in the December 2013 report. Throughout fiscal year 2013, the advisory committee will continue monitoring the pilot, make additional recommendations for improvement as necessary and consider additional issues such as:

- a pilot participant survey (providers, nurses, individuals/families served); and

- functionality and efficiency of the pilot protocols and data collection processes and procedures.

Appendix A

- DADS/BON Memorandum of Understanding (MOU)

Appendix B

Training Sessions

- October 5-6, 2011, in Lubbock, Texas
- October 12-13, 2011, in Houston, Texas;
- October 18-19, 2011, in San Antonio, Texas;
- October 25-26, 2011, in Fort Worth, Texas;
- November 9- 10, 2011, in Houston, Texas;
- November 29-30, 2011, in Austin, Texas; and
- December 1-2, 2011, in Fort Worth, Texas.

Appendix C

The advisory committee includes staff from the:

- Private Providers Association of Texas (PPAT)
- Texas Board of Nursing (BON)
- Texas Nurses Association (TNA)
- Department of Aging and Disability Services (DADS)
- Texas Council of Community Centers
- The Arc of Texas
- Provider Alliance for Community Services of Texas (PACSTX)
- Texas Council for Developmental Disabilities (TCDD)
- Austin Community College Vocational Nursing Program

Appendix D

- HCS/TxHmL Frequently Asked Questions
- ICFs/IID Frequently Asked Questions
- Selection of training locations (Lubbock, San Antonio, Fort Worth, Houston, Austin)
- LVN On-Call Pilot Program Operational Protocol
- LVN On-Call Communications Protocol
- Online Training for LVN On-Call Pilot Program computer-based training
- Regulatory Enforcement Timeframes
- Forms and Sample Templates

- Form 8496 Nursing On-Call Services Log
- Form 8584 Nursing Comprehensive Assessment
- Form 8590 Agreement for Licensed Vocational Nurses On-Call Services Pilot Program
- Form 8591 Verification of Eligibility to Participate in Licensed Vocational Nurses On-Call Services Pilot program
- Provider/ Information Letters
 - IL 2012-22 / PL 2012-11 Entering Nursing On-Call Service Data into the Client Assignment and Registration (CARE) System 1/26/2012
 - PL 2012-10 Licensed Vocational Nurses (LVNs) On-call Telephone Services Pilot Program and Operational Protocol (Replaces Provider Letter 11-38) 1/17/2012
 - PL 2012-05 Licensed Vocational Nurses (LVNs) Providing On-call Telephone Services in the ICF/IID Program 1/09/2012
 - PL 2012-12 Medication Administration by an Unlicensed Person and Clarification of the BON RN Delegation Rules (Replaces PL 11-31 and S&CC 06-13) 4/05/12
 - PL 2012-19 Texas BON Rules (Replaces PL12-04) 9/07/12