

85th Legislative Session

Recap



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A Standout Session for Texas NPs

by Erin Cusack

During the 85th Legislative Session, Texas Nurse Practitioners (TNP) made giant strides to improve the practice environment for nurse practitioners (NPs) in Texas and access to care for Texas patients. TNP worked with lawmakers to pass two of the six items on TNP's legislative agenda, and secured a hearing for all but two of our priority initiatives.

Two of the bills we helped advance will expand access to care to Texas patients, especially those in rural and underserved areas. Senate Bill (SB) 654 by Sen. Kel Seliger and Rep. John Smitee allows advanced practice registered nurses (APRNs) to see Medicaid and CHIP patients, regardless of whether their delegating physician also participates in those plans. Another bill, SB 919 by Sen. José Rodríguez and Rep. Garnet Coleman, extends signature authority to APRNs and Physician Assistants (PAs) for death certificates.



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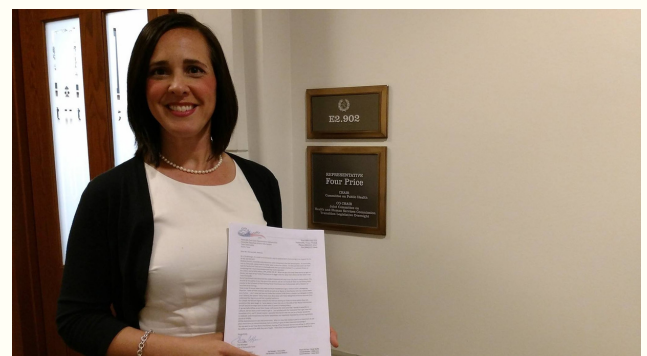
Standout Session for NPs (Continued)

This legislative session saw tremendous momentum toward granting full practice authority to APRNs. Under the leadership of the APRN Alliance, a group of diverse organizations representing consumers, business, and a broad range of health care stakeholders came together to form the Coalition for Health Care Access. This group of over 20 business, consumer-advocacy, and health care stakeholder groups, including AARP, Center for Public Policy Priorities, Texas Association of Business, and the Texas Public Policy Foundation, was pivotal in garnering legislative and public support for full practice bills, HB 1415/SB 681. Thanks to the Coalition's efforts and the coordinated *Put Patients First Texas* campaign, we had a successful public hearing for HB 1415/SB 681 on April 25, with supportive testimony from dozens of organizations.

TNP was also a part of several coalitions that advanced key bills for telemedicine, nursing, and women's health. Please read the sections below for a detailed wrap-up of all the bills from the 85th Legislative Session that impact you, your patients, and your practice.

This recap is your personalized guide to health care policy in the 85th Legislative Session. We hope you enjoy it!

Sincerely,
Erin Cusack
TNP Associate Director of Public Affairs



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TNP's Legislative Agenda & Report

- **Full Practice (HB 1415/SB 681 by Klick, Hancock)**
Status: Secured Public Hearing, Left Pending in Committee

This legislation would have removed the requirement for a physician delegation agreement and placed APRNs under the exclusive regulatory authority of the Texas Board of Nursing, without making any additional changes to APRN practice or prescriptive authority. The bill had a hearing on April 25, which was met with praise by the media and legislators. However, ultimately this bill was left pending in committee.

- **Insurance (HB 1225/SB 654 by Smithee, Seliger)**
Status: Passed and Signed by the Governor

This legislation removes the requirement that APRNs be in the same health insurance network as their delegating physician. The bill originally applied to all insurance plans, but was

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later amended to apply only to Medicaid/CHIP. It is important to note that this legislation is permissive, meaning Medicaid/CHIP plans have the flexibility to contract directly with APRNs, regardless of the delegating physician's network, but are not *required* to do so. Commercial insurance plans already have this flexibility.

- **Discharge Prescriptions (HB 1846/SB 433 by Coleman, Rodríguez)**
Status: Voted out of Committee, Sent to Calendars

This legislation would have clarified that hospice and facility-based APRNs could fill discharge prescriptions for Schedule II Controlled Substances in local pharmacies, and not just on-site in the hospital pharmacy. This bill was voted unanimously out of the Public Health Committee, but was left pending in Calendars. Attempts were made to add this as an amendment, to the Texas Board of Pharmacy Sunset bill, but were ultimately unsuccessful. There will be continued efforts in the interim to rectify this issue.

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TNP' Legislative Agenda (Continued)

- **Signature Authority (SB 919/SB 431 by Coleman, Rodríguez)**

Status (SB 919): Passed, Signed by the Governor

Status (SB 431): No Hearing

SB 431 would have recognized the signature of NPs on a number of health-related forms, including: birth and death certificates, orders for handicap placards, jury duty and immunization waivers, and worker's compensation forms.

While SB 431 did not move forward, TNP later worked with Sen. Rodriguez and Rep. Coleman to introduce SB 919, which grants signature authority for death certificates for patients receiving hospice or palliative care. This bill garnered broad support from the Texas Palliative Care Interdisciplinary Advisory Council and physicians, and passed both chambers unanimously before being signed by the Governor.

- **Veterans (HB 1804/ SB 831 by Blanco, Rodríguez)**
Status: No Hearing

This legislation would have granted full practice authority to U.S. Veterans who are licensed as NPs in Texas and who practiced in this role while serving in the military. This bill did not receive a public hearing, most likely because HB 1415 - the unrestricted version of this bill that would have applied to all APRNs - was heard instead.

There were a few other APRN bills introduced by legislators, but not endorsed by TNP and the APRN Alliance. All died in Committee.

HB 3406 (Oliverson): would not permit physicians to charge for Prescriptive Authority Agreements (PAAs) with APRNs/PAs.

HB 3395 (Price): would have granted full practice authority to APRNs in medically underserved counties with no practicing physicians.

HB 2807 (Price) : would have removed the requirement that APRNs be in the same insurance network as their delegating physicians, but only in medically underserved counties with no practicing physicians.

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Physician Assistants

This session, there were a number of Physician Assistant (PA) bills that were introduced and will go into effect September 1, 2017.

- **PAA Meetings (HB 2141 by Oliverson)**
Status: Voted out of Committee, Left pending in Calendars but later amended to SB 1625

As introduced, this legislation would have changed the PAA monthly meeting requirements for PAs and APRNs so that these meetings would no longer have to take place “face-to-face.” HB 2141 died due to deadlines. In the final hours of the legislative session, the PAs made a last-stitch effort to save HB 2141 by amending it onto another PA bill, SB 1625. This amendment to SB 1625 was successfully added, but APRNs could not be included because the House Parliamentarian deemed it “non-germane” to the bill. Under SB 1625, PAs will still be required to have monthly meetings as a part of their PAA, but these meetings can now take place in a “manner of their choosing,” which could include electronic communication rather than

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in-person meetings. The PAA meeting requirements for APRNs remain unchanged, although revising these requirements to be equivalent with those of PAs will be addressed next session.

- **Schedule IIs (HB 2548 by Zerwas)**
Status: Left pending in Calendars

This legislation would have extended Schedule II prescriptive authority to PAs at the practice site, expanding this authority beyond facility-based and hospice sites to outpatient and other settings. This bill did not include APRNs. It was voted out of the House Public Health Committee, but was left pending in Calendars.

- **Worker's Comp Forms (HB 2546 by Zerwas)**
Status: Passed, Awaiting Governor's signature

This legislation allows PAs to complete and sign work status reports for the workers' compensation system. The new authority is still delegated by the treating physician, and the legislation specifically states that the physician is liable for the PA's actions. This bill does not include APRNs.

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Nursing Bills

The Nursing Legislative Agenda Coalition (NLAC), of which TNP is a part, helped advance a number of bills that will improve protections for nursing peer review, expand affordable BSN program options for students entering the nursing field, and increase awareness about the need for school nurses in public schools.

- **Nursing Peer Review Committees (HB 3296)**

Right now under Texas law, anyone who employs, hires, or contracts with 10 or more nurses is required to provide a nursing peer review committee. HB 3296 extends this protection to more nurses, lowering the number of nurses required to trigger the peer review requirement from ten to eight.

- **Community College BSN Programs (SB 2118)**

This bill will allow public community colleges to offer baccalaureate degree programs in applied science, applied technology, and applied nursing.

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While the bill does not provide for any additional funding to community colleges to set up these baccalaureate programs, in the future these programs would be eligible for funding available to other publicly funded four-year baccalaureate programs.

- **School Nurse Notification (SB 916)**

This bill requires schools to notify parents if there's not a full-time school counselor, nurse, or librarian on campus. The bill was amended late in the legislative process to only apply to non-rural school districts, which is only 8.9% of school districts in Texas. However, this is still an important step and incentive for schools to hire full-time nurses in public schools.

- **Workplace Violence (HB 280)**

This bill sets up grants for facilities to combat workplace violence against nurses.

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Nursing Budget

- **Professional Nursing Shortage Reduction Program, \$20 million (-\$25.5 million):**

This line item provides funding to institutions to increase professional nursing graduates to help ease the nursing shortage affecting many areas in Texas. The legislature appropriated \$20 million for this program, down from \$35.5 million or 40 percent from the last biennium.

- **Nursing Faculty Loan Repayment Program, \$3 million (+ \$3 million)**

Previously, the Nursing Faculty Loan Repayment Program (NFLRP) was funded through the Physician Education Loan Repayment Program Fund (PLERP). If the PLERP had funding left over at the end of each budget year, money could carry over to NFLRP. However, this was rarely the case, leaving no viable funding stream to attract prospective nursing faculty. This year, the NFLRP was pulled out from underneath the PLERP, making it its own line item eligible for future appropriations.

- **Texas Center for Nursing Workforce Studies, \$822,000 (level funded)**

The Texas Center for Nursing Workforce Studies (TCNWS) was created to address the mounting concern over the nursing workforce shortage, and serves as a resource for data and research on the nursing workforce in Texas. This year, the TCNWS was level-funded at \$822,000, matching the appropriation from the last biennium.

- **Texas Emergency and Trauma Care Educational Partnership Program, \$4.5 million (level funded)**

This program includes trauma fellowships for emergency physicians and nurses. This year, the program was level-funded at \$4.5 million.

- **Texas Mental Health Loan Repayment Program, \$2.125 million (level funded)**

Created in 2015, this program provides loan assistance to mental health professionals, including APRNs certified in mental health nursing, who work in Mental Health Professional Shortage Areas. This program was level funded for the next biennium at \$2.125 million.

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Sunset Bills

At the 11th hour, the **Texas Board of Nursing (BON) Sunset bill (HB 2950 by Burkett)** passed the Texas Legislature. Thanks to the work of NLAC, important amendments were added to the bill to protect nurses going through the disciplinary process. The final BON Sunset bill does the following:

- Adopts the new **interstate Nurse Licensure Compact**;
- Requires the BON to ensure that license denials and **disciplinary actions are connected to the practice of nursing** or conduct that affects the person's ability to practice nursing;
- (NLAC amendments) provides a process for **removing disciplinary actions from the BON website** if the nurse/action meets certain criteria and prohibits the BON from overturning the findings of an administrative law judge;
- Requires BON to develop a **path to initial licensure for graduates of out-of-state programs** that are determined not to be substantially equivalent to Texas programs, including ADN-to-RN online program Excelsior; and

- Requires BON to develop guidelines to **establish individualized requirements for participants in Texas's Peer Assistance Program for Nurses**, a program for nurses suffering from substance abuse disorders.

Texas Board of Pharmacy Sunset Bill

In the final days of session, the Sunset Bill for the Texas State Board of Pharmacy (**SB 2561 by Van Taylor**) became the vehicle for new prescriber requirements related to the Prescription Monitoring Program (PMP).

SB 2561 requires all prescribers - except veterinarians - to query the PMP portal prior to prescribing opioids, benzodiazepines, barbiturates, or carisoprodol. Prescribers treating certified hospice or cancer patients will not be required to comply with this new requirement. Due to the work of the Prescription Drug Monitoring Coalition, led by the Texas Medical Association, we were successful in delaying implementation of this bill until September 2019. This gives the Texas Legislature more time to address any outstanding concerns regarding the bill language or the PMP technology next session.

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Telemedicine

TNP, Texas Nurses Association, Texas Medical Association, Texas E-health Alliance, and other key health care organizations worked with the Telemedicine Stakeholder Workgroup for the past several months to introduce legislation that would remove barriers to telemedicine in Texas. This session, the legislature passed **SB 1107 by Sen. Schwertner**. This bill eliminates the requirement of a face-to-face visit with a physician prior to receiving telemedicine services and prohibits any agency from establishing rules that impose a higher standard of care than what is required under the bill.

In addition to getting rid of the face-to-face requirement, the bill:

- Establishes a **standard of care for telemedicine** services;
- **Continues mental health exemptions** that currently exist under the Texas Medical Board (TMB);
- Requires fully insured **health plans to publish payment policies and costs for telehealth** on their websites;

- Requires TMB, BON, Texas Physician Assistant Board (TPAB), and Texas State Board of Pharmacy (TSBP) to **adopt rules to determine a valid telemedicine prescription** and publish frequently asked questions relating to a valid prescription on each agency website; and
- **Establishes telemedicine parity**, prohibiting insurers from restricting coverage solely because it is provided through telemedicine, unless the services are only rendered through phone or fax.

In addition to the victory of the new telemedicine law, Teledoc effectively won its antitrust lawsuit against the TMB when TMB dropped its appeal in case against the company in October of 2016. Sources suggested that the reason for this move was the deluge of amicus curie briefs from the many organizations supporting Teledoc, including Texas Nurse Practitioners, the Federal Trade Commission, and the Cato Institute, among others.

TNP will be closely monitoring TMB and the BON as they consider and adopt rules for APRNs related to the new framework for telemedicine and telemedicine providers.

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Women's and Children's Health

Due to startling reports about spikes in maternal mortality and the growing mental health care provider crisis, this session legislators gave heightened attention to women's health and mental health issues. Here are a few of the bills that made their way through the legislative process:

- **Women's Health Advisory Committee (SB 790)**

This bill extends the life of the Women's Health Advisory Committee, which is charged with overseeing the implementation of Texas' new women's health programs, until September, 2019.

- **Perinatal Depression Bills (HB 2466)**

This bill allows for maternal depression screenings during a well-child visit for mothers whose children are enrolled in Medicaid or the Children's Health Insurance Program.

- **Maternal Death Reporting (SB 1599)**

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This bill improves the process for pregnancy related deaths reporting and investigations by requiring the state to post information on protocols and best practices.

Key Mental Health Legislation

- **Mental Health Parity (HB 10):**

This bill expands mental health parity protections in Texas below by increasing the regulatory authority of the Texas Department of Insurance to regulate mental health benefits; allows for the appointment of a state ombudsman to address complaints regarding mental health parity; creates a mental health and substance abuse use disorder stakeholder workgroup; and requires state agencies to gather data regarding the denial rate of mental health and substance use disorder services compared to other benefits.

- **Mental Health Grant Program (HB 13):**

This bill requires the Health and Human Services Commission to create a matching grant program for private and nonprofit groups providing mental health services in communities.

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Get Involved in TNP's Advocacy

Legislative Session is not the only time we're busy at TNP. If you want to stay informed, engaged, and plugged into our advocacy efforts throughout the year, here's what you can do:

- **Join our Legislative Visits Volunteer Program.** The best time to visit with your legislator is during the interim session when they are at home in the district. Email us at admin@texasnp.org, and we'll schedule and prepare you for an in-district visit with your legislator.
- **Get Involved with Our Advisory Groups.** We have advisory groups based on NP specialties or health care areas of interest, such as women's health and telemedicine. Email admin@texasnp.org to learn more and get involved.
- **Stay Informed with our TNP Capitol Watch & Policy Webinar Series.** TNP members get exclusive policy updates on issues impacting the profession. Stay tuned to these Capitol updates.



Help Strengthen Our Advocacy Efforts

TNP looks out for you and your patients in the Texas Capitol. Together, we can move the nurse practitioner profession forward. Add your voice to the hundreds of Texas NPs fighting for full practice authority and other initiatives in Texas, and give to the TNP Political Action Committee or TNP Advocacy Fund today. Learn more at texasnp.org.