



End of Session Report

88th Regular Session of the Texas Legislature

Executive Summary

The 88th Regular Session of the Texas Legislature ended on May 29, 2023. This session, lawmakers passed historic legislation for the nursing profession.

Bills Supported by TNA

- SB 25 (TNA Priority Bill): This bill along with associated appropriations represents the largest investment in nursing education in Texas history.
- SB 240 (TNA Priority Bill): This bill establishes a comprehensive regulatory framework for workplace violence prevention in healthcare facilities throughout Texas and provides nurses a greater role in determining workplace violence prevention policies and plans of action.
- SB 840: This bill enhanced the penalty for assaulting a nurse from a misdemeanor to a felony.
- SB 1004: This bill enhanced the penalty for removing an ankle monitor or other electronic monitoring device for individuals on parole or other types of community supervision and was passed in response to the shooting at Methodist Dallas Medical Center.
- SB 294: This bill provides Texas students with greater access to breathing medication and greater authority to school nurses to administer breathing medication to students in respiratory distress.
- HB 3162: This bill represents the largest rewrite of the Texas Advance Directives Act since its original passage in 1999. The bill seeks to clarify numerous aspects of the law and the rights of those involved in end-of-life disputes.
- SB 1343: This bill expands the Texas Board of Nursing from 13 to 15 members, with one additional APRN member and one additional public member. The bill also requires APRN expert review of alleged standard of care violations by another APRN.
- HB 12: This bill directs the Health and Human Services Commission to pursue a state plan amendment for Medicaid to expand post-partum coverage from two to twelve months.
- SB 629: This bill expands access to opioid antagonists at school campuses for grades 6 through 12 and establishes requirements for their prescription, maintenance, use, and disposal.

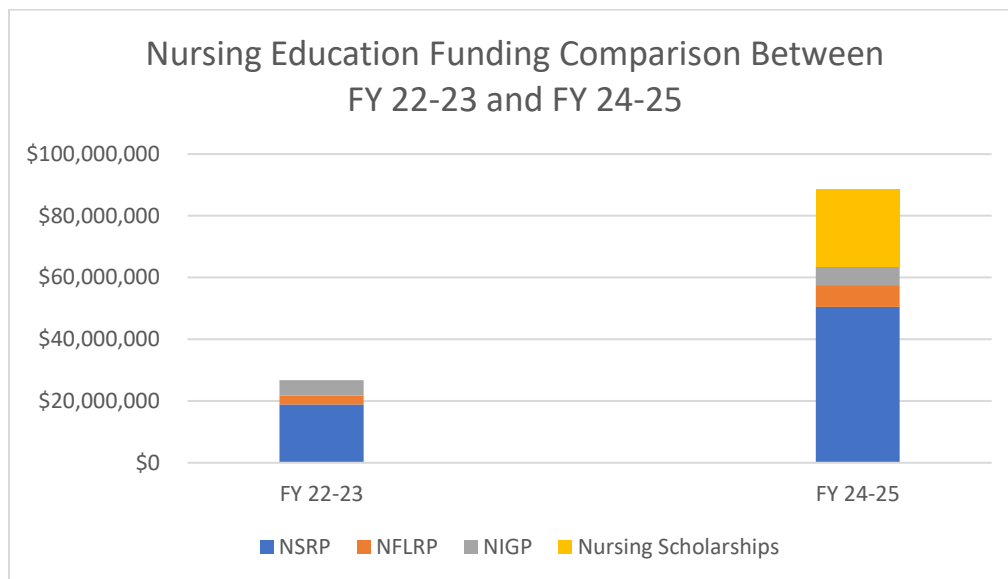
Following this executive summary is a detailed breakdown of the bills passed and their impact on the profession.¹

¹ This report was written by the Texas Nurses Association's Government Affairs Department. Special thanks to all the nurses who volunteered to develop or communicate policy to the members of the Texas Legislature. There are too many volunteers to list here, but these policy developments would not have happened without their advocacy. This report is for informational purposes only. It is not legal advice and should not be relied upon for legal decisions. If you have additional questions about the legal impact of these bills, consult your organization's legal team or your personal attorney. TNA members are welcome to contact the association to discuss these bills further.

I. Senate Bill 25 (TNA Priority Bill) – Historic Nursing Education Investments

SB 25 sought to rapidly increase the number of nursing graduates by targeting bottlenecks in the education pipeline and directing funds to alleviate those bottlenecks. This bill was a top priority for TNA due to the significant nursing shortage in Texas. Data from the Texas Center for Nursing Workforce Studies shows Texas to have a shortage of approximately 30,000 nurses and projects a shortage of approximately 57,000 nurses by 2032. Data from the Center also indicates that Texas turns away thousands of qualified nursing school applicants due to lack of capacity for additional students. Our goal was to reverse this trendline through education investments so nurses would not be chronically understaffed in Texas healthcare facilities.

SB 25 creates a new scholarship program for nursing students (funded at \$25M), expands the Nursing Faculty Loan Repayment Assistance Program (NFLRP) to include part-time faculty and grants the Texas Higher Education Coordinating Board the authority to increase the award amount via rulemaking (funded at \$7M), and extends the Nursing Innovation Grant Program (NIGP) to 2027 (funded at \$6M). This bill is also supported by funding for the Professional Nursing Shortage Reduction Program (NSRP) (funded at \$46.8M). SB 25 also creates new clinical education funding programs that were not funded in this biennium’s budget but are available for funding as clinical education needs increase. These targeted education programs supplement formula funding for the state’s nursing schools. A comparison to previous funding cycles demonstrates the significance of this funding increase.



This represents the largest investment in nursing education in a single biennium in state history and is responsive to the post-COVID nursing shortage. TNA drafted a “Texas Nursing Workforce Plan,” which charted out these funding recommendations and led to the introduction of SB 25 in collaboration with Senate leadership. TNA then partnered with 27 organizations to form the Nursing Shortage Reduction Coalition, which successfully advocated for passage SB 25.

A. Nursing Scholarships

SB 25 establishes a \$25M nursing scholarship program. This program will benefit students seeking an initial or an advanced degree in professional nursing, as well as students preparing for licensure as a licensed vocational nurse. The scholarships and loan repayment assistance available under this program will begin to be awarded for the 2024-2025 academic year.

B. Nursing Faculty Loan Repayment Assistance Program

This program was originally established in 2013. Until now, it has only been available to full-time faculty. Over the life of the program, nursing faculty has increasingly become composed of part time faculty.

In 2013, the mix was 68.2% full-time and 31.8% part-time faculty. By 2022, the mix became 44.8% full-time and 55.2% part-time. This shift altered the utility of the NFLRP and meant that a large portion of faculty was not eligible for this program. Additionally, the award amount available to program recipients was set at \$7,000 per year the recipient participated in the program, and participants could only receive loan repayment for five years, meaning the maximum amount available to any program recipient was \$35,000.

TNA advocated for changing the program to include part-time faculty and to permit THECB to set the award amount. This will allow the agency to determine a higher award amount for full-time faculty, to keep pace with inflation, and to figure out a proration formula for part-time faculty that is commensurate with the number of hours spent serving as faculty. The revised NFLRP awards will begin to be awarded for the 2024-2025 academic year.

C. Nursing Innovation Grant Program

This program began in 1999, and in recent grant periods THECB has focused on funding simulation and clinical training grant applications. The program was set to expire August 31, 2023, however SB 25 extended the program to August 31, 2027. This funding source is critical for alleviating bottlenecks in clinical education.

D. Professional Nursing Shortage Reduction Program

This program was first established in 2001. It is a highly flexible program and has taken several forms over the years. Funding has been directed to different education bottlenecks under different formulas established by the state budget, and this year the Legislature took a new approach.

The new funding formula establishes three tiers of funding: (1) a Growth Tier, (2) a Production Tier, and (3) a Faculty Tier.

1. Growth Tier

\$28M of the \$46.8M appropriated for the program goes into this tier of funding. Funds under this tier will be distributed in an equitable manner among nursing programs based on increases in the number of nursing students graduating.

2. Production Tier

\$8M of the \$46.8M appropriated for the program goes into this tier of funding. Funds under this tier will be distributed in an equitable manner among nursing programs based on the total number of nursing students graduating from a program each year.

3. Faculty Tier

\$10.8M of the \$46.8M appropriated for the program goes into this tier of funding. Funds under this tier will be distributed in an equitable manner among nursing programs based on the total number of doctoral level and master's in nursing education students graduating from a program each year.

E. New Clinical Funding Programs

SB 25 also created a new Clinical Site Nurse Preceptor Grant Program, a new Clinical Site Innovation and Coordination Program, a new Nursing Faculty Grant Program: Part-Time Positions, and a new Nursing Faculty Grant Program: Clinical Training. These programs are meant to support the use of nurse preceptors in providing clinical training to nursing students, support coordination among clinical sites for best practices, and supplement funding for part-time clinical nursing faculty.

The Legislature did not include dedicated funds for these new clinical programs in the state budget. It is possible that THECB will use funds from its budget to begin implementation of these programs, however it is also possible that THECB will establish rules for the programs without distributing awards under the programs until they are funded in a future state budget.

II. SB 240 (TNA Priority Bill) – The Workplace Violence Prevention Act

SB 240 establishes a comprehensive, statewide approach to preventing workplace violence against healthcare workers. It is the product of years of advocacy from nurses and received bipartisan support throughout the legislative process. It was one of the first bills sent to the Governor's desk this session.

This law will cover nurses and other healthcare professionals and employees working in the following list of facilities:

- home and community support services agencies that are licensed or licensed and certified to provide home health services and that employ at least two registered nurses;
- licensed hospitals and hospitals maintained or operated by a Texas state agency that are exempted from licensing;
- licensed nursing facilities that employ at least two registered nurses;
- licensed ambulatory surgical centers;
- freestanding emergency medical care facilities; and
- licensed mental hospitals.

Each covered facility must establish a workplace violence prevention committee. The committee is then required to draft a workplace violence prevention policy and plan. There are numerous requirements associated with the policy and plan.

The policy must require the facility to:

- provide significant consideration of the violence prevention plan recommended by the facility's committee and evaluate any existing facility violence prevention plan;
- encourage health care providers and employees of the facility to provide confidential information on workplace violence to the committee;
- include a process to protect from retaliation facility health care providers or employees who provide information to the committee; and
- comply with Texas Health and Human Services Commission rules relating to workplace violence.

The plan must:

- be based on the practice setting;
- adopt a definition of "workplace violence" that includes an incident involving the use of a firearm or other dangerous weapon, regardless of whether a health care provider or employee is injured by the weapon, and an act or threat of physical force against a health care provider or employee that results in, or is likely to result in, physical injury or psychological trauma;

- require the facility to provide at least annually workplace violence prevention training or education that may be included in other required training or education provided to the facility's health care providers and employees who provide direct patient care;
- prescribe a system for responding to and investigating violent incidents or potentially violent incidents at the facility;
- address physical security and safety;
- require the facility to solicit information from health care providers and employees when developing and implementing the workplace violence prevention plan;
- allow health care providers and employees to report incidents of workplace violence through the facility's existing occurrence reporting systems; and
- require the facility to adjust patient care assignments, to the extent practicable, to prevent a health care provider or employee of the facility from treating or providing services to a patient who has intentionally physically abused or threatened the provider or employee.

A facility's committee is required to annually review and evaluate the workplace violence prevention plan and report the results of the evaluation to the governing body of the facility.

When responding to incidents of workplace violence, a facility must offer immediate post-incident services, including any necessary acute medical treatment for each health care provider or employee of the facility who was directly involved in the incident. Facilities are not permitted under the law to discourage healthcare providers or employees from exercising their right to contact or file a report with law enforcement regarding incidents of workplace violence. Furthermore, the law prohibits discipline, including suspension or termination of employment, discrimination against, or retaliation against a healthcare provider or employee who reports an incident of workplace violence or advises another of their right to report an incident of workplace violence.

The law is enforced by the licensing agencies of the facilities and is supplemented by other healthcare worker protection statutes. This law is further complimented by the Workplace Violence Prevention Grant Program, which helps fund innovative approaches to preventing workplace violence, and law enforcement agencies throughout the state who can enforce laws against assaulting healthcare workers.

III. SB 840 – Felony Assault

SB 840 upgraded the penalty for assaulting hospital personnel from a misdemeanor to a felony. This includes nurses, physicians, physician assistants, maintenance or janitorial staff, receptionists, and other individuals who are employed by or work in a hospital. SB 840 is named the Jacqueline “Jackie” Pokuaa and Katie “Annette” Flowers Act in memory of the nurse and social worker shot and killed by a violent criminal at Methodist Dallas Medical Center in 2022. The enhanced penalty previously applied only to the emergency department. SB 840 will extend the enhanced penalty to cover the entire hospital.

IV. SB 1004 – Felony Removal of Electronic Monitoring Device

SB 1004 made it a felony to remove an electronic monitoring device if the person was ordered to wear the device as a condition of community supervision, parole, mandatory supervision, or release on bail. The man who shot Jacqueline “Jackie” Pokuaa and Katie “Annette” Flowers cut off his ankle monitor before going to Methodist Dallas Medical Center. This law is meant to deter and punish similar conduct in the future.

V. SB 294 – Breathing Medication Relief for Texas Students

SB 294 is responsive to problems school nurses saw in practice under existing regulations. School nurses were limited in their ability to provide albuterol, levalbuterol, and potentially other breathing medications. As a result of delays in access to breathing medication, there have been instances of school children dying from treatable respiratory attacks. This bill expanded access to the medication as well as the personnel authorized to administer the medication.

VI. HB 3162 – End-of-Life Statutory Reforms

HB 3162 made the most significant reforms to the Texas Advance Directives Act since its initial passage 24 years ago. The full details of the legislation are too extensive to spell out here.

In summary, the bill:

- increased the number of days’ notice provided to patients prior to any ethics committee meeting;
- clarified patient and surrogate representation and participation at ethics committee meetings;
- provided additional information to patients and their representatives;
- clarified the processes around attempted transfers of patients;

- increased the number of days post-meeting;
- closed loopholes in the do-not-resuscitate request process;
- aligned divergent decision-making hierarchies in statute;
- required data collection and reporting to the state to inform future policy on end-of-life issues; and
- clarified that the current process only applies to incompetent patients who cannot speak for themselves.

These revisions were the product of approximately 40 hours of formal in-person negotiations among numerous stakeholder groups, several informal meetings, breakout workgroups, and hallway conversations. Negotiations also saw representatives from the Governor’s office, Lt. Gov.’s office, Speaker’s office, and key House and Senate offices in attendance. TNA represented the nursing perspective and moderated several of the formal meetings. The final bill included give and take from everyone who participated and ultimately garnered support from every stakeholder involved.

VII. SB 1343 – Board of Nursing APRN Representation

SB 1343 expanded the Board of Nursing from 13 members to 15 members, adding one new APRN member and one new public representative. It also requires expert review by an APRN of any standard of care violation alleged to have been committed by another APRN and requires the expert to report their findings to the Board.

VIII. HB 12 – Extended Post-Partum Coverage for Mothers on Medicaid

HB 12 extended Medicaid coverage for mothers from two months post-partum to twelve months. The bill directs the Health and Human Services Commission to seek a state plan amendment to accomplish this change in Medicaid coverage, which must be approved by the federal government. Implementation is therefore dependent, in part, on the federal government’s approval. A previous attempt by the Legislature in the 87th Regular Session did not comply with federal requirements, so the federal government did not approve the state’s application for a waiver. This bill takes a different approach by using the State Plan Amendment process for Medicaid policy revisions. This approach is more likely to comply with federal standards and receive the necessary approval.

IX. SB 629 – Opioid Antagonist Regulations for Public Schools

SB 629 required school districts to adopt and implement a policy regarding the maintenance, administration, and disposal of opioid antagonists at each campus in the district that

serves students in grades 6 through 12. It also established training requirements for school personnel and protocols for the prescription of opioid antagonists to recipient schools. Those who, in good faith, administer or decide not to administer the medication are extended “good Samaritan” immunity protections from civil or criminal liability. The bill is part of a broader fight against opioids and opioid overdose deaths.

X. SB 1402 – Sexual Assault Survivors Task Force

The Sexual Assault Survivors' Task Force (SASTF) was established in 2019 with an ambitious goal to establish a survivor-centered, trauma-informed, collaborative, and coordinated response to sexual violence experienced by adults and children in Texas. The SASTF steering committee includes the Office of the Governor, the Texas Association Against Sexual Assault, and the Children's Advocacy Centers of Texas. Over the last four years SASTF has worked with stakeholders across the state to transform sexual assault policy in Texas.

SASTF made numerous policy recommendations to the Legislature, many of which were taken up in this bill. SASTF recommended the legislature add instruction related to a trauma-informed approach to child sexual abuse and adult sexual assault investigations to the basic peace officer course. S.B. 1402 seeks to implement this recommendation, among others.

Relevant to nurses, one of the policy recommendations incorporated into the bill is training for certain health care facility personnel. Emergency department nurses will now be required to take an hour of basic sexual assault response training on the provision of survivor-centered, trauma-informed care to sexual assault survivors and the rights of survivors under the Code of Criminal Procedure. This training will include information about the availability of forensic medical examination, including an examination that is available when a survivor does not report the assault to law enforcement. It will also include information about the role of advocates. Nurses covered by these training requirements will likely receive more information from their employer as the law takes effect and is implemented throughout the state.

Other Noteworthy Bills that Will Affect Nursing Practice and Education

- SB 14: This bill banned gender-affirming care for minors in Texas, which is contrary to TNA’s public position on the issue. TNA’s standing policy can be found [here](#).
- SB 17: This bill prohibits DEI offices in the state’s public institutions of higher education, potentially conflicting with TNA’s efforts to promote diversity in nursing so the workforce more accurately reflects the demographics of the state’s population.
- SB 18: This bill codifies and regulates tenure for public institutions of higher education.
- SB 29: This bill prohibits mask mandates, vaccine mandates, private business and school closure mandates by government entities in the state as public health responses to COVID-19.

TNA is a member-focused organization, but it is also a non-profit trade association. Our advocacy primarily focuses on addressing nursing-specific issues; however, TNA also advises the Legislature on policy issues affecting public health generally or health issues that may not be priority issues for nurses but are nonetheless within the domain of nursing expertise. While many policy proposals are improved upon, amended, or abandoned based on TNA’s input, there are times when the Legislature decides to address issues in ways that are inconsistent with TNA’s advice and counsel. This session was no exception.

Among this category of policy issues, the Legislature passed the following bills, which will affect nursing practice or nursing education in ways that are not consistent with or deviate from the public positions or policy preferences of TNA:

- SB 14: This bill prohibits the provision of certain surgeries or prescriptions for transgender youth in Texas. These practices, commonly referred to as “gender-affirming care,” are strictly regulated by this bill. Nurses working in this practice area should consult with their employers about the impact of this bill on their practice. The bill is contrary to TNA’s public position on the issue, which can be found [here](#).
- SB 17: This bill prevents public institutions of higher education from maintaining diversity, equity, and inclusion (DEI) offices. The bill includes exceptions as needed to comply with federal law and is not meant to apply to academic course instruction, scholarly research or creative works, student organization activities, guest speakers or performers, academic achievement programs, data collection, student recruitment or admissions. The stated view of the legislators who advanced this bill is that “DEI practices are polarizing and work against the goal of inclusion.”
 - The demographics of nursing students and faculty in Texas contain significant disparities when compared to the demographics of the general population in the state. The most pronounced disparity is an overrepresentation of white nurses (making up 54% of the RN workforce

while making up 40% of the state's population) and an underrepresentation of Hispanic nurses (making up 17% of the RN workforce while making up 40.1% of the state's population).

- TNA actively works to alleviate these disparities and ensure that Texans from all backgrounds can pursue nursing education and join the profession. TNA does not anticipate this bill will significantly harm TNA's diversity goals for the profession, because research shows underrepresentation in nursing is largely driven by systemic, financial barriers (which TNA sought to mitigate through SB 25). To the extent that this bill interferes with the educational inclusion of underrepresented populations, if at all, it is inconsistent with TNA's policy goals.
- SB 18: This bill established new regulations for tenure in public institutions of higher education. It is significantly different from the original version, which would have ended the practice of tenure in Texas. While the bill largely codifies existing practices, it also changes grounds for termination of tenured faculty among other things. Nurse educators seeking or holding tenure should familiarize themselves with the bill to understand the new rules.
- SB 29: This bill prohibits mask mandates, vaccine mandates, private business and school closure mandates by government entities in the state as public health responses to COVID-19. It is only specific to COVID-19 and would not apply if there were outbreaks of other epidemics or pandemics. If there is a deadly variant of COVID-19 that justifies another aggressive public health response, the Governor would be able to call a special session to revise these rules. However, state lawmakers decided to set a uniform policy rolling back the COVID-19 public health emergency response.