



Board of Nursing

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall,
Secretary

March 10, 2020

The Honorable Delores G. Kelley
Chair, Senate Finance Committee
3 East, Miller Senate Office Building
Annapolis, MD 21401-1991

RE: SB0990 - Public Health - Overdose and Infectious Disease Prevention Services Program - BON - Letter of Concern

Dear Chair Kelley:

The Maryland Board of Nursing (“the Board”) is submitting this letter of concern for SB0990 - Public Health - Overdose and Infectious Disease Prevention Services Program. This bill authorizes the establishment of an Overdose and Infectious Disease Prevention Services Program by a community-based organization. The bill requires a program to provide a location supervised by health care professionals or other trained staff where drug users can consume pre-obtained drugs. The program will also provide for distribution of sterile injection supplies and collection of used needles and syringes. Health care providers will need to educate program participants about safe injection practices, monitor participants for potential overdose and administer rescue medication as needed. The bill prohibits Board disciplinary action against a licensee or certificate holder for involvement in the operation or use of the program services.

The Board is concerned because SB 990 is in direct conflict with existing laws governing those regulated by the BON. Specifically, 10.27.16.02 C: “A nurse may not engage in behavior that dishonors the profession whether or not acting in the capacity or identity of a licensed nurse, including, but not limited to:

(8) Using, possessing, supplying, administering, or attempting to use, possess, supply, or administer prescription drugs or controlled dangerous substances without valid medical indication.”

COMAR 10.39.07.02 C (7) provides identical language for certificate holders. Additionally, nurses or certificate holders employed by these programs would be subject to Board disciplinary action because the regulations impose an ethical duty on licensees and certificate holders to inform the Board regarding unethical conduct by another licensed nurse, 10.27.19.02 A.8 or certificate holder, 10.39.07.02 A.7.

The Board agrees that prevention of drug overdose and disease is critical. However, the Board believes that this bill increases the risk to public safety. Health care professionals who participate in the program would not be prevented from reporting to the practice setting while still under the influence of controlled dangerous substances. In essence, the Board would be forced to wait until a complaint of working impaired is filed before taking action to protect patients. However, harm may have already occurred. This bill not only has the potential to encourage drug use, but it may also increase the instances of diversion of medication from patients by health care providers. Drug diversion occurs when a health care provider takes medication prescribed to patients, usually controlled dangerous substances, for their own use or for sale to others. Program participants would be allowed to bring in pre-obtained drugs without questions about how the drugs were obtained.

The Board would not be meeting its mission of protecting the public if it has information about drug use by a licensee or certificate holder and does not act. Additionally, the Board does not automatically resort to discipline for instances of drug use. The Board offers an alternative to discipline program for licensees and certificate holders with substance abuse disorders who meet certain criteria. This provides them an opportunity to receive treatment and monitoring under a Board supervised program without disciplinary action. The individual may continue to practice if compliance with the program agreement is maintained. In addition, the individual is actively participating in a program aimed at recovery from substance abuse.

For the reasons discussed above, the Board of Nursing submits this letter of concern for SB0990.

For more information, please contact Rhonda Scott, Deputy Director, at (410) – 585 – 1953 (rhonda.scott2@maryland.gov) or Karen E. B. Evans, Executive Director, at (410) – 585 – 1914 (karene.evans@maryland.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'G. Hicks', written in a cursive style.

Gary N. Hicks
Board President

The opinion of the Board expressed in this document does not necessarily reflect that of the Department of Health or the Administration.