

SB0444_FAV_Nursing Home Administrators Bd

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Position: FAV



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

Board of Examiners of Nursing Home Administrators
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Phone: 410-764-4750

**2020 SESSION
POSITION PAPER**

BILL NO: SB 444
COMMITTEE: Finance
POSITION: SUPPORT

TITLE: State Board of Examiners of Nursing Home Administrators – Board Membership and Provisional Licensing Requirements

BILL ANALYSIS: This bill will eliminate the requirement for professional associations or societies to provide recommendations for all licensed practitioners who apply for appointment to the State Board of Examiners of Nursing Home Administrators (BENHA), and will also change the existing automatic 90-day provisional license period to allow BENHA the discretion to issue a provisional license for a period of less than 90 days when it is warranted.

POSITION AND RATIONALE:

Board Membership

This change in requirements for appointment to BENHA will broaden the pool of eligible applicants to the Board. Currently, the MDH Office of Appointments and Executive Nominations requires that recommendation letters from professional associations or societies be included with licensed practitioners' appointment applications. If these letters are not included, the appointment applications are not deemed as complete or eligible to proceed through the vetting process. Additionally, the amendment strengthens the statute by setting forth a requirement that all licensed practitioners who apply to BENHA are actively practicing and have a minimum of 5 years of appropriate practice experience. The existing statute contains this requirement, but with specific respect to licensed nursing home administrators only.

Provisional Licenses

Protection of the public is the Board's mission and primary focus. Running a nursing home is a highly-stressful, senior management, complex role that should not be taken lightly. ***BENHA cannot overstate the gravity of the position and immense value of having each facility run by a licensed nursing home administrator (LNHA) at all possible times.*** There are a wide variety of

Support- State Board of Examiners of Nursing Home Administrators

potentially harmful scenarios that could take place under the leadership of a non-licensed individual who would be exceedingly ill-equipped to navigate or negotiate through. Compliance with the requirement that each nursing home facility is run by an LNHA provides the best possible protection of our citizens who are the vulnerable residents in our nursing homes. It is critical to note that all nursing homes do not present the same levels of challenge or risk and should not be viewed as if they do. For example, all nursing homes do not have the same level of resident care needs or census counts. Therefore, the Board needs the flexibility to review each provisional license application on a case-by-case basis and set a provisional license period **that exposes the nursing home residents to the shortest amount of time possible under a non-licensed nursing home administrator.**

An option that is not widely-discussed is the use of interim LNHAs. Many nursing homes will employ interim LNHAs, who are available through staffing agencies, such as Leaderstat. This is analogous to a nursing home hiring temporary nurses from an agency until permanent nurses are identified. It is critical to note that the requirement is **not** for the facility to have a **permanent** LNHA as the administrator of record at all possible times, but rather that an LNHA serve as the administrator at all possible times.

Several years ago, as a demonstration in recognition that hiring permanent LNHAs can be difficult, BENHA partnered with all facilities by offering to post open LNHA positions on the BENHA website for free. This support is still in place and is available to any facility that needs to post a job opening.

Provisional licenses are **only** for extreme, “unexpected cause” situations in which the LNHA suddenly passes away, walks off the job, or is terminated on the spot, for example: they **expressly** apply in instances for which the nursing home owners/senior leadership could not have possibly planned. They are not regularly requested because of the criteria set forth in the statute sharply limits applicability of the provisional license. The amendment to this bill **will not eliminate** the potential for applicants to receive a 90-day provisional license period. Rather, the amendment provides the Board flexibility, in the interest of its public protection mandate, to set a provisional period **inside of the current maximum** of 90 days (e.g., 30 days or 60 days). The Board may extend a provisional period for an additional 30 days, upon request and with good cause shown. The extension of 30 days would then be added to the initially-set provisional period.

Maryland currently has 227 licensed nursing homes and 530 active LNHAs. Since the provisional license law became effective on 10/1/2017, **the Board has issued a grand total of 6 provisional licenses.**

For these reasons, the Maryland State Board of Examiners of Nursing Home Administrators requests a favorable report on SB 444. If you have questions or need additional information, please contact Lillian Reese, Legislative and Regulations Coordinator, Health Occupations Boards and Commissions, at 410-764-5978 or at lillian.reese@maryland.gov.

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

SenKelley_FAV_SB444

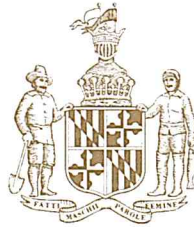
Uploaded by: Senator Kelley, Senator Kelley

Position: FAV

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Legislative District 10
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THE SENATE OF MARYLAND
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TESTIMONY OF SENATOR DELORES G. KELLEY

**REGARDING SENATE BILL 444 - STATE BOARD EXAMINERS OF NURSING HOME
ADMINISTRATORS - BOARD MEMBERSHIP AND PROVISIONAL LICENSING
REQUIREMENTS**

BEFORE THE SENATE FINANCE COMMITTEE

ON FEBRUARY 28, 2020

Dear Mr. Vice Chairman and Members:

When there are vacancies on the State Board of Examiners of Nursing Home Administrators, the Maryland State Health Secretary is required to consult with professional associations and societies in an attempt to identify appropriate candidates for service on the State Board of Examiners of Nursing Home Administrators.

Senate Bill 444 eliminates the current requirement that limits eligibility for service on the State Board of Examiners of Nursing Home Administrators to

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persons who get letters of recommendations from certain professional associations or societies, since many highly qualified applicants are not members of favored professional associations or societies.

Senate Bill 444 also requires that all practitioners applying for service on the State Board of Examiners have at least five years of appropriate practice experience and be actively practicing in the field nursing home administration.

In an unexpected situation in which a nursing home is without a licensed nursing home administrator (e.g., because of illness or death), the owners/senior managers shall immediately appoint an unlicensed facility employee whom they deem as capable (e.g., the director of nursing) as an interim administrator. Senate Bill 444 eliminates the automatic 90-day provisional license period in such cases to allow the State Board the flexibility to issue a provisional license for less than 90 days, if warranted.

In light of all these considerations, I urge your favorable report of Senate Bill 444.

LifeSpan_Danna Kauffman_FWA_SB0444

Uploaded by: Kauffman, Danna

Position: FWA



*Keeping You Connected...Expanding Your Potential...
In Senior Care and Services*

TO: The Honorable Delores G. Kelley, Chair
Members, Senate Finance Committee

FROM: Danna L. Kauffman
Pamela Metz Kasemeyer
Richard A. Tabuteau

DATE: February 28, 2020

RE: **SUPPORT WITH AMENDMENT** – Senate Bill 444 – *State Board of Examiners of Nursing Home Administrators – Board Membership and Provisional Licensing Requirements*

On behalf of the LifeSpan Network, the largest and most diverse senior care provider association in Maryland representing nursing facilities, assisted living providers, continuing care retirement communities, medical adult day care centers, senior housing communities and other home and community-based services, we **support with amendment** Senate Bill 444. Senate Bill 444 makes three changes: 1) applies the same experience standards to non-nursing home administrators as is applied to nursing home administrators on the State Board of Examiners of Nursing Home Administrators; 2) removes the requirement that the Secretary of Health consult with the associations and societies appropriate to the discipline or profession represented; and 3) authorizes the Board to issue a provisional license for less than 90 days.

While LifeSpan is concerned that the first two changes could make it more problematic to fill vacancies, we are more concerned with the third provision which would lessen the timeframe for issuing a provisional license. In 2017, the General Assembly added the provision that allows a nursing home to appoint a non-licensed individual to serve as the administrator for a period of 90 days. Provisional licenses are issued for extreme situations, such as when an administrator leaves abruptly (i.e., death, immediate terminations, etc.). It is our understanding that the Board has only issued six provisional licenses. Shortening the timeframe could be very problematic. The ability to advertise, interview and then complete the hiring process takes time. Nursing homes need the assurance that they will have 90 days to complete this process to ensure that the appropriate person is hired. Ninety days is an acceptable time frame, and we request that it remain intact.

For more information call:

Danna L. Kauffman
Pamela Metz Kasemeyer
Richard A. Tabuteau
410-244-7000

HFAM_UNF_SB444

Uploaded by: DeMattos, Joseph

Position: UNF



**TESTIMONY BEFORE THE
SENATE FINANCE COMMITTEE**

February 28, 2020

Senate Bill 444: State Board of Examiners of Nursing Home Administrators –
Board Membership and Provisional Licensing Requirements
Written Testimony Only

POSITION: OPPOSE

On behalf of the members of the Health Facilities Association of Maryland (HFAM), we appreciate the opportunity to testify about Senate Bill 444. We do wish to express our opposition.

HFAM represents over 170 skilled nursing centers and assisted living communities located in nearly every community in Maryland. HFAM members are the quality care safety net for Marylanders in need of post-acute and long-term care. Our members provide 6.2 million days of care across all payer sources annually, which accounts for 75 percent of Medicaid days, nearly 70 percent of Medicare days, and 45 percent of private pay days provided in Maryland skilled nursing and rehabilitation centers.

We oppose this legislation because it seeks to make three types of changes. We wish to express our opposition to two of these changes.

We do not object to making the requirement of 5 years' experience more broadly applicable among Board members.

However, we question why the legislation removes the existing requirement that appointments follow consultation with the associations and societies appropriate to the disciplines and professions involved. Such consultation is an appropriate part of the process. The current law does not mandate any appointment. The current law should be maintained.

Finally, we disagree with the proposed change to the temporary licensure process. The current law providing for a 90-day period should be maintained. It presents a risk to the facilities in need of a temporary administrator and who may be faced with a very short approval period. If an administrator can be temporarily approved for 30 days to provide appropriate services to a facility, we do not see a reason why a period of 90 days would pose any greater problem. The uncertainty the proposed legislation would introduce should, we believe, be avoided.

For these reasons and with these edits, we oppose Senate Bill 444.

Submitted by:

Joseph DeMattos, Jr.
President and CEO
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