



Board of Nursing

Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

March 14, 2023

The Honorable Melony Griffith
Chair, Senate Finance Committee
3 East Miller Senate Office Building
Annapolis, MD 21401-1991

RE: SB 960 – State Board of Nursing – Sunset Extension, Licensure Exceptions, and Board Operations and Membership – Letter of Information

Dear Chair Griffith and Committee Members:

The Maryland Board of Nursing (the Board) respectfully submits this letter of information for Senate Bill 960 – State Board of Nursing – Sunset Extension, Licensure Exceptions, and Board Operations and Membership. This bill continues the State Board of Nursing in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Board; alters the exceptions to the registered nursing and licensed practical nurse licensure requirements; provides that the Secretary of Health has authority over the infrastructure operations of the Board; prohibits the Board of Nursing Fund from being used to pay for infrastructure operations for a certain period of time; alters certain qualifications for the executive director of the Board; requires the Board to hire a certain consultant to conduct an independent evaluation of the Board; and requires that the terms of certain members of the Board end on certain dates.

The Board is appreciative of the bill sponsors' efforts to introduce legislation to extend the Board's termination of title (sunset), as it is currently listed to expire on July 1, 2023. This provision would allow the Board to perform its regulatory and administrative duties to preserve the field of nursing by advancing safe, quality care through licensure, certification, education, and accountability for public protection. It is imperative for the Board to continue to oversee the practice of nursing and other affiliated professions in the state of Maryland. The Board respectfully requests that the sunset termination provisions be extended for a period of three (3) years. This extension would allow the Board, in partnership with the Maryland Department of Health to implement sustainable action plans to improve the Board's operations, administrative duties, and yield tangible results.

The Board respectfully requests that the Committee remove three (3) provisions of the bill, which would negatively impact the Board's ability to protect the public and the patient population.

I. The proposed legislation alters the exceptions to nurse licensure requirements.

The National Council Licensure Examination (NCLEX) is an adaptive assessment that is required for registered nursing and licensed practical nursing graduates to obtain licensure as a registered nurse or licensed practical nurse in the United States. The examination evaluates the following categories: management of care; pharmacological and parental therapies; physiological adaptation; reduction of risk potential; safety and infection control; psychosocial integrity; health promotion and maintenance; and basic care and comfort. Under current Maryland law, a nursing graduate who does not pass the NCLEX must cease practicing as a nurse graduate and instead may apply for certification as a certified nursing assistant (CNA). This process allows a nurse graduate to gain subsequent clinical practice while under the supervision of another healthcare practitioner. House Bill 611 would allow a nurse graduate who failed the NCLEX to continue practicing as a nurse graduate for up to one hundred and twenty (120) days following the submission of a complete application for licensure to the Board. The Board does not believe that it is in the public interest to permit individuals who have failed the NCLEX, meaning that the individual has not demonstrated competence to be licensed as a nurse, to continue practicing as a nurse graduate. The Board believes that the current law, which allows an individual that has failed the NCLEX to apply for certification as a certified nursing assistant, is appropriate in scope and function both to protect the public and to allow the individual to enter the broader nursing workforce.

II. The proposed legislation removes the registered nurse requirement for the executive director of the Board.

The Board strongly believes that the nursing profession should only ever be regulated by nursing leaders with a minimum of a master's degree in nursing or equivalent. The provision removing the registered nurse requirement for the executive director would be a disservice to both the nursing and healthcare communities. According to the National Council of State Boards of Nursing (NCSBN), more than seventy five percent (75%) of executive officers serving on State Boards of Nursing hold an active nursing license. The Board should not deviate from this majority.

III. The proposed legislation terminates the terms of the members of the Board.

The Board is opposed to terminating the appointments of its current members. The Board believes this provision will significantly disrupt current disciplinary processes. Board members are active participants in reviewing and triaging incoming complaints, evaluating reports of investigation, and attending settlement conferences. Notably, the Board conducts its own evidentiary hearings. As such, it takes considerable time for individual members to acclimate to the Board's processes, and to be trained on the content and how to apply the Nurse Practice Act, the Administrative Procedure Act, and the Board's hearing regulations. Current Board members' institutional knowledge, built up over their collective years of service, is an invaluable asset to the State, which would be lost by terminating their appointments.

In support of the provision, the University of Maryland Medical System Corporation's Board of Directors has been highlighted as an example of a body whose members were terminated and replaced with new appointees. However, the changes to the UMMS Board of Directors were preceded by allegations of significant conflicts of interest and breach of fiduciary duties by its own members. There are no such concerns regarding the members of the Maryland Board of Nursing, who have served the State faithfully. Rather, the issues confronting the Board are related to a lack of adequate human, technological, and financial resources, none of which necessitates terminating current Board members, which is a draconian and ineffective solution.

To the contrary, terminating Board members, virtually all at once, is counterproductive, harmful to the public, and tremendously disruptive to Board operations, particularly with respect to enforcing violations of the Nurse Practice Act. Accordingly, the Board urges the Committee to remove this provision from the bill.

For the reasons discussed above, the Maryland Board of Nursing respectfully submits this letter of information for SB 960.

I hope this information is useful. For more information, please contact Ms. Iman Farid, Health Planning and Development Administrator, at iman.farid@maryland.gov or Ms. Rhonda Scott, Deputy Director, at (410) 585 – 1953 (rhonda.scott2@maryland.gov).

Sincerely,



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.