



Board of Nursing

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

March 3, 2020

The Honorable Shane E. Pendergrass
Chair, House Health and Government Operations Committee
Room 241, House Office Building
Annapolis, MD 21401-1991

RE: HB0691 - Health Occupations - Nurse Practitioners - Certifications of Competency and Incapacity – Letter of Support

Dear Chair Pendergrass:

The Maryland Board of Nursing is submitting this letter of support for HB 691 - Health Occupations - Nurse Practitioners - Certifications of Competency and Incapacity; and is supporting the sponsors' amendments. This bill alters a requirement that a petition for guardianship of a disabled person include certain signed and verified certificates of competency by providing that the certificates may be signed and verified by a nurse practitioner and certain other health care practitioners. The bill also alters the requirements for the certification of a patient's incapacity to make an informed decision regarding treatment to allow the second individual making the certification to be a nurse practitioner, rather than a second physician.

Nurse practitioners are independent practitioners who by regulation (COMAR 10.27.07.03) may perform numerous acts including but not limited to: performing a comprehensive physical assessment on a patient; establish medical diagnosis for common short-term and chronic stable health problems; order, perform, and interpret laboratory and diagnostic tests; order and perform diagnostic, therapeutic, and corrective measures; prescribe drugs and provide emergency care. In accordance with COMAR 20.31.03.01, a nurse practitioner may certify that a patient has a serious illness or needs life-support equipment. In addition, Health-General Article, §10-615 and §10-616 allows a psychiatric nurse practitioner; together with a physician (a psychologist is not necessary), to admit individuals involuntarily to facilities for treatment for mental disorders.

If passed, this bill will prevent substantial delays in treatment, particularly in long term care where nurse practitioners independently manage the care of patients daily. Nurse Practitioners are often hired as staff in long term care facilities. Currently, in this setting, when a certification of incapacity to make an informed decision regarding treatment is needed, the nursing facility staff will contact the primary care physician to complete the certification of incapacity. However, a second physician will need to be contacted to come out to the facility to complete the certification of incapacity. This visit from a second physician could possibly take 30 days. This

is particularly concerning for patients (without an appointed healthcare decision maker such as Health Care Agent, Surrogate or Medical Power of Attorney) who are unable to give informed consent for treatment.

Under 42 C.F.R. §483.30 (c)(1) a resident in a skilled nursing facility (SNF) such as long term care, must be seen by a physician at least once every 30 days for the first 90 days after admission, and at least once every 60 days thereafter. Non-physician practitioners may perform other medically necessary visits prior to and after the physician's initial comprehensive visit. Physician visits may occur at least monthly, while nurse practitioners are available in the facilities daily.

For the reasons discussed above, the Board of Nursing submits this letter of support for HB 691

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.