



# Board of Nursing

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Dennis R. Schrader, Secretary

March 2, 2022

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

**RE: SB 840 – COVID 19 Response Act of 2022 – Letter of Opposition**

Dear Chair Kelley and Committee Members:

The Maryland Board of Nursing (the Board) respectfully submits this letter of opposition for Senate Bill (SB) 840 – COVID 19 Response Act of 2022. This bill establishes and alters certain requirements related to the COVID-19 pandemic; establishes that certain urgent care centers are not subject to the rate-setting jurisdiction of the Health Services Cost Review Commission; requires the State Board of Nursing to establish an apprentice geriatric nursing assistant program; and alters the authority of pharmacists to refill prescriptions, administer certain vaccinations, and delegate certain functions to pharmacy technicians.

The Board sincerely appreciates the Maryland General Assembly's diligence in addressing the nursing workforce shortage by focusing on efforts in recruitment and retention of frontline staff. The Board additionally supports the intent of establishing an avenue for geriatric nursing assistant certification for individuals working as temporary nursing assistants. The Board has great concerns, however, with implementing an apprentice geriatric nursing assistant program.

SB 840 will create two (2) pathways to certification as a geriatric nursing assistant. The first will require temporary nursing assistants who worked during the public health emergency to complete a training program in accordance with federal requirements and successfully pass the state competency exam. The second will require temporary nursing assistants to complete an apprenticeship, certain hours of training, and pass the state exam. The second category will permanently institute a separate and distinct apprentice geriatric nursing assistant designation. The Board finds this designation unnecessary and cumbersome.

The Centers for Medicare and Medicaid Services (CMS) issued a blanket waiver to suspend the nurse aide training and certification requirements in 42 CFR §483.35(d) in response to staffing shortages in nursing homes and other long-term healthcare facilities. The CMS Emergency Regulatory 1135 Waiver permits nurse aides (also known as temporary nursing assistants (TNA) in the state of Maryland) to work for longer than four (4) months without having completed a state approved Nurse Aide Training and Competency Evaluation Program<sup>1</sup>. Nurse aides are only

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<sup>1</sup> Centers for Medicare and Medicaid Services. COVID Declaration Blanket Waivers for Health Providers.

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permitted to work if the facility can ensure that the aide demonstrates competency in the skills and techniques needed to care for residents. The termination of the federal public health emergency, however, would subsequently lead to the termination of the waiver and the role of a temporary nursing assistant. As such, nurse aides will have four (4) months from the end of the waiver to successfully complete federal and state required training and certification.

The Board is concerned that once the CMS waivers terminate, the nursing assistant apprenticeship pathway will be under the strict purview of federal regulations that govern the practice of geriatric nursing assistants. The long-term healthcare field will be mandated to follow those requirements as to not jeopardize facility reimbursements. The Board, as a regulatory agency, will need to ensure individuals are competent to practice within this particular healthcare setting.

Federal regulations at 42 CFR §483.152 (a) and (b) require individuals to attend and successfully complete at least seventy-five (75) hours of training in certain areas that are critical for performing their role as a nursing assistant, such as infection control, residents' rights, and basic nursing skills.<sup>2</sup> The State of Maryland requires individuals to attend and successfully complete a minimum of one-hundred (100) hours of instruction with similar curriculum to the federal requirements.<sup>3</sup> It is imperative that geriatric nursing assistants meet both federal and state requirements so they are properly equipped to perform tasks in the long-term care setting.

Alternatively, House Bill 1208 – Health Occupations – Health Care Workforce Expansion will allow the Board to collaborate and survey the needs of long-term healthcare facilities, and implement a comprehensive transition for temporary nursing assistants.

For the reasons discussed above, the Board of Nursing respectfully submits this letter of opposition for SB 840.

I hope this information is useful. For more information, please contact Iman Farid, Health Policy Analyst, at (410) 585 – 1536 ([iman.farid@maryland.gov](mailto:iman.farid@maryland.gov)) or Rhonda Scott, Deputy Director, at (410) 585 – 1953 ([rhonda.scott2@maryland.gov](mailto: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.**

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<sup>2</sup> Centers for Medicare and Medicaid Services. § 483.152 Requirements for Approval of a Nurse Aide Training.

<sup>3</sup> Subtitle 39 Board of Nursing – Certified Nursing Assistants. COMAR 10.39.02.07 – Training Program