



Board of Nursing

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

February 10, 2022

The Honorable Paul G. Pinsky
Chair, Senate Education, Health and Environmental Affairs Committee
2 West Miller Senate Office Building
Annapolis, Maryland 21401

RE: SB 555 – Occupational Licensing Boards and Commission on Judicial Disabilities – Reporting Disciplinary Activities – Letter of Concern

Dear Chair Pinsky and Committee Members:

The Maryland Board of Nursing (the Board) respectfully submits this letter of concern for Senate Bill (SB) 555 – Occupational Licensing Boards and Commission on Judicial Disabilities – Reporting Disciplinary Activities. This bill requires business occupational licensing boards to include on license, registration, and certification application and renewal forms an option for the applicant to provide the applicant’s gender, race, and ethnicity. This bill additionally requires business and health occupation licensing boards to include certain information related to disciplinary activities in the boards’ annual disciplinary activities report to the Governor and the General Assembly.

On pages 3 and 4 related to section 1-226: the requirement to include in any annual report of disciplinary activity an individual’s gender, race, county of practice, type of disciplinary action imposed, the length of disciplinary period, and amount of any fine imposed.

The Board believes there is no sufficient explanation or reasonable statutory authority to collect and disclose aggregated data related to race, the length of a disciplinary period, or the amount of fines imposed for any disciplinary action taken by the Board.

The Public Information Act (PIA), specifically GP § 4-333, limits the Board to collecting only relevant and necessary information to assess the competency of candidates for licensure. A licensee, in turn, has the right to expect that the Board will use its utmost discretion when providing personally identifiable data for public inspection. The provisions of GP § 4-333 additionally outline that if the Board determines that a licensee was guilty of unfair or illegal practice, the public has a right to access the final determination in the form of a public order¹. The Board believes SB 555, as it is written, supersedes and is inconsistent with the necessary restrictions outlined in the PIA.

¹ Maryland Public Information Act Manual (Occupational and Professional Licensing Records 3-21).
<https://www.marylandattorneygeneral.gov/OpenGov%20Documents/Chapter3.pdf>

In an effort to remain transparent with constituents and stakeholders, the Board currently publishes data on disciplinary action in its annual report². The Board's annual report outlines the following categories of interest: status of criminal history records checks, denial of licenses and certificates, complaints, most common grounds for complaints, and the number and types of disciplinary actions taken. The Board does not find a compelling reason to disclose demographics such as gender, race, length of disciplinary period, or amount of any fine imposed. The Board believes that the burden of tracking this information annually outweighs the benefits. The Board additionally does not believe capturing these demographics would provide any relevant information regarding the qualifications of an individual practicing within the field of nursing.

An unintended consequence of SB 555 could result in constituents believing they are entitled to receive demographic information such as gender, race, or other identifiable elements for PIA requests that relate to areas outside of disciplinary activity.

For the reasons discussed above, the Board of Nursing respectfully submits this letter of concern for SB 555.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'G. Hicks', with a long horizontal stroke extending to the left.

Gary N. Hicks
Board President

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

² Title 8 of the Health Occupations Article. Subtitle 2 – State Board of Nursing. Section 8 – 205.