



# Board of Nursing

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

February 9, 2023

The Honorable Joseline A. Peña-Melnyk  
Chair, House Health and Government Operations Committee  
Room 241 House Office Building  
Annapolis, MD 21401-1991

**RE: HB 611 – State Board of Nursing – Sunset Extension, Licensure Exceptions, and Board Operations and Membership – Letter of Concern**

Dear Chair Peña-Melnyk and Committee Members:

The Maryland Board of Nursing (the Board) respectfully submits this letter of concern for House Bill (HB) 611 – 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; 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 continue 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, however, is concerned with (1) allowing the Secretary of Health to have authority over infrastructure operations; (2) removing the registered nurse requirements for the Executive Director; (3) hiring and paying for an external consultant to conduct an independent evaluation of the Board; and (4) terminating members of the State Board of Nursing within a seven – month period of time.

**I. The proposed legislation transfers authority over “infrastructure operations” from the Board of Nursing to the Secretary of Health for a period of two (2) years.**

House Bill 611 transfers the Board's authority over their own "infrastructure operations" – defined as "administrative activities of a board or commission...including tools and resources for the use and support of deliberative actions" – to the Secretary of Health for a period of two (2) years. The proposed legislation further clarifies that "infrastructure operations" does not include "licensing, investigation, or disciplinary activities" that are performed. The term "infrastructure operations" still remains ambiguous, and could include a wide range of board operations, from the acquisition of office supplies and information technology systems to obligations under the Open Meetings Act and Public Information Act to core legislative and regulatory duties. The Board finds this provision unnecessary as the Secretary already has authority over certain operations, such as human resource onboarding and procurement. Pursuant to the Annotated Code of Maryland Health Occupations Article § 1-203, the authority of the Secretary includes the review of plans, proposals, and projects and the revision of rules and regulations proposed by a board. The Secretary has the authority to submit a final decision on human resource and procurement proposals, as evidenced by denials of previous requests to secure an up-to-date information technology platform.

House Bill 611 remains silent on how the Secretary will address the Board's current information technology, staffing, and funding challenges. The process to procure an updated information tech and phone system may take approximately one (1) year. The One – Stop Licensing System from the Department of Information Technology will take four (4) to five (5) years to fully implement. The process to hire and onboard competent staff may take six (6) to eight (8) months. These timelines do not include the time period for implementing newly acquired platforms and training staff. The Secretary of Health would be limited in her ability to improve any conditions based on the current procedures at the Department of Health. There is also no guarantee that the authority over infrastructure operations will be transferred back to the Board after the two – year period. The Board respectfully requests an alternate proposal to improve operational obstacles, specifically a three (3) year time period to obtain the necessary staffing and information technology resources through an expedited process approved by the Secretary and address obstacles in the licensing, certification, and investigations departments. The General Assembly may decide, after three (3) years, to reintroduce this bill if the Board is unable to provide tangible improvements.

## **II. The proposed legislation repeals the registered nurse (RN) requirement for the Executive Director of the Board of Nursing.**

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. According to the National Council of State Boards of Nursing (NCSBN), more than 75% of executive officers serving on State Boards of Nursing hold an active nursing license.

## **III. The proposed legislation would require the Board to hire an external consultant.**

The Board has been subjected to a multitude of studies and reports within the last few years. These reports include the 2010 Sunset Review Recommendation, the 2013 Management and Personnel Study, the 2021 Office of Legislative Audit Evaluation, the 2021 Joint Chairmen's Report, and the 2022 Department of Legislative Services' Interim Review. These studies have listed reoccurring obstacles that have spanned multiple Executive Administrations. The Board is unsure what value the external consultant will bring when the aforementioned reports have outlined what steps need

to be taken by the Board, the Maryland Department of Health, and the Department of Budget and Management. Additionally, certain items listed in the action plan, specifically four (4), seven (7), and eight (8), have already been evaluated and implemented within the Board's standard operating procedures. The Board requests that a joint task force convene to review the human resources, onboarding, and procurement policies and determine whether an expedited process can be granted.

#### **IV. The proposed legislation terminates the terms of the members of the Board.**

The Board is very concerned with terminating the members of the Board within a seven (7) month time frame. The Board believes this provision will significantly disrupt investigations, evidentiary hearings, and violate the due process rights of respondents. Members are trained for two (2) years before they are completely able to perform their duties for the Board. The Board is comprised of fourteen (14) members appointed by the Governor. Approximately half (7) of the current serving members are seasoned and will be unable to mentor newly appointed members. The bill also does not guarantee that current serving members will be reappointed to their positions. This could lead to a board of new members that will need to be expeditiously trained on their unique duties.

For the reasons discussed above, the Maryland Board of Nursing respectfully submits this letter of concern for HB 611.

I hope this information is useful. For more information, please contact Ms. Iman Farid, Health Planning and Development Administrator, at [iman.farid@maryland.gov](mailto:iman.farid@maryland.gov) or Ms. 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.**