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Health and Government Operations Committee
240 Taylor House Office Building
Annapolis, MD 21401

RE: Opposition to HB 602- Maryland Border States Advanced Practice Nursing Act

Dear Chairman Pena-Melnyk and Members of the HGO Committee:

As legislative chair for the Maryland Academy of Advanced Practice Clinicians (MAAPC), I am writing in opposition to HB 602 requiring the Maryland Board of Nursing (MBON) to pursue licensure reciprocity for advanced practice registered nurses (APRN) with surrounding states.

While we are all in agreement that a process is needed in Maryland to streamline APRN licensure, reciprocity agreements with border states present concerns for public safety, practice barriers for APRNs, and administrative burdens to the MBON.

Do you know how many states have enacted health care licensure reciprocity agreements?

Only one! Indiana in 2021 as a temporary stop gap during COVID and has now rescinded almost all health care licensure reciprocity.

This bill HB 602 is requiring the Maryland Board of Nursing to pursue agreements with neighboring states that 49 states have rejected to solve health care provider shortages or licensing challenges even post COVID!

Why haven't states rushed to enact border reciprocity agreements to help solve their provider shortages?

Reciprocity agreements require each participating state to enact new statutes to define and legalize licensure by reciprocity. As you know, changing statute is a long and arduous process even when all parties agree.

Patient safety issues. Unlike states who participate in the Nursing Licensure Compact (NLC), states that enact reciprocity agreements may not have uniform requirements for

licensure. For example, not all states require criminal background checks for nursing licensure that the NLC requires of all NLC states.

Unnecessary use of scarce resources.

The MBON has scarce resources. Negotiating and developing reciprocity agreements with multiple states requires extensive time, effort, and legal expertise. This bill has a duration of four years that will divert staff attention from key board functions. Maryland has had the NLC in place for 25 years and it works well to provide multistate licenses for nurses in the states with an enacted NLC and protects the public from harm. This bill would require the MBON to develop an entirely new system for licensing APRNs and would provide them with little ability to monitor those APRNs with reciprocal licenses, posing patient safety issues.

Ability of state health boards to discipline reciprocity licensees. Reciprocity licensees hold licenses from the home state, not the state granting reciprocity. If the reciprocity licensee commits an act that would require discipline in Maryland, the MBON would have no standing to begin disciplinary proceedings. Instead, the complaining party would have to file a disciplinary complaint with the home state of the licensee, though there would be no legal requirement to do so.

Challenges remain for licensees to navigate the varied scopes of practice for APRNs from state to state, including the need for collaborative and/or supervisory agreements with physicians, transition to practice requirements that may vary between nurse practitioners (NP), Certified Nurse Midwives (CNM), Clinical Nurse Specialists (CNS) and Certified Registered Nurse Anesthetists (CRNA) and prescribing authority. In addition, the onus for adhering to the nurse practice acts in each state where a reciprocal licensee practices is upon the individual APRN. This results in increased liability to the APRN and imposes a greater threat to the APRN license in every state where the APRN practices. If there is a nurse practice act violation, that APRN licensee would have their license suspended in all states pending the outcome of the investigation into wrongdoing, making the APRN unable to practice in the interim. The suspension of a professional license has implications for credentialing with health insurance companies.

Here is a summary of APRN licensure requirements in the states named in this bill.

- **Maryland** has an 18-month mentorship for NPs that NPs from those reciprocal jurisdictions would need to meet.
- APRNs in **Pennsylvania** are not independent, so APRNs from Maryland would need to follow the supervisory/collaborative agreement requirements in PA.
- NPs in **Virginia** have a 3-year supervisory/collaborative agreement period before being independent. CNMs in Virginia have a 1,000-hour

supervisory/collaborative agreement period before being independent. CRNAs are not independent in VA. APRNs from Maryland would need to abide by those supervisory/collaborative arrangements in VA.

- CRNAs in **West Virginia** are not independent, so CRNAs from Maryland would need to follow the supervisory/collaborative agreement requirements in WV.
- APRNs have full practice authority (FPA) in DE, DC, and MD. Practicing under reciprocity in the other border states is a major step backward for APRNs in these three jurisdictions.
- **A reciprocity bill cannot supersede federal controlled substances laws**. Those APRNs who support this reciprocity bill claim it will allow them to prescribe controlled substances across state lines without obtaining DEA/CDS licenses in each state. A review of Nurse Practice Acts in each of these states reveals that DC and VA require DEA and CDS registration to prescribe controlled substances. PA and WV require DEA registration and track controlled substance prescribing through the nursing license. WV has limited controlled substance prescribing. DE and MD require DEA and CDS registrations to prescribe controlled substances. ***So, how will this Reciprocity bill skirt the issues of Federal and state laws?***

Is there a viable alternative to a reciprocity bill for APRNs?

YES! Many states have used compacts to simplify licensure across state lines. Attached is a list of state licensure compacts and the benefits of using compacts rather than reciprocity agreements.

The APRN Compact was introduced in the 2022, 2023 and 2024 legislative sessions. It was not passed because one nursing group objected to it. See the survey results conducted by MBON in 2022 below. Most nurses and APRN survey respondents supported the APRN Compact and would seek a multistate license once the APRN Compact became law.

None of the major objections a group had to the APRN Compact will be addressed by this reciprocity bill and may even be exacerbated ~~by it~~.

1. APRNS would be unable to prescribe controlled substances across state lines without both a DEA license and a CDS license from the state in which they are prescribing. Reciprocity cannot address this issue, as Federal and state statutes are in place for these requirements. West Virginia (WV) only has limited controlled substance prescribing authority for NPs, has no state CDS license, and requires a DEA license.
2. Opposition to the APRN compact heavily focused on the 2080-hour work requirement (equivalent to one year experience), yet have no issue with Maryland APRNs going to

Virginia, where there is 3-year transition to practice. In addition, Pennsylvania is not a full practice authority for APRNs, requiring collaborative agreements which Maryland eliminated in 2010. CRNAs do not have full practice authority in VA, WV, or PA.

3. Opposition's final objection to the APRN Compact was their need for the compact governing body to be made up of practicing APRNs, not regulators. APRN Compact supporters in good faith offered language to create an advisory board made up of APRNs to advise the governing body. The MBON was to be the representative to the APRN Compact governing body, which was unacceptable to this one group, and yet they are fine with the MBON negotiating reciprocity agreements in their behalf in all these states.

I urge this committee to return an unfavorable report on HB 602.

Sincerely,

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Council of State Governments compact monitor:

- 17 Professions with Available Occupational Licensure Compacts
- 350+ Pieces of Compact Legislation since 2016
- 51 states and territories participating in at least one occupational licensure compact
- Occupational Licensure Compacts
    - Advance Practice Registered Nurse Compact
    - Audiology and Speech-Language Pathology Interstate Compact*
    - Cosmetology Compact*
    - Counseling Interstate Licensure Compact*
    - Dentist and Dental Hygienist Compact*
    - Dietitian Licensure Compact*
    - Emergency Medical Services Compact
    - Interstate Medical Licensure Compact
    - Interstate Teacher Mobility Compact*
    - Massage Therapy Compact*
    - Nurse Licensure Compact
    - Occupational Therapy Compact*
    - Physical Therapy Compact
    - Physician Assistant Licensure Compact (PA Compact)*
    - Psychology Interjurisdictional Compact*
    - Interstate Compact for School Psychologists*
    - Social Work Compact*

2022 Maryland APRN Compact Survey Snapshot

In 2022, the Maryland Board of Nursing and the National Council of State Boards of Nursing completed an email-based survey of advanced practice registered nurses (APRNs) and registered nurses (RNs) who hold licensure in Maryland. The result reflect the responses of APRNs.

Survey distributed: October 3, 2022

Survey closed: October 28, 2022

Licensure

- 82.0% of respondents were Certified Nurse Practitioners
- 9.4% of respondents were Certified Registered Nurse Anesthetists
- 2.9% of respondents were Certified Nurse Midwives
- 3.4% of respondents were Clinical Nurse Specialists

Practice Across State Lines

- 72% of respondents reported providing APRN care or educational services to individuals living/traveling outside of Maryland in the last 24 months either in-person or through telehealth
- 45% of respondents hold an active nursing license in at least one additional state

APRN Compact

- 94% (*n = 1,643*) of respondents are in favor of Maryland joining the compact
    - **Cited reasons for supporting**: mobility, address nursing shortages, flexible licensure process, more opportunities to work, access to care
- 6% (*n* = 108) of respondents oppose Maryland joining the compact
    - **Cited reasons for opposing**: opposition to practice hours, lack of interest in practicing outside Maryland, lack of knowledge on compact

2,083 APRNs completed the survey.