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May 6, 2021

The Honorable Peter C. Schwartzkopf
Speaker of the House

House of Representatives
Delaware General Assembly
411 Legislative Avenue
Dover, DE 19901

Re: Support HB 21 and HB 141

Dear Speaker Schwartzkopf and members of the House of Representatives:

On behalf of the Delaware Board of Nursing and the Division of Professional Regulation, I respectfully request your support of both HB 21 and HB 141. Together, these bills will improve access to care for Delawareans. This past year was especially traumatic for the world because of the Covid-19 pandemic. Many families were impacted whether it involved the loss of a loved one, or our family members and friends on the front lines putting themselves in danger every day by going to work. Nurses were on the forefront at the Emergency Departments, in the ICUs, and on the Covid floors caring for patients. As Representative Minor-Brown so eloquently stated in the Sunset Committee hearing for HB 141, nursing is a caring profession. We *care* for our patients, our fellow nurses, our physician colleagues, and all members of the healthcare team. These bills are extremely important to increase *access to care* for Delawareans.

During the pandemic, Delaware Registered Nurses (RNs) and Licensed Practical Nurses (LPNs) were able to assist in 34 other states who are members of the nurse licensure compact without any additional legislation or expense to the employer or nurse. Unfortunately, Advanced Practice Registered Nurses (APRNs), including certified nurse practitioners (CNPs), certified registered nurse anesthetists (CRNAs), certified nurse-midwives (CNMs), and clinical nurse specialists (CNSs), did not have this ability because they do not have compact licensure. House Bill 21 would implement just such a compact for APRNs. However, passage of HB 21 alone would not fully enable portability and increased access to care, as certain provisions of the Delaware Nurse Practice Act present barriers to practice and restraint of trade. The current language does not allow APRNs to open their own businesses in Delaware unless they are “granted” independent practice through a long, arduous process. It is only with a collaborating physician’s blessing that independent practice can be granted. To date, no APRN who has completed this process has been denied Independent Practice. House Bill 141, also known as the APRN Companion bill, aligns the Delaware Nursing statute with national standards and removes the unnecessary barriers to practice.

Representative Minor-Brown, the Board of Nursing, and the Division of Professional Regulation have worked with the Medical Society of Delaware by sharing the draft legislation and meeting with them on several occasions. However, we were not notified of their opposition or the American Medical Association's (AMA) letter until the day of the HB 141 hearing. We made our position very clear with the Medical Society of Delaware that this is important, vital legislation that will benefit Delawareans. It was also communicated that HB 21 and HB 141 do not usurp the authority of physicians in our state or the nation. Despite our conscientious efforts, there is still opposition, and I anticipate this will never cease. As I mentioned in a recent meeting, the days of Florence Nightingale are long gone. Medicine and nursing have come a long way since the Crimean War. Nurses are a vital part of the healthcare team. They are the eyes and ears of the physicians. They are partners who collaborate with the physicians and the multidisciplinary team. They are patient advocates. They are the glue that holds the system together.

I would like to take this opportunity to address the points in the AMA letter which I am sure you will receive, if not already. Each topic is presented below.

HB 141 removes physicians from the health care team

APRNs have been licensed and practicing in Delaware for over 38 years. This bill has nothing to do with "removing physicians from the healthcare team." Instead, the bill removes the requirement for a collaborative agreement with a physician. This is a piece of paper that is NOT needed for licensure purposes. A collaborative agreement does NOT ensure safe practice. In fact, nurses must collaborate with their fellow healthcare providers regardless of the existence of a collaborative agreement. For example, the nursing statute and rules state:

§ 1935. Advanced Practice Registered Nurse (APRN) — Authority and duties. "(c) APRNs with full-practice authority shall seek consultation regarding treatment and care of patients as appropriate to patient needs and the APRN's level of expertise and scope of practice." Furthermore, **Rule 8.6.2.10** states the APRN "Collaborates with members of a multi-disciplinary team toward the accomplishment of mutually established goals." **Rule 8.14.6** states "APRNs may: diagnose, prescribe and institute therapy or referrals of patients within the APRN's role and population foci to health care agencies, health care providers, and community resources; pronounce death and sign death certificates; seek consultation regarding treatment and care of patients; and be designated as the primary care provider by an insurer or health services corporation."

Nurses most certainly will not "threaten the health and safety of patients of Delaware" as the AMA letter states. Nurses are bound by a duty to serve and their Code of Ethics to do no harm. APRNs have provided care for many years and the current process of granting Independent Practice has been in place for years. So far, 301 APRNs have been granted independent practice. In Delaware this means the authority to open their own business. No disciplinary actions have resulted for any of these nurses. HB 21 and HB 141 do not represent a competitive threat to physician practices, but rather the opportunity for increased access to care throughout Delaware's underserved areas where there is a lack of primary care and mental health services.

Nursing defines “independent practice” as the ability to practice to the full scope without a collaborative agreement. Therefore, there is a basic philosophic difference between the current definition of Independent Practice in nursing statute and the nursing definition at a national level. In 2015, the Board of Nursing negotiated with the Medical Society of Delaware and the Board of Medical Licensure and Discipline to add their suggested definition of Independent Practice to the nursing statute. This has now proven to be detrimental to the seamless provision of nursing care in Delaware, as it deters nurses from other states from opening their practices in Delaware because they never had a collaborative agreement. Twenty-six states, including Maryland, and Washington DC do not require a written collaborative agreement for licensure.

In 2019, we submitted a report to the General Assembly as required by SS 1 for SB 101. We have done what we were asked and have cooperated, collaborated, and communicated to the best of our abilities. We now ask that we are respected for our expertise, common sense, and loyalty to the nursing profession and citizens of Delaware.

Differences in education, training, rigor, and standardization of programs matter

In addition to being the Executive Director of the Delaware Board of Nursing, I am a Delaware native and have been a nurse for over 40 years. I have been a nurse educator for over 25 years, and regulator for over 15 years. In those roles, I recognize there are differences in education between doctors and nurses. Nursing education focuses on the whole person- mind, body, and soul- and we have our own body of knowledge, standards of care and education, and rules and regulations governing the practice of nursing. I agree nursing education is not as in-depth as medical education as I experienced this firsthand with my daughter who was a nurse and now is an Emergency Medicine physician. With that stated, APRNs provide safe, comprehensive, cost-effective care. They should also be part of the solution to the primary care and mental health provider shortages.

What the AMA is not taking into consideration is the fact that to become an APRN, one must first be a registered nurse (RN), requiring at least 4 years of undergraduate education. Most nurses practice as an RN for several years before going back to school to get a master’s degree (minimum of 3 years) and then a doctorate (up to 5 years), one of which is required for APRN licensure. Different APRN roles and populations do indeed have variations in the length of the programs; however, every APRN must pass a rigorous national board certification exam. They must graduate from an accredited program that includes courses in advanced pathophysiology, advanced pharmacology, and advanced physical assessment. Their education is specific to the role and population they will serve. These requirements are standardized. In fact, the Board of Nursing **Rule 8.19 Required Criteria for APRN Education Programs** standardizes APRN education for our state education programs as well as out-of-state programs that seek to educate Delaware students.

Increasing scope of practice of APRNs can lead to increased health care costs

As an educated nurse at the doctoral level, the first lesson in research is to consider the quality of the study. It is also important to consider the source of the study. As many nursing research

studies demonstrate APRN care is very cost-effective. Let us be very clear, there is no change to APRN scope of practice with either HB 21 or HB 141. The current state laws governing scope of practice will not change, and prescriptive authority and DEA registration will not change either.

The Delaware Nurse Practice Act requires APRNs to practice within their scope of practice and within their role and population. They are held accountable under “§ 1935. **Advanced Practice Registered Nurse (APRN) — Authority and duties.** e) An APRN granted independent practice shall not be held to any lesser standard of care than that of a physician providing care to a specific patient condition or population.” All licensed professionals have a duty to report unethical, illegal, and unprofessional conduct to the Division of Professional Regulation. Mechanisms are in place to discipline these behaviors. The Board of Nursing has historically been much stricter on discipline than other professional boards and we hold nurses accountable.

The AMA allegation that certified nurse practitioners overprescribe is unfounded in Delaware where the prescription monitoring program (PMP) data (on March 28, 2021) indicated Delaware physicians far out-prescribe Delaware certified nurse practitioners as indicated below:

2012 -2020 Prescription Monitoring Program (PMP) Data for Delaware
(Based on Prescription Count of Opioids)

	Opioids Prescribed/Dispensed	*Prescriptions with MME GTE 90
Physicians	55 –67%	59 – 70%
Certified Nurse Practitioners	7 -19%	9 – 22%

*MME GTE - is Morphine Milligram Equivalent Greater Than or Equal To (considered high dose by CDC)

Certified nurse practitioners in Delaware are not overprescribing by the data reported by the PMP.

The APRN Compact is not about license portability – but about preempting state scope of practice laws

The APRN Compact is ONLY a licensure model to allow cross-border practice with the sole purpose of increasing access to care. There is no “preempting” of state practice laws. Only one other state has indeed passed the APRN Compact, North Dakota, and seven states are needed before the compact can be implemented. Delaware was one of the first states to pass the law in 2000 for the Nursing Licensure Compact for RNs and LPNs, and it should be the second state to pass the APRN Compact now. Other states will follow our lead as almost 80% of the states voted in favor of this compact in August 2020. This year, most states are focusing on Covid-19 legislation and some states do not have a legislative session every year.

In conclusion, I welcome your comments and questions regarding HB 21 and HB 141. Please feel free to email me at pamela.zickafoose@delaware.gov. I am a native Delawarean and my

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friends and family live, work, and have died here. I would never recommend anything this strongly unless I truly believed it would benefit the citizens of Delaware and certainly not harm anyone. The message of the AMA is totally unfounded and very far from the truth. It was most likely sent from their corporate office and has no relevance to Delaware. To me, it is a scare tactic from a group of people who are not acting very professionally, nor living up to their code of ethics. Please vote in favor of both HB 21 and HB 141. Thank you very much.

Respectfully Submitted,

A handwritten signature in black ink that reads "Pamela C. Zickafoose". The signature is written in a cursive style with a large initial 'P' and 'Z'.

Pamela C. Zickafoose, EdD, MSN, RN, NE-BC, CNE, FRE
Executive Director
Delaware Board of Nursing