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Chair, House Committee on Bills in the Third Reading
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The Honorable John J. Lawn, Jr.
Chair, Joint Committee on Health Care Financing
State House, Room 236
24 Beacon Street
Boston, MA 02133

October 19, 2021

Dear Chair Lawn, Chair Friedman, and Honorable Members of the Committee,

Thank you for your continued leadership as the Commonwealth examines the lessons learned throughout the COVID-19 pandemic and reforms needed to the health care system to ensure safe, effective, and equitable health care in Massachusetts. I write to express my support for **H.370, *An Act relative to maintaining independent authority over nursing licensure in the Commonwealth***, which I have filed this session to reinforce the Commonwealth's commitment to maintaining a high level of standards expected and required for health care workers, specifically the nursing profession.

As you are aware, health care has changed rapidly in the past decade and exponentially in the last nineteen months. As the health care system continues to evolve, the Commonwealth's ability to maintain oversight and adapt to changes specific to Massachusetts must be one of the highest priorities. While all nurses must complete the same national exam – National Council Licensure Examination (NCLEX) – that is where similarities in licensing standards end; each state possesses its own Nurse Practice Act (NPA) governing the practice of nursing within the state which are then interpreted into regulations by each state board of registration in nursing, with the authority to regulate the practice of nursing care and the power to enforce the laws.

Legislation filed this session, that is before the Committee, to enter Massachusetts into the Expanded Nurse Licensure Compact (NLC) places an immediate threat to the Commonwealth's independent authority over the nursing profession through the Board of Registration in Nursing. Entering the Nurse Licensure Compact places a significant and legitimate threat to the safety and well being of patients and health care workers; out of state nurses would be required to differentiate between 34 Nurse Practice Act's without any prior education or training. Lack of knowledge regarding the scope of practice and responsibilities of the nursing profession in the Commonwealth places an unnecessary risk of harm on patients and health care staff. Maintaining authority of nurse licensure in the Commonwealth allows the Board of Registration in Nursing to possess oversight of multistate licensed nurses practicing in Massachusetts who are not Massachusetts residents – joining the Nurse Licensure Compact would cede such oversight authority and undermine the mechanism currently in place for reciprocity licensure which safe guards against the potential harm of nurses flowing freely across state lines. By joining the Nurse Licensure Compact, Massachusetts becomes 1 vote, as a member of a 34-member state board, susceptible to changes in policy with lack of ability to effectively support or oppose changes in licensing.

Proponents of the Nurse Licensure Compact express the need for Massachusetts to enter into the compact to have the necessary tools to address nursing vacancies, respond to emergencies, and create an expedited

pathway for licensed out of state nurses to receive licensure in the Commonwealth. While these concerns may apply in some states, they do not present the same risk in Massachusetts.

Vacancy Rates

The national nurse vacancy rate is 9%, nearly double the Massachusetts vacancy rate of 5.9%, according to the Health Policy Commission's evaluation of the Commonwealth's entry into the Nurse Licensure Compact, required by section 96 of chapter 227 of the Acts of 2020. Nurse vacancy rates in Nurse Licensure Compact states exceed the national average – Missouri (implemented Nurse Licensure Compact in 2010) vacancy rate of 13.3%, Texas (implemented Nurse Licensure Compact in 1999) vacancy rate of 11.7%, and South Carolina (implemented Nurse Licensure Compact in 2006) projects a vacancy rate of 25% by end of 2021.

Prior to the COVID-19 pandemic, the U.S. Department of Health and Human Services projected a nursing surplus in Massachusetts by 2030. A myriad of issues, exacerbated by the pandemic, have led to nurse burnout in the Commonwealth. The *shortage* of nurses presently in Massachusetts is not a symptom of a lack of available nurses, it is a result of nurses unwilling to work in the untenable conditions present in health care facilities. The Health Policy Commission's evaluation cites an independent analysis of the Nurse Licensure Compact based on data from over 1.8 million nurses and health care workers, the commissions report failed to include the conclusion made by the analysis indicating that there is “no evidence that the labor supply or mobility of nurses increases following the adoption of the Nurse Licensure Compact, even among the residents of counties bordering other Nurse Licensure Compact states who are potentially most affected by the Nurse Licensure Compact. This suggests that nationalizing occupational licensing will not substantially reduce labor market frictions.”

Responding to Emergencies

As the COVID-19 pandemic impacted health care systems across nation, Massachusetts utilized existing laws and executive powers to address the need for health care workers. By declaring an emergency Massachusetts possesses the ability to waive or expedite licensure requirements - as was done during Hurricane Sandy and Hurricane Harvey. The Health Policy Commission's report acknowledges that Nurse Licensure Compact member states often institute emergency licensure in the face of various disasters. For example, Texas instituted emergency licensure in the aftermath of Hurricane Harvey in 2017 as did Georgia in 2020 to address the COVID-19 pandemic.

The relevant sections of the Health Policy Commission's report relative to emergency preparedness cites analysis from Trust for America's Health (TFAH) as supportive of the Nurse Licensure Compact. According to TFAH data, Massachusetts ranks in the highest tier with regards to emergency preparedness, and an examination of the rankings does not show a correlation between Nurse Licensure Compact member states and preparedness, as Nurse Licensure Compact member states rank in the lowest preparedness tier while non-Compact states rank in the highest tier.

If the Nurse Licensure Compact improved emergency preparedness, the expected result would place member states in the highest tier of emergency preparedness with no need to institute emergency licensure, however in actuality, the Nurse Licensure Compact does not solve issues surrounding emergency preparedness.

Expedited Licensing

Massachusetts currently provides reciprocity licensure to qualified licensed out of state nurses who wish to practice in the Commonwealth. Provided that a nurse has graduated from a board-approved nursing program, is of good moral character, has passed the NCLEX, has been licensed in another state, and possesses a valid Social Security number, the nurse is eligible to receive licensure by reciprocity in

Massachusetts. Additionally, Massachusetts provides expedited licensure for military personnel and spouses who meet necessary criteria under the VALOR Act.

The fallacies of the Nurse Licensure Compact may appear to provide simple solutions to issues of nurse vacancies, emergency preparedness, and expedited licensure, however the facts and data do not support a sustained solution. The dangers of implementing the Nurse Licensure Compact in the Commonwealth are fraught with unintended consequences.

- By becoming a member of the Nurse Licensure Compact, nurses coming to Massachusetts would be required to navigate 34 different NPA's with varying scopes of practice, placing nurses and patients at serious risk of harm;
- By joining the Nurse Licensure Compact, the Commonwealth could lose nurse licensing revenue as out of state nurses who currently maintain a Massachusetts license would no longer pay a licensing fee to the state. According to the Board of Registration in Nursing in 2019, of the 139,000 licensed nurses in Massachusetts, 108,970 lived in state. By joining the Nurse Licensure Compact, the Commonwealth would see a decrease of approximately 21% in revenue from licensing fees; and
- If a Nurse Licensure Compact member state wishes to exit the Nurse Licensure Compact, it may only do so through legislative action. In Massachusetts, legislation to exit the Nurse Licensure Compact would be required to be passed by both chambers and signed by the Governor.

The Commonwealth must not fall victim to the mythical benefits of the Nurse Licensure Compact and maintain the strength of independent authority of the Massachusetts nursing profession through the Board of Registration in Nursing to ensure safe and equitable care for residents of our communities.

I respectfully request the committee grant H.370 a favorable report. Please do not hesitate to contact me with any questions or concerns, or if I can be helpful to the Committee in any way. Thank you for your careful consideration.

Sincerely,



Denise C. Garlick
State Representative
13th Norfolk District