



Ohio Board of Nursing

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February 9, 2021

The Honorable Scott Wiggam
Ohio House of Representatives
Chair, House State and Local Government Committee
77 South High Street, 13th Floor
Columbus, Ohio 43215

Chair Wiggam, Vice Chair John, Ranking Minority Member Kelly, and members of the House State and Local Government Committee,

HB 197 (effective March 27, 2020) was a unique response to a unique set of circumstances during an emergency that we all trust will continue to lessen with the introduction of various measures, including vaccinations. I will take this opportunity to provide a brief summary to explain the public safety and other operational concerns that pertain to HB 197 temporary licenses.

In response to initial COVID-19 pressures on the healthcare system, the Ohio legislature in March 2020 created new HB 197 licenses that waive having to pass the NCLEX prior to initial licensing. The Ohio Board of Nursing understood that the HB 197 NCLEX exemption and this special license exemption was intended address the heightened emergency situation when NCLEX test sites were temporarily shut down nearly a year ago. This is no longer the case and since at least July 2020 NCLEX test sites have been and are still fully operational, some testing 24 hours per day.

Board statistics show that from March 1, 2020 to February 4, 2021:

- * 12,381 HB 197 temporary licenses have been issued
- * 5,512 of these have not passed the NCLEX (failed, not scheduled, no show, pending, cancelled); about 1,138 failed the exam one or more times
- * 52% of those with an active HB 197 temporary license have either not taken NCLEX or failed, it once or multiple times
- * 3,732 of 18,835 LPN and RN applications for initial licensure are from students educated by Florida programs as compared to 112 during the same time period last year (3/1/2019 to 2/4/2020 vs. 3/1/2020 to 2/4/2021)

The HB 197 temporary exception to nurse license requirements was intended to help provide more care in the field more immediately. Based on the above statistics, it appears to have accomplished that goal if you accept the premise that more licenses issued results in more nurses working and staying in Ohio, immediately filling voids in the neediest of workplaces and providing care that otherwise could not be accounted for. You can also look at the numbers and say during the pandemic the Nursing Board is doing more with less than ever before. But when you look at the numbers that reflect HB 197 licensee holders who are either failing or just not taking the NCLEX in statistically significant numbers, it makes you pause and ask are there costs that outweigh the benefits of the HB 197 fix. Should risk and need be measured differently today then back in March 2020 when we have had so much time to learn and adapt?

What the Board has heard and experienced over the past year regarding the temporary HB 197 NCLEX exception are significant concerns and issues raised both here and nationally. These questions and concerns include reports that there were Ohio HB 197 licensees who had not yet taken the NCLEX and immediately obtained licenses in other states. States that did not realize Ohio had licensed them prior to passing the national license exam. Thankfully that has been rectified and the states in question went about the task of taking back those licenses. The Board has received over three thousand (3,000) LPN and RN HB 197 applications from students educated by Florida programs. The Florida Board of Nursing does not have total approval jurisdiction over these nursing programs, including programs that also may not be nationally accredited. Why are 3,000 Florida nursing graduates leaving Florida to get licensed in Ohio? We are finding that 72% of out of state applicants have failed NCLEX. We are also finding that many applicants are not recent graduates but graduated five to ten years ago and never passed the NCLEX. There are no statutory restrictions that keep these applicants from applying.

We've had applicants who failed the NCLEX several times in years past contact the board to apply for the temporary license. The Board has heard from many employers who for public safety reasons will not hire HB 197 licensees who have not passed the exam. The Board's mission and main concern is public safety and post HB 197 licensing statistics and questions do raise public safety concerns.

In addition, the new HB 197 temporary licenses significantly increased the licensure workload - **as of February 4, 2021 the Board received nearly 19,000 applications, a 35% increase over 2019, while we work short-staffed and remotely.** These temporary licenses result in more applications to review, manual processes, and less time to complete licensing functions and issue other types of licenses. Further, the Board must respond separately to employers who require Board confirmation when the HB 197 licensees pass the NCLEX.

Although staff have developed a work plan to address the issuance of thousands of HB 197 licenses, with a staff of nine in the Licensure Unit, routine time off, and unexpected medical leaves for extended periods of time, it is not possible to absorb a 35% increase in workload. In reality, we are thinly staffed even during times without a pandemic. The

Board submitted a proposal to hire temporary project staff, at least through June 30, 2021, to assist with the workload which was recently approved by the State. We are actively proceeding with that plan.

HB 6 was introduced last week with similar language regarding extending the life of HB 197 nursing special licenses (please see Section 30 of the bill on pages 11-12). I also understand that language from HB 673 involving clinical nursing credits for students who have already graduated does **not** appear in HB 6. While I am still not clear why the nursing programs have a direct stake in extending the life of the HB 197 special license, I do understand in a limited way why certain university programs attached to university health care systems as well as other nursing employers might believe they are benefitted by extending this special license. It is more convenient. Is it necessary though to provide better care? We all could use the most help we can get during these trying times, that is understandable. However, we should weigh costs and benefits to the health and well-being of all the State.

HB 6 does add language carried over from last session's HB 673 as amended on the House floor. That amendment provided that if an HB 197 failed the NCLEX, the HB 197 license would no longer provide authorization to practice. However, the loophole remains for the license holder who chooses not to take the NCLEX until the license expires.

The Board believes that there are public safety costs that have been demonstrated over the past year (please consider re-reading the statistics cited in this testimony). We should explore other ways of addressing identified needs, rather than to continue to waive a national licensing competency exam prior to licensing Ohio nurses. We respectfully request that you please consider not extending the issuance of the HB 197 beyond the March 1, 2021 deadline.

Thank you for your consideration of these comments. I am available to answer questions that you may have.

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