October 11, 2016

Lorena Silva, MSN-L, MBA, DNP, RN

Executive Director

Board of Registration in Nursing

239 Causeway Street, Suite 500, 5th Floor

Boston, Massachusetts 02114

Re: Proposed Amendments to the Board’s Regulations at 244 CMR 3.00

Dear Dr Silva,

The Organization of Nurse Leaders (ONL), is a four-state professional membership organization with more than 1,000 members, whose mission is to advance a culture of health though nursing leadership. ONL appreciates the opportunity to submit comments to the Board of Nursing’s (BORN) proposed regulations 244 CMR 3.00. ONL does not oppose changes to the regulations, however we are seeking clarification on multiple sections of the proposed regulations and we are submitting several questions as part of this written testimony. We are unable to express a final position on the proposed regulations until our questions are answered.

ONL appreciates the BORN's leadership and efforts to update these regulations. As an organization representing nurse leaders from multiple states and multiple care settings, we routinely address the continuously changing nature of health delivery, and we are strongly in support of modernizing the regulations that govern nursing practice. However, because these regulations govern the scope of nursing practice and delegation, it is imperative that we get it right. The process must be thoughtful, collaborative and inclusive to ensure that the changes reflect all sectors of the nursing profession— acute care, long-term care, home care, academia, etc.

ONL supports the strong language included in the draft regulations that specifically state: "***The final decision as to what can be safely delegated in any specific situation is within the scope of the delegating nurse's judgment."*** It further states "***The delegating nurse can determine at any time that the nursing activity can no longer be delegated based on a change in the health status of the patient, in the unlicensed person's performance of the activity, or other reason the delegating nurse determines may jeopardize patient health or safety."***

We applaud the BORN for incorporating some of the recommendations and language put forth by the National Council of State Boards of Nursing (NCSBN) and the American Nurses Association (ANA) in their Joint Statement on Delegation. There may be an opportunity to align the regulations even more closely with the recommendations of these two national nursing organizations.

In closing, we ask the BORN to extend the public comment period 60 additional days to allow organizations, such as ours and others, to engage with our Board and members who have questions and continue to seek clarification to fully understand the implications and intent of the proposed changes.

Keeping the public record open for 60 days will allow more time to answer questions, clarify the proposed changes and potentially strengthen the language to more closely align with the NCSBN and ANA guidelines and recommendations on nursing delegation. Our comments and questions follow:

* It would be helpful if the BORN could issue an advisory ruling that clearly explains what the proposed BORN regulations changes mean for the current status of nursing delegation of medication administration in Massachusetts.
* Specifically, is there more clarity to offer to the question, do these regulation changes impact the setting(s) in which delegation of medication administration can occur?  Despite answers to come questions, it is still not clear what entity does regulate the setting in which nurse delegation of medication can occur.
* The BORN stated, “delegation of medication occurs in limited settings and only where allowed by law and DPH regulation.  The proposed regulations at 244 CMR 3.05 will not change that fact.”  Can you please clarify this statement even more by adding more specifics, for example, "only where allowed by law via legislation that must be passed by the Massachusetts Legislature and signed into law by the Governor and by the Department of Public Health (does DPH have specific regulatory authority under Chapter 94C regarding where and who can administer and/or delegate medications).  Therefore, the BORN does not possess the power under these proposed regulations to determine or authorize the settings in which delegation of medication administration by nurses may occur."  More clarity of this point is badly needed.
* We believe the one phrase that caused confusion on the setting issue is found at 3.05; subsection (2) General Criteria for Delegation.  The proposed regulations add the phrase "**Regardless of setting**, the licensed nurse who delegates nursing activities...”  Some may read this as meaning in all settings even though the BORN intent may have just been to clarify that no matter the setting, this is the criteria for delegation.
* The memo also said the only setting in which nurses are authorized to delegate medication administration to unlicensed persons is the public and private school setting.  Is that why the school setting regulations are included in the proposed regulations.  Others may read this and think this is authorizing medication administration in schools instead of a reflection of that limited and existing law.
* Please define unlicensed persons.  i.e. if the medical assistant is supervised by the MD, would the nurse delegate to that person?  If no, the medical assistant should be excluded.  Which also raises the question of the definition of delegation and supervision which all were struck.  While we agree the three definitions should be revised, we are not sure they should be deleted.
* ONL thanks the BORN for your leadership and efforts to update the nursing regulations and we look forward to continuing to collaborate with the BORN on the proposed regulations. Please do not hesitate to contact me for further questions or clarification.

Sincerely,

Amanda Oberlies PhD, MBA, RN

Chief Executive Officer

Organization of Nurse Leaders, Inc.

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