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TESTIMONY RE: H.B No. 6549 (Raised) AN ACT CONCERNING DEPARTMENT OF PUBLIC HEALTH OVERSIGHT RESPONSIBILITIES RELATING SCOPE OF PRACTICE DETERMINATIONS FOR HEALTH CARE PROFESSIONS.

Public Health Committee
March 11, 2011

Good morning Senator Gerratana, Representative Ritter, Senator Welsh, Representative Perillo and members of the Public Health Committee.

Thank-you for the opportunity to provide testimony on behalf of the Connecticut Nurses' Association (CNA), the professional organization for registered nurses in Connecticut. I am Dr. Mary Jane Williams, current chairperson of its Government Relations Committee and professor emeritus from Central Connecticut State University. I have practiced nursing for over 45 years and have been educating nurses in Connecticut in both the public and private sector for over 40 years.

I am speaking in opposition to the current language in Raised Bill No. 6549, "An Act Concerning Department of Public Health Oversight Responsibilities Relating to Scope of Practice Determination for Health Professionals. "

I understand the huge dilemma faced by the Public Health Committee members who seek an objective solution to issues that address scope of practice. I agree that we all need resolution on this difficult dilemma. However, decisions should not be made related to change based on controversy but ultimately what is good for the public we

serve. We must all learn to work as partners in the health care arena and collaborate to provide comprehensive primary care for the citizens' of Connecticut. All professions have an important role to play in prevention, intervention and support in chronicity. Those roles may overlap but at best they must compliment each other and that cannot be accomplished until we all are guaranteed the right to practice unimpeded. This practice environment will have a positive economic impact on the health care budget because it will provide for comprehensive case management, decrease recidivism and foster preventive health.

The dedication and research into this process over the last several years is to be commended. The decision to move forward with this legislation however is not in the best interest of the 140,000 licensed health professions that would have to utilize the process created to deal with "Scope of Practice Determination." The current proposed language does not reflect best practice regarding scope of practice procedures. It will create a system that will be time intensive and subjective at best.

I am adding language that has been brought forward by the Coalition of Advanced Practice Registered Nurses and the Connecticut Nurses Association. It follows:

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (a) Not later than September 1, 2011, and annually thereafter, any person or entity, acting on behalf of a health care profession that seeks to advance legislation in the following year's legislative session that would result in a statutory change to such profession's scope of practice or the enactment of new statutory provisions setting forth the scope of practice, shall submit a written scope of practice request to the Department of Public Health.

(b) Any written scope of practice request submitted to the Department of Public Health shall include the following information:

- (1) A plain language description of the request;
- (2) Public health and safety benefits that the requestor believes will be achieved should the request be implemented and, if applicable, a description of any harms to public health and safety should the request not be implemented;
- (3) The impact that the request will have on public access to health care;

- (4) A summary of state or federal laws that govern the health care profession making the request;
- (5) The state's current regulatory oversight of the health care profession making the request and the estimated impact, if any, that the request will have on current regulatory oversight;
- (6) All current education and training requirements applicable to the health care profession making the request;
- (7) The anticipated economic impact to the state, if any, of the request
- (8) Regional and national trends concerning licensure of the health care profession making the request and some examples of relevant scope of practice provisions enacted in other states.

(c) Not later than September 15, 2011, and annually thereafter, the Department of Public Health shall: (1) Provide written notification to the joint standing committee of the General Assembly having cognizance of matters relating to public health of any health care profession that has submitted a scope of practice request to the Department pursuant to this section; (2) indicate which such request is deemed a legitimate scope request and is properly before them, and, if any, which is not deemed a scope issue and has not been accepted; and (3) post any such accepted requests on the Department's web site, such posting shall include the name and address of the requestor;

(d) Not later than October 1, 2011, and annually thereafter, any person or entity, wishing to comment on a scope of practice request posted pursuant to this section may submit to the Department a written comment on the scope of practice request. Any such person or entity commenting on a scope of practice request shall indicate the reasons for comment on the request specifically taking into consideration the criteria set forth in subsection (b) of this section and shall provide a copy of the written comments on the scope of practice request to the requestor.

(e) Any health care profession that fails to comply with the provisions of this section in making a scope of practice request shall be prohibited from seeking legislative action on the scope of practice request until such time as the health care profession is in full compliance with the provisions of this section.

Section 2. (a) On or before November 1, 2011 the Department shall (1) identify, if any, those requests that do not present any significant change in scope but rather represent the formalization of changes already occurring in education or practice within a profession, due to the results of research, advances in technology and changes in healthcare demands, among other things; and that from a regulatory perspective clearly meet appropriate requisite training, poses no health or safety issue, benefits the public, and has no negative impact on access to care; and (2) provide written notification of such to the joint standing committee of the General Assembly having cognizance of matters relating to public health.

Section. 3 (a) On or before November 15, 2011 and annually thereafter, for all other requests submitted to the Department pursuant to Section 1 of this act, the Commissioner of Public Health shall establish and appoint members to a scope of practice review committee consisting of the following members: (1) One member representing the health care profession making the scope of practice request selected by the requestor, (2) a member representing the state professional board or commission under subsection (b) of section 19a-14 of the general statutes for the health care profession making the request, or, if same licensee not available, a member of the state professional organization holding the same license, (3) in the event that one or more persons or entities, acting on behalf of healthcare professions, have submitted a written statement pursuant to subsection (d) of section 1 of this act, the commissioner shall appoint one member to represent such health care professions, provided if a state professional board or commission exists under subsection (b) of section 19a 14 of the General Statutes for any of the professions commenting, the member, if licensed in the same profession, shall be selected from such

board or commission; (4) a member of the general public who is not a licensed healthcare professional and who has no personal or professional interest in the scope of practice request; and (5) the Commissioner of Public Health or the commissioner's designee, who shall serve as chair of the committee and as an ex-officio, nonvoting member of the committee. Members of such committee shall serve without compensation.

(b) Any committee established pursuant to this section shall review and evaluate the scope of practice request, subsequent written responses to the request and any other information the committee deems relevant to the scope of practice request. The committee, when carrying out the duties prescribed in this section, may seek input on the scope of practice request from the Department of Public Health and such other entities as the committee determines necessary in order to complete its written assessment and recommendations as described in subsection (c) of this section.

(c) The committee, upon concluding its review and evaluation of the scope of practice request, shall provide a written assessment of the scope of practice request and, if applicable, suggested legislative recommendations concerning the request to the joint standing committee of the General Assembly having cognizance of matters relating to public health. The assessment shall include comments regarding delivery of competent care, public safety, and benefits to the public, and access to care. The committee shall provide the written assessment and any legislative recommendations to said joint standing committee not later than the February first following the date of the committee's establishment. The committee shall terminate on the date of the official close of the legislative session during which the scope of practice request is taken up.

Section 4. (a) On or before Sept ____ the Commissioner of Public Health shall evaluate the processes implemented pursuant to sections 1,2 and 3 of this act and thereafter report to the joint standing committee of the General Assembly having cognizance of matters relating to public health, in accordance with the provisions of section 11-4a of the general statutes, on the effectiveness of such processes in addressing scope of practice requests. This statute shall expire on June 30, ____ unless further action is taken by the Public Health Committee.

Rationale For the recommended Language

Our issues are related to the impact the proposed process will have on Infrastructure available to process scope of practice issues and the amount of time, commitment the proposed process will have on small organizations that do not have the people or financial resources to move forward.

The proposed system is onerous in the list for all organizations. But it will overwhelm the smaller organizations.. It will place a huge manpower burden on the current infrastructure of the Department of Public Health and may further slow done the process.

We as a Coalition also find the structure and composition of the committee, to large, weighted to heavily by the opposition, and cumbersome in the procedural process. We have attempted to make the process clear and concise. We would also request a review

of who will be selected for the committee and how individuals will be selected. We believe it would be difficult at best to address Number 7 a historical perspective on all changes to the profession over a 5 year period, and almost impossible to address the economic impact.

We have also requested a time limit for feedback of the process and review of outcome. We would be more than willing to sit with you to discuss our proposed changes and answer any questions.

Current Research that potentially Impacts this Process

Over the past two years, The Institute of Medicine (IOM), the Robert Wood Johnson Foundation (RWJF) and the Josiah Macy Foundation have studied from a National perspective the future of nursing. In summary the report has four key messages and eight recommendations.

Key Messages include:

1. Nurses should practice to the full extent of their education and training.
2. Nurses should achieve higher levels of education and training through an improved education system that promotes seamless academic progression.
3. Nurses should be full partners with physicians and other health care professionals in redesigning health care in the state.
4. Effective workforce planning and policy making require better data collection and improved information infrastructure.

Eight Recommendations from the IOM report include:

1. Remove Scope of Practice Barriers.
2. Expand opportunities for nurses to lead and diffuse collaborative improvement efforts.
3. Implement Nurse residency Programs.

4. Increase the proportion of nurses with a baccalaureate degree to 80% by 2020.
5. Double the number of nurses with a doctorate by 2020.
6. Ensure nurses engage in life long learning.
7. Prepare and enable nurses to lead change to advance health.
8. Build Infrastructure for the collection and analysis of inter professional health workforce data.

I would like to focus on two of the recommendations: 1 and 3

Nursing is one of the largest health care professions that is regulated at the state level through scope of practice legislation. These statutes also articulate the licensing requirements. Professions are typically regulated by statute, with the responsibilities of enforcement delegated to state regulatory agencies and boards or commissions. Because states in the US have different laws, the tasks nurse practitioners are allowed to perform are determined not by their education and training but by unique state laws under which they work.

The IOM report offers recommendations to a variety of stakeholders to ensure nurses practice to the full extent of their education and training. One sub recommendation is targeted at anti competitive conduct in the health care market including restrictions on business practices of health care providers, as well as policies that could act as barriers to entry for new competitors in the market place (IOM). As leaders, nurses, must act as full partners in redesign efforts, be accountable for their own contributions to developing high quality care, and work collaboratively with leaders in other health professions. Nurses need to be full participants in health policy, health care reform, actively participate on advisory boards. An example is Sustinet recognizing that APRNS as primary providers, who provide 50% of the primary care in Connecticut have a seat on the advisory board.

The Josiah Macy Foundation (www.macyfoundation.org) recommends “Coupled with efforts to increase the number of physicians, nurse practitioners, and physician assistants in primary care, state, national and legal and regulatory and reimbursement policies should change to remove barriers that make it difficult for nurse practitioners and physician assistants to serve as primary providers and leaders in patient centered medical homes or other models of primary care delivery. All primary providers should be held accountable for quality and efficiency of care as measured by patient outcomes. “

Nursing is an autonomous profession, which means nurses have a high degree of control of their own affairs: "Professionals are autonomous insofar as they can make independent judgments about their work" this usually means "the freedom to exercise their professional judgment." Nursing in Connecticut as a profession has demonstrated its ability to make and exercise professional judgment. Nursing in Connecticut has consistently demonstrated its ability to self regulate, and hold accountable its members through the Board of Examiners for Nursing (BOEN).

The nursing profession enjoys a high social status, regard and esteem which is conferred upon them by society. Nursing is viewed as the most trusted profession by the public in surveys conducted during the last decade. This high esteem arises primarily from the higher social function of their work, which is regarded as vital to society as a whole and thus having a special valuable nature.

The nursing profession involves technical, specialized and highly skilled work often referred to as "professional expertise." Education for this work involves obtaining degrees and professional qualifications without which entry to the profession is barred. Education also requires regular updating of knowledge and skills that facilitates the incorporation of this new knowledge in order to maintain expert competence and public safety. This is accomplished through continuing education especially at the advanced levels for continuing certification required for APRN recertification.

Nursing is late in recognizing its potential power and has inadvertently allowed other health care professionals to attempt to utilize their power to control provider practice. This represents a restraint of trade. We can not support any legislation that would allow one profession to exercise a dominating influence over its entire field which means that the profession can act monopolist, rebuffing competition from other professional health care providers as well as subordinating and controlling lesser but related health care providers. In the current health care environment, with the proposed implementation of “The Affordable Health Care Act,” nationally and Sustinet at the state level.

We as responsible leaders at the policy table need to assure all health professionals are working to the full extent of their education and training. If we do not we will find our selves in the middle of a health care crisis without adequate providers. Massachusetts is an example of this crisis. As a result of the health care legislation in Massachusetts APRNS practice independently.

The current proposed legislation is an attempt to legislate a system to determine scope of practice. The data analyzed in the national review of how scope of practice is determined supports the request of the nursing community. Therefore if we recognize nursing as a profession, based on the tenets of a profession, that nursing is autonomous and self regulating we must also make regulations for nurses and its members that facilitate its determination of scope of practice without the current impediments that continue to inhibit nurses from functioning at their level of education, experience and current scope of practice.

I have provided you with Coalition language that we feel adequately accomplish the goal set forward. I have also attached to my testimony a copy of the IOM report for your review. This is not about one group of nurses this call for full scope of practice applies to all health care providers via a system that works in the infrastructure we currently utilize in Connecticut.

Thank you

