

**APPENDIX**

October 5, 2017

Senators, ladies and gentlemen,

Good morning and thank you so much for calling attention to a serious threat to the citizens of NJ. I am Dr. Pat Murphy, I served as a member of the NJ Board of Nursing, a volunteer position, for 10 years, 6 of those years as its president. When invited to testify at this hearing I was still the president. I sit here today having been abruptly removed from the Board by the Governor's office 6 days ago. My second term should have ended in 2 months and I planned to use those months to assist with the transition and orient new board members. The Governor's Office gave me no reason for its summary removal. I am left with no alternative explanation except that the Governor's Office intended retribution toward me and a warning to other public servants that drawing public attention to the Administration's alleged shortcomings is grounds for banishment.

But this hearing is not about me, it is not about the Division of Consumer Affairs, it is about the people of NJ and the crisis at the Board of Nursing.

The Board of Nursing oversees:

- 143,500 RNs, LPNs and APNs,
- 80,000 Certified Home Health Aides

The New Jersey Board of Nursing has a chronic lack of *professional* staff, now rising to a level that threatens the Board's responsibility to protect the citizens of New Jersey. At present, there is *only one professional member*, the acting executive director, and she is doing 3 jobs! The Division has not filled any of the positions vacated by professionals with professionals. They sent temporary workers and "government reps". These government reps do NOT report to the ED,

High on the list of urgent needs is a full time director of education to oversee the 84 educational programs for professionals and paraprofessionals. Some of these programs should have been closed more than 2 years ago, but remain open because we do not have the staff to monitor them. Oversight of the educational programs in NJ is an important function of the board and one way we protect the citizens of this state.

The Board of Nursing acts on approximately 250 disciplinary cases EACH month.

There is an urgent need for a full time professional to investigate and analyze these cases, not part time consultants.

Since the board went public with the crisis there have been temporary "fixes". To come here today and say the problems are solved, the Division have pulled temporary help from their usual jobs (not Board of Nursing employees) to license people. This may help the optics for today but after today the crisis will continue.

The board needs full time regular staff in the licensing department. These people need to report to the ED, it is impossible for an executive to have all the responsibility and no authority over the temporary staff.

This situation – long chronic and now critical – has yielded only marginally to the voices of Board members. Only the aroused interest of you the legislators seems to move the needle. If you can help, a basic state function may be rescued.

We need:

- an Executive Director empowered to do the job,
- a deputy to share the role,
- Full time Professionals in Discipline and Education
- staff positions filled with qualified people ***accountable to the ED.***

*None of this is a special interest pleading.* The responsibility of the Board of Nursing is to protect the people of New Jersey. That is why this crisis should claim your attention and that of other legislators.

Patricia Murphy, PhD, APN, FAAN

Senate Legislative Oversight Hearing  
NJ Board of Nursing  
Testimony

Good morning Senators,

Thank you for the opportunity to speak on behalf of the citizens of New Jersey. I am Dr. Dorothy Smith Carolina, and I served as the Executive Director of the Board of Nursing from May 31, 2016 to August 11, 2017.

Serving as the Executive Director of the Board of Nursing was the highlight of my professional career. As a Registered Nurse for nearly 3 decades, I was honored and privileged to serve the citizens of New Jersey in this capacity.

As the Executive Director, I was responsible for managing the day-to-day operations of the Board of Nursing which included:

- Managing the full-time and temporary staff
- Overseeing the 84 nursing education programs (addressing student and other consumer complaints; monitoring to ensure meeting educational standards; approving new schools of nursing; initiating the process to close schools that are not meeting the standards)
- Oversee approximately 520 home health aide training schools
- Monitoring the practice of over 200,000 licensees and certificate holders
- Overseeing the disciplinary process of the licensees and certificate holders (approximately 200-300/month)
- Oversee the process of all individuals interested in obtaining a license to practice nursing in NJ

After only 3 short weeks in the position, it became very apparent to me that the situation at the Board of Nursing was at a crisis level. Given my many years of management and nursing education experience, I felt confident in my ability to resolve these issues over time.

Unfortunately, I was wrong. I quickly learned that as Executive Director of the largest professional licensing unit within the Division of Consumer Affairs, I had no authority or autonomy. All decision-making occurred outside of the Board of Nursing, and there were no opportunities to provide input relative to the budget or human resource management. I had to obtain permission from the Director's office

before implementing any changes within the Board that I felt would improve the operations. In fact, my immediate supervisor once told me that I even needed to get his permission to move a staff member from one cubicle to another.

Although the Board of Nursing generates millions of dollars in revenue, only a small portion of the monies are utilized for the operation of the unit. The rest of the funds are deposited into the general fund. Any attempts that I made to obtain more resources were denied by the leadership of the division. Instead, I was directed to develop plans to increase efficiency which was not to include additional resources.

### **Managing Staff**

There are 27 full-time staff members working at the BON, virtually all of whom are considered non-professional employees. Prior to my tenure, the Board was known to have more professional RN staff. Unfortunately, positions that were vacated due to retirement were lost through attrition or replaced with temporary staff and government representatives, individuals with political ties and who do not report to the ED. Needless to say, staffing is inadequate and does not support the vital functions of the Board. However, the individuals who currently work there are hardworking people, dedicated to protecting and serving the citizens.

### **Licensing**

Individuals wait months to get licensed and, on average, there are several hundred nurses waiting to be licensed by endorsement each month (typically operating two months behind). When I left in August, the staff was still working on applications from June.

The examination section experiences "peak season" during the months of May-September, and again from December-February due to graduations. Typically, overtime is approved by the administration to handle the increased workload during this period; it was denied.

Staffing for the processing of CHHA applications is also inadequate, and attempts to improve the efficiency without increasing the staffing has been unsuccessful, despite the reports to the contrary.

As of the second week of August, there were approximately 4,000 individuals waiting for licensure or certification. However, reports indicate that major attempts are being made by the Division of Consumer Affairs to "clean up" the issues that

have been highlighted as a consequence of inadequate staffing. Unless permanent solutions are implemented, such as additional professional and non-professional staff, the problems of the Board of Nursing will continue.

### **Educational Programs**

The Board regulates 84 schools of nursing and approximately 520 home health aide training schools. A few of these schools were due to be closed 2 years ago, but remained open simply because staff was not available to monitor them. How many others need to close? Currently, there is one nursing education consultant responsible for enforcing the regulations and ensuring that the schools are meeting the standards. The BON needs a full-time Registered Nurse to oversee this vital Board function.

### **Finally**

My decision to resign as the Executive Director of the NJ Board of Nursing was not an easy one. It was clear that the problems at the Board were not going to be resolved until the much-needed resources were invested. It became increasingly difficult for me to show up for work each day, because I believed that the Division was more concerned about political posturing than supporting the work of the Board. I experienced many sleepless nights worrying that one day something terrible would happen as a consequence of not having the funds to execute the very important work of protecting the public. I was not optimistic that things would change, as the priorities of the division were based on the professional ambitions of the administrative staff and not that of the board.

I am aware that representatives of the Division will be present today and attempt to cast a shadow on myself and the members of the Board. Please know that it is not about me or the members of the Board of Nursing. It is about the people living in my community and yours. As a proud member of the largest single group of health care providers and the most trusted profession in the nation, I am here to advocate for the citizens of NJ because they deserve better.

Thank you for your time.



Testimony of  
**Ann Twomey, President**  
**Senate Legislative Oversight Committee Hearing**  
**Thursday, October 5, 2017**  
**Regarding the NJ Board of Nursing**

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My name is Ann Twomey, President of HPAE, representing more than 13,000 nurses and health professionals in New Jersey. I am here representing the concerns of front line nurses over the underfunding and understaffing of the NJ Board of Nursing. If the Board of Nursing is not provided with the resources it needs to properly oversee the licensing and professional practice standards of 140,000 NJ Registered Nurses, the impact will be felt by New Jersey's families when they are sick and in need of nursing care.

As a union of health professionals, we work with state agencies, professional organizations and front-line nurses on educational programs and policies that set high standards for professional nursing practices. The work of the Board of Nursing is essential in making sure that all nurses have the skills, education and training to meet the highest standards for care. That is equally true for the other professions within the Board's responsibilities.

The Board of Nursing oversees the licensing for all nurses and certified home health aides, establishes educational program and practice standards for these professionals, responds to complaints or disciplinary actions, and sets policy for nursing practice. All of that work is being hindered by short-staffing and systematic and deliberate under-funding of the agency.

The board is so understaffed that some nurses are forced to wait 2 or 3 months to take their licensing exam. In the midst of a nursing shortage, whether they be new graduates or new arrivals for other states or countries— are waiting months to be entered into a data-base so they can take the exam needed to gain a New Jersey license and begin their practice.

This is because the Board no longer employs the necessary qualified staff in sufficient numbers to properly administer the exams.

That's not just a problem for nurses, but it's a problem for patients and for our health care facilities.

If the Board of Nursing does not have the resources it needs to properly oversee the licensing and professional practice standards of 140,000 NJ Registered Nurses, the result is that there will not enough nurses at the bedside to provide the care and treatment patients deserve. Unfortunately, this is the current state of affairs in New Jersey today.

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Additionally, the Board of Nursing is the government entity which monitors education and training programs of healthcare professionals entering the workforce. As the healthcare sector workforce expands to meet the growing demands the Board must have the resources to monitor these programs to ensure there is consistent, appropriate curriculum and meets adequate training requirements to make sure students are prepared to carry out their duties as healthcare professionals. Whether nurses and home health aides are working in the community, hospitals or other nursing facilities patients should have the assurance that every worker has received appropriate training to be able to provide the best care for their patients.

Finally, there are other experts who will testify today on cases of nurses that are the subject of complaints filed with the BON, yet I must mention this as a concern for the nurses HP AE represents.

As a result of the Cullen law, there is a greater reporting requirement to the Board of Nursing by employers for potential infractions of practice standards. We may, and do, disagree with the broad nature of this reporting requirement, but it exists. Once a nurse is reported, he or she may not be permitted to practice while an investigation is underway. They are in limbo and virtually unemployable during this time.

As a union representative, we have seen members wait for more than a year to have their so-called 'day in court'. These cases deserve a thorough investigation, to protect patients, as well as the rights of nurses. In far too many cases, good nurses have had their livelihoods and reputations destroyed, only to have their case overturned while suffering from a delay caused by the lack of staff.

In the midst of a nursing shortage, why has the Christie administration allowed this agency to wither? Each year, more than 140,000 hard-working nurses provide up to \$13 million in revenue through their license application and renewal fees. Isn't that the reason for licensing fee? The nurses pay the fee but the State of NJ fails to allocate these funds to the BON.

Whether a medical emergency, a call button by a hospital patient, or critical home visit for a hospice patient or an elderly person they shouldn't have to wait because our state government didn't think that the work of nurses or the Board of Nursing was important enough to fund.

This is simple to solve – put staff back to work at the Board of Nursing so nurses can get to work too.

Ann Twomey, Pres

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Senate Legislative Oversight Committee Meeting  
October 5, 2017  
Testimony-Douglas Placa  
Executive Director, JNESO District Council 1 IUOE-AFL-CIO

27 Full Time  
STAFF

Good morning Mr. Chairman, I'm Doug Placa, Executive Director for JNESO District Council 1. Let me say from the outset, thank you for holding your press conference with Senator Weinberg on July 31<sup>st</sup> to bring to light the lack of full representation on the Board of Nursing. Surely an agency that oversees over 200,000 licensees needs the resources necessary to fulfill its mission of ensuring that nurses and certified homemaker-home health aides meet the requisite educational requirements for licensure and certification, while at the same time processing and investigating those who do not perform their duties in compliance with State laws.

To do so requires the participation of the full Board and the staff necessary to meet its goals. Recently the Governor did fill some of the vacancies that had gone on for far too long. Let's just hope it's not too little too late. With what has been reported to be over 4000 individuals awaiting licensure or certification-I would implore this body and the Governor to give the resources necessary for prompt and thorough processing of licenses and certifications. For a Board that generates over \$13 million in revenues annually from members, surely providing support to the Board and its staff should not be shortsighted.

As the healthcare climate is ever changing, the constant patients and their families rely on is good quality health care. Their concern isn't whether the Board of Nursing is processing licenses quickly enough. Providing the appropriate resources is paramount to "protect the health, safety and welfare of New Jersey's residents by ensuring that those who practice nursing are qualified and competent to do so." Key word is "ensuring". As a former Chief of Staff to the New Jersey Department of Labor and Workforce Development, I understand what it means to protect the public by ensuring employers provide a safe work environment for its employees. To take it a step further, this Board is tasked with ensuring patient safety while at the same time processing licenses so that health care facilities can hire and retain competent staff.

We're all aware of the on-going shortage of nurses in the workforce; by not processing certifications and licenses for qualified professionals, or investigating complaints, further exacerbates the situation and is a disservice to patients who need nurses at the bedside. Which is one reason why our organization fights so desperately for minimum nurse to patient staffing ratios-but that's a discussion for another day.

For an organization who represents over 5000 nurses, I highly recommend that you continue to push our Governor appoint the remaining members of the Board of Nursing and give its staff the means necessary to carry out its mission.

Thank you. I would like to introduce JoAnn Pietro our Practice Attorney.



**FOR IMMEDIATE RELEASE**

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## **State Bureaucracy Continues to Hinder Patient Care & Nursing Practice in N.J.**

The leadership of the New Jersey State Nurses Association and the Board of Directors are very disappointed that our elected officials are not taking the ongoing issues at the Board of Nursing more seriously, which is putting the patients of New Jersey at risk. Troubles at the Board of Nursing are not just a public health crisis, they are a patient safety crisis that has been ongoing for several administrations and heightened during the past eight years.

We come to you as a nonpartisan professional association that is looking out for the best interests of the practice of nursing and the patients of New Jersey, and we are all patients.

Late last week, Gov. Chris Christie announced the appointment of 10 new members and 3 reappointments to the Board of Nursing. It is curious that we had not seen any action from this governor or previous governors to appoint any new Board of Nursing members until less than a week before this hearing. It is unfortunate Dr. Patricia Murphy, the president of the Board of Nursing, was relieved of her duties on the board effective last Friday. If she remained on the board through the end of the year to assist with the transition to the new president of the board and the new executive director, her years of experience and institutional knowledge about the Board of Nursing and nursing in New Jersey would have been an invaluable resource to those incoming positions.

Board of Nursing appointees who conduct the business of the Board and review disciplinary cases among other duties. Some of the vacant seats had been unfilled for years, and as members retired or aged off, no replacement appointments had been made. Several of the seven filled positions have expired or are ineligible for re-appointment due to term limits. It's uncanny that all of a sudden there is a full slate of appointments and a full Board after so many years of dysfunction.

We also have seen no movement on filling the executive director position vacated by Dorothy Carolina back in July after just 13 months in the role and, as far as we know, the members of the

Board of Nursing have not received any applications to review. To the best of our knowledge, there also has been no authorization for overtime to deal with the backlog of paperwork.

### **Staffing the Board of Nursing & Funding**

Staffing at the Board of Nursing is also an issue. There is only one registered nurse, whose job it is to oversee disciplinary cases, in the role of acting executive director. The executive director position has been vacant since Dorothy Carolina resigned at the end of July. There are two part time nurses filling in to assist. The position of deputy executive director is also vacant, which puts the board in a perilous position without a qualified nurse to guide it.

Budget should not be an issue. The State of New Jersey collects more than \$14.5 million in revenue, according to records we OPRA requested. We are unsure, based on the documents provided to us, how the money is spent. The nurses of New Jersey certainly generate enough money to adequately support a fully-staffed Board of Nursing with appropriate educational backgrounds and experience, the records available through OPRA do not clearly explain the finances of the Board of Nursing, they only leads to more questions.

### **Board of Nursing responsibilities**

The Board of Nursing staff review all licensure applications, which are both paper and electronic. A new nurse must fill out an application and have it approved by the Board before they can sit for the NCLEX licensure exam. This process has been taking more than 60 days for the most recent graduating classes. This is leading to employment offers being revoked and lower NCLEX scores and/or failures because the Board is not reviewing applications in a timely fashion. After the NCLEX scores arrive at the Board of Nursing, the licenses are issued in a timely fashion because it is an all-electronic process.

To further aggravate the primary care crisis, the licensure process for advanced practice nurses (APN)'s is dragged along at the Board of Nursing. Not only do APN's need their nursing license, they need a secondary licensure to practice as an APN after they complete their Masters or Doctoral degrees and sit for a National Certification in specialty area of practice exam. This paperwork gets bogged down at the Board of Nursing, delaying these nurses the ability to practice and help patients.

For nurses looking to come into New Jersey and practice or leave New Jersey and practice elsewhere, there are delays in the endorsement process. One case sticks out in particular because a nurse came to NJSNA desperate for assistance because she had been waiting since March for her paperwork to process to practice in another state and had not received a response by July. Due to the non responsiveness of the New Jersey Board of Nursing, other state's Boards of Nursing are requiring that applicants get their own paperwork from New Jersey.

Contrary to a letter by former Director of Consumer Affairs, S. Lee stating there was no backlog of applications, the NJSNA has received multiple calls about wait times and has been made aware that temporary staff were sent down to help with the issue.

Delays caused by the short staffing at the Board of Nursing will magnify existing shortages in nursing, especially APN's who are taking on larger roles in the healthcare system.

### **Community-based care from APN's**

Healthcare is moving back into a community-based model of care where APNs are increasingly being utilized for their skills to be primary caregivers for large segments of the population. Medical schools are not producing enough primary care doctors, which is leaving a gap in our healthcare system. APN's are filling these gaps and providing care, especially in rural and urban communities. What will our healthcare system look like in a few years when there are not enough registered nurses?

Will this lead to a trend of unlicensed people taking up the slack which could lead to increased fall rates, medication errors other mistakes with lesser trained care providers?

There is a predicted shortage of nurses coming in the next few years when the Baby Boomer nurses retire. If we cannot get these problems at the Board of Nursing fixed, who will process the applications of the new nurses that will be coming in to take care of the patients of New Jersey? Hospitals will not be able to fill their vacancies in a timely manner and this will not only be a staffing issue, it will become a patient safety issue. Would you want an overworked nurse caring for your mother or wife in the ICU or your baby in the NICU?

### **Other issues**

Lack of an education person on the Board of Nursing means nursing programs do not have quality supervision. There is no staff at the Board of Nursing qualified to visit programs to ensure that the standards of nursing education are being met, especially in the licensed practical nurse programs. Currently, a consultant—a doctorally prepared RN—is reviewing nursing programs and program applications, but not conducting on-site visits to educational institutions. Another problem is that few schools are not doing thorough screenings of nursing students so graduates are running into problems when applying for their licenses.

The outsourced Board of Nursing call center frequently gives callers incorrect information about applications, continuing education requirements and other professional related issues. As it is outsourced, they send a messages to the Board of Nursing for information that never seems to get returned.

### **Recommendations:**

- State legislators and the Governor's office must aggressively work to fill the positions of Executive Director and Deputy Executive Director within the next 12-16 weeks.
- The current position posting contains the requirement of a Bachelor's Degree not specific to nursing. This is a downgrade from previous position postings and must be changed to reflect the complexity of oversight of educational programs and complex issues presented before the board. This must be changed to ensure that the executive director has a higher degree. An entry level degree, and one that is not required for the discipline of nursing, is unacceptable.

- While not all work of the Board needs to be carried out by Registered Nurses, the executive director, deputy executive director and those who oversee licensing, disciplinary and education should all be Registered Nurses, preferably with a Doctoral degree and related experience.
- There must be sufficient staff within the Board of Nursing to process applications for licensure or licensure by endorsement in a timely manner. These should be regular employees of the BON and not temporary workers sent to provide a stop-gap measure.
- The effectiveness of the outsourced call center should be measured for cost, quality and accuracy. If these indicators cannot be shown, then perhaps it would be more cost-effective to bring the work back internally with a few dedicated staff members.
- Audit usage of the more than \$14.5 million in revenues collected annually from Board of Nursing through licenses, permits, penalties and other services. We know 5 percent of monies collected goes to the New Jersey Collaborating Center for Nursing and \$5 of each license fee, about \$600,000, goes to support the Recovery and Monitoring Program. Where does the rest of the money go? The budget breakdown we OPRA requested does not clearly define how the money is appropriated.

Thank you for allowing me the opportunity to provide this input on behalf of the New Jersey State Nurses Association and the Nurses of our state.

*Benjamin Evans, DD, DNP, RN, APN, president, New Jersey State Nurses Association, October 5, 2017*

**NEW JERSEY SENATE  
LEGISLATIVE OVERSIGHT COMMITTEE**

COMMITTEE ROOM 4, 1<sup>ST</sup> FLOOR  
STATE HOUSE ANNEX  
TRENTON, NEW JERSEY

**October 5, 2017**

**Testimony regarding the  
New Jersey Board of Nursing**

TESTIMONY OF:  
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Good Morning Senator Gordon and Committee Members. Thank you for allowing me to speak with you today.

My name is Kathleen Gialanella. I am a Registered Nurse, an Attorney, and a member of The American Association of Nurse Attorneys. Some of my New Jersey Nurse Attorney colleagues are here with me today, including JoAnn Pietro and Keith Hovey. The three of us and our national organization's President recently corresponded with the New Jersey Gubernatorial Candidates about many of the issues this Committee is exploring today regarding the New Jersey Board of Nursing (the "Board"). A copy of that letter is attached to my testimony and was also previously provided by Keith Hovey on August 14th to the Senate's Health, Human Services and Senior Citizens Committee, as well as to the Assembly Health and Senior Services Committee.

At the time Keith sent the attached letter and, more recently, when I requested an opportunity to be heard by this Committee there still were many vacant seats on the Board. Last week many of those vacancies were filled. Regrettably, as you know, Dr. Patricia Murphy, the Board President, and Dr. Avery Hart, a Public Member – both of whom were instrumental in bringing to the forefront the serious issues that are being discussed here today – are no longer Board members. Although I am not privy to why that is so, I do know it was Dr. Murphy who spearheaded a letter from Board members with a wake-up call about the "long chronic and now critical" situation at the Board. That letter was widely disseminated, especially within the nursing community. It was a catalyst for the subsequent outcry that something had to be done and it is what caused The American Association of Nurse Attorneys to take notice. Dr. Hart spoke at a press conference held by Senator Weinberg on July 31<sup>st</sup>. Dr. Hart reported a substantial backlog for licensees who are being investigated by the Board and expressed her concern that many licensees lose their livelihoods and reputations while awaiting a Board outcome. Both Dr. Murphy and Dr. Hart should be applauded for their years of dedication and service to the Board and the courage to speak out publically about their concerns.

We Nurse Attorneys advocate for registered nurses, advanced practice nurses, licensed practical nurses, certified home health aides and schools of nursing before the Board. I have done so for more than 30 years and have

observed much about the Board over that time, but my comments today are primarily focused on two areas. First, what Dr. Hart reported about the time needed to handle board investigations and how that impacts licensees; and second, concerns about the time it takes for the Board to approve the education programs it oversees.

Regarding disciplinary matters, my colleagues and I have represented hundreds of clients being investigated by the Board. I know that the Board and Board staff are diligent individuals, but I also know that they struggle to keep up with the constant onslaught of disciplinary cases and other work that must be accomplished. Every month the Board considers, on average, 250 investigations. Each Board member in attendance at a disciplinary meeting must review extensive documentation beforehand and then reach some decision regarding the licensee being investigated. Before that point, however, Board staff must process and review complaints, gather information from the complainant and the licensee, review and analyze detailed information, and prepare it for Board review. It's a lot of work that requires nursing knowledge and it is extremely important that Board members and staff do it properly. That is not possible with only one full-time professional nurse on staff. There is much riding on the outcome not only for the health care consumer, but also for the licensee who is the target of that investigation and whose ability to practice his or her profession is on the line.

In addition to Board member vacancies (which are finally being addressed), the Board also is challenged by a lack of professional staff that can properly handle a heavy disciplinary case load fairly and expeditiously. There needs to be enough staff with the right credentials to do the Board's work, including an Executive Director who can run the Board efficiently, effectively and productively with a realistic budget. It is concerning when an Executive Director has to resign because of chronic staffing issues that threaten the ability of the Board to protect health care consumers. I attended the last two annual meetings held by the Board and a major topic at each meeting was the budgetary constraints that could adversely affect its mission of protecting the health, safety and welfare of the public. This Board has more "licenses in force" (a term used in the State of New Jersey Detailed Budget) than any other health-related Board, surpassing the second largest health-related board, the Board of Medical Examiners, by 150,000

such licenses. The Board's needs cannot be ignored to the detriment of the public and those that need to obtain and maintain licensure.

There has been an exponential increase in the number of disciplinary matters before the Board since the Health Care Professional Responsibility and Reporting Enhancement Act (more commonly known as the "Cullen Law") was enacted in 2005. The uptick was gradual at first, but now seems to be at an all-time high, especially since two sets of regulations were passed – one in 2011 and another just six months ago. Although the Cullen Act applies to all health care professionals, it has impacted nurses more so than the other profession. Nurses who are terminated from health care facilities for alleged impairment, incompetence and/or professional misconduct are reported to the Board with little or no opportunity to challenge whether a report is appropriate before it is made. If they worked in a facility that was part of a health system, then they are excluded from working in any other facility within that system and this state now has two behemoth health systems. Often it turns out the matter involved a relatively minor, unintentional and easily corrected situation in which there was no patient harm and little or no threat to patient safety. Oftentimes, the shortcomings of the employer or the lack of proper policies, training and procedures significantly contributed to the situation. Not surprisingly, many of these investigations are closed by the Board without taking any action against the nurse.

Under the Cullen Law, however, once a nurse is reported to the Board, the Board must investigate and the health care facility must disclose to potential employers that the nurse was reported to the Board. I have had many clients affected by this law who are told by potential employers that they will not be hired until the Board's investigation is complete. So what Dr. Hart says about licensees losing their livelihoods and reputations while awaiting a Board outcome that reportedly can take up to 18 months is on point. Perhaps this Committee also could look into the Cullen Law and do something to reduce the Board's investigatory burden without compromising the situations that truly deserve the Board's attention.

I will not belabor the second issue I wish to address – approval of nursing programs -- as you will hear from nurse educators later today. I have represented

schools of nursing who sought approval of education programs over the years and can attest to the long and arduous process it entails. Currently I represent a school who began that approval process almost 3½ years ago. It would not have taken that long if the Board had the proper resources to approve nursing programs. The state needs future nurses and that means we need nursing programs to generate them.

Anything that this Committee can do to address the concerns that you are hearing today are greatly appreciated. Thank you.



## The American Association of Nurse Attorneys

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August 14, 2017

### VIA ELECTRONIC & REGULAR MAIL

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**RE: New Jersey Board of Nursing Concerns**

Dear Gubernatorial Candidates:

As licensed attorneys and nurses who represent professional and paraprofessional nurses before the New Jersey Board of Nursing ("NJBON") and members of The American Association of Nurse Attorneys ("TAANA"), we write to express our grave concern over the state of the NJBON and its impact on nurses, home health aides, as well as the public. As you both seek the highest elected office in this State, one of you will become responsible for safeguarding the residents of this great state. In no small part, this responsibility will include ensuring that the thirteen positions on New Jersey's Board of Nursing are filled and that the NJBON is adequately funded and appropriately staffed.

Regrettably, the current administration has failed to do so. The most recent Executive Director for the Board of Nursing, Dorothy Smith Carolina, tendered her resignation effective August 11<sup>th</sup> after less than thirteen months in the position. During her brief tenure as Executive Director, the deputy executive director position remained unfilled and six of the thirteen volunteer board seats remained vacant (jeopardizing the ability to ensure a quorum at the NJBON monthly meetings).

NJBON oversees the practice of the state's 143,500 registered nurses, advanced practice nurses and licensed practical nurses, in addition to the 80,000 certified home health aides. This oversight includes supervising all of the educational programs for the above professionals and paraprofessionals, as well as acting on the approximately 250 disciplinary matters before the NJBON each month.

The President of the New Jersey Nurses Association, Dr. Benjamin Evans, recently reported that "as of July 21, there are currently 4,116 nursing candidates backlogged awaiting board action on licensure or certification, 2,838 new graduates or graduate nurses from foreign countries and 1,278



licensees from other states seeking employment." Not unexpectedly given the state of the NJBON, Dr. Evans further reported that "[m]any of these applicants have been waiting for months, some with job offers pending a New Jersey nursing license."

This delay of admissions despite a future nursing shortage and impending exponential increase in our aging population is unacceptable. According to the Bureau of Labor Statistics, 1.2 million vacancies will emerge for registered nurses between 2014 and 2022. The U.S. Census Bureau currently reports the over-65 population nationwide stands at 49 million. Research projects that number to increase to 69 million by 2030. New Jersey which is tied for twelfth in median age at 39.10 will not be spared this gross disparity between nurses and its aging population. Any delay in processing the applications of nurses and home health aides may jeopardize New Jersey's ability to attract nursing professionals and paraprofessionals to this State.

Most troubling is that this is occurring in New Jersey, the very State where Charles Cullen was allowed to practice as a registered nurse. It was only thirteen years ago that Mr. Cullen admitted to killing at least 29 patients, with some estimates that he may have killed hundreds. In the wake of his arrest, the Legislature and the Governor passed the Health Care Professional Responsibility and Reporting Enhancement Act ("Act"). The new law imposed criminal background checks and mandatory reporting obligations on health care employers and the licensees themselves that trigger board investigations into nurses and home health care aides.

According to Dr. Avery Hart of the NJBON, without the appropriate staffing and funding, these legally mandated investigations cannot and do not occur in a timely manner. Dr. Hart reports up to an 18 month backlog for nurses awaiting disciplinary action. Depending on whether the NJBON seeks to pursue formal action against the nurse or home health aide, a nurse or health care aide can wait not only months but potentially years before proceeding to a formal hearing. In the interim, according to Dr. Hart, many of these licensees lose their livelihood and reputation.

Not surprisingly, many of these matters are resolved without any action taken against the licensee for a host of reasons, be it lack of merit or evidence due to the passage of time. Yet the licensee is forced to exist and work while under investigation and the accusation of wrongdoing until the matter is resolved. Doing so limits a licensee's ability to find or keep employment (as many are terminated), seek promotions, pursue higher education and licensure, change jobs, or move out of state while the matter remains unresolved. These delays on nurses and home health aides' lives are unconscionable, lacking fundamental notions of due process. On the other hand, if the result is that the licensee is to be disciplined for their action, the delay in adjudication fails to protect the public as intended.

The lack of funding is inexplicable given the \$13 million in fees paid each year by licensees. Those funds, however, go into the general fund rather than being reallocated to NJBON for staff and investigative costs. The result is an underfunded and understaffed NJBON that is hampered in its mission to protect the public and licensees subject to uncertain fates. Absent the appropriate funding,



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the legislative mandates of the Act fail to serve their intended purpose of protecting the public and disciplining substandard nurses and home health aides.

Therefore, we request that whichever one of you shall become governor that you commit to do the following:

- Nominate candidates to fill the current vacancies on the NJBON within two months of assuming office.
- Fill the positions of Executive Director and Deputy Executive Director within two months of assuming office.
- Propose a budget that adequately funds the NJBON.
- Propose and support legislation that requires all administrative matters against nursing professionals and paraprofessionals regulated by the NJBON be given a time limit to pursue disciplinary proceedings.
- Stop the pilfering of the NJBON's coffers so that the agency is not handicapped and can best operate to safe guard the public and govern the licensees under its purview.

We believe that addressing these requests will further the NJBON's mission of protecting the public as well as serving the interests of the nurses and home health aides who seek licensure in this State and those who already practice here.

Sincerely,

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<sup>1</sup> Massachusetts

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cc: Senate Committee on Health, Human Services and Senior Citizens  
Assembly Committee on Health, Human Services and Senior Citizens

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My name is JoAnn Pietro. I am a registered professional nurse and an attorney. My law practice is focused in representing licensees before the Board of Nursing. I also practice as a registered nurse. I am here today in my capacity as a nurse, an attorney and as a representative of The American Association of Attorneys New Jersey Chapter.

I want to express my outrage and great concern for the pilfering of the New Jersey State Board of Nursing treasury by our Governor. Our Board licenses the largest number of healthcare workers in this state. There are over some 110,000 nurses, with myself included. We pay a fair amount of money in new application fees and in our biannual renewal fees. The money that is paid by people who are licensed by the Board provide an ample source of revenue for this professional Board to carry out its duties and responsibilities. It is there to protect the public and to govern the practice of nursing. Yet, with the Governor stealing our money the Board is unable to carry out those very important functions. The Governor's actions are unfair to licensees and just wrong.

Our Board handles over 250 disciplinary cases per month. Unfortunately, this is the fallout of the very punitive and overly harsh Health Care Professional Responsibility in Reporting Enhancement Act. Also known as the Cullen Law. There is a lack of Board staff because the Board lacks the funding resources for positions. The Board is ill-equipped to keep up with the land slid of reportings. The disciplinary docket of the Board is so overwhelming, that it has caused a severe delay in the Board carrying out its other important functions such as granting new licenses or advancing the practice of nursing.

As a result, of the Board being hamstrung, the public is not protected. Nor is the Board able to timely investigate and adjudicate the reportings. Further, not only is the public harmed but so is the licensee who is being accused. I have seen a lag time from the time a reporting is made by a healthcare entity to the Board anywhere from eight months to a year and a half before the licensee is contacted. Then once the licensee is contacted, it can take another 3 to 6 before there is an outcome. Or, sometimes longer. The Board attorneys are handicapped and are inundated with cases. In turn, the Board is delayed in rendering determinations and being able to follow through on bringing closure to matters.

Speaking as a citizen of the state, as a registered nurse and as an attorney who practices regularly before this Board, I demand that the legislature take action to see that the Governor stops taking money by improperly sweeping the treasury of the New Jersey State Board of Nursing dry. Or, in the alternative my recommendation is that the State of New Jersey repeal or make amendments to the Cullen Law so that our Board can get on with carrying out business to protect the public and govern the practice of nursing, as it did prior to the institution of this draconian law.



## SCHOOL OF NURSING

Muriel M. Shore, EdD, RN, NEA-BC, FNAP  
Dean and Professor  
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Written Testimony Before the New Jersey Senate Legislative Oversight Committee Hearing  
October 5, 2017

By  
Muriel M. Shore, EdD, RN, NEA-BC, FNAP  
Dean and Professor, Felician University School of Nursing

Good day Chairpersons Gordon and Weinberg and distinguished committee members. Thank you for the invitation to comment today on the subject of the New Jersey State Board of Nursing.

I am Dr. Muriel Shore, Dean and Professor of Nursing at the Felician University School of Nursing, a position I have held for the past 17 years. Felician's School of Nursing began operating in 1965 and has grown significantly since. We now offer bachelor's, master's and a doctoral degree in nursing with an enrollment of 600 students. As a professional school regulated by the New Jersey State Board of Nursing, I've had extensive experience interacting with the NJ State Board of Nursing Executive Directors, Board Members and professional staff.

Additionally I've had the privilege of serving on the New Jersey State Board of Nursing Board for a period of about 13 years, having been appointed by three Governors. During that time I served as Board Secretary and Treasurer, and either chaired or served on every committee of the board (Education, Discipline, Alternative to Discipline, Legislative, and Regulatory). I've worked closely

with the Deputy Attorney Generals, and on several occasions, was in meetings with administrators in the Division office to review and discuss budgetary issues.

It is from both vantage points that I would like to provide my observations and recommendations.

Since 1912, the New Jersey Board of Nursing has been a regulatory beacon for nursing, nurses and consumers in the state. The guardian of quality nursing education and practice standards, the Board has had fewer than 10 Executive Directors in the past 105 years. Quite a testimony to the dedication and commitment of these very qualified and established leaders.

Throughout the state and nationally, our State Board of Nursing is recognized as a model of excellence and innovation. The Executive Director and board members have served on many National Council of State Boards of Nursing committees, and still do. New Jersey was always viewed as being in the forefront of practice and regulatory reform; a reputation that was fueled by very responsive Governors and an informed legislature who understood and supported the New Jersey Nurse Practice Act.

We cannot ignore the issues confronting the structure and functioning of the Board of Nursing today, nor do we want to lose the public's trust. Newspaper reports that meetings have been cancelled due to a lack of a quorum, the prolonged time it takes to get a nursing license whether it is for new graduates or out of state nurses seeking endorsements, and the delayed timing for certification of homemaker-home health care aides, gives rise to a loss of confidence in the board's stewardship, effectiveness and image.

The hearings you are holding today, and your further study of the information you receive, will set the path for the future of the New Jersey State Board of Nursing – the largest regulatory board in the state. Please consider the following recommendations in your study.

Issue 1.

The incompatibility of housing the New Jersey State Board of Nursing, and other professional boards in the Division of Consumer Affairs, with occupational boards unrelated to health.

Recommendation: Realign the New Jersey State Board of Nursing along with the other health professional boards in the Department of Health which regulates health care facilities, public health and health services. There should be greater congruence between regulating health care settings and facilities, and the providers of care and services. The realignment of the health professional boards would promote interprofessional practice collaboration and teamwork which is becoming the standard of practice.

The current structure in which the Division of Consumer Affairs operates and oversees 46 diverse boards licensing more than 750,000 licensees is fragmented, and diverts funds from nursing's licensure fees into other areas. The diversion of funds issue needs to be investigated and reconciled.

Issue 2.

Sufficient staffing of the board office to assure efficiency in meeting its legislative and regulatory functions is critical. In past years, full time professional staff with Master's Degrees headed up the Education and Disciplinary programs and were able to process the work in a timely fashion. Today, the hiring freeze and the loss of qualified full time professional staff to handle these legislative and statutory functions has resulted in the hiring of part-time and per diem professional staff to manage these important functions.

Recommendation

Resource the Board of Nursing operational needs by immediately seeking an exemption to the hiring freeze and authorize the Executive Director to hire 2 Master's prepared professional staff to head up the Education and Discipline programs.

Look into the practice of diverting revenue from nursing's licensing fees to the General Fund or elsewhere. Except for reimbursement for services rendered, the Board of Nursing monies

should be utilized to hire additional staff if needed, upgrade technology, etc. Such sustainable revenue would avoid an increase in licensing fees in the near future.

Issue 3.

- a) The full time position of a Master's prepared Deputy Director was eliminated several years ago and is essential to support the oversight and work of the board office.
- b) Board appointments are not made in a timely fashion with several in hold-over status. This affects the ability to complete committee work and limits board participation and discussion at meetings.

Recommendation

- a) Re-instate the position of Deputy Director to support the Executive Directors role in overseeing 200,000 RN/APN/LPN licensees and growing.
- b) Consider legislation providing that all Boards and Commission appointments shall be filled by the Governor's office within 60 days of the existence of the vacancy. If the Governor does not act, the Senate President shall make the appointment.

The New Jersey State Board of Nursing is to be commended, not criticized, for working under very difficult staffing conditions while working hard to meet its obligation to serve New Jersey and its licensees.

The hearing today provides hope that attention will be given to resolving these issues. Chairpersons, thank you for recognizing the need for public input to assist you in your fact finding. I hope my recommendations will be helpful.



*Working Together to Better Prepare Nurses for the Future*

October 5, 2017

Honorable Robert M. Gordon  
Chairman  
New Jersey Senate Legislative Oversight Committee  
Trenton, New Jersey

Dear Mr. Chairman:

Thank you for the opportunity to provide testimony on behalf of the Organization of Colleges of Nursing in New Jersey. Our organization represents more than twenty nursing programs in New Jersey and our mission is to continually develop education programs to achieve a highly qualified nursing workforce now and for the future.

The Board of Nursing in New Jersey is in crisis due to inadequate funding for enough positions given the volume of work. This situation causes new nurse graduate's licenses to be significantly delayed (sometime as much as six months) which causes great personal and financial hardship to the new graduates seeking their first employment. Qualified nurses wishing to transfer their license into the State of New Jersey are also significantly delayed.

As a consumer board, the New Jersey State Board of Nursing's (NJBON) responsibility is to protect the safety and well-being of the consumer and its stakeholders such as OCN-NJ. The NJBON is responsible to the colleges of nursing in New Jersey in two major functions which include the evaluation of professional licensure applications and the accreditation and evaluation of nursing programs. Currently there are programs due for accreditation review as well as programs being monitored and new programs that have applied for approval to operate.

The understaffing of the NJ State Board of Nursing has a major impact on the outcomes of the nursing education institutions of this State and therefore the healthcare of the NJ population.

Annually, we graduate over 2,000 new professional and advanced practice nurses. These new nurses and advanced practice nurses are seeking licensure in NJ and the backlog in processing applications for new registered professional nurses can often exceed 30 days while Advanced Practice Nurses have reported delays in licensure of 4 to 6 months. This backlog has increased the time between graduation and full employment further impacting the nursing vacancies in the State. New graduates now go to the NJBON office in Newark only to be told the person they need to see is not available.

Graduates from New Jersey schools go to bordering states such as New York, Pennsylvania and Delaware, effectively leaving the state. New Jersey cannot afford to lose qualified nursing professionals.

Backlogs in licensing and certifying health care personnel who seek to provide the needed care and services to the consumer constitutes a failure by this regulatory board to protect the public for which it was created.

We ask you to advocate for the necessary funding to support the NJ State Board of Nursing in achieving its critical mission.

Thank you.

Brenda Petersen, PhD, RN, MSN, APN-C, CPNP-PC  
Associate Dean School of Nursing & Public Health  
Caldwell University

On behalf of Carole A. Kenner, PhD, RN, FAAN, FNAP, ANEF  
Chair, OCN-NJ



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**Board of Nursing Hearing**  
Senate Legislative Oversight Committee  
October 5, 2017

Chairman Gordon and members of the Committee, thank you for taking the time to discuss this very important issue. My name is Samantha DeAlmeida, Deputy Director, Government Relations & Policy at the New Jersey Hospital Association.

On behalf of NJHA and our nearly 400 hospital and post-acute members, thank you for allowing me to testify today. The New Jersey Hospital Association is a not-for-profit trade association committed to helping its members deliver quality, affordable and accessible healthcare to their communities.

One of NJHA's primary goals is to ensure that our members employ motivated and qualified individuals that provide excellent healthcare to the citizens of New Jersey. However, with the current issues that the Board of Nursing is facing in regards to staffing, oversight and licensing backlogs, hiring has become a challenge for our members.

While the licensure process for nursing has moved from paper-based to online, many other boards have not, resulting in long delays and backlogs in the hiring process for other healthcare professionals. NJHA supports S-2205 which would require professional boards to provide for online processing of applications and licensure renewal.

I have with me today, Aline Holmes, NJHA's Senior Vice President of Clinical Affairs. Aline will speak further about the challenges that New Jersey health care facilities face when trying to hire nurses and meet efficient staffing levels.



**Testimony before  
The Senate Legislative Oversight Committee  
October 5, 2017**

**Aline Holmes, DNP, RN  
Sr. Vice President, Clinical Affairs**

Good afternoon. My name is Dr. Aline Holmes, from the New Jersey Hospital Association. I am an advanced practice nurse, now serving as the Senior Vice President, Clinical Affairs. I oversee all the clinical, quality and patient safety work of the Association as well as represent healthcare clinicians and their patients in our advocacy and legislative work. NJHA represents nearly 400 hospital and post-acute members across the state, including long term care facilities, home health agencies, psychiatric hospitals, long term acute care hospitals, rehabilitation hospitals and others.

I am here to express our concerns about the instability at the N.J. Board of Nursing. State boards of nursing afford great protection for the public and consumers. Boards of Nursing provide complete assessments of applicants for licensure qualifications, ensure that foreign-educated nurses meet U. S. standards and act quickly to investigate complaints of incompetent or unethical practice or unprofessional conduct of a nurse. Boards of Nursing are responsible for ongoing review, and revision as needed, of rules and regulations governing nursing practice – an especially complex task as our healthcare environment rapidly evolves from a hospital-centric model to a population health model of care, where communities are educated and engaged in supporting N.J. residents in their homes as they manage their health and wellness, including chronic medical conditions, preventive health and all of the concerns that come with an aging population.

The Board oversees over 200,000 licensed nurses and certified homemakers and home health aides in New Jersey. With the many staff vacancies at the Board, our members have had a great deal of difficulty in getting licenses processed for new graduate nurses, so that they can be on board for the new graduate orientations. While we recognize that this burden can be difficult at certain times, for example, school graduations in May/June, we can't afford to lose these nurses to other states, which we have seen happen if they can't get licensed here in a timely fashion. Our profession is aging rapidly, and it is especially difficult to hire experienced nurses in some areas like operating room, labor and delivery, emergency room and intensive care units. When facilities have recruited experienced nurses from out of state, many have been lost to other states because of the

delays in being licensed here. At NJHA one of our staff volunteers is a point person for all of our members when they have difficulty getting folks licensed, and she's been very busy.

The Board also is responsible for disciplinary action for nurses, including reprimand, probation, restriction of practice and suspension or revocation of licensure. The Board receives almost 500 disciplinary actions to investigate – double the number from last year. That's important for public safety but it is also important for the individual nurses, who may have to wait months to be exonerated and have the complaint expunged from her record. But let's hope we don't ever have another Charles Cullen working in our state – it might take even longer to take action than it did back in 2003.

It is important to our profession, like other professions, that nurses regulate our profession. Therefore, it is important to have nurses hired that oversee each of the functions of the Board to better meet the needs of the nursing workforce. As of right now, there is only one nurse on the staff at our Board, and she is acting as the interim executive director.

The Board is also responsible for ensuring the quality of the educational preparation of registered nurses and some LPN schools. Currently they oversee 84 schools, but have not been able to go out and do site visits on some of the programs they have concerns about because of the shortage of appropriately prepared staff.

I encourage the Division of Consumer Affairs to follow up immediately on these concerns and to resolve any staffing shortages. Nursing is the backbone of the healthcare profession and we cannot afford shortages of staff in our facilities when there are qualified professionals who can fill them, but just can't get licensed quickly enough. And we don't want individuals working in our facilities who are incompetent or unable to perform, with the Board unable to follow-up on them in any kind of timely manner.

If there are any questions, I would be happy to answer them.

Aline M. Holmes, DNP, RN  
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*The Catalyst for Excellence in Home Care & Hospice*

**TESTIMONY OF CRISSY BUTEAS**  
President and Chief Executive Officer  
Home Care & Hospice Association of New Jersey  
Senate Legislative Oversight Committee

Chairman Gordon and members of the Senate Legislative Oversight Committee,

I am Chrissy Buteas, President & CEO of the Home Care & Hospice Association of NJ. I am joined by Ellen Stone, a member of our Association.

The Home Care & Hospice Association of NJ represents the state's home health agencies, hospice agencies and health care service firms servicing hundreds of thousands of Medicare, Medicaid and private pay patients statewide. Home care agencies have consistently proven to provide dependable, cost-effective and quality-driven coordinated health care that allows patients and families to receive necessary health care at home.

On behalf of our membership, I appreciate your attention to the licensure delays for certified home health aides (CHHAs) and nurses and want to extend our thanks to you and Vice Chair Weinberg and members of the committee for addressing this matter over the last several years. We look forward to continuing to work with you and the entire committee.

I also want to acknowledge the work that has and is continuing to be done to address home health aide certification delays at the NJ Board of Nursing, including the hiring of temporary Board staff to expedite the review process but more still needs to be done. Our Association is continuing to work with the Administration to address this matter and appreciate the staff at the Board of Nursing that work day in day out with our industry. We have supported efforts to increase budget appropriations to the Board, as well as offered to donate our time to help process the applications.

By way of background, the Board of Nursing not only licenses nurses, but certified home health aides as well. Our home health agencies, health care service firms and hospices employ both nurses and CHHAs. We are in desperate need to have nurses and aides put to work as soon as possible. Keeping in line with both national and state policy directives to care for patients in the most cost-effective, high quality setting, patients want to remain at home. Thus, our workforce is critical to ensuring patients can be cared for at home.

With respect to process, CHHAs must undergo a 76 hour training course, receive both federal and state background checks, be employed by a licensed health care service firm, home health agency or hospice and practice under the supervision of a registered professional nurse. The application process also requires a letter of successful completion from a Board approved training program and a promise of employment by a licensed agency. These items are needed for an application to be deemed complete.

We have testified before both the Senate and Assembly Budget committees regarding the extreme delays of processing home health aide applications. While we routinely have seen application processing take several months, there are some cases where the processing and approval time has decreased to weeks. However, we are still seeing significant delays in application approval times that are unsuitable for the care delivery model and staffing demands under which we operate. The Board does not have the capability of accepting online applications, thus, everything must be mailed and emailed. Furthermore, before the advent of technology, certification timeframes were within days not months so it is possible to achieve our desired outcome.

Common challenges with the Board of nursing include: overall timeframe for an application to be reviewed, the misplacement of paperwork already submitted to the Board, long processing timeframes for reinstatements, a disconnect between the call center and the Board of Nursing (wait time, inaccurate information being provided to applicants) and antiquated technology.

These challenges have had a tremendous impact on the home care industry. Agencies that once held training programs no longer do because the applicants they trained cannot afford to wait for the Board to process their certification and are forced to seek employment elsewhere. I am sure you can appreciate their need to work and waiting for Board approval that takes months is too long. A vital healthcare workforce is being drawn to the retail, fast food and the underground aide market due to this challenge and others.

Furthermore, we are also in desperate need of nurses in community based care. There simply are not enough nurses to care for our acute patients in the community. Delays in getting interested nurses to work has a severe impact on our ability to care for patients. As we frequently discuss with the DHS, private duty patients are authorized for more hours of care than we can provide in some cases because we lack the workforce to staff the cases.

We request the Board of Nursing retain their licensing fees, upgrade their technology and have the ability to hire more staff to process CHHA and nursing applications.

Thank you.

NJ STATE SCHOOL NURSES ASSOCIATION

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Senator Robert Gordon and Members of the Senate Oversight Committee:

Thank you for the opportunity to address the Committee and to present testimony regarding understaffing issues at the New Jersey Board of Nursing.

- As Certified School Nurses our Nursing Practice is first and foremost governed by the NJBON
- Because nursing care poses a risk of harm to the public if practiced by professionals who are unprepared or incompetent, the state through its police powers is required to protect its citizens from harm. In this case it is our students
- That protection is in the form of reasonable laws to regulate nursing practice. State legislators delegate many enforcement activities to state administrative agencies such as the Department of Education (DOE). Currently, the NJDOE has **NO** nursing representative at the Department to respond to inquiries regarding school nurse practice in the schools.
- The charge from the state to the board of nursing is to protect the public
- **WE** need to be able to contact someone at the BON to assist in interpreting statues that deal with healthcare in the schools especially delegation issues.

As representatives from the New Jersey Association of School Nurses we request that these vacant BON positions be filled as soon as possible in order to receive guidance for school nurses to assist us in providing safe nursing care to our students (your children and grandchildren).

In addition NJSSNA requests that the position of School Nurse Liasion in the Office of Student Support Services that was recently eliminated be re-instated .

Please do not hesitate to contact the New Jersey State School Nurses Association for further discussion about this position.

Respectfully submitted,

Judith Woop, M.Ed RN NJ-CSN Executive Director NJSSNA

Lorraine Borek, MSN,M.Ed RN NJ-CSN President NJSSNA



October 5, 2017

Good afternoon,

In July 2017 Governor Christie took action on legislation by signing (S2058/A671). This bill added two nurse educators to the state Board of Nursing. This demonstrated an understanding by the legislature that giving nurse educators a voice on the board will help support a thorough and comprehensive nursing education.

The signing of this bill would be interpreted by most as being supportive of nursing and nursing practice. The reality is, the governor failed to name these appointees or fill the vacancies on the board until September 30, 2017. In addition paid positions have remained vacant due to a hiring freeze. These positions are essential in order for the Board of Nursing to meet its obligations. Although I am representing school nurses these positions are needed to support all nurses and protect the health and safety of the public. You certainly don't need me to outline the duties and responsibilities of the Board of Nursing but I do want to explain how these unfilled vacancies impact school nurses and the students we care for.

The school nurse's role is multifaceted. Student-centered nursing care occurs within the context of the students' family and school community. School nurses provide care to an increasing number of students with complex medical conditions. Health care in the school is more complex than ever. A reliable resource is needed when questions or concerns arise regarding legal interpretation of code and statutes. Examples include requested administration of non FDA approved medications or off label use of medication. School districts work with legal counsel specializing in education law, not nursing or public health law.

There is no longer a school nurse consultant at the DOE to respond to these questions. Our association and all nurses need an informed, reliable resource at the Board of Nursing to answer questions and concerns that require interpretation of code, statute, and nursing law. School nurses want to ensure the delivery of safe and responsible care and require a resource with tacit knowledge and understanding of nursing laws of the State.

The Board of Nursing licenses and regulates nursing practice for all nurses in the state. NJSSNA appreciates your concern and support as you work to ensure the public health and safety by supporting the work of the Board of Nursing. The governor has taken initial steps by announcing his most recent appointments to the board. I am requesting that these appointees are indeed sworn in within the required 30 days and the vacant salaried positions are filled.

Respectfully submitted,

Lorraine Borek, MSN, MEd, RN, CSN-NJ  
President NJSSNA  
J&J School Health Leadership Fellow  
Nursing Supervisor  
Hillsborough School District



## Senate Legislative Oversight Committee

October 5, 2017

Chairman Gordon,

On behalf of the Organization of Nurse Leaders of New Jersey (ONL NJ), we would like to thank you for bringing the critical issue of understaffing and underfunding of the NJ Board of Nursing (NJBON) to the public's attention in your press conference with Senate Majority Leader Loretta Weinberg this past July. Though Governor Christie filled the eight vacant seats on the Board as of Sept. 29, ONL NJ is concerned that the overall functionality of the Board is still compromised.

The Board already has a back log of applications for licensure, and inadequate support staff prolongs the transition of new graduates to obtain licensure. This is directly impacting our profession as our hospitals have to delay their orientation until these recent graduates become licensed. These delays put us at risk of losing new grads to neighboring states who are ready to hire, thus jeopardizing New Jersey's critical nursing workforce. This has the potential of creating a serious nursing vacancy issue that can negatively impact the patients who count upon the services of our collective nursing communities to provide for their care and treatment.

Further, the recent vacancy on the Board, as well as the lack of support staff, has impacted the reporting functions of our hospitals and healthcare institutions to the NJ BON. Contacting the NJ BON has become difficult and sometimes impossible to get NJ BON staff to respond to calls and communication and provide information in a timely manner. It is not uncommon for the institution reporting to the NJ BON to wait six to 12 months for a response. This allows problematic employees to continue to work under their license until the issue is resolved.

ONL NJ urges members of the Legislative Oversight Committee to advocate that the NJBON be provided with adequate resources and staff to ensure that the Board can fulfill its mission: to protect the health and safety of the public through effective public policy, competent and ethical nursing practices, and exceptional customer service.

Thank you, Chairman Gordon and members of this Committee, for your leadership on this urgent matter.

**About ONL NJ**

Since 1971, ONL NJ has been the professional organization of choice for nursing leaders in their quest for a united voice in representing nursing administration and management in all practice settings. ONL NJ is comprised of nearly 600 members, representing more than 90 percent of the hospitals in New Jersey. Our membership includes aspiring nurse leaders, educators, nurse managers, clinical nurse leaders, doctoral recipients, administrative directors of nursing and patient care and chief nursing officers. ONL NJ members are responsible for a combined workforce that exceeds 116,000 active registered nurses.

**For more information, contact:**

Susan Cholewka, Executive Director

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(609) 275-4110

Emailed Letter from Board of Nursing President and Members to Legislators

Tuesday, July 25, 2017

Dear Senator Weinberg, and Assembly Members Huttle and Johnson,

I am the Public Member of the NJ Board of Nursing writing in hopes that you can help: Our board is in crisis. And since it is the board's job to protect the public, the dire situation creates increased risk for all NJ residents! We have appealed over and over to the Dept of Consumer Affairs, to no avail.

Here's a message explaining the situation from Board President, Dr. Patricia Murphy:  
The Executive Director of the New Jersey Board of Nursing has resigned effective 8/11/17. A major factor in this decision was the chronic lack of staff, now rising to a level that threatens the Board's responsibility to protect the citizens of New Jersey.

The Board of Nursing oversees:

- 143,500 RNs, LPNs and APNs
- 80,000 Certified Home Health Aides, and
- all educational programs for the above professionals and paraprofessionals.

The Board acts on approximately 250 disciplinary cases each month. Each of these cases have been carefully investigated and analyzed by Board staff and reviewed by Board members prior to action.

Awaiting Board action on licensure or certification (as of 7/21/17) are:

- 2,838 new graduates and graduate nurses from foreign countries
- 1,278 licensees from other states seeking NJ licenses.

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- the essential position of Deputy Executive Director has remained unfilled for over 1 year.

In addition, The Board itself has been seriously shorthanded. The Governor's Office has filled only 7 of its 13 positions, all are volunteer positions with virtually no budgetary impact. Assuring a quorum is a monthly concern: Important committee functions are compromised.

This situation - long chronic and now critical - has yielded only marginally to the voices of Board members. Only the aroused interest of legislators seems to move the needle significantly. If you can help in this regard, a basic state function may be rescued.

We need:

- an Executive Director empowered to do their job
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- staff positions filled with qualified people to execute our mission

To be very clear about the basis for our concern. None of this is a special interest pleading. Not for us as Board members or Board staff. Not for particular nurses or for the profession of nursing. The responsibility of the Board of Nursing is to protect the people of New Jersey. That is why this crisis should claim your attention and that of legislators.

Patricia Murphy, PhD, APN FAAN  
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Board Members

Barbara Blozen, Ed.D, MA, RN

James Doran, APN, CRNA, MS

Yolanda Delgado, MSN, RN

Avery Hart, MA, LCSW, PhD, Public Member Lucille Joel, EdD, M.Ed, MA, BSN, FAAN Gina

Miranda-Diaz, DNP, MS, MPH, RN



NEW JERSEY GENERAL ASSEMBLY

GORDON M. JOHNSON  
ASSEMBLYMAN, 37TH DISTRICT  
545 CEDAR LANE  
TEANECK, NJ 07666  
PHONE: (201) 530-0469  
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COMMITTEES  
COMMERCE AND  
ECONOMIC DEVELOPMENT - CHAIR  
JUDICIARY - VICE CHAIR  
BUDGET

July 27, 2017

The Honorable Christopher Porrino  
Attorney General  
NJ Department of Law and Public Safety  
PO Box 080  
Trenton, NJ 08625

Dear General Porrino,

I recently received emails from Dr. Avery Hart, a member of the Board of Nursing and Dr. Benjamin Evans, President of the NJ State Nurses Associations concerning dire conditions at the Board of Nursing. The emails indicate that the Board is unable to process licensure applications or administer discipline within a timely manner because of a lack of staff and resources. According to the emails, this situation has led the Executive Director of the Board to resign.

In the written response to the Assembly Budget Committee during the Fiscal Year 2018 budget process, the Department of Law and Public Safety wrote, "With the current staffing levels and new enhancements to technology, the Board is meeting its mission." The emails my office received do not align with the Department's statement.

I have enclosed the emails for your convenience. I ask that you review this situation and take any necessary steps to ensure that licensure applications, disciplinary cases, and other Board business proceed expeditiously.

Sincerely,

A handwritten signature in black ink, appearing to read "Gordon M. Johnson".

Gordon M. Johnson  
Assemblyman, District 37

CC: Senate Majority Leader Loretta Weinberg  
Assemblywoman Valerie Vainieri Huttle  
Doctor Benjamin Evans  
Doctor Avery Hart

Enclosures

**Johnson, Asm. D.O.**

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**From:** DrBenEvansRN@aol.com  
**Sent:** Monday, July 24, 2017 4:53 PM  
**To:** Weinberg, Sen. D.O.; Johnson, Asm. D.O.; Vainieri Huttie, Asw. D.O.  
**Subject:** Board of Nursing

Dear senator Weinberg and Assemblypersons Johnson and Vainieri-Huttie,

As President of the NJ State Nurses Association - the non-union professional association representing nurses in NJ I have received a distressing email today with an attached letter from the Members of the Board of Nursing. This letter identifies that the Executive Director, Dorothy Carolina PhD, RN has resigned effective 8/11/17 due to a chronic lack of staff, funding and micromanagement from outside the Board of Nursing. The Board of Nursing oversees the public safety of our citizens as well as 143,500 APNs, RN, and LPNs, 80,000 Certified Home Health Aides and all educational programs for nursing and related professionals and paraprofessionals. Revenues were over \$13 million dollars in the past year however instead of funding the work of the Board of Nursing, this money has been put into the state's general fund. The Deputy Executive Director has remained unfilled for over a year, the Board of Nursing has 6 of 13 positions unappointed (46%) and cannot conduct business if even 1 member is absent. Work priorities are set outside of the Board of Nursing. There are currently over 4100 applicants awaiting Board action on licensure-many waiting months, while having/losing position offers pending licensure. Each month, the Board of Nursing is dealing with approximately 250 disciplinary actions.

Legislative action needs to be urgently introduced to address this crisis level situation and ensure that the funding and staffing of the Board of Nursing is not siphoned off and positions unfilled. Please note, this is NOT a special interest plea. This is an issue of public safety, access to care and provision of essential services to nurses in New Jersey.

I urge you to consider these facts and to act to remediate this inept level of neglect.

Sincerely,  
Benjamin Evans, DD, DNP, RN, APN  
President, NJ State Nurses Association

Dr. Benjamin Evans  
224 Ege Ave  
07304  
Jersey City, NJ 07304-0730  
(201)559-6001  
President NJ State Nurses Association

Subject: HEALTH

**Johnson, Asm. D.O.**

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**From:** avery123@optonline.net  
**Sent:** Tuesday, July 25, 2017 3:03 PM  
**To:** Weinberg, Sen. D.O.; Johnson, Asm. D.O.; Vainieri Huttie, Asw. D.O.  
**Subject:** SOS re:NJ Bd of Nursing

Dear Senator Weinberg, and Assembly Members Huttie and Johnson,

I am the Public Member of the NJ Board of Nursing writing in hopes that you can help: Our board is in crisis. And since it is the board's job to protect the public, the dire situation creates increased risk for all NJ residents! We have appealed over and over to the Dept of Consumer Affairs, to no avail.

Here's a message explaining the situation from Board President, Dr. Patricia Murphy:

The Executive Director of the New Jersey Board of Nursing has resigned effective 8/11/17. A major factor in this decision was the chronic lack of staff, now rising to a level that threatens the Board's responsibility to protect the citizens of New Jersey.

The Board of Nursing oversees:

- 143,500 RNs, LPNs and APNs
- 80,000 Certified Home Health Aides, and
- all educational programs for the above professionals and paraprofessionals.

The Board acts on approximately 250 disciplinary cases each month. Each of these cases have been carefully investigated and analyzed by Board staff and reviewed by Board members prior to action.

Awaiting Board action on licensure or certification (as of 7/21/17) are:

- 2,838 new graduates and graduate nurses from foreign countries
- 1,278 licensees from other states seeking NJ licenses.

Some of these applicants have been waiting for months, many with job offers pending a license.

Revenues last year were over \$13 million from nursing licensure and other fees and should have been more than adequate to do all this work. However:

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President, NJ Board of Nursing

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Avery Hart, MA, LCSW, PhD, Public Member Lucille Joel, EdD, M.Ed, MA, BSN, FAAN Gina Miranda-Diaz, DNP, MS, MPH,  
RN

Dr. Avery Hart  
5 Cherry Tree Lane  
07405  
Kinneelon, NJ 07405-2214  
(973)492-3404  
Public Advocate NJ Board of Nursing

Subject: HEALTH - PROFESSIONALS



CHRIS CHRISTIE  
Governor

KIM GUADAGNO  
Lt. Governor

## New Jersey Office of the Attorney General

Division of Consumer Affairs  
Office of the Director  
124 Halsey Street, 7<sup>th</sup> Floor, Newark NJ 07102



CHRISTOPHER S. PORRINO  
Attorney General

STEVE C. LEE  
Director

*Mailing Address:*  
P.O. Box 45027  
Newark, NJ 07101  
(973) 504-6534

Senator Loretta Weinberg  
Assemblyman Gordon M. Johnson  
545 Cedar Lane  
Teaneck, NJ 07666

Senator Robert M. Gordon  
14-25 Plaza Road  
P.O. Box 398  
Fair Lawn, NJ 07410

Assemblywoman Valerie Vainieri Huttel  
1 Engle Street  
Suite 108  
Englewood, NJ 07631

Assemblywoman Nancy F. Munoz  
57 Union Place  
Suite 310  
Summit, NJ 07901

July 31, 2017

Dear Legislators:

Thank you for your recent inquiries concerning the Board of Nursing ("Board"). Over the past few days there has been a fair amount of misinformation and misleading suggestions concerning the Board, and we are happy to take this opportunity to set the record straight.

As you know, the Division of Consumer Affairs ("Division") oversees 47 Boards and Committees that regulate more than 100 separate professions and occupations from accountants to veterinarians. One of the most important – and busiest – is the Board of Nursing. Currently, there are more than 200,000 licensed nurses and certified homemaker-home health aides in New Jersey. Their numbers represent almost one-third of all licensed and certified professionals regulated by the Division.

Significant reforms have been carried out by the Division over the past two years to improve Board operations. They include the following:

- In mid-2015, decreasing the average time that nurse applicants wait to become licensed after passing the NCLEX exam (national exam for LPNs and RNs) from an average of three to five weeks or longer to currently less than five days. Division staff working on

Board issues implemented a new workflow, reducing inefficiencies to greatly expedite nurse licensure.

- In 2016, decreasing the average time that CHHAs receive their conditional certification (“120-day work permit”) from more than 50 days to 10-14 days from receipt by Division staff. Division staff working on Board issues streamlined the certification process by shifting responsibilities of an outside vendor to Division staff.
- In 2017, implementing an entirely online initial application for LPNs and RNs, expending significant personnel and monetary resources to develop new online workflows and make significant technological upgrades to internal databases and licensing programs. The Board is the first existing board to have an entirely online initial application and renewal application. This improvement is expected to further increase the efficiency of the LPN and RN licensing process which should lead to further improvements in licensure waiting times.

The commitment of significant resources and the hard work of Division staff led to unprecedented improvements in the licensure process for nurses and the certification process for CHHAs, which have benefited all members of the nursing and CHHA professions and those that employ them and utilize their services.

As for the specific rumors and misinformation that have been circulated over the past number of days, we address each in turn. First, it has been suggested by some that there are currently more than 4,000 professionals who are awaiting their nursing license or certification. According to the purported statistics, almost 3,000 are new graduates and graduate nurses from foreign countries and more than 1,000 are licenses from other states seeking New Jersey licenses. The insinuation made by some has been that Division staff working with the Board (“Board staff”) are allowing thousands of applicants to languish for months on end. You will be pleased to know that the insinuation is demonstrably false.

As stated already, the average wait time from when the Division receives a completed and deficiency-free application and an applicant passes the NCLEX, to when a license is issued, is less than a week, not a matter of months. If there are any applicants who are waiting a significant period of time for their license, it is usually because the application is missing information and so cannot be processed in full by Board staff until the applicant takes further action. To cite one example, currently there are 540 applicants that have been approved by the Board to take the NCLEX, but have yet to do so. As a result, Board staff is waiting on these applicants to take and pass the NCLEX before it is able to license them. Incomplete applications make up many of the applications that are “awaiting Board action,” and as a result, these numbers do not represent a “backlog” or licensing delay.

Further, it is important to note that around this time of year hundreds of nursing schools across the nation graduate thousands of nursing students. Accordingly, it is typical around this time of the year, that the Board receives well over 2,000 applications, sometimes as much as 4,000, all at once from both in-state and out-of-state programs. This sudden influx is a normal occurrence, and for a short period of time each summer the average processing time for these newly graduated applicants increases by several weeks as Board staff works diligently to process the sudden surge. But for anyone to suggest that this cyclical reality is somehow reflective of a general failure by the Board staff is nothing shy of intentionally misleading.

Second, some have expressed concern that decisions regarding workflows, work priorities, and daily operational needs are routinely undertaken by those unfamiliar with the Board. This couldn't be further from the truth. Those involved in setting some work priorities

and implementing better workflows for operational matters have significant experience working with the Board and the numerous other professional boards. Additionally, before and after new processes are implemented, input from Board staff is solicited and utilized, particularly those with many years of experience, in order to yield a better and more efficient product. Without the work of the Division staff tasked with managing Board operations, the great improvements referenced above could not have been achieved.

Third, some have alleged that resources are not being committed to Board operations, indicating that positions were "frozen" up the "divisional chain." This is also demonstrably false. In fact, due to the importance the Division places on this Board along with the prior needs for significant improvements in the licensure process, more resources have been provided to the operation of this Board than other Boards. Last fall, in order to ensure continued improvements in the licensure process, the Division added an Operations Manager to oversee the new homemaker-home health aide application process, in part, because the Executive Director removed herself from work to improve the homemaker-home health aide certification process to focus on nursing education matters. Additionally, the Division also added four individuals to Board staff, creating a special homemaker-home health aide application processing unit, to expedite the initial review of applications. The new unit immediately contacts applicants regarding application deficiencies and third party entities to provide documentation that is required for certification. Moreover, in addition to maintaining permanent staff levels for Board staff (permanent staffing levels have been consistently the same since at least 2010), the Division has utilized the services of ten temporary employees over the past two years to assist with Board work on a consistent basis during high volume periods and when full-time employees were out on medical and other types of leave. In fact, more temporary staff hours were committed to the Board this past year than in prior years, and we expect an even greater number of temporary staff hours to be utilized through 2017.

Fourth, related to the above suggestions about the lack of resources being committed to Board operations, some have claimed that overtime is being denied for Board staff. Again, this is demonstrably false. Overtime is regularly provided to Board staff when a justified need arises. In 2016, overtime was performed by staff for 25 out of the 52 weeks. In 2017, overtime has been approved and performed for 22 out of 30 weeks to date. In fact, for fiscal year 2017, the amount paid for Board staff overtime is \$180,318.

Fifth, the Division has heard the claim that the Executive Director of the Board has minimal, if any, budgetary control. In actuality, all of the Executive Directors have meetings with the Division's Chief Administrative and Budgetary Officer, within which their budgets are discussed and the needs for fee increases and possible fee credits are explored in tandem with the budget office. In addition, twice a year the Executive Directors review the projected budget for their particular board, supplied to them by the Division's Budget Office. This process has been the same, without complaint, not only for previous Executive Directors of the Board, but also for all 47 of the Boards and Committees the Division oversees.

Sixth, some have suggested that the lack of a Deputy Executive Director over the past year somehow represents a failure of the Division. At the outset, you should know that there are no Deputy Executive Directors for any of the other 46 Boards and Committees, including the Board of Medical Examiners. However, as set forth above, the Division installed an Operations Manager to assist with Board operations, specifically licensing and certification processes. No other Board or Committee has an Operations Manager. Moreover, we recently replaced an individual who had previously served as a de-facto Deputy Executive Director with the Board, with two staff members, who supervise specific units within the Board. Another senior staff

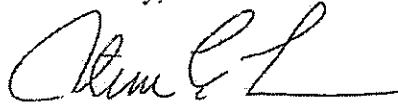
member for the Board has been hired and will be starting in the next few weeks.

Seventh, we have heard an allegation that nursing licensure and other fees have been moved to the general fund. This is not true. The Board operates from the proceeds of licensure and other fees. However, legislation was passed that permitted the transfer of excess funds from the professional boards to other Divisions within the Department, which has occurred.

Finally, it has been alleged that the Division and the Administration have somehow failed the public due to the presence of six vacancies on the Board. First, the Board has a quorum and therefore it can take all necessary action. Second, two of these vacancies were created by legislation that just became effective on July 21st. Third, these vacancies do not impact licensure processes nor the day-to-day operation of the Board staff, which as stated earlier, have been at consistently high levels since at least 2010, as can be evidenced by the significant licensure improvements that have been made over the past 2 years.

Thank you again for this opportunity to keep you apprised about the workings of the Board, and the great progress we have made over the past number of years to even better improve its operations. Please do not hesitate to let me know if there are any further questions and concerns.

Sincerely,



Steve C. Lee  
Director  
Division of Consumer Affairs