NCSBN
National Council of State Boards of Nursing

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Sen. Orrin Hatch
United States Senate
Chairman, Committee on Finance
104 Hart Senate Office Building
Washington, DC 20510

Sen. Ron Wyden
United States Senate
Ranking Member, Committee on Finance
221 Dirksen Senate Office Building
Washington, DC 20510

Sen. Johnny Isakson
United States Senate
131 Russell Senate Office Building
Washington, DC 20510

Sen. Mark Warner
United States Senate
475 Russell Senate Office Building
Washington, DC 20510

Chairman Hatch, Ranking Member Wyden, Sen. Isakson, and Sen. Warner:

Thank you for the opportunity to provide recommendations to the United States Senate Committee on Finance chronic care working group. We commend the committee for addressing the challenges facing patients with chronic disease and appreciate the chance to communicate our organization's priorities to you.

The National Council of State Boards of Nursing (NCSBN) is an independent, non-profit association comprising 59 boards of nursing (BONs) from across the U.S., the District of Columbia and four U.S. territories. BONs are responsible for protecting the public through regulation of licensure, nursing practice and discipline of the 5.2 million registered nurses (RNs), licensed practical/vocational (LPN/VNs) and advanced practice registered nurses (APRNs) in the U.S. with active licenses, in addition to the approval of prelicensure nursing education programs in the U.S. NCSBN was created by these boards of nursing to act and counsel with one another and to lessen the burden of government. The mission of NCSBN is to provide education, service and research through collaborative leadership to promote evidence-based regulatory excellence for patient safety and public protection. Through NCSBN, BONs can work together on policy matters that will affect the future of nursing and health care.

Utilizing telehealth and remote monitoring technology is vital to improving the level of care chronic disease patients receive. NCSBN supports efforts to expand telehealth as a model of care delivery and recognizes that technological advances can both reduce the

cost of care and increase patient access to care across the country. We strive to offer providers the opportunity to practice safely and competently across state lines without undue licensure burdens.

One way that we have worked to facilitate interstate mobility of nurses is through our Nurse Licensure Compact (NLC), an interstate compact that allows a nurse to have one multistate license (in his or her state of residency) that grants the privilege to practice in other NLC participating states (both physically and electronically), subject to each state's practice laws and regulations. NCSBN launched the NLC in 2000 in an effort to expand the mobility of nurses as part of our nation's health care delivery system. Currently, 25 U.S. states have adopted the NLC. That number is expected to grow in the coming years as the states begin to adopt a newly revised version of the NLC that addresses concerns raised by states that have not yet joined. In addition to the NLC, we have also developed a compact that would facilitate interstate license portability for APRNs, who are increasingly delivering primary care and helping with chronic disease management via telehealth. The APRN Compact maintains most of the same principles as the NLC, including a mutual recognition licensing model that would allow an APRN to practice in any participating state with just one license.

NCSBN is very pleased that the Committee on Finance is addressing the important issues that impact the delivery of patient care through telehealth and would like to offer some comments for consideration.

Licensure should be based on the location of the patient. This is in accordance with current state and federal policy. Recent proposals have suggested moving licensure away from the patient's location to the site of the provider. This change would create confusion for nurses, patients, and boards of nursing. In addition to the added confusion, moving licensure to the provider's location would directly conflict with states' constitutional rights. Providers must be held accountable to the state boards in the states where they are practicing and patients need to be able to seek recourse in the event that an adverse action occurs with their care. If a provider is not licensed in the patient's location, that process can often be complicated due to jurisdictional issues. For the reasons listed above, efforts requiring only one state license to practice in all 50 states based on location of the provider, or nationalizing state licensure, would undermine the authority of state BONs and weaken their ability to fulfill their charge to keep the public safe.

The federal government should not create state licensure exemptions for providers. One such proposal introduced in the House last Congress, the TELE-Med Act of 2013, would allow providers delivering care to Medicare beneficiaries via telehealth to only be licensed in one state in order to deliver care nationwide. As mentioned earlier, state boards of nursing can only keep patients safe if they have jurisdiction over the provider's license in the patient's location. By creating a "one-license" model, states lose

jurisdictional authority over providers practicing without a license issued by their state, ultimately weakening the board's ability to investigate and take action against providers that pose a risk to patient safety. While NLC states would have a greater ability to work together on interstate issues, exempting providers from state licensure laws would unnecessarily put patients at risk.

Any legislation should clarify that participating providers must comply with all applicable state laws and regulations. Adding this brief language would remove any provider uncertainty regarding their legal obligations, further protects patients from harm, and helps alleviate any potential provider legal confusion.

Any legislative language addressing reimbursement should be clearly identified and separated from licensure. We suggest adding the phrase, "for the purposes of reimbursement," to the beginning of each section addressing reimbursement issues in order to alleviate potential confusion with licensure laws.

In addition to the comments above, NCSBN would greatly appreciate the inclusion of sense of congress language supporting state health compacts like the NLC and APRN Compact in any legislation. The House Energy and Commerce Committee included this type of provision in H.R. 6, the 21st Century Cures Act. NCSBN strongly supports the inclusion of that language, as it acknowledges and encourages the important work currently being done by states to facilitate interstate health care practice by removing licensure as a barrier. In addition to states participating in the NLC, states have also adopted the Interstate Medical Licensure Compact for physicians this year. Other health care compacts are currently being considered or developed for state consideration in other practice areas as well, including physical therapy, psychology, and emergency medical technicians (EMTs) in order to better facilitate interstate practice. For this reason, we propose including the following language:

> *Sense of Congress Regarding State Health Licensing Board Compacts – It is the sense of Congress that States should collaborate, through the use of State health licensing board compacts, to create shared jurisdictional authority, share investigative and disciplinary information, and implement a strategy that enables license portability for the purposes of facilitating telehealth across state lines by health care providers while simultaneously ensuring protection of the public.*

BONs under the NLC facilitate interstate cooperation and coordination through participation in Nursys®, the only national database currently available for verification of nurse licensure and discipline for RNs, LPN/VNs and APRNs. Nursys® allows access to the status of a nurse's license and provides information about any history of discipline. Ultimately, the NLC creates the necessary legal structure that requires BONs

to report and share license and discipline information with one another, a key component to ensuring nurse competency and patient safety across the country.

As the chronic care working group begins to consider possible legislative language, NCSBN would like to work with you, your fellow senators, and other stakeholders to resolve issues involving state based licensure.

Once again, NCSBN appreciates the opportunity to provide comments on this important initiative. If you have any questions or need any additional information, please do not hesitate to contact us. Elliot Vice, NCSBN's Director of Government Affairs, can be reached at evice@ncsbn.org and 202-530-4830. We look forward to continuing the dialogue with your group on this very important issue.

Sincerely,

Kathy Apple, MS, RN, FAAN
Chief Executive Officer