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**TESTIMONY OF KIM ESQUIBEL
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STATE BOARD OF NURSING
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**

IN SUPPORT OF L.D. 90

“Resolve, Regarding Legislative Review of Chapter 6: Delegation of Nursing Activities and Tasks to Unlicensed Assistive Personnel by Registered Professional Nurses, a major substantive rule of the Department of Professional and Financial Regulation, State Board of Nursing”

Reported by Representative Kristi Mathieson

**BEFORE THE JOINT STANDING COMMITTEE ON
HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES
Public Hearing: February 27, 2025 at 1:00 pm**

Senator Bailey, Representative Mathieson, and members of the Committee. I am Kim Esquibel, Executive Director for the State Board of Nursing. I am pleased to offer the following comments in support of LD 90.

On April 2, 2024, the Governor approved Public Law 2024, Chapter 592, “An Act Relating to Delegation of Nursing Activities and Tasks to Unlicensed Assistive Personnel by Registered Professional Nurses.” The act amends 32 M.R.S. § 2102(2)(H) and (11) of the Board’s statute, authorizing registered professional nurses to delegate nursing activities and tasks to unlicensed assistive personnel. It also directed the Board of Nursing (BON) to provisionally adopt major substantive rules concerning delegation as it is considered necessary to ensure access to quality health care for patients.

To develop the rule, the BON invited stakeholders to participate in a work group as part of an effort to engage in a consensus-based rule development process. Following the stakeholder group meetings, the BON published the proposed rule for public comment on July 17, 2024. A public hearing was held on August 7, 2024.

The BON considered the verbal and written comments from 16 individuals and organizations and made no substantive changes to the proposed rule. In addressing the comments received, the Board recognized that the purpose of the proposed rule is to outline the responsibility of the nurse in the delegation process. The rule does not include an exhaustive list of tasks that can be delegated. Identifying tasks that can be specifically delegated to unlicensed assistive personnel is



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dependent on several conditions: the complexity of the task to be delegated; the care needs of the client, as assessed by the registered professional nurse; the educational preparation, skills, and ability of the unlicensed assistive personnel; the condition of the patient; and the availability and accessibility of essential resources including supervision, while the task is being performed. Most importantly, nursing judgment is the essential element in every delegation or assignment decision (ANA Scope and Standards of Practice, 2015; NCSBN National Guidelines for Delegation, 2016; NCSBN-ANA Position Statement, 2019).

Notably, Public Law 2024, Chapter 592, and the provisionally adopted rule are not intended to address nursing staffing ratios, which was the subject of a separate and distinct bill that was carried over by the Legislature on May 10, 2024 (L.D. 1639 “An Act to Address Unsafe Staffing of Nurses and Improve Patient Care.”). The purpose of the provisionally adopted rule is to outline the responsibility of the nurse in the delegation process.

On September 11, 2024, the BON provisionally adopted the rule and the Basis Statement and Response to Comments. The provisionally adopted rule and related materials were filed with the Executive Director of the Legislative Council pursuant to 5 MRSA 8072, sub- 2 on November 5, 2024.

Thank you for the opportunity to provide these comments on LD 90. I am happy to answer any questions now or at the work session.