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By: **Delegates Hubbard, Nathan-Pulliam, and Goldwater**

Introduced and read first time: February 11, 2000

Assigned to: Environmental Matters

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Committee Report: Favorable

House action: Adopted

Read second time: March 17, 2000

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CHAPTER 451

1 AN ACT concerning

2 **State Board of Nursing - Probationary License**

3 FOR the purpose of allowing the State Board of Nursing to grant a probationary  
4 license under certain circumstances to an applicant for or holder of a nurse's  
5 license; and generally relating to probationary licenses for nurses.

6 BY repealing and reenacting, with amendments,  
7 Article - Health Occupations  
8 Section 8-316(a)  
9 Annotated Code of Maryland  
10 (1994 Replacement Volume and 1999 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article - Health Occupations**

14 8-316.

15 (a) Subject to the hearing provisions of § 8-317 of this subtitle, the Board may  
16 deny a license OR GRANT A PROBATIONARY LICENSE to any applicant, reprimand any  
17 licensee, place any licensee on probation, or suspend or revoke the license of a licensee  
18 if the applicant or licensee:

19 (1) Fraudulently or deceptively obtains or attempts to obtain a license  
20 for the applicant or for another;

21 (2) Fraudulently or deceptively uses a license;

1           (3)     Is disciplined by a licensing, military, or disciplinary authority in this  
2 State or in any other state or country or convicted or disciplined by a court in this  
3 State or in any other state or country for an act that would be grounds for disciplinary  
4 action under the Board's disciplinary statutes;

5           (4)     Is convicted of or pleads guilty or nolo contendere to a felony or to a  
6 crime involving moral turpitude, whether or not any appeal or other proceeding is  
7 pending to have the conviction or plea set aside;

8           (5)     Willfully and knowingly:

9                   (i)     Files a false report or record of an individual under the  
10 licensee's care;

11                   (ii)    Gives any false or misleading information about a material  
12 matter in an employment application;

13                   (iii)   Fails to file or record any health record that is required by law;

14                   (iv)    Obstructs the filing or recording of any health record as  
15 required by law; or

16                   (v)     Induces another person to fail to file or record any health record  
17 as required by law;

18           (6)     Knowingly does any act that has been determined by the Board, in its  
19 rules and regulations, to exceed the scope of practice authorized to the individual  
20 under this title;

21           (7)     Provides professional services while:

22                   (i)     Under the influence of alcohol; or

23                   (ii)    Using any narcotic or controlled dangerous substance, as  
24 defined in Article 27 of the Code, or other drug that is in excess of therapeutic  
25 amounts or without valid medical indication;

26           (8)     Does an act that is inconsistent with generally accepted professional  
27 standards in the practice of registered nursing or licensed practical nursing;

28           (9)     Is grossly negligent in the practice of registered nursing or licensed  
29 practical nursing;

30           (10)    Has violated any provision of this title;

31           (11)    Submits a false statement to collect a fee;

32           (12)    Is physically or mentally incompetent;

33           (13)    Knowingly fails to report suspected child abuse in violation of § 5-704  
34 of the Family Law Article;

- 1 (14) Refuses, withholds from, denies, or discriminates against an  
2 individual with regard to the provision of professional services for which the licensee  
3 is licensed and qualified to render because the individual is HIV positive;
- 4 (15) Except in an emergency life-threatening situation where it is not  
5 feasible or practicable, fails to comply with the Centers for Disease Control's  
6 guidelines on universal precautions;
- 7 (16) Is in independent practice and fails to display the notice required  
8 under § 8-506 of this title;
- 9 (17) Is in breach of a service obligation resulting from the applicant's or  
10 licensee's receipt of State or federal funding for the applicant's or licensee's nursing  
11 education;
- 12 (18) Is habitually intoxicated;
- 13 (19) Is addicted to, or habitually abuses, any narcotic or controlled  
14 dangerous substance as defined in Article 27 of the Code;
- 15 (20) Fails to cooperate with a lawful investigation conducted by the  
16 Board;
- 17 (21) Is expelled from the rehabilitation program established pursuant to §  
18 8-208 of this title for failure to comply with the conditions of the program;
- 19 (22) Delegates nursing acts or responsibilities to an individual that the  
20 applicant or licensee knows or has reason to know lacks the ability or knowledge to  
21 perform;
- 22 (23) Delegates to an unlicensed individual nursing acts or responsibilities  
23 the applicant or licensee knows or has reason to know are to be performed only by a  
24 registered nurse or licensed practical nurse;
- 25 (24) Fails to properly supervise individuals to whom nursing acts or  
26 responsibilities have been delegated;
- 27 (25) Engages in conduct that violates the professional code of ethics;
- 28 (26) Is professionally incompetent;
- 29 (27) Practices registered nursing or licensed practical nursing without a  
30 license before obtaining or renewing a license, including any period when the license  
31 or a temporary license of the applicant or licensee has lapsed;
- 32 (28) After failing to renew a license or after a temporary license has  
33 lapsed, commits any act that would be grounds for disciplinary action under this  
34 section;
- 35 (29) Practices registered nursing or licensed practical nursing on a  
36 nonrenewed license for a period of 16 months or longer;

- 1           (30)    Violates regulations adopted by the Board;
- 2           (31)    Performs an act that is beyond the licensee's knowledge and skills;
- 3           (32)    When acting in a supervisory position, directs another nurse to  
4 perform an act that is beyond the nurse's knowledge and skills; or
- 5           (33)    When acting in a supervisory position, directs another nurse to  
6 delegate a nursing task to an individual when that nurse reasonably believes:
- 7                   (i)       The individual lacks the knowledge and skills to perform the  
8 task; or
- 9                   (ii)      The patient's condition does not allow delegation of the nursing  
10 task.

11       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
12 October 1, 2000.