

SENATE BILL 405

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J2

2004 Regular Session
(4lr1757)

ENROLLED BILL

-- Education, Health, and Environmental Affairs/Health and Government
Operations --

Introduced by **Senator Hollinger**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER 455

1 AN ACT concerning

2 **State Board of Nursing - Nursing Assistants and Medication Technicians -**
3 **Miscellaneous Provisions**

4 FOR the purpose of altering the number of members on the State Board of Nursing
5 Rehabilitation Committee; requiring that a registered nurse with expertise in
6 pain management be a member of the rehabilitation committee; authorizing the
7 Board to conduct a demonstration study to evaluate certain changes to certain
8 nursing practice regulations; providing for the purpose of demonstration
9 studies; requiring the Board to approve the demonstration study design and to
10 select the testing facilities; authorizing the Board to waive certain requirements
11 during a demonstration study; requiring an individual to be certified by the
12 Board before practicing as a medication technician, using certain titles, and
13 making certain representations; making ~~a certain exception~~ certain exceptions
14 to the requirement for certification as a medication technician; requiring the
15 Board to set certain fees relating to the certification of medication technicians;
16 requiring the Board to adopt certain regulations; establishing certain

1 qualifications that an individual must meet to qualify for certain certificates;
2 repealing a certain procedure for granting a nursing assistant certificate by
3 waiver; establishing procedures for the certification of medication technicians
4 and the issuance and renewal of medication technician certificates; altering
5 certain requirements for the renewal of a nursing assistant certificate; requiring
6 certain certificate holders to notify the Board in a certain manner and within a
7 certain time period after a certain change has occurred; authorizing the Board
8 to impose a certain administrative penalty on certain certificate holders under
9 certain circumstances; requiring the Board to pay certain penalties to the
10 General Fund of the State; authorizing the Board to impose a certain fine on a
11 certified medication technician; establishing grounds for the denial of a
12 medication technician certificate and the discipline of certified medication
13 technicians; authorizing the Board to deny, suspend, or revoke certain
14 certificates under certain circumstances; authorizing the Board to reinstate
15 certain certificates under certain circumstances; providing for the surrender of a
16 medication technician certificate under certain circumstances; requiring the
17 Board's advisory committee to review certain investigations of complaints and
18 make certain recommendations for disciplinary action; requiring certain
19 individuals to submit to certain examinations under certain circumstances;
20 prohibiting a ~~director of nursing~~ person from employing certain individuals
21 under certain circumstances; defining certain terms; altering certain definitions;
22 requiring the Board to certify certain medication assistants on or before a
23 certain date; requiring the Board to consult with certain groups in developing
24 certain regulations; and generally relating to the State Board of Nursing and
25 the certification of nursing assistants and medication technicians.

26 BY repealing and reenacting, with amendments,
27 Article - Health Occupations
28 Section 8-208(c), 8-6A-01, 8-6A-02(a) and (b), 8-6A-03, 8-6A-04(a), 8-6A-05,
29 8-6A-07 through 8-6A-10, 8-6A-12, 8-6A-13(e), and 8-6A-15 to be
30 under the amended subtitle "Subtitle 6A. Certification of Nursing
31 Assistants and Medication Technicians"; and 8-706
32 Annotated Code of Maryland
33 (2000 Replacement Volume and 2003 Supplement)

34 BY repealing and reenacting, without amendments,
35 Article - Health Occupations
36 Section 8-208(a) and (b) and 8-6A-13(a)
37 Annotated Code of Maryland
38 (2000 Replacement Volume and 2003 Supplement)

39 BY adding to
40 Article - Health Occupations
41 Section 8-510
42 Annotated Code of Maryland
43 (2000 Replacement Volume and 2003 Supplement)

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

3 **Article - Health Occupations**

4 8-208.

5 (a) In this section, "program" means the rehabilitation program.

6 (b) (1) There is a Rehabilitation Committee in the Board.

7 (2) The Board may create 1 or more rehabilitation committees.

8 (c) (1) The Committee shall consist of [5] 6 members.

9 (2) Of the [5] 6 Committee members:

10 (i) 3 shall be licensed registered nurses, who have demonstrated
11 expertise in the field of chemical dependency or psychiatric nursing;

12 (II) 1 SHALL BE A REGISTERED NURSE, WHO HAS DEMONSTRATED
13 EXPERTISE IN THE AREA OF PAIN MANAGEMENT;

14 [(ii)] (III) 1 shall be a licensed practical nurse; and

15 [(iii)] (IV) 1 shall be a consumer member, who is knowledgeable in
16 the field of chemical dependency.

17 8-510.

18 (A) THE BOARD MAY CONDUCT A DEMONSTRATION STUDY TO EVALUATE A
19 PROPOSED CHANGE TO REGULATIONS REGARDING NURSING PRACTICES OR THE
20 ACTIVITIES OF NURSING ASSISTANTS OR MEDICATION TECHNICIANS IN A PRACTICE
21 SETTING.

22 (B) A DEMONSTRATION STUDY ENABLES THE BOARD, IN A CONTROLLED
23 PRACTICE SETTING, TO DETERMINE:

24 (1) THE SAFETY OF THE PROPOSED PRACTICE OR ACTIVITY; AND

25 (2) THE APPROPRIATE EDUCATION OR TRAINING REQUIREMENTS FOR A
26 PROPOSED PRACTICE OR ACTIVITY.

27 (C) (1) THE BOARD SHALL:

28 (I) APPROVE THE DEMONSTRATION STUDY DESIGN; AND

29 (II) SELECT THE TESTING FACILITIES.

30 (2) THE BOARD MAY WAIVE SELECTED NURSING PRACTICE
31 REQUIREMENTS DURING A DEMONSTRATION STUDY.

1 Subtitle 6A. Certification of Nursing Assistants AND MEDICATION TECHNICIANS.

2 8-6A-01.

3 (a) In this subtitle the following words have the meanings indicated.

4 (B) "APPROVED MEDICATION TECHNICIAN TRAINING PROGRAM" MEANS A
5 COURSE OF TRAINING APPROVED BY THE BOARD THAT MEETS THE BASIC
6 MEDICATION TECHNICIAN CURRICULUM ~~PRESCRIBED AND APPROVED BY THE~~
7 ~~BOARD CORE CURRICULUM AND THE MEDICATION TECHNICIAN CONTENT TRAINING~~
8 SPECIFIC TO THE SETTING IN WHICH THE MEDICATION TECHNICIAN WILL WORK.

9 [(b)] (C) "Approved nursing assistant training program" means a course of
10 training that meets the basic nursing assistant curriculum prescribed and approved
11 by the Board.

12 [(c)] (D) "Board" means the State Board of Nursing.

13 [(d)] (E) "Certificate" means a certificate issued by the Board to practice as a
14 certified nursing assistant OR A CERTIFIED MEDICATION TECHNICIAN in the State.

15 (F) "CERTIFIED MEDICATION TECHNICIAN" MEANS AN INDIVIDUAL WHO:

16 (1) HAS COMPLETED A BOARD-APPROVED MEDICATION TECHNICIAN
17 TRAINING PROGRAM; AND

18 (2) IS CERTIFIED BY THE BOARD AS A MEDICATION TECHNICIAN.

19 [(e)] (G) "Certified medicine aide" means a ~~geriatric~~ CERTIFIED nursing
20 assistant who has completed a [60-hour, State-approved] BOARD-APPROVED course
21 in medication administration.

22 [(f)] (H) "Certified nursing assistant":

23 (1) Means an individual regardless of title who routinely performs
24 nursing tasks delegated by a registered nurse or licensed practical nurse for
25 [compensation or satisfies the criteria contained in § 8-6A-05(d) of this subtitle]
26 COMPENSATION; and

27 (2) Does not include a [medication assistant] CERTIFIED MEDICATION
28 TECHNICIAN.

29 [(g)] (I) "Department" means the Department of Health and Mental Hygiene.

30 [(h)] (J) "Geriatric nursing assistant" means a certified nursing assistant who
31 has successfully completed the requirements for geriatric nursing assistant mandated
32 under federal law and the regulations of the Board.

33 [(i)] "Medication assistant" means an individual who has completed the
34 16-hour course in medication administration approved by the Board.]

1 8-6A-02.

2 (a) Except as otherwise provided in this subtitle, an individual shall be
3 certified by the Board to practice as a nursing assistant OR MEDICATION TECHNICIAN
4 before the individual may practice as a nursing assistant OR MEDICATION
5 TECHNICIAN in the State.

6 (b) This subtitle does not apply to an individual who:

7 (1) Practices a health occupation that the individual is authorized to
8 practice under this article;

9 (2) Provides for the gratuitous care of friends or family members;

10 (3) Performs nursing assistant tasks while a nursing student enrolled in
11 an accredited nursing program and practicing under the direct supervision of
12 qualified faculty or preceptors; [or]

13 (4) Performs nursing assistant tasks as a student while:

14 (i) Enrolled in a Board approved nursing assistant training
15 program;

16 (ii) Practicing under the direct supervision of qualified faculty or
17 preceptors; or

18 (iii) Practicing under the direct supervision of a licensed nurse while
19 working as a nursing assistant; ~~OR~~

20 (5) PERFORMS MEDICATION TECHNICIAN TASKS AS A STUDENT WHILE
21 PRACTICING UNDER THE DIRECT SUPERVISION OF QUALIFIED FACULTY; OR

22 (6) WORKS AS A PRINCIPAL OR SCHOOL SECRETARY, DOES NOT
23 ADMINISTER MEDICATION AS A ROUTINE PART OF THE POSITION, AND HAS
24 COMPLETED TRAINING BY THE DELEGATING NURSE FOR THE OCCASION WHERE THE
25 INDIVIDUAL MAY NEED TO ADMINISTER MEDICATION IN THE ABSENCE OF THE
26 NURSE OR MEDICATION TECHNICIAN.

27 8-6A-03.

28 (a) An individual shall be certified as a nursing assistant by the Board before
29 the individual may:

30 (1) Use the title "certified nursing assistant";

31 (2) Use the initials "C.N.A." after the name of the individual; or

32 (3) Represent to the public that the individual is certified as a nursing
33 assistant.

1 (b) [A medication assistant shall be required to register with the Board.] AN
2 INDIVIDUAL SHALL BE CERTIFIED AS A MEDICATION TECHNICIAN BY THE BOARD
3 BEFORE THE INDIVIDUAL MAY:

- 4 (1) USE THE TITLE "CERTIFIED MEDICATION TECHNICIAN";
5 (2) USE THE INITIALS "C.M.T." AFTER THE NAME OF THE INDIVIDUAL; OR
6 (3) REPRESENT TO THE PUBLIC THAT THE INDIVIDUAL IS CERTIFIED AS
7 A MEDICATION TECHNICIAN.

8 (C) AN INDIVIDUAL MAY NOT PRACTICE, ATTEMPT TO PRACTICE, OR OFFER
9 TO PRACTICE AS A CERTIFIED MEDICATION TECHNICIAN WITHOUT CERTIFICATION
10 FROM THE BOARD.

11 8-6A-04.

12 (a) (1) The Board shall set reasonable fees for the issuance and renewal of
13 certificates and other services it provides to certified nursing assistants AND
14 CERTIFIED MEDICATION TECHNICIANS.

15 (2) The fees charged shall be set to produce funds to approximate the
16 cost of maintaining the certification program and the other services provided to
17 certified nursing assistants AND CERTIFIED MEDICATION TECHNICIANS.

18 8-6A-05.

19 (a) The Board shall adopt regulations establishing:

20 (1) Categories of certified nursing assistants, including geriatric nursing
21 assistants, home health aides, school health aides, dialysis technicians, individuals
22 working in developmental disabilities administration facilities, and medicine aides;

23 (2) Qualifications for each category of certified nursing assistant; [and]

24 (3) QUALIFICATIONS FOR CERTIFIED MEDICATION TECHNICIANS; AND

25 [(3)] (4) Standards for qualification of applicants for certification,
26 including the applicant's criminal history, work record, and prohibitions against
27 behavior which may be potentially harmful to patients.

28 (b) To qualify for certification as a nursing [assistant or] ASSISTANT, a
29 nursing assistant in a specific category, OR A MEDICATION TECHNICIAN, an applicant
30 shall meet the requirements set by the Board.

31 (c) (1) An applicant for a certificate shall:

32 (i) Submit an application to the Board on the form that the Board
33 requires;

1 (ii) Provide evidence, as required by the Board, of successful
2 completion of an approved nursing assistant training program OR AN APPROVED
3 COURSE IN MEDICATION ADMINISTRATION;

4 (iii) Pay to the Board an application fee set by the Board; [and]

5 (iv) Be of good moral character; ~~AND~~

6 (V) BE AT LEAST 16 YEARS OLD TO APPLY FOR CERTIFICATION
7 AS A NURSING ASSISTANT; AND

8 (VI) BE AT LEAST 18 YEARS OLD TO APPLY FOR CERTIFICATION AS A
9 MEDICATION TECHNICIAN.

10 (2) An applicant for certification as a certified medicine aide, in addition
11 to the requirements under subsection (c)(1) of this section, shall submit an additional
12 application to that effect to the Board on the form that the Board requires.

13 (3) An applicant for a certificate may not:

14 (i) Have committed any act or omission that would be grounds for
15 discipline or denial of certification under this subtitle; and

16 (ii) Have a record of abuse, negligence, misappropriation of a
17 resident's property, or any disciplinary action taken or pending in any other state or
18 territory of the United States against the certification of the nursing assistant OR
19 MEDICATION TECHNICIAN in the state or territory.

20 [(d) The Board shall waive the requirement for successful completion of an
21 approved nursing assistant training program under subsection (c) of this section for
22 any applicant who applies for certification under this subtitle by July 1, 2002 and
23 submits evidence satisfactory to the Board that the applicant:

24 (1) Holds current registration in good standing as a geriatric nursing
25 assistant in accordance with regulations adopted by the Department under §
26 19-308.1 of the Health - General Article; or

27 (2) In the last 2 years has practiced for at least 1,000 hours as a nursing
28 assistant.]

29 8-6A-07.

30 (a) The Board shall issue a certificate to any applicant who meets the
31 requirements of this subtitle.

32 (b) The certificate OF AN INDIVIDUAL WHO HAS MET THE REQUIREMENTS
33 FOR A CERTIFIED NURSING ASSISTANT shall include the title "certified nursing
34 assistant".

35 (c) The certificate of an individual who routinely performs nursing tasks
36 delegated by a registered nurse or licensed practical nurse for compensation and has

1 also completed [the 60-hour, State-approved] A BOARD-APPROVED course in
2 medication administration shall also include the title "certified medicine aide".

3 (D) THE CERTIFICATE OF AN INDIVIDUAL WHO HAS MET THE REQUIREMENTS
4 FOR A CERTIFIED MEDICATION TECHNICIAN SHALL INCLUDE THE TITLE "CERTIFIED
5 MEDICATION TECHNICIAN".

6 [(d)] (E) The Board may issue a certificate to replace a lost, destroyed, or
7 mutilated certificate, if the certificate holder pays the certificate replacement fee set
8 by the Board.

9 8-6A-08.

10 (a) A certificate expires on the 28th day of the birth month of the nursing
11 assistant OR MEDICATION TECHNICIAN, unless the certificate is renewed for a 2-year
12 term as provided in this section.

13 (b) At least 3 months before the certificate expires, the Board shall send to the
14 nursing assistant OR MEDICATION TECHNICIAN, by first-class mail to the last known
15 address of the nursing assistant OR MEDICATION TECHNICIAN, a renewal notice that
16 states:

17 (1) The date on which the current certificate expires;

18 (2) The date by which the renewal application must be received by the
19 Board for the renewal to be issued and mailed before the certificate expires; and

20 (3) The amount of the renewal fee.

21 (c) Before a certificate expires, [the] A nursing assistant periodically may
22 renew it for an additional term, if the certificate holder:

23 (1) Otherwise is entitled to be certified;

24 (2) Submits to the Board a renewal application on the form that the
25 Board requires;

26 (3) Pays to the Board a renewal fee set by the Board; and

27 (4) Provides satisfactory evidence of completion of:

28 (i) [8] 16 hours of active nursing assistant practice within the
29 [1-year] 2-YEAR period immediately preceding the date of renewal; or

30 (ii) An approved nursing assistant training program.

31 (D) BEFORE A CERTIFICATE EXPIRES, A MEDICATION TECHNICIAN
32 PERIODICALLY MAY RENEW IT FOR AN ADDITIONAL TERM, IF THE CERTIFICATE
33 HOLDER:

34 (1) OTHERWISE IS ENTITLED TO BE CERTIFIED;

1 (2) SUBMITS TO THE BOARD A RENEWAL APPLICATION ON THE FORM
2 THAT THE BOARD REQUIRES;

3 (3) PAYS TO THE BOARD A RENEWAL FEE SET BY THE BOARD; AND

4 (4) EVERY 2 YEARS, PROVIDES SATISFACTORY EVIDENCE OF
5 COMPLETION OF A BOARD-APPROVED CLINICAL REFRESHER COURSE.

6 [(d)] (E) The Board shall renew the certificate of each nursing assistant OR
7 MEDICATION TECHNICIAN who meets the requirements of this section.

8 (F) (1) WITHIN 30 DAYS AFTER A CHANGE HAS OCCURRED, EACH
9 CERTIFICATE HOLDER SHALL NOTIFY THE BOARD IN WRITING OF ANY CHANGE IN A
10 NAME OR ADDRESS.

11 (2) IF THE CERTIFICATE HOLDER FAILS TO NOTIFY THE BOARD WITHIN
12 THE TIME REQUIRED UNDER THIS SUBSECTION, THE BOARD MAY IMPOSE AN
13 ADMINISTRATIVE PENALTY OF \$25 ON THE CERTIFICATE HOLDER.

14 (G) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS
15 SUBSECTION TO THE GENERAL FUND OF THE STATE.

16 8-6A-09.

17 (a) The Board may impose a civil fine not exceeding \$50 on a certified nursing
18 assistant OR A CERTIFIED MEDICATION TECHNICIAN who fails to renew a certificate
19 within 30 days after its expiration date and practices as a certified nursing assistant
20 OR CERTIFIED MEDICATION TECHNICIAN during the period of expiration.

21 (b) The Board shall pay any penalty collected under this section to the General
22 Fund of the State.

23 8-6A-10.

24 (a) Subject to the hearing provisions of § 8-317 of this title, the Board may
25 deny a certificate or issue a probationary certificate to any applicant, reprimand any
26 certificate holder, place any certificate holder on probation, or suspend or revoke the
27 certificate of a certificate holder, if the applicant or certificate holder:

28 (1) Fraudulently or deceptively obtains or attempts to obtain a
29 certificate for the applicant or for another;

30 (2) Fraudulently or deceptively uses a certificate;

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

- 1 (4) Is convicted of or pleads guilty or nolo contendere to a felony or to a
2 crime involving moral turpitude, whether or not any appeal or other proceeding is
3 pending to have the conviction or plea set aside;
- 4 (5) Files a false report or record of an individual under the certificate
5 holder's care;
- 6 (6) Gives any false or misleading information about a material matter in
7 an employment application;
- 8 (7) Fails to file or record any health record that is required by law;
- 9 (8) Induces another person to fail to file or record any health record that
10 is required by law;
- 11 (9) Has violated any order, rule, or regulation of the Board relating to the
12 practice or certification of a nursing assistant OR MEDICATION TECHNICIAN;
- 13 (10) Provides services as a nursing assistant OR MEDICATION
14 TECHNICIAN while:
- 15 (i) Under the influence of alcohol; or
- 16 (ii) Using any narcotic or controlled dangerous substance, as
17 defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of
18 therapeutic amounts or without valid medical indication;
- 19 (11) Is habitually intoxicated;
- 20 (12) Is addicted to, or habitually abuses, any narcotic or controlled
21 dangerous substance as defined in § 5-101 of the Criminal Law Article;
- 22 (13) Has acted in a manner inconsistent with the health or safety of a
23 person under the applicant or certificate holder's care;
- 24 (14) Has practiced as a nursing assistant OR MEDICATION TECHNICIAN in
25 a manner which fails to meet generally accepted standards for the practice of a
26 nursing assistant OR MEDICATION TECHNICIAN;
- 27 (15) Has physically, verbally, or psychologically abused, neglected, or
28 otherwise harmed a person under the applicant or certificate holder's care;
- 29 (16) Has a physical or mental disability which renders the applicant or
30 certificate holder unable to practice as a certified nursing assistant OR CERTIFIED
31 MEDICATION TECHNICIAN with reasonable skill and safety to the patients and which
32 may endanger the health or safety of persons under the care of the applicant or
33 certificate holder;
- 34 (17) Has violated the confidentiality of information or knowledge as
35 prescribed by law concerning any patient;

- 1 (18) Has misappropriated patient or facility property;
- 2 (19) Performs certified nursing assistant OR CERTIFIED MEDICATION
3 TECHNICIAN functions incompetently;
- 4 (20) Has violated any provision of this title or has aided or knowingly
5 permitted any person to violate any provision of this title;
- 6 (21) Submits a false statement to collect a fee;
- 7 (22) Refuses, withholds from, denies, or discriminates against an
8 individual with regard to the provision of professional services for which the applicant
9 or certificate holder is certified and qualified to render because the individual is HIV
10 positive;
- 11 (23) Except in an emergency life-threatening situation where it is not
12 feasible or practicable, fails to comply with the Centers for Disease Control's
13 guidelines on universal precautions;
- 14 (24) Fails to cooperate with a lawful investigation conducted by the
15 Board;
- 16 (25) Fails to comply with instructions and directions of the supervising
17 registered nurse or licensed practical nurse;
- 18 (26) After failing to renew a certificate, commits any act that would be
19 grounds for disciplinary action under this section;
- 20 (27) Practices as a nursing assistant OR MEDICATION TECHNICIAN before
21 obtaining or renewing the certificate, including any time period when the certificate
22 has lapsed;
- 23 (28) Impersonates another individual:
- 24 (i) Licensed under the provisions of this title; or
- 25 (ii) Who holds a certificate issued under the provisions of this title;
- 26 (29) Has acted in a manner inconsistent with the health or safety of a
27 person under the certified nursing assistant's OR CERTIFIED MEDICATION
28 TECHNICIAN'S care;
- 29 (30) Performs activities that exceed the education and training of the
30 certified nursing assistant OR CERTIFIED MEDICATION technician;
- 31 (31) Is expelled from the rehabilitation program established pursuant to §
32 8-208 of this title for failure to comply with the conditions of the program; ~~or~~
- 33 (32) Abandons a patient; OR

1 (33) IS A DIRECTOR OF NURSING, OR ACTS IN THE CAPACITY OF A
2 DIRECTOR OF NURSING AND KNOWINGLY EMPLOYS AN INDIVIDUAL WHO IS NOT
3 AUTHORIZED TO PERFORM DELEGATED NURSING DUTIES UNDER THIS SUBTITLE.

4 (b) If, after a hearing under § 8-317 of this title, the Board finds that there
5 are grounds under subsection (a) of this section to suspend or revoke a certificate to
6 practice as a certified nursing assistant OR CERTIFIED MEDICATION TECHNICIAN, to
7 reprimand a certificate holder, or place a certificate holder on probation, the Board
8 may impose a penalty not exceeding \$500 instead of or in addition to suspending or
9 revoking the certificate, reprimanding the certificate holder, or placing the certificate
10 holder on probation.

11 (c) (1) An individual whose certificate has been suspended or revoked by the
12 Board shall return the certificate to the Board.

13 (2) If the suspended or revoked certificate has been lost, the individual
14 shall file with the Board a verified statement to that effect.

15 (d) The Board shall file a notice for publication in the earliest publication of
16 the Maryland Register of each revocation or suspension of a certificate under this
17 section within 24 hours of the revocation or suspension.

18 (E) IF A CERTIFICATE ISSUED UNDER THIS SUBTITLE IS SUSPENDED OR
19 REVOKED FOR A PERIOD OF MORE THAN 1 YEAR, THE BOARD MAY REINSTATE THE
20 CERTIFICATE AFTER 1 YEAR IF THE CERTIFICATE HOLDER MEETS THE
21 REQUIREMENTS FOR REINSTATEMENT AS ESTABLISHED BY THE BOARD IN
22 REGULATIONS.

23 8-6A-12.

24 (a) Unless the Board agrees to accept the surrender of a certificate, a certified
25 nursing assistant OR CERTIFIED MEDICATION TECHNICIAN may not surrender the
26 certificate nor may the certificate lapse by operation of law while the certificate
27 holder is under investigation or while charges are pending against the certified
28 nursing assistant OR CERTIFIED MEDICATION TECHNICIAN.

29 (b) The Board may set conditions on its agreement with the certified nursing
30 assistant OR CERTIFIED MEDICATION TECHNICIAN under investigation or against
31 whom charges are pending to accept surrender of the certificate.

32 8-6A-13.

33 (a) The Board shall appoint an advisory committee consisting of at least 13
34 members appointed by the Board.

35 (e) The advisory committee shall:

36 (1) Evaluate training programs and make recommendations for approval
37 by the Board;

- 1 (2) Develop and recommend regulations to enforce the provisions of this
2 subtitle;
- 3 (3) Evaluate candidates as required and recommend action to the Board;
- 4 (4) Review investigations of complaints against nursing assistants OR
5 MEDICATION TECHNICIANS and make recommendations to the Board for disciplinary
6 action;
- 7 (5) Keep a record of its proceedings; and
- 8 (6) Submit an annual report to the Board.

9 8-6A-15.

10 (a) If, during the investigation of an allegation brought against a certified
11 nursing assistant OR CERTIFIED MEDICATION TECHNICIAN under this subtitle, the
12 Board has reason to believe that the certified nursing assistant OR CERTIFIED
13 MEDICATION TECHNICIAN may cause harm to a person affected by the practice of the
14 certified nursing assistant OR CERTIFIED MEDICATION TECHNICIAN, the Board, on
15 its own initiative, shall direct the certified nursing assistant OR CERTIFIED
16 MEDICATION TECHNICIAN to submit to an appropriate examination by a health care
17 provider designated by the Board.

18 (b) In return for the privilege given to a certified nursing assistant OR
19 CERTIFIED MEDICATION TECHNICIAN to practice in the State, the certified nursing
20 assistant OR CERTIFIED MEDICATION TECHNICIAN is deemed to have:

21 (1) Consented to submit to an examination under this section if
22 requested by the Board in writing; and

23 (2) Waived any legal claim of privilege as to the testimony or
24 examination reports of the examining health care provider.

25 (c) The failure or refusal of a certified nursing assistant OR CERTIFIED
26 MEDICATION TECHNICIAN to submit to an examination required under subsection (b)
27 of this section is prima facie evidence of the inability of the certified nursing assistant
28 OR CERTIFIED MEDICATION TECHNICIAN to competently practice as a certified
29 nursing assistant OR CERTIFIED MEDICATION TECHNICIAN, unless the Board finds
30 that the failure or refusal was beyond the control of the certified nursing assistant OR
31 CERTIFIED MEDICATION TECHNICIAN.

32 (d) The Board shall pay the cost of any examination made in accordance with
33 the provisions of this section.

34 8-706.

35 (a) A person may not knowingly employ to practice registered nursing any
36 person who is not authorized to practice registered nursing under this title.

1 (b) A person may not knowingly employ to practice licensed practical nursing
2 any person who is not authorized to practice licensed practical nursing under this
3 subtitle.

4 (C) ~~A DIRECTOR OF NURSING PERSON~~ MAY NOT KNOWINGLY EMPLOY ANY
5 INDIVIDUAL WHO IS NOT AUTHORIZED TO PERFORM DELEGATED NURSING DUTIES
6 UNDER THIS SUBTITLE.

7 SECTION 2. AND BE IT FURTHER ENACTED, That the State Board of
8 Nursing shall certify all medication assistants listed on the registry for medication
9 assistants on or before October 1, 2004, as medication technicians under this Act.

10 SECTION 3. AND BE IT FURTHER ENACTED, That the State Board of
11 Nursing shall consult with any group that expresses an interest in being included in
12 developing regulations to implement this Act.

13 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2004.