

# HOUSE BILL 315

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By: **Delegates Goldwater, Benson, Eckardt, Lee, Montgomery,  
Nathan-Pulliam, and Pendergrass**

Introduced and read first time: January 31, 2007

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Nursing - Licensing, Certification, and Reinstatement**  
3 **Requirements**

4 FOR the purpose of repealing certain authorization for certain unlicensed individuals  
5 to perform certain acts of registered nursing and licensed practical nursing;  
6 requiring the State Board of Nursing to begin a process of requiring certain  
7 criminal history records checks as a condition of certain licensure reinstatement  
8 and certain certificate reinstatement; altering certain grounds for revoking  
9 certain temporary licenses or temporary certificates if a criminal history records  
10 check reveals certain information; authorizing the Board to reinstate certain  
11 licenses or certain certificates if the licensee or certificate holder meets certain  
12 requirements for reinstatement and submits to a certain criminal history  
13 records check; providing that a certain subtitle does not apply to certain  
14 individuals who perform certain nursing assistant tasks while enrolled in  
15 certain nursing assistant training programs and practicing under certain  
16 supervision; requiring certain certified medicine aides and certain certified  
17 medication technicians who are renewing certain certificates to provide certain  
18 evidence of completion of a certain amount of practice within a certain time  
19 period; and generally relating to licensing, certification, and reinstatement  
20 requirements for nurses, nursing assistants, medicine aides, and medication  
21 technicians.

22 BY repealing and reenacting, with amendments,

23 Article – Health Occupations

24 Section 8–102, 8–312(g), 8–315(e), 8–319, 8–6A–02, 8–6A–10(e), and 8–705

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland  
2 (2005 Replacement Volume and 2006 Supplement)

3 BY repealing and reenacting, without amendments,  
4 Article – Health Occupations  
5 Section 8–313  
6 Annotated Code of Maryland  
7 (2005 Replacement Volume and 2006 Supplement)

8 BY repealing and reenacting, with amendments,  
9 Article – Health Occupations  
10 Section 8–6A–08  
11 Annotated Code of Maryland  
12 (2005 Replacement Volume and 2006 Supplement)  
13 (As enacted by Chapter 390 of the Acts of the General Assembly of 2006)

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

16 **Article – Health Occupations**

17 8–102.

18 (a) In this section, “Christian Science nurse” means an individual who is  
19 registered as a Christian Science nurse in the Christian Science Journal of the  
20 Christian Science Publishing Society.

21 (b) Except as specifically provided in this title, this title does not limit the  
22 right of:

23 (1) An individual to practice a health occupation that the individual is  
24 authorized to practice under this article; **OR**

25 (2) A Christian Science nurse to care for an individual who is ill,  
26 injured, or infirm, if the Christian Science nurse does not administer any drug or  
27 medicine[; or

28 (3) An unlicensed individual to perform acts of registered nursing or  
29 acts of licensed practical nursing:

1 (i) While supervised by an individual who is authorized by this  
2 State to practice medicine, dentistry, registered nursing, or licensed practical nursing;  
3 and

4 (ii) If the unlicensed individual performs only acts that are in  
5 the area of responsibility of the supervisor and under the instruction of the  
6 supervisor].

7 8-312.

8 (g) (1) (i) Beginning January 2008, the Board shall begin a process  
9 requiring criminal history records checks **IN ACCORDANCE WITH § 8-303 OF THIS**  
10 **SUBTITLE** on [selected]:

11 **1. SELECTED** annual renewal applicants as determined  
12 by regulations adopted by the Board [in accordance with § 8-303 of this subtitle]; **AND**

13 **2. EACH FORMER LICENSEE WHO FILES FOR**  
14 **REINSTATEMENT UNDER § 8-313 OF THIS SUBTITLE AFTER FAILING TO RENEW**  
15 **THE LICENSE FOR A PERIOD OF 1 YEAR OR MORE.**

16 (ii) An additional criminal history records check shall be  
17 performed every 10 years thereafter.

18 (2) On receipt of the criminal history record information of a licensee  
19 forwarded to the Board in accordance with § 8-303 of this subtitle, in determining  
20 whether to renew a license, the Board shall consider:

21 (i) The age at which the crime was committed;

22 (ii) The circumstances surrounding the crime;

23 (iii) The length of time that has passed since the crime;

24 (iv) Subsequent work history;

25 (v) Employment and character references; and

26 (vi) Other evidence that demonstrates that the licensee does not  
27 pose a threat to the public health or safety.

1           (3) The Board may not renew a license if the criminal history record  
2 information required under § 8-303 of this subtitle has not been received.

3 8-313.

4           The Board shall reinstate the license of a former licensee who has failed to  
5 renew the license for any reason if the former licensee meets the renewal  
6 requirements of § 8-312 of this subtitle.

7 8-315.

8           (e) The Board shall revoke a temporary license or temporary certificate if the  
9 criminal history record information forwarded to the Board in accordance with § 8-303  
10 of this subtitle reveals that the applicant, certificate holder, or licensee [pleaded] **HAS**  
11 **BEEN CONVICTED OR PLED** guilty or [pleaded] nolo contendere to [an act that, if  
12 committed in this State, would be a violation under § 8-316(a) of this subtitle or to an  
13 act that, if committed in this State, would be a violation under § 8-6A-10(a) or  
14 § 8-6B-18(a) of this title] **A FELONY OR TO A CRIME INVOLVING MORAL**  
15 **TURPITUDE, WHETHER OR NOT ANY APPEAL OR OTHER PROCEEDING IS**  
16 **PENDING TO HAVE THE CONVICTION OR PLEA SET ASIDE.**

17 8-319.

18           If a license is suspended or revoked for a period of more than 1 year, the Board  
19 may reinstate the license after 1 year **IF THE LICENSEE:**

20                   **(1) MEETS THE REQUIREMENTS FOR REINSTATEMENT AS**  
21 **ESTABLISHED BY THE BOARD; AND**

22                   **(2) SUBMITS TO A CRIMINAL HISTORY RECORDS CHECK IN**  
23 **ACCORDANCE WITH § 8-303 OF THIS SUBTITLE.**

24 8-6A-02.

25           (a) Except as otherwise provided in this subtitle, an individual shall be  
26 certified by the Board to practice as a nursing assistant or medication technician  
27 before the individual may practice as a nursing assistant or medication technician in  
28 the State.

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

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

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

4           (3) Performs nursing assistant tasks while a nursing student enrolled  
5 in an accredited nursing program and practicing under the direct supervision of  
6 qualified faculty or preceptors;

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

8                   (i) Enrolled in a Board–approved nursing assistant training  
9 program; [or] **AND**

10                   (ii) Practicing under the direct supervision of qualified faculty  
11 or preceptors;

12           (5) Performs medication technician tasks as a student while practicing  
13 under the direct supervision of qualified faculty; or

14           (6) Works as a principal or school secretary, does not administer  
15 medication as a routine part of the position, and has completed training by the  
16 delegating nurse for the occasion where the individual may need to administer  
17 medication in the absence of the nurse or medication technician.

18           (c) Nothing in this section shall preclude a registered nurse or licensed  
19 practical nurse from delegating a nursing task to an unlicensed individual provided  
20 that acceptance of delegated nursing tasks does not become a routine part of the  
21 unlicensed individual’s job duties.

22 8–6A–08.

23           (a) A certificate expires on the 28th day of the birth month of the nursing  
24 assistant or medication technician, unless the certificate is renewed for a 2–year term  
25 as provided in this section.

26           (b) At least 3 months before the certificate expires, the Board shall send to  
27 the nursing assistant or medication technician a renewal notice that states:

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

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

3           (3)    The amount of the renewal fee.

4           (c)    Before a certificate expires, a nursing assistant periodically may renew it  
5 for an additional term, if the certificate holder:

6           (1)    Otherwise is entitled to be certified;

7           (2)    Submits to the Board a renewal application on the form that the  
8 Board requires;

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

10          (4)    Provides satisfactory evidence of completion of:

11                   (i)    16 hours of active nursing assistant practice within the  
12 2-year period immediately preceding the date of renewal; or

13                   (ii)   An approved nursing assistant training program.

14          (d)    In addition to the requirements in subsection (c)(1), (2), and (3) of this  
15 section, a skilled nursing assistant shall:

16           (1)    Provide satisfactory evidence of completion of 1,000 hours of  
17 practice as a skilled nursing assistant within the individual's specific category of  
18 nursing assistant, in the 2-year period preceding the date of renewal; and

19           (2)    Successfully complete a Board-approved refresher course within  
20 the individual's specific category of nursing assistant.

21          **(E)    IN ADDITION TO THE REQUIREMENTS IN SUBSECTION (C)(1), (2),**  
22 **AND (3) OF THIS SECTION, A CERTIFIED MEDICINE AIDE SHALL:**

23           **(1)    PROVIDE SATISFACTORY EVIDENCE OF COMPLETION OF 200**  
24 **HOURS OF PRACTICE AS A CERTIFIED MEDICINE AIDE IN THE 2-YEAR PERIOD**  
25 **PRECEDING THE DATE OF RENEWAL; AND**

26           **(2)    SUCCESSFULLY COMPLETE A BOARD-APPROVED MEDICINE**  
27 **AIDE CONTINUING EDUCATION PROGRAM.**

1            [(e)](F)        Before a certificate expires, a medication technician periodically  
2 may renew it for an additional term, if the certificate holder:

3                    (1)        Otherwise is entitled to be certified;

4                    (2)        Submits to the Board a renewal application on the form that the  
5 Board requires;

6                    (3)        Pays to the Board a renewal fee set by the Board; [and]

7                    (4)        Every 2 years, provides satisfactory evidence of completion of a  
8 Board–approved clinical refresher course; **AND**

9                    **(5)        PROVIDES SATISFACTORY EVIDENCE OF COMPLETION OF 200**  
10 **HOURS OF PRACTICE AS A CERTIFIED MEDICATION TECHNICIAN WITHIN THE**  
11 **2–YEAR PERIOD PRECEDING THE DATE OF RENEWAL.**

12            [(f)](G)        The Board may grant a 30–day extension, beyond a certificate’s  
13 expiration date, to a certificate holder so that the certificate holder may renew the  
14 certificate before it expires.

15            **(H)        THE BOARD SHALL REINSTATE THE CERTIFICATE OF A FORMER**  
16 **CERTIFICATE HOLDER WHO HAS FAILED TO RENEW THE CERTIFICATE FOR ANY**  
17 **REASON IF THE FORMER CERTIFICATE HOLDER MEETS THE APPLICABLE**  
18 **RENEWAL REQUIREMENTS OF SUBSECTIONS (C) THROUGH (F) AND (L)(1)(I)2 OF**  
19 **THIS SECTION.**

20            [(g)](I)        Subject to subsection (j) of this section, the Board shall renew the  
21 certificate of each nursing assistant or medication technician who meets the  
22 requirements of this section.

23            [(h)](J)        (1)        Within 30 days after a change has occurred, each certificate  
24 holder shall notify the Board in writing of any change in a name or address.

25                    (2)        If the certificate holder fails to notify the Board within the time  
26 required under this subsection, the Board may impose an administrative penalty of  
27 \$25 on the certificate holder.

28            [(i)](K)        The Board shall pay any penalty collected under this subsection to  
29 the General Fund of the State.

1            [(j)](L)        (1)    (i)    Beginning January 2008, the Board shall begin a  
2 process requiring criminal history records checks **IN ACCORDANCE WITH § 8-303 OF**  
3 **THIS TITLE** on [selected]:

4                            1.    **SELECTED** applicants for certification as a certified  
5 nursing assistant who renew their certificates every 2 years as determined by  
6 regulations adopted by the Board [in accordance with § 8-303 of this title]; **AND**

7                            2.    **EACH FORMER CERTIFIED NURSING ASSISTANT**  
8 **WHO FILES FOR REINSTATEMENT UNDER SUBSECTION (H) OF THIS SECTION**  
9 **AFTER FAILING TO RENEW THE LICENSE FOR A PERIOD OF 1 YEAR OR MORE.**

10                            (ii)    An additional criminal history records check shall be  
11 performed every 10 years thereafter.

12                            (2)    On receipt of the criminal history record information of a  
13 certificate holder forwarded to the Board in accordance with § 8-303 of this title, in  
14 determining whether to renew the certificate, the Board shall consider:

15                            (i)    The age at which the crime was committed;

16                            (ii)    The circumstances surrounding the crime;

17                            (iii)    The length of time that has passed since the crime;

18                            (iv)    Subsequent work history;

19                            (v)    Employment and character references; and

20                            (vi)    Other evidence that demonstrates that the certificate holder  
21 does not pose a threat to the public health or safety.

22                            (3)    The Board may not renew a certificate if the criminal history  
23 record information required under § 8-303 of this title has not been received.

24    8-6A-10.

25                            (e)    If a certificate issued under this subtitle is suspended or revoked for a  
26 period of more than 1 year, the Board may reinstate the certificate after 1 year if the  
27 certificate holder [meets]:



1           (1) **MEETS** the requirements for reinstatement as established by the  
2 Board in regulations; **AND**

3           (2) **SUBMITS TO A CRIMINAL HISTORY RECORDS CHECK IN**  
4 **ACCORDANCE WITH § 8-303 OF THIS SUBTITLE.**

5 8-705.

6           (a) A person may not practice registered nursing under color of any diploma,  
7 license, or record that is:

8               (1) Illegally or fraudulently obtained; or

9               (2) Signed or issued unlawfully or by fraudulent representation.

10          (b) A person may not practice licensed practical nursing under color of any  
11 diploma, license, or record that is:

12               (1) Illegally or fraudulently obtained; or

13               (2) Signed or issued unlawfully or by fraudulent representation.

14          (c) An individual may not practice as a nursing assistant under color of any  
15 diploma, license, record, or certificate that is:

16               (1) Illegally or fraudulently obtained; or

17               (2) Signed or issued unlawfully or by fraudulent representation.

18          (d) An individual may not practice as a **CERTIFIED** medication technician  
19 under color of any diploma, license, record, or certificate that is:

20               (1) Illegally or fraudulently obtained; or

21               (2) Signed or issued unlawfully or by fraudulent representation.

22          (e) An individual may not practice as a **CERTIFIED** medicine aide under  
23 color of any diploma, license, record, or certificate that is:

24               (1) Illegally or fraudulently obtained; or

25               (2) Signed or issued unlawfully or by fraudulent representation.

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2   October 1, 2007.