

## CHAPTER 598

### (House Bill 315)

AN ACT concerning

#### **State Board of Nursing – Licensing, Certification, and Reinstatement Requirements**

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

BY repealing and reenacting, with amendments,

Article – Health Occupations

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

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, without amendments,

Article – Health Occupations

Section 8–313

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,

Article – Health Occupations

Section 8–6A–08

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

(As enacted by Chapter 390 of the Acts of the General Assembly of 2006)

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

**Article – Health Occupations**

8–102.

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

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

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

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

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

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

(ii) If the unlicensed individual performs only acts that are in the area of responsibility of the supervisor and under the instruction of the supervisor~~;~~.

8–312.

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

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

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

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

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

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

(ii) The circumstances surrounding the crime;

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

(iv) Subsequent work history;

(v) Employment and character references; and

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

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

8-313.

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

8-315.

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

8-319.

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

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

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

8-6A-02.

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

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

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

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

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

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

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

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

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

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

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

8–6A–08.

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

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

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

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

(3) The amount of the renewal fee.

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

(1) Otherwise is entitled to be certified;

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

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

(4) Provides satisfactory evidence of completion of:

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

(ii) An approved nursing assistant training program.

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

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

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

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

**(1) PROVIDE SATISFACTORY EVIDENCE OF COMPLETION OF ~~200~~ 100 HOURS OF PRACTICE AS A CERTIFIED MEDICINE AIDE IN THE 2-YEAR PERIOD PRECEDING THE DATE OF RENEWAL; AND**

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

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

(1) Otherwise is entitled to be certified;

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

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

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

**(5) PROVIDES SATISFACTORY EVIDENCE OF COMPLETION OF ~~200~~ 100 HOURS OF PRACTICE AS A CERTIFIED MEDICATION TECHNICIAN WITHIN THE 2-YEAR PERIOD PRECEDING THE DATE OF RENEWAL.**

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

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

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

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

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

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

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

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

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

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

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

- (i) The age at which the crime was committed;
- (ii) The circumstances surrounding the crime;
- (iii) The length of time that has passed since the crime;
- (iv) Subsequent work history;
- (v) Employment and character references; and
- (vi) Other evidence that demonstrates that the certificate holder does not pose a threat to the public health or safety.

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

8-6A-10.

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

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

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

8-705.



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

- (1) Illegally or fraudulently obtained; or
- (2) Signed or issued unlawfully or by fraudulent representation.

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

- (1) Illegally or fraudulently obtained; or
- (2) Signed or issued unlawfully or by fraudulent representation.

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

- (1) Illegally or fraudulently obtained; or
- (2) Signed or issued unlawfully or by fraudulent representation.

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

- (1) Illegally or fraudulently obtained; or
- (2) Signed or issued unlawfully or by fraudulent representation.

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

- (1) Illegally or fraudulently obtained; or
- (2) Signed or issued unlawfully or by fraudulent representation.

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

**Approved by the Governor, May 17, 2007.**