

HOUSE BILL 238

J2

2lr0515
CF 2lr0516

By: **Delegates Nathan–Pulliam, Eckardt, Kipke, V. Turner, and
Valentino–Smith**

Introduced and read first time: January 26, 2012

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Nursing – Nurses, Nursing Assistants, Medication**
3 **Technicians, and Electrologists – Licensure and Certification Requirements**

4 FOR the purpose of requiring certain prosecutions for certain offenses relating to the
5 licensing of nurses and electrologists to be instituted within a certain period of
6 time after which the offense was committed; exempting individuals who provide
7 certain care from the requirement that an individual must be licensed or
8 certified before practicing certain health occupations; exempting individuals
9 who respond to certain disaster situations from the requirement that an
10 individual must be licensed before practicing registered nursing or licensed
11 practical nursing in the State under certain circumstances; requiring certain
12 nurses with multistate licensing privileges to hold a license in a certain home
13 state in accordance with the Nurse Multistate Licensure Compact; establishing
14 certain qualifications for applicants of a certificate to practice registered
15 nursing as a certain advanced practice nurse; prohibiting certain individuals
16 from practicing a certain type of nursing or using a certain title under certain
17 circumstances; repealing a certain provision of law allowing certain applicants
18 to submit evidence of completion of certain criminal history records checks
19 through other state boards of nursing; requiring certain applicants to submit
20 certain evidence and information to the State Board of Nursing as part of an
21 application for licensure; prohibiting certain applicants from being entitled to be
22 examined in the State for a license as a registered nurse or as a licensed
23 practical nurse; altering a certain requirement for certain applicants to
24 participate in a certain preceptorship program; authorizing the Board to issue
25 certain licenses by endorsement; repealing certain requirements for the
26 publication of notice of certain revocations or suspensions; repealing a certain
27 requirement that to qualify as a certain skilled nursing assistant, an applicant
28 must meet certain requirements; prohibiting certain individuals from
29 practicing, attempting to practice, or offering to practice advanced practice
30 nursing or electrology unless licensed by the Board; authorizing the Board to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 issue certain orders, impose certain fines, or seek certain relief; specifying that
2 certain offenses are separate violations under certain circumstances; requiring
3 the Board to pay certain money to the Comptroller; requiring the Comptroller to
4 distribute certain money to the Board of Nursing Fund; authorizing the Board
5 to refer certain cases to the Central Collection Unit of the Department of
6 Budget and Fiscal Planning to institute and maintain certain proceedings;
7 authorizing certain actions for injunctive relief to be brought by certain entities
8 for certain purposes under certain circumstances in certain counties; providing
9 that a person who violates certain provisions of law is guilty of a misdemeanor
10 and on conviction is subject to a certain fine; providing for a certain exception to
11 a violation of certain provisions of law; making certain technical corrections;
12 defining certain terms; and generally relating to the licensure, certification, and
13 penalties for violations of the laws and regulations that govern nurses, nursing
14 assistants, medication technicians, and electrologists.

15 BY adding to
16 Article – Courts and Judicial Proceedings
17 Section 5–106(bb)
18 Annotated Code of Maryland
19 (2006 Replacement Volume and 2011 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article – Health Occupations
22 Section 8–101, 8–301, 8–302, 8–304, 8–305, 8–307, 8–6A–02, 8–6A–05(b) and
23 (c), 8–6A–08(b) and (k)(1), 8–6A–10(e), 8–6B–11, 8–701, and 8–710
24 Annotated Code of Maryland
25 (2009 Replacement Volume and 2011 Supplement)

26 BY repealing
27 Article – Health Occupations
28 Section 8–316(d) and 8–6A–10(d)
29 Annotated Code of Maryland
30 (2009 Replacement Volume and 2011 Supplement)

31 BY adding to
32 Article – Health Occupations
33 Section 8–708 and 8–709
34 Annotated Code of Maryland
35 (2009 Replacement Volume and 2011 Supplement)

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

38 **Article – Courts and Judicial Proceedings**

39 5–106.

1 **(BB) A PROSECUTION FOR A MISDEMEANOR OFFENSE UNDER TITLE 8,**
2 **SUBTITLE 7 OR § 8-6B-23 OF THE HEALTH OCCUPATIONS ARTICLE SHALL BE**
3 **INSTITUTED WITHIN 3 YEARS AFTER THE OFFENSE WAS COMMITTED.**

4 **Article – Health Occupations**

5 8–101.

6 (a) In this title the following words have the meanings indicated.

7 **(B) “ADVANCED PRACTICE NURSE” MEANS AN INDIVIDUAL WHO:**

8 **(1) IS LICENSED BY THE BOARD TO PRACTICE REGISTERED**
9 **NURSING; AND**

10 **(2) IS CERTIFIED BY THE BOARD TO PRACTICE AS:**

11 **(I) A NURSE PRACTITIONER;**

12 **(II) A NURSE ANESTHETIST;**

13 **(III) A NURSE MIDWIFE;**

14 **(IV) A NURSE PSYCHOTHERAPIST; OR**

15 **(V) A CLINICAL NURSE SPECIALIST.**

16 **[(b)] (C) “Board” means the State Board of Nursing.**

17 **[(c)] (D) “License” means, unless the context requires otherwise, a license**
18 **issued by the Board to practice:**

19 (1) Registered nursing; or

20 (2) Licensed practical nursing.

21 **[(d)] (E) “Licensed practical nurse” means, unless the context requires**
22 **otherwise, an individual who is licensed by the Board to practice licensed practical**
23 **nursing.**

24 **[(e)] (F) “Nurse practitioner” means an individual who:**

25 (1) Is licensed by the Board to practice registered nursing; and

26 (2) Is certified by the Board to practice as a nurse practitioner.

1 **[(f)] (G)** “Practice as a nurse practitioner” means to independently:

2 (1) Perform an act under subsection **[(h)] (I)** of this section;

3 (2) Conduct a comprehensive physical assessment of an individual;

4 (3) Establish a medical diagnosis for common chronic stable or
5 short-term health problems;

6 (4) Order, perform, and interpret laboratory tests;

7 (5) Prescribe drugs as provided under § 8–508 of this title;

8 (6) Perform diagnostic, therapeutic, or corrective measures;

9 (7) Refer an individual to an appropriate licensed physician or other
10 health care provider; and

11 (8) Provide emergency care.

12 **[(g)] (H)** “Practice licensed practical nursing” means to perform in a team
13 relationship an act that requires specialized knowledge, judgment, and skill based on
14 principles of biological, physiological, behavioral, or sociological science to:

15 (1) Administer treatment or medication to an individual;

16 (2) Aid in the rehabilitation of an individual;

17 (3) Promote preventive measures in community health;

18 (4) Give counsel to an individual;

19 (5) Safeguard life and health;

20 (6) Teach or supervise; or

21 (7) Perform any additional acts authorized by the Board under §
22 8–205 of this title.

23 **[(h)] (I)** (1) “Practice registered nursing” means the performance of acts
24 requiring substantial specialized knowledge, judgment, and skill based on the
25 biological, physiological, behavioral, or sociological sciences as the basis for
26 assessment, nursing diagnosis, planning, implementation, and evaluation of the
27 practice of nursing in order to:

28 (i) Maintain health;

1 (ii) Prevent illness; or

2 (iii) Care for or rehabilitate the ill, injured, or infirm.

3 (2) For these purposes, “practice registered nursing” includes:

4 (i) Administration;

5 (ii) Teaching;

6 (iii) Counseling;

7 (iv) Supervision, delegation and evaluation of nursing practice;

8 (v) Execution of therapeutic regimen, including the
9 administration of medication and treatment;

10 (vi) Independent nursing functions and delegated medical
11 functions; and

12 (vii) Performance of additional acts authorized by the Board
13 under § 8–205 of this title.

14 **[(i)] (J)** “Registered nurse” means, unless the context requires otherwise,
15 an individual who is licensed by the Board to practice registered nursing.

16 8–301.

17 (a) Except as otherwise provided in this title, an individual shall be licensed
18 by the Board before the individual may practice registered nursing in this State.

19 (b) Except as otherwise provided in this title, an individual shall be licensed
20 by the Board before the individual may practice licensed practical nursing in this
21 State.

22 (c) This section does not apply to:

23 (1) A student enrolled in an approved education program while
24 practicing registered nursing or licensed practical nursing in that program;

25 (2) An individual employed by the federal government to practice
26 registered nursing or licensed practical nursing while practicing within the scope of
27 that employment, if the individual is authorized by any state to practice registered
28 nursing or licensed practical nursing;

1 (3) An individual permitted to practice registered nursing or licensed
2 practical nursing under rules and regulations adopted by the Board, if the individual:

3 (i) Otherwise has qualified to practice registered nursing or
4 licensed practical nursing in any other state or country and is in this State
5 temporarily; or

6 (ii) Has an application for a license pending before the Board:

7 1. But has not taken the examination required under
8 this title;

9 2. Has taken an examination under this title, but the
10 results of the examination are not yet known; or

11 3. Has taken and passed an examination under this
12 title, but is waiting for the completion of the criminal history records check;

13 (4) An individual who provides gratuitous care for friends, **DOMESTIC**
14 **PARTNERS**, or family **MEMBERS**; or

15 (5) An individual who [is assigned by the American Red Cross]
16 **RESPONDS** to a disaster situation in this State to practice registered nursing or
17 licensed practical nursing, if:

18 **(I) [the] THE individual [is licensed] HAS AN ACTIVE**
19 **UNENCUMBERED LICENSE** to practice registered nursing or licensed practical
20 nursing in another state **AND THE INDIVIDUAL IS ASSIGNED BY:**

21 **1. THE AMERICAN RED CROSS; OR**

22 **2. A MEMBER OF THE MARYLAND EMERGENCY**
23 **MANAGEMENT ASSISTANCE COMPACT UNDER § 14-803 OF THE PUBLIC SAFETY**
24 **ARTICLE;**

25 **(II) THE GOVERNOR HAS DECLARED A STATE OF**
26 **EMERGENCY BY EXECUTIVE ORDER OR PROCLAMATION IN ACCORDANCE WITH**
27 **§ 3-401 OF THE STATE GOVERNMENT ARTICLE; AND**

28 **(III) THE INDIVIDUAL REPORTS TO THE DESIGNATED**
29 **STAGING AREA IN ACCORDANCE WITH § 14-803(2)(B)(5)(IV) OF THE PUBLIC**
30 **SAFETY ARTICLE.**

31 **(D) A REGISTERED NURSE OR LICENSED PRACTICAL NURSE IN A PARTY**
32 **STATE TO THE NURSE MULTISTATE LICENSURE COMPACT SHALL HOLD A**

1 LICENSE IN ONLY ONE PARTY STATE AT A TIME, THAT IS ISSUED BY THE HOME
2 STATE IN ACCORDANCE WITH SUBTITLE 7A OF THIS TITLE.

3 [(d)] (E) A registered nurse who has been granted multistate licensing
4 privileges by a party state to the Nurse Multistate Licensure Compact set forth in
5 Subtitle 7A of this title may practice registered nursing in the State.

6 [(e)] (F) A licensed practical nurse who has been granted multistate
7 licensing privileges by a party state to the Nurse Multistate Licensure Compact set
8 forth in Subtitle 7A of this title may practice practical nursing in the State.

9 8-302.

10 (a) Except as otherwise provided in this title, to qualify for a license or
11 certification, an applicant shall be an individual who submits to a criminal history
12 records check in accordance with § 8-303 of this subtitle and meets the requirements
13 of this section.

14 (b) (1) An applicant for certification as [a certified nurse practitioner] AN
15 ADVANCED PRACTICE NURSE shall:

16 (i) Be a registered nurse;

17 (ii) Complete [a nurse practitioner] AN EDUCATION program
18 approved by the Board;

19 (iii) Submit to the Board:

20 1. A completed application for certification as a nurse
21 practitioner, NURSE ANESTHETIST, NURSE MIDWIFE, NURSE PSYCHOTHERAPIST,
22 OR CLINICAL NURSE SPECIALIST for each area in which certification is sought;

23 2. Documentation of an active license in good standing
24 as a registered nurse in the State;

25 3. Documentation that the applicant has graduated from
26 an accredited program for ADVANCED PRACTICE NURSING FOR nurse practitioners,
27 NURSE ANESTHETISTS, NURSE MIDWIVES, NURSE PSYCHOTHERAPISTS, OR
28 CLINICAL NURSE SPECIALISTS; and

29 4. Documentation of certification as a nurse practitioner,
30 NURSE ANESTHETIST, NURSE MIDWIFE, NURSE PSYCHOTHERAPIST, OR
31 CLINICAL NURSE SPECIALIST by a nationally recognized certifying body approved by
32 the Board; and

33 (iv) Meet any other requirements that the Board sets.

1 (2) **(I)** An individual certified **AS A NURSE PRACTITIONER** by a
2 national certifying body prior to October 1, 2010 who is certified by the Board and in
3 good standing shall be deemed to meet the education requirements under subsection
4 (b)(1)(iii)3 of this section.

5 **(II) AN INDIVIDUAL CERTIFIED AS A NURSE ANESTHETIST,**
6 **NURSE MIDWIFE, NURSE PSYCHOTHERAPIST, OR CLINICAL NURSE SPECIALIST**
7 **WHO IS CERTIFIED BY THE BOARD AND IN GOOD STANDING PRIOR TO OCTOBER**
8 **1, 2012, SHALL BE DEEMED TO MEET THE EDUCATION REQUIREMENTS UNDER**
9 **SUBSECTION (B)(1)(III)3 OF THIS SECTION.**

10 (3) In addition to the requirements for renewal of a license under §
11 8–312 of this subtitle, the Board may establish continuing education or competency
12 requirements for the renewal of a certificate under this subsection.

13 (4) (i) Subject to the provisions of this subsection, the Board may
14 waive any requirement of this subsection for an applicant who is licensed or certified
15 to practice as a nurse practitioner, **NURSE ANESTHETIST, NURSE MIDWIFE, NURSE**
16 **PSYCHOTHERAPIST, OR CLINICAL NURSE SPECIALIST** in any other state or
17 country.

18 (ii) The Board may grant a waiver under this paragraph only if
19 the applicant:

20 1. Pays the application fee required by the Board under
21 § 8–304 of this subtitle;

22 2. Became licensed or certified in the other state or
23 country under requirements substantially equivalent to the certification requirements
24 of this title; and

25 3. Meets any other qualifications established by the
26 Board.

27 (5) (i) A certified nurse practitioner may not practice in the State
28 unless the nurse practitioner has an approved attestation that:

29 1. The nurse practitioner has an agreement for
30 collaboration and consulting with a physician licensed under Title 14 of this article
31 and will refer to and consult with physicians and other health care providers as
32 needed; and

33 2. The nurse practitioner will practice in accordance
34 with the standards of practice of the American Academy of Nurse Practitioners or any
35 other national certifying body recognized by the Board.

- 1 (ii) The Board shall:
- 2 1. Maintain an approved attestation; and
- 3 2. Make the approved attestation available to the State
- 4 Board of Physicians on the request of the State Board of Physicians.

5 (6) Unless authorized to practice as a nurse practitioner under this

6 title, a person may not:

7 (i) Represent to the public by title or by description of services,

8 methods, or procedures, or otherwise, that the person is authorized to practice as a

9 nurse practitioner in this State;

10 (ii) Use as a title or describe the services the person provides by

11 use of the words “nurse practitioner” or “certified registered nurse practitioner”; or

12 (iii) Use the abbreviation “N.P.,” “C.R.N.P.,” or any other words,

13 letters, or symbols with the intent to represent that the person practices as a nurse

14 practitioner.

15 **(7) UNLESS AUTHORIZED TO PRACTICE AS A NURSE ANESTHETIST**

16 **UNDER THIS TITLE, A PERSON MAY NOT:**

17 **(I) PRACTICE NURSE ANESTHESIA UNLESS CERTIFIED BY**

18 **THE BOARD IN ACCORDANCE WITH THIS SECTION; OR**

19 **(II) USE THE TITLE “CERTIFIED NURSE ANESTHETIST”,**

20 **“NURSE ANESTHETIST”, OR ANY OTHER WORDS, LETTERS, OR SYMBOLS WITH**

21 **THE INTENT TO REPRESENT THAT THE PERSON PRACTICES AS A NURSE**

22 **ANESTHETIST.**

23 **(8) UNLESS AUTHORIZED TO PRACTICE AS A NURSE MIDWIFE**

24 **UNDER THIS TITLE, A PERSON MAY NOT:**

25 **(I) PRACTICE NURSE MIDWIFERY UNLESS CERTIFIED BY**

26 **THE BOARD IN ACCORDANCE WITH THIS SECTION;**

27 **(II) USE THE TITLE “CERTIFIED NURSE MIDWIFE”, “NURSE**

28 **MIDWIFE”, OR ANY OTHER WORDS, LETTERS, OR SYMBOLS WITH THE INTENT TO**

29 **REPRESENT THAT THE PERSON PRACTICES AS A NURSE MIDWIFE.**

30 **(9) UNLESS AUTHORIZED TO PRACTICE AS A NURSE**

31 **PSYCHOTHERAPIST UNDER THIS TITLE, A PERSON MAY NOT:**

1 **(I) PRACTICE AS A NURSE PSYCHOTHERAPIST UNLESS**
2 **CERTIFIED BY THE BOARD IN ACCORDANCE WITH THIS SECTION; OR**

3 **(II) USE THE TITLE “ADVANCED PRACTICE NURSE”,**
4 **“CERTIFIED NURSE PSYCHOTHERAPIST”, “REGISTERED NURSE/PSYCHIATRIC**
5 **MENTAL HEALTH”, “NURSE PSYCHOTHERAPIST”, OR ANY OTHER WORDS,**
6 **LETTERS, OR SYMBOLS WITH THE INTENT TO REPRESENT THAT THE PERSON**
7 **PRACTICES AS A NURSE PSYCHOTHERAPIST.**

8 **(10) UNLESS AUTHORIZED TO PRACTICE AS A CLINICAL NURSE**
9 **SPECIALIST UNDER THIS TITLE, A PERSON MAY NOT:**

10 **(I) PRACTICE AS A CLINICAL NURSE SPECIALIST UNLESS**
11 **CERTIFIED BY THE BOARD IN ACCORDANCE WITH THIS SECTION; OR**

12 **(II) USE THE TITLE “CERTIFIED CLINICAL NURSE**
13 **SPECIALIST”, “CLINICAL NURSE SPECIALIST”, “CLINICAL REGISTERED NURSE**
14 **SPECIALIST”, “CLINICAL NURSE SPECIALIST GRADUATE”, OR ANY OTHER**
15 **WORDS, LETTERS, OR SYMBOLS WITH THE INTENT TO REPRESENT THAT THE**
16 **PERSON PRACTICES AS A CLINICAL NURSE SPECIALIST.**

17 (c) An applicant for a license to practice registered nursing shall complete
18 satisfactorily and meet all requirements for a diploma or degree from:

19 (1) A registered nursing education program approved by the Board; or

20 (2) An education program in registered nursing in any other state or
21 country that the Board finds substantially equivalent to the program in this State.

22 (d) An applicant for a license to practice licensed practical nursing shall:

23 (1) Meet all requirements for a high school diploma or its equivalent;
24 and

25 (2) Complete satisfactorily and meet all requirements for a diploma
26 from:

27 (i) A licensed practical nursing education program or its
28 equivalent approved by the Board; or

29 (ii) An education program in licensed practical nursing in any
30 other state or country that the Board finds substantially equivalent to the program in
31 this State.

1 (e) Except as otherwise provided in this title, the applicant shall pass an
2 examination developed by the National Council of State Boards of Nursing and
3 administered at a testing site approved by the National Council.

4 (f) (1) Except as otherwise provided in this subsection, the Board shall
5 require as part of its examination or licensing procedures that an applicant for a
6 license to practice registered nursing or licensed practical nursing demonstrate an oral
7 competency in the English language.

8 (2) Acceptable proof of proficiency in the oral communication of the
9 English language under this section includes:

10 (i) After at least 3 years of enrollment, graduation from a
11 recognized English-speaking undergraduate school;

12 (ii) Graduation from a recognized English-speaking
13 professional school; or

14 (iii) Completion of at least 5 years of practicing nursing in
15 another state or English-speaking territory of the United States.

16 (3) By regulation, the Board shall develop a procedure for testing
17 individuals who because of their speech impairment are unable to complete
18 satisfactorily a Board approved standardized test of oral competency.

19 (4) If any disciplinary charge or action that involves a problem with
20 the oral communication of the English language is brought against a licensee under
21 this title, the Board shall require the licensee to take and pass a Board approved
22 standardized test of oral competency.

23 (5) The Board may not require that an applicant for a license to
24 practice registered nursing or licensed practical nursing who was previously licensed
25 in any other state to practice registered nursing or licensed practical nursing to
26 demonstrate an oral competency in the English language as part of its examination or
27 licensing procedures if the other state has a similar oral competency component as
28 part of its examination or licensing procedures.

29 (6) (i) The Board may issue a temporary license to any applicant
30 for a license to practice registered nursing or licensed practical nursing who was
31 previously licensed in any other state to practice registered nursing or licensed
32 practical nursing and who, except for the oral competency in the English language
33 component, is otherwise qualified for a license.

34 (ii) A temporary license issued under this subsection is valid
35 only until the date when the next test to demonstrate oral competency in the English
36 language is given.

1 (g) An applicant for a license or certification under this section shall be of
2 good moral character.

3 8-304.

4 To apply for a license to practice registered nursing or licensed practical
5 nursing, an applicant shall:

6 (1) [(i)] Submit to a criminal history records check in accordance
7 with § 8-303 of this subtitle; [or

8 (ii) Have completed a criminal history records check in
9 accordance with § 8-303 of this subtitle through another state board of nursing within
10 the 5 years preceding the date of application;]

11 (2) Submit to the Board:

12 (i) An application on the form that the Board requires,
13 **INCLUDING A CURRENT ADDRESS;**

14 (ii) Written, verified evidence that the requirement of item (1) of
15 this subsection is being met or has been met; [and]

16 (iii) Written, verified evidence of completion of the appropriate
17 education requirements of § 8-302 of this subtitle; and

18 **(IV) WRITTEN, VERIFIED EVIDENCE SATISFACTORY TO THE**
19 **BOARD THAT THE APPLICANT'S PRIMARY STATE OF RESIDENCE IS MARYLAND**
20 **OR A STATE THAT IS NOT A PARTY STATE TO THE NURSE MULTISTATE**
21 **LICENSURE COMPACT SET FORTH IN SUBTITLE 7A OF THIS TITLE; AND**

22 (3) Pay to the Board the application fee set by the Board.

23 8-305.

24 (a) Except as otherwise provided in [subsection (b)] **SUBSECTIONS (B) AND**
25 **(C)** of this section, an applicant who otherwise qualifies for a license as a registered
26 nurse or as a licensed practical nurse is entitled to be examined for that license as
27 provided in this section.

28 **(B) AN APPLICANT WHOSE PRIMARY STATE OF RESIDENCE IS A PARTY**
29 **STATE TO THE NURSE MULTISTATE LICENSURE COMPACT SET FORTH IN**
30 **SUBTITLE 7A OF THIS TITLE, OTHER THAN MARYLAND, IS NOT ENTITLED TO BE**
31 **EXAMINED FOR A LICENSE AS A REGISTERED NURSE OR LICENSED PRACTICAL**
32 **NURSE IN THE STATE.**

1 **[(b)] (C)** Subject to the hearing provisions of § 8–317 of this subtitle, the
2 Board may deny the right to be examined for a license as a registered nurse or as a
3 licensed practical nurse to any applicant who is found to have violated any provision of
4 § 8–316 of this subtitle.

5 **[(c)] (D)** The Board shall determine the subjects, scope, form, and passing
6 score for each examination given under this title.

7 **[(d)] (E)** **(1) IN THIS SUBSECTION, “PRECEPTORSHIP PROGRAM”**
8 **MEANS:**

9 **(I) AN ORGANIZED SYSTEM OF CLINICAL EXPERIENCE**
10 **THAT PAIRS A NURSING STUDENT WITH A REGISTERED NURSE WHO MEETS THE**
11 **QUALIFICATIONS FOR FACULTY AS SET FORTH UNDER COMAR 10.27.01.11 FOR**
12 **THE PURPOSE OF ATTAINING SPECIFIED LEARNING OBJECTIVES; OR**

13 **(II) AN INDIVIDUALIZED AND SUPERVISED CLINICAL**
14 **EXPERIENCE OFFERED BY AN INSTITUTION EMPLOYING NURSES THAT**
15 **COMPLIES WITH THE REQUIREMENTS FOR TEMPORARY LICENSURE UNDER**
16 **COMAR 10.27.01.11 FOR THE PURPOSE OF FACILITATING AN INACTIVE**
17 **LICENSEE TO RETURN TO ACTIVE PRACTICE.**

18 **(2)** An applicant whose nursing education program was completed 5 or
19 more years prior to passing the licensure examination and who has not practiced for at
20 least 1,000 hours in the previous 5 years may only be issued an inactive license until
21 submission to the Board of satisfactory evidence that the applicant has successfully
22 completed:

23 **[(1)] (I)** A nursing review course approved by the Board; or

24 **[(2)] (II)** A preceptorship program [provided by an employer and]
25 approved by the Board.

26 **[(e)] (F)** **(1)** Except as provided in paragraph (2) of this subsection, an
27 applicant who fails an examination may retake the examination if the applicant pays
28 the reexamination fee set by the Board for each reexamination.

29 **(2)** The Board, by rule or regulation, may limit the number of times
30 that an applicant may be reexamined after two failures and may limit the interval of
31 time between reexaminations.

32 8–307.

33 **(a)** Subject to the provisions of this section, the Board may **ISSUE A LICENSE**
34 **BY ENDORSEMENT AND** waive any appropriate examination requirement of this title

1 for an applicant who is licensed or registered to practice registered nursing or licensed
2 practical nursing in any other state or country.

3 (b) The Board may [grant] **ISSUE** a [waiver] **LICENSE BY ENDORSEMENT**
4 under this section only if the applicant:

5 (1) Pays the application fee set by the Board under § 8–304 of this
6 subtitle; and

7 (2) Provides adequate evidence that:

8 (i) At the time the applicant graduated from a nursing
9 education program approved in the other state or country, the applicant met the
10 educational qualifications then required by the laws of this State;

11 (ii) At the time the applicant became licensed or registered in
12 the other state or country, the applicant passed in that or any other state or country
13 an examination that was similar to the examination that then was given in this State;
14 and

15 (iii) The applicant meets the qualifications otherwise required by
16 this title.

17 8–316.

18 [(d) The Board shall file a notice for publication in the earliest publication of
19 the Maryland Register of each revocation or suspension of a license under this section
20 within 24 hours of the revocation or suspension.]

21 8–6A–02.

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

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

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

29 (2) Provides for the gratuitous care of friends, **DOMESTIC PARTNERS**,
30 or family members;

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

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

2 (i) Enrolled in a Board–approved nursing assistant training
3 program; and

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

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

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

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

16 8–6A–05.

17 (b) To qualify for certification as a nursing assistant, a nursing assistant in a
18 specific category, [a skilled nursing assistant within a specific category of nursing
19 assistant,] or a medication technician, an applicant shall meet the requirements set by
20 the Board.

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

22 (i) Submit an application to the Board on the form that the
23 Board requires;

24 (ii) Provide evidence, as required by the Board, of successful
25 completion of:

26 1. An approved nursing assistant training program;

27 2. An approved course in medication administration; or

28 3. A portion of an approved nursing education program
29 that the Board determines meets the requirements of a nursing assistant training
30 program or medication administration course;

31 (iii) Pay to the Board an application fee set by the Board;

- 1 (iv) Be of good moral character;
- 2 (v) Be at least 16 years old to apply for certification as a nursing
3 assistant; and
- 4 (vi) Be at least 18 years old to apply for certification as a
5 medication technician.

6 (2) Subject to paragraph (1) of this subsection, an applicant for
7 certification as a certified nursing assistant shall submit to the Board:

8 (i) [1.] A criminal history records check in accordance with §
9 8–303 of this title[]; or

10 2. Evidence of completion of a criminal history records
11 check in accordance with § 8–303 of this title through another state board of nursing
12 within the 5 years preceding the date of application] **AND § 8–6A–08(K) OF THIS**
13 **SUBTITLE**; and

14 (ii) On the form required by the Board, written, verified
15 evidence that the requirement of item (i) of this paragraph is being met or has been
16 met.

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

20 (4) An applicant for a certificate may not:

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

23 (ii) Have a record of abuse, negligence, misappropriation of a
24 resident's property, or any disciplinary action taken or pending in any other state or
25 territory of the United States against the certification of the nursing assistant or
26 medication technician in the state or territory.

27 8–6A–08.

28 (b) (1) At least 3 months before a certificate expires, the Board shall send
29 a renewal notice to the nursing assistant or medication technician by:

30 (i) First-class mail to the last known mailing address of the
31 nursing assistant or medication technician; or

32 (ii) Electronic means to the last known electronic address of the
33 [licensee] **CERTIFICATE HOLDER**.

1 (2) A renewal notice shall state:

2 (i) The date on which the current certificate expires;

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

5 (iii) The amount of the renewal fee.

6 (3) If a nursing assistant or medication technician is required to have
7 a criminal history records check before a certificate may be renewed, the Board shall
8 send the nursing assistant or medication technician the documents necessary for
9 initiating the criminal history records check in conjunction with the renewal notice
10 required under paragraph (1) of this subsection.

11 (k) (1) (i) [Beginning July 2009, the] **THE** Board shall [begin a
12 process requiring] **REQUIRE** criminal history records checks in accordance with §
13 8–303 of this title on:

14 1. Selected applicants for certification as a certified
15 nursing assistant who renew their certificates every 2 years as determined by
16 regulations adopted by the Board; and

17 2. Each former certified nursing assistant who files for
18 reinstatement under subsection (g) of this section after failing to renew the [license]
19 **CERTIFICATE** for a period of 1 year or more.

20 (ii) An additional criminal history records check shall be
21 performed every 12 years thereafter.

22 8–6A–10.

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

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

29 (1) Meets the requirements for reinstatement as established by the
30 Board in regulations; and

31 (2) Submits to a criminal history records check in accordance with §
32 8–303 of this title.

1 8-6B-11.

2 (a) Subject to the provisions of this section, the Board may **ISSUE A LICENSE**
3 **BY ENDORSEMENT AND** waive the examination requirement of this subtitle for an
4 individual who is licensed to practice electrology in another state.

5 (b) The Board may [grant] **ISSUE** a [waiver] **LICENSE BY ENDORSEMENT**
6 under this section only if the applicant:

7 (1) Pays the license fee required by the Board; and

8 (2) Provides adequate evidence that the applicant:

9 (i) Meets the qualifications otherwise required by this subtitle;

10 (ii) Became licensed in the other state after passing in that
11 state, or any other state, an examination that is substantially equivalent to an
12 examination approved by the Board; and

13 (iii) Became licensed in the other state after meeting
14 requirements that are substantially equivalent to the requirements of this subtitle.

15 8-701.

16 (a) Except as otherwise provided in this title, a person may not practice,
17 attempt to practice, or offer to practice registered nursing, **REGISTERED NURSING AS**
18 **AN ADVANCED PRACTICE NURSE, OR LICENSED PRACTICAL NURSING** in this
19 State unless licensed by the Board to practice registered nursing, **REGISTERED**
20 **NURSING AS AN ADVANCED PRACTICE NURSE, OR LICENSED PRACTICAL**
21 **NURSING, RESPECTIVELY.**

22 (b) Except as otherwise provided in this title, a person may not practice,
23 attempt to practice, or offer to practice [licensed practical nursing] **ELECTROLOGY** in
24 this State unless licensed by the Board to practice [licensed practical nursing]
25 **ELECTROLOGY.**

26 (c) (1) Except as otherwise provided in this title, a person may not
27 practice, attempt to practice, or offer to practice as a certified nursing assistant unless
28 certified by the Board as a certified nursing assistant.

29 (2) Except as otherwise provided in this title, a person may not
30 practice, attempt to practice, or offer to practice as a certified nursing assistant in a
31 specific category unless certified by the Board as a certified nursing assistant in that
32 category.

1 (d) Except as otherwise provided in this title, a person may not practice,
2 attempt to practice, or offer to practice as a **CERTIFIED** medication technician in this
3 State unless certified by the Board to practice as a certified medication technician.

4 (e) Except as otherwise provided in this title, a person may not practice,
5 attempt to practice, or offer to practice as a **CERTIFIED** medicine aide unless certified
6 by the Board to practice as a certified medicine aide.

7 (f) A person may not require a licensee to perform an act that is beyond the
8 licensee's knowledge and skills.

9 (g) A person may not direct a licensee to delegate a nursing task to a nurse
10 when the person reasonably believes:

11 (1) The nurse lacks the knowledge and skills to perform the nursing
12 task; or

13 (2) The patient's condition does not allow delegation of the nursing
14 task.

15 **8-708.**

16 (A) **SUBJECT TO THE HEARING PROVISIONS IN § 8-317 OF THIS TITLE**
17 **AND IN ADDITION TO ANY OTHER PENALTY OR REMEDY FOR VIOLATIONS**
18 **COMMITTED UNDER § 8-701 THROUGH § 8-707 OF THIS SUBTITLE, THE BOARD**
19 **MAY:**

20 (1) **ISSUE A PUBLIC CEASE AND DESIST ORDER;**

21 (2) **IMPOSE A FINE OF NOT MORE THAN \$5,000 PER OFFENSE; OR**

22 (3) **ISSUE A PUBLIC CEASE AND DESIST ORDER AND IMPOSE A**
23 **FINE OF NOT MORE THAN \$5,000 PER OFFENSE.**

24 (B) **THE BOARD MAY SEEK INJUNCTIVE RELIEF IN A COURT OF**
25 **COMPETENT JURISDICTION.**

26 (C) **IN THIS SECTION, EACH SEPARATE OFFENSE IS A SEPARATE**
27 **VIOLATION IF IT OCCURS:**

28 (1) **AT A DIFFERENT DATE, LOCATION, OR TIME; OR**

29 (2) **ON THE SAME DATE AND LOCATION, AT A DIFFERENT TIME.**

1 **(D) THE BOARD SHALL PAY ALL MONEY COLLECTED UNDER THIS**
2 **SECTION TO THE COMPTROLLER.**

3 **(E) THE COMPTROLLER SHALL DISTRIBUTE ANY MONEY RECEIVED**
4 **UNDER THIS SECTION TO THE BOARD OF NURSING FUND UNDER § 8-206 OF**
5 **THIS TITLE.**

6 **(F) THE BOARD MAY REFER ALL CASES OF DELINQUENT PAYMENT TO**
7 **THE CENTRAL COLLECTION UNIT OF THE DEPARTMENT OF BUDGET AND**
8 **MANAGEMENT TO INSTITUTE AND MAINTAIN PROCEEDINGS TO ENSURE**
9 **PROMPT PAYMENT.**

10 **8-709.**

11 **(A) AN ACTION FOR INJUNCTIVE RELIEF MAY BE MAINTAINED IN THE**
12 **NAME OF THE STATE OR THE BOARD TO ENJOIN PROHIBITED CONDUCT:**

13 **(1) UNDER § 8-701 THROUGH § 8-707 OF THIS SUBTITLE; OR**

14 **(2) THAT IS GROUNDS FOR DISCIPLINARY ACTION UNDER §**
15 **8-316, § 8-6A-10, OR § 8-6B-18 OF THIS TITLE.**

16 **(B) AN ACTION FOR INJUNCTIVE RELIEF UNDER THIS SECTION MAY BE**
17 **BROUGHT BY:**

18 **(1) THE BOARD;**

19 **(2) THE ATTORNEY GENERAL IN THE NAME OF THE STATE; OR**

20 **(3) A STATE'S ATTORNEY IN THE NAME OF THE STATE.**

21 **(C) AN ACTION FOR INJUNCTIVE RELIEF UNDER THIS SECTION MAY BE**
22 **BROUGHT IN THE COUNTY IN WHICH:**

23 **(1) THE DEFENDANT RESIDES; OR**

24 **(2) THE DEFENDANT ENGAGED IN THE ACT SOUGHT TO BE**
25 **ENJOINED.**

26 **8-710.**

27 **(a) Except for a violation of § 8-701(A) THROUGH (E) AND § 8-707 of this**
28 **subtitle, a person who violates any provision of this subtitle is guilty of a misdemeanor**

1 and on conviction is subject to a fine not exceeding \$5,000 or imprisonment not
2 exceeding 1 year or both.

3 **(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PERSON**
4 **WHO VIOLATES § 8-701(A) THROUGH (E) OF THIS SUBTITLE IS GUILTY OF A**
5 **MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE THAN**
6 **\$25,000.**

7 **(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO A**
8 **LICENSEE OR CERTIFICATE HOLDER WHO HAS FAILED TO RENEW A LICENSE OR**
9 **CERTIFICATE UNDER § 8-312, § 8-6A-08, OR § 8-6B-14 OF THIS TITLE.**

10 **[(b)] (C)** A person who violates any provision of § 8-707 of this subtitle is
11 guilty of a misdemeanor and on conviction is subject:

12 (1) For a first offense, to a fine not exceeding \$100; and

13 (2) For any subsequent violation of the same provision, to a fine not
14 exceeding \$500 or imprisonment not exceeding 6 months or both.

15 **[(c)] (D) (1) [Subject] EXCEPT AS OTHERWISE PROVIDED IN THIS**
16 **SECTION, SUBJECT** to the appropriate hearing and appeals provisions, the
17 **[appropriate health occupations board] BOARD**, on the affirmative vote of the
18 majority of its members, may reprimand a licensee or certificate holder, place a
19 licensee or certificate holder on probation, or suspend or revoke a license or certificate
20 of a person who violates any provision of **[\$ 8-701 of]** this subtitle.

21 (2) A person who is licensed, certified, or otherwise authorized to
22 provide health care services under this article is not subject to the penalty provided in
23 subsections (a) **[and]**, (b), **AND (C)** of this section for a violation of § 8-701(f) and (g) of
24 this subtitle.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2012.